



# FLORIDA INTERNATIONAL UNIVERSITY

## BOARD OF TRUSTEES

### FINANCE AND FACILITIES COMMITTEE

FIU, Modesto A. Maidique Campus, Graham Center Ballrooms

Livestream: <http://webcast.fiu.edu/>

Thursday, June 15, 2023  
10:00 AM

or

*Upon Adjournment of Previous Meeting*

**Chair:** Roger Tovar

**Vice Chair:** Jose J. Armas

**Members:** Cesar L. Alvarez, Deanne Butchey, Dean C. Colson, Natasha Lowell, Chanel T. Rowe, Marc D. Sarnoff

## AGENDA

1. Call to Order and Chair's Remarks Roger Tovar
2. Approval of Minutes Roger Tovar
3. Action Items
  - FF1. Proposed 2023-24 University and DSO Operating Budgets Aime Martinez
  - FF2. Proposed 2023-24 Fixed Capital Outlay Budget Aime Martinez
  - FF3. Request for Approval of Florida International University's 2024-25 Fixed Capital Outlay Legislative Budget Request, Consisting of the five-year Capital Improvement Plan Aime Martinez
  - FF4. Renewal of Lease Agreement with Iskalo Asset Fund LLC for Location at 4600 Main Street, Snyder, New York Aime Martinez
  - FF5. Approval of Contracts greater than or equal to \$3,000,000: Aime Martinez
    1. *Apple Goods and Services Resale Exemption with D&H Distributing*
    2. *Blanket Purchase Order for Smiley Audio Visual*
    3. *Contract PUR-06870 Academic HealthPlans, Inc.*
3. Action Item (*Committee Action; Full Board Information Only*)
  - FF6. Approval of Contracts greater than or equal to \$1,000,000 and less than \$3,000,000: Aime Martinez
    1. *Renewal of PUR-03390 with Air Planning, LLC*
    2. *Independent Contractor Agreement with A21 Consulting, LLC*

**4. Discussion Items** *(No Action Required)*

**4.1 Financial Performance Review, Third Quarter FY 2022-23** Aime Martinez

**4.2 Campus Master Plan 2015-2030 Update** John Cal

**5. Reports** *(For Information Only)*

**5.1 Athletics** J. Scott Carr

**5.2 Business Services** Roger Clegg

**5.3 Emergency Management** Amy B. Aiken

**5.4 Facilities and Construction** John Cal

**5.5 Safety and Environmental Compliance** Amy B. Aiken

**5.6 Treasury** Benjamin Jarrell

**5.7 Procurement** Crystal Herrera

**5.8 CasaCuba Building** Lydia Betancourt Space

**5.9 Foundation** Marcel L. Navarro

**6. New Business** *(If Any)* Roger Tovar

**7. Concluding Remarks and Adjournment** Roger Tovar

# FIU Board of Trustees Finance and Facilities Committee Meeting

**Time:** June 15, 2023 10:00 AM - 11:30 AM EDT

**Location:** FIU, Modesto A. Maidique Campus, Graham Center Ballrooms | Livestream: <http://webcast.fiu.edu/>

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3.	<b>Action Item</b> ( <i>Committee Action; Full Board Information Only</i> )		
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4.2	<b>Campus Master Plan 2015-2030 Update</b>	John Cal	
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<b>Section</b>	<b>Agenda Item</b>	<b>Presenter</b>	<b>Page</b>
6.	<b>New Business</b> <i>(If Any)</i>	Roger Tovar	
7.	<b>Concluding Remarks and Adjournment</b>	Roger Tovar	

**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**

June 15, 2023

**Subject: Approval of Minutes of Meeting held February 23, 2023**

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**Proposed Committee Action:**

Approval of Minutes of the Finance and Facilities Committee meeting held on February 23, 2023 at the FIU, Modesto A. Maidique Campus, Graham Center Ballrooms.

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**Background Information:**

Committee members will review and approve the Minutes of the Finance and Facilities Committee meeting held on February 23, 2023 at the FIU, Modesto A. Maidique Campus, Graham Center Ballrooms.

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**Supporting Documentation:** Minutes: Finance and Facilities Committee Meeting,  
February 23, 2023

**Facilitator/Presenter:** Roger Tovar, *Chair, Finance and Facilities Committee*



## Finance and Facilities Committee

February 23, 2023

FIU, Modesto A. Maidique Campus, Graham Center Ballrooms and Zoom

### MINUTES

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#### 1. Call to Order and Chair's Remarks

The Florida International University Board of Trustees' Finance and Facilities Committee meeting was called to order by Committee Chair Roger Tovar at 10:00 AM on Thursday, February 23, 2023.

General Counsel Carlos B. Castillo conducted roll call of the Finance and Facilities Committee members and verified a quorum. Present were Trustees Roger Tovar, *Committee Chair and Board Vice Chair*; Jose J. Armas, *Committee Vice Chair (joined after roll call)*; Cesar L. Alvarez; Deanne Butchey; Dean C. Colson, *Board Chair*; Natasha Lowell; Chanel T. Rowe (*via Zoom*); and Marc D. Sarnoff.

Trustees Carlos A. Duart (*via Zoom*), Cristhofer E. Lugo, and Gene Prescott and University President Kenneth A. Jessell also were in attendance.

Committee Chair Tovar welcomed all Trustees and members of the University administration. He also welcomed the University community and general public accessing the meeting via the University's webcast.

#### 2. Approval of Minutes

Committee Chair Tovar asked if there were any additions or corrections to the minutes of the Finance and Facilities Committee meeting held on December 6, 2022. Hearing none, a motion was made and unanimously passed to approve the minutes of the Finance and Facilities Committee meeting held on December 6, 2022.

#### 3. Action Item (*Committee Action; Full Board Information Only*)

##### **FF1. Approval of Contract greater than or equal to \$1,000,000 and less than \$3,000,000:**

- #PUR-05855, Jaggaer LLC.

Interim Chief Financial Officer and Senior Vice President for Finance and Administration Aime Martinez presented the five (5)-year renewal piggyback agreement with Jaggaer LLC. for Committee review and approval. She explained that, over the last five (5) years that Jaggaer's Procure to Pay (P2P) software solutions were implemented, productivity and transparency have increased, audit trails and contract compliance have improved, and purchasing has been more strategic. She indicated that the term of the original Jaggaer Contract PUR-00854 will expire on March 18, 2023 and added that the proposed contract renewal commences on March 19, 2023, through March 18, 2028 with a year one (1) annual subscription fee of \$308,428.00 with a 3% increase annually with a total cost of \$1,637,486 for the five (5)-year term. She added that if FIU realizes a 20% increase in the current

operating budget of \$1.7B then there will be an additional 5% increase in the annual subscription fees.

Pursuant to the Delegations of Authority from the Florida International University Board of Trustees to the University President, as reflected in the Resolution on the President's Powers and Duties approved by the Board of Trustees on March 4, 2019, a motion was made and unanimously passed that the FIU Board of Trustees Finance and Facilities Committee (i) approve the University entering into the contract PUR-05855 as listed and described in the Board materials and (ii) authorize the University President or his designee to execute, on behalf of the University, the aforementioned contracts.

#### **4. Discussion Items**

##### **4.1 Financial Performance Review, Second Quarter FY 2022-23**

Interim CFO and Sr. VP Martinez presented the University's financial performance review for the second quarter of FY 2022-23. She indicated that operating revenues are below estimates by \$1.1M or 0.1% and that operating expenses are below estimates by \$3M or 0.4%, with a net favorable variance of \$1.9M. She pointed out that the largest driver of the favorable variance is higher revenues related to sponsored research, mainly federal projects, direct support organization reimbursements, and international program revenues from the FIU HealthCare Network to the University. Interim CFO and Sr. VP Martinez commented on lower auxiliaries and noted that lower enrollment in academic programs was offset by higher revenues from the Food Network South Beach Wine & Food Festival presented by Capital One (SOBEWFF®), higher conference and fee revenues in housing, and higher revenues in other auxiliaries.

Trustees engaged in a discussion regarding lower academic program auxiliary revenues. College of Business Dean, William Hardin, explained that the academic program auxiliary revenue variance can be attributed to students changing from a market rate or self-supporting program, which generate auxiliary revenue, into an Education and General (E&G)-funded program. He stated that concurrent with the enrollment declines in market rate and self-supporting programs, the College has reduced its expenditures. Trustee Deanne Butchey commented that stress and work obligations may contribute to student preference shifting towards the College's E&G-funded programs. In response to Trustee Natasha Lowell, Dean Hardin commented that employer contributions towards tuition reimbursement have decreased over the years and in some cases are capped at specific amounts. Dean Hardin indicated that most of the College's graduate students are employed.

##### **4.2 Capital Project Updates**

Interim CFO and Sr. VP Martinez indicated that the Engineering 1 Building is currently under construction by DPR Construction. She explained that DPR has advised of a larger cost estimate for the hard construction costs than what was established as the guaranteed maximum price (GMP) of \$51.6M and added that after continued discussions with DPR and based on final construction documents (CD), the final GMP has now been established at \$60.6M leaving a gap of \$9M for the construction of the building. She indicated that when the FIU Board of Trustees approved an increase to the project's budget in June 2022, in order to meet the project's budgetary shortfalls, the University removed all contingencies. Interim CFO and Sr. VP Martinez added that the University is recommending that \$841K be included in the project's budget to cover future unknowns. She

described the project's budget evolution and funding. She pointed out that while the original construction program totaled \$29.59M in June 2020, project costs increased with the addition of a sixth floor, atrium, stairs, and bridges. She stated that the increased gross square area and added curtainwall and scope such as restrooms, HVACs and lab exhaust fans on the shelled floors ensure that the core infrastructure is in place for future build out. She noted that the University experienced \$4.5M in cost escalations since June 2020 with a total project cost of \$64.7M, prior to the \$9M construction gap. She commented that while signing the GMP at the advanced schematic design (ASD) with DPR posed increased risk, it did allow the University to realize savings of approximately \$1M in steel purchases, concrete material, glass, aluminum, and insurance.

In terms of contract amendments, Interim CFO and Sr. VP Martinez indicated that, over time, the University had three phases of the contract. She added that once the contractor asked for authority of \$10M to continue to procure materials, the University paused in order to seek Board of Trustees approval of the overall budget.

Interim CFO and Sr. VP Martinez remarked on the approved construction scope, including six (6) floors, 40% build-out and 60% shell, functional MEP (mechanical, electrical, and plumbing) infrastructure that can be expanded, and initial use focused on second, third and fourth floors to include: office spaces for Biomedical Engineering; advising offices, graduate student spaces, private research and interview spaces, tutoring and server rooms, large and medium sized classrooms, learning assistance hubs, and computer labs for the School of Universal Computing; and small and large multi-use rooms for the Office of Distance Learning. She explained that the \$9M increase included: added infrastructure beyond the advanced schematic design, \$1.4M; design progression from advanced schematic design to construction documents, \$2.2M; construction cost escalation, cost of materials, \$3.9M and labor, \$929K; builder's risk, \$377K; and indirect costs, \$235K. Interim CFO and Sr. VP Martinez commented on the University's recommendations: increase the project budget by up to \$9.8M including unforeseen contingencies; execution of contract amendment with DPR Construction based on the final GMP with pricing held through March 2, 2023; program completion as planned and committed; occupiable and functional building to continue building for the future; and funding from unrestricted treasury auxiliary as bridge funding and restored with philanthropy, sponsorships, and other funds. She noted that the University will replenish the treasury auxiliary fund, which has a reserve of \$84.3M.

Committee Chair Tovar stated that while the proposed increase to the budget was up to \$9.8M, the University continues to negotiate with DPR Construction regarding the amount and each party's responsibility. Board Chair Dean C. Colson commented that stopping the project is not an alternative and added that the Board of Trustees would need to either hold a special meeting within the coming days or could consider a delegation to the Committee Chair. Board Chair Colson requested that the Committee consider a delegation to the Committee Chair to:

- (1) assist the University administration to negotiate a further amendment to the existing contract with DPR Construction for services in connection with the Engineering I Building, State Project No. BT-919, that would provide for an increase to the budget of up to \$9.8M to cover construction cost escalations, added infrastructure, design progression, reestablishment of a contingency and other costs associated with said items; to be funded from unrestricted auxiliary treasury funds.

- (2) provide any required Board approvals for such increase to the budget for this project; and
- (3) timely report to the Board on the results of such efforts, including whether an amendment between the parties is reached.

Moreover, if such negotiations do not result in an amendment, the Committee Chair shall immediately notify the Board, and if needed, a meeting of the Board shall be scheduled as expeditiously as possible.

In response to Trustee Marc D. Sarnoff's GMP comment on the definition of guarantee, Interim CFO and Sr. VP Martinez explained that this is where the University had the biggest difference with the contractor, the initial GMP of \$51M was a risk, given that it was not based on final construction documents. Committee Chair Tovar commented that despite the pressures to begin construction, the contract should not have been executed at a time when the deliverables had not been clearly defined. He added that timely negotiations with DPR Construction can ensure that the project continues and not cost the University more over time. In response to Trustee Lowell's question regarding the proposed delegation, Committee Chair Tovar reiterated that his personal goal is to negotiate an amount that is less than \$9.8M. In response to Trustee Carlos A. Duarte inquiry on an independent cost estimate review from one of the University's construction managers, Committee Chair Tovar mentioned that the University's project managers are fully involved in terms of reviewing cost estimates. Responding to Trustee Lowell's request to define the amount of the scope expansion, Interim CFO and Sr. VP Martinez stated that \$1.3M (added infrastructure beyond ASD) in addition to a \$2.2M (design progression from ASD's to CD's) was the responsibility of the University. President Kenneth A. Jessell mentioned that the University's intent was always to be within the GMP. He added that an early start did involve certain risk, but eliminating said risk would have postponed the project by adding months to the timeline and resulted in additional costs. In response to Committee Vice Chair Jose J. Armas, President Jessell delineated the treasury auxiliary fund balance process. Further responding to Committee Vice Chair Armas, General Counsel Castillo confirmed that the Office of the General Counsel will assist Committee Chair Tovar with the contractual review process. Trustee Sarnoff requested that moving forward, the Board of Trustees receive a delineation of the part(s) of the contract that are not included under the GMP.

A motion was made and unanimously passed that the FIU Board of Trustees Finance and Facilities Committee recommend that the FIU Board of Trustees approve the delegation to the Committee Chair as presented by Board Chair Colson.

In regard to the hotel, conference and alumni center project, Interim CFO and Sr. VP Martinez pointed out that on January 26, 2023 the University, by letter, provided notice to Concord Benchmark that FIU was exercising its right to terminate the sublease and the FIU Foundation was also exercising its right to terminate the development agreement to build the Alumni Center effective January 29, 2023. She added that the related operating agreements were also terminated. She explained that the University's campus master plan incorporates a hotel and conference center and indicated that the University will revisit options for stand-alone alumni and conference centers on campus. Trustee Sarnoff commented on the lost opportunity and added that while he supports the idea of a hotel and conference center on campus, he did not support the project because it

would have not used the University's land in a way that is most valuable. He encouraged the University's administration to pursue Requests for Letters of Interest (RLI).

## **5. Reports**

There were no questions from the Committee members in terms of the reports included as part of the agenda materials: Athletics Update; Business Services Report; Emergency Management Status Report; Facilities and Construction Update; Safety and Environmental Compliance Report; Treasury Report; Procurement Report; CasaCuba Building Update; and Foundation Report.

At the request of Committee Chair Tovar, President Jessell indicated that it is likely that the University will terminate the agreement with the CasaCuba building architect. In response to Committee Vice Chair Armas, President Jessell indicated that a viable program that fits within the project's budget and CasaCuba's programming needs has not been achieved. Committee Chair Tovar requested that CasaCuba's programming needs, vision, and long-term fundraising be defined and that the University administration provide an update and path forward at a future meeting.

## **6. New Business**

No new business was raised.

## **7. Concluding Remarks and Adjournment**

With no other business, Finance and Facilities Committee Chair Roger Tovar adjourned the meeting of the Florida International University Board of Trustees Finance and Facilities Committee on Thursday, February 23, 2023 at 11:12 AM.



**THE FLORIDA INTERNATIONAL UNIVERSITY  
BOARD OF TRUSTEES**

**Finance and Facilities Committee**

June 15, 2023

**Subject: Proposed 2023-2024 University and Direct Support Organizations Operating Budgets**

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**Proposed Committee Action:**

Recommend that the Florida International University Board of Trustees (the BOT) approve the FIU 2023-24 University and Direct Support Organizations (DSO) Operating Budgets, and authorize the University President to amend the budgets consistent with Legislative, Board of Governors' and BOT directives and guidelines.

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**Background Information:**

The BOT is required to adopt an annual budget for the general operation of the University prior to submission to the Florida Board of Governors. The FY 2023-24 Proposed Operating Budget for the University is due to the Board of Governors on June 22, 2023.

The DSOs' (i.e., FIU Athletics Finance Corp., FIU Foundation, Inc., and FIU Research Foundation, Inc.) and the Florida International University Health Care Network, Inc.'s budgets are incorporated into the University's Operating Budget.

The following funding groups and budget detail are included:

- A. Educational and General (E&G) – Current Year
- B. Educational and General (E&G) – Carry Forward
- C. Auxiliary Enterprises Proposed Budget Allocation
- D. Intercollegiate Athletics Proposed Budget Allocation
- E. Activity and Service Proposed Budget Allocation
- F. Technology Fee Proposed Budget Allocation
- G. Board Approved Fees Budget Allocation
- H. Contracts and Grants Proposed Budget Allocation
- I. Student Financial Aid Proposed Budget Allocation
- J. Concessions Proposed Budget Allocation
- K. FIU Athletics Finance Corp.
- L. FIU Foundation, Inc.
- M. FIU Health Care Network, Inc.
- N. FIU Self-Insurance Program
- O. FIU Research Foundation, Inc.
- P. University Support to Direct Support Organizations
- Q. University Treasury Operations

Authority for the University President to amend the budgets is necessary to accommodate changes in revenues, expenditures, and statutory budget amendments. The University President shall keep the BOT informed of the status of the operating budgets through quarterly updates and will notify the

BOT of any changes in excess of two percent (2%) made to the total approved 2023-2024 Operating Budget during the operating year.

Florida Statute 1011.40(2) provides that “each university board of trustees shall adopt an operating budget for the operation of the university as prescribed by law and rules of the Board of Governors.” The University has prepared the proposed 2023-2024 Operating Budget in accordance with the requirements set forth in Board of Governors Regulations 9.007 and 9.011.

Florida Board of Governors Regulation 9.007(1) states that each university president shall prepare an operating budget, including an Education & General (E&G) Carryforward Spending Plan, for approval by the university board of trustees in accordance with instructions, guidelines and standard formats provided by the Board of Governors.

Florida Board of Governors Regulation 9.011(4) states that operating budgets of support organizations shall be prepared at least annually, and approved by the organization’s governing board and the university board of trustees. Significant changes in planned expenditures in the approved budget must be reported to the university board of trustees as soon as practicable but no later than the deadline established by a board of trustees.

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<b>Supporting Documentation:</b>	2023-2024 Proposed University and DSO Operating Budgets Glossary
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<b>Facilitator/Presenter:</b>	Aime Martinez
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**Florida International University**  
**Board of Trustees Financial Summary**  
**Fiscal Year 2023-24 Budget**

	Overview <sup>1</sup>					
	Approved Budget 2022-23	Forecast 2022-23	2022-23 Forecast vs. Budget	Requested Budget 2023-24	2023-24 vs. 2022-23 Budget	% Change
<i>(In millions of dollars)</i>						
<b>Revenue / Receipts</b>						
<b>University</b>						
Educational and General (net) <sup>2</sup>	\$ 599.0	\$ 602.5	\$ 3.5	\$ 663.8	\$ 64.8	10.8%
University	547.4	550.6	3.2	612.2	64.8	11.8%
College of Medicine	51.6	51.9	0.3	51.6	-	0.0%
FIU Self-Insurance Program	0.4	0.3	(0.1)	0.4	-	0.0%
Auxiliary Enterprises	278.1	272.3	(5.8)	272.3	(5.8)	-2.1%
Intercollegiate Athletics	30.3	32.3	2.0	31.0	0.7	2.3%
Activities and Service	19.8	19.4	(0.4)	19.6	(0.2)	-1.0%
Technology Fee	11.0	10.8	(0.2)	10.7	(0.3)	-2.7%
Board Approved Fees	0.4	0.4	-	0.4	-	0.0%
Contracts and Grants	237.3	274.0	36.7	243.8	6.5	2.7%
Student Financial Aid	247.2	240.9	(6.3)	245.5	(1.7)	-0.7%
Concessions	0.7	0.7	0.1	0.9	0.2	28.5%
<b>Direct Support Organizations / Component Units</b>						
FIU Athletics Finance Corp.	4.9	5.2	0.3	5.6	0.7	14.3%
FIU Foundation Inc.	42.0	36.0	(6.0)	36.1	(5.9)	-14.0%
Contributions for University Support	40.7	34.8	(5.9)	34.7	(5.9)	-14.6%
Contributions and Operating Revenues	1.3	1.3	-	1.3	-	0.0%
FIU Health Care Network, Inc.	2.9	4.6	1.7	3.5	0.6	20.7%
FIU Research Foundation Inc.	0.2	0.1	(0.1)	0.4	0.2	100.0%
Interfund Adjustments <sup>3</sup>	(12.5)	(12.5)	-	(11.5)	1.0	-8.0%
<b>Total Operating Revenues</b>	<b>\$ 1,461.7</b>	<b>\$ 1,487.0</b>	<b>\$ 25.3</b>	<b>\$ 1,522.5</b>	<b>\$ 60.8</b>	<b>4.2%</b>
University (net)	12.8	9.2	(3.6)	15.6	2.8	21.9%
Direct Support Organizations	24.2	20.4	(3.8)	23.0	(1.2)	-5.0%
<b>Total Investment Revenues</b>	<b>\$ 37.0</b>	<b>\$ 29.6</b>	<b>\$ (7.4)</b>	<b>\$ 38.6</b>	<b>\$ 1.6</b>	<b>4.3%</b>
Student Loans <sup>4</sup>	211.7	229.6	17.9	229.6	17.9	8.5%
<b>Total Revenues / Receipts</b>	<b>\$ 1,710.4</b>	<b>\$ 1,746.2</b>	<b>\$ 35.8</b>	<b>\$ 1,790.7</b>	<b>\$ 80.3</b>	<b>4.7%</b>
<b>Expenses</b>						
<b>University</b>						
Educational and General	\$ 599.0	\$ 579.1	\$ 19.9	\$ 663.8	\$ (64.8)	-10.8%
University	547.4	534.7	12.7	612.2	(64.8)	-11.8%
College of Medicine	51.6	44.4	7.2	51.6	-	0.0%
FIU Self-Insurance Program	0.2	0.2	0.0	0.2	-	0.0%
Auxiliary Enterprises	259.6	248.5	11.1	271.9	(12.3)	-4.7%
Intercollegiate Athletics	31.7	31.3	0.4	33.2	(1.5)	-4.7%
Activities and Service	20.9	18.9	2.0	20.4	0.5	2.4%
Technology Fee	13.8	15.1	(1.3)	13.8	(0.0)	-0.1%
Board Approved Fees	0.4	0.4	-	0.4	-	0.0%
Contracts and Grants	222.4	235.3	(12.9)	220.0	2.4	1.1%
Student Financial Aid	251.2	241.5	9.7	248.1	3.1	1.2%
Concessions	1.0	1.0	-	1.1	(0.1)	-10.0%
<b>Direct Support Organizations / Component Units</b>						
FIU Athletics Finance Corp.	2.6	2.6	0.0	3.0	(0.4)	-15.4%
FIU Foundation Inc.	52.7	52.1	0.6	44.9	7.8	14.8%
University Program Support	39.3	39.7	(0.4)	35.0	4.3	10.8%
Operating Expenses	13.4	12.4	1.0	9.8	3.6	26.8%
FIU Health Care Network, Inc.	2.8	4.5	(1.7)	3.4	(0.6)	-23.0%
FIU Research Foundation Inc.	-	-	-	-	-	0.0%
Interfund Adjustments <sup>3</sup>	(12.5)	(12.5)	-	(11.5)	(1.0)	8.0%
<b>Total Operating Expenses</b>	<b>\$ 1,445.8</b>	<b>\$ 1,418.0</b>	<b>\$ 27.8</b>	<b>\$ 1,512.7</b>	<b>\$ (67.0)</b>	<b>-4.6%</b>
Principal Payment of Debt <sup>5</sup>	8.8	8.8	(0.0)	9.1	(0.3)	-3.6%
Student Loans <sup>4</sup>	211.7	229.6	(17.9)	229.6	(17.9)	-8.5%
<b>Total Expenses</b>	<b>\$ 1,666.3</b>	<b>\$ 1,656.4</b>	<b>\$ 9.9</b>	<b>\$ 1,751.4</b>	<b>\$ (85.2)</b>	<b>-5.1%</b>
<b>Change in Net Position (incl. Investments)</b>	<b>\$ 44.1</b>	<b>\$ 89.8</b>	<b>\$ 45.7</b>	<b>\$ 39.2</b>	<b>\$ (4.9)</b>	<b>-11.1%</b>
<b>Change in Net Position (excl. Investments)</b>	<b>\$ 7.1</b>	<b>\$ 60.2</b>	<b>\$ 53.1</b>	<b>\$ 0.6</b>	<b>\$ (6.5)</b>	<b>-91.3%</b>

**Florida International University  
Board of Trustees Financial Summary  
Fiscal Year 2023-24 Budget  
Overview<sup>1</sup>**

**Notes:**

<sup>1</sup> *The FIU budget for fiscal year 2023-24 reflects the state budgeting methodology which differs from the university's full accrual financial statements which are prepared according to GASB accounting principles. The following have the most significant impact:*

- *Depreciation of Assets: For budgeting purposes, furniture, fixtures, and equipment purchases are fully expensed in their acquisition year, therefore depreciation is not included in the budget.*
- *Unrealized gains and losses: The investment results are recognized as revenues in the budget, however, GASB accounting principles require that it be recorded as a non-operating revenue or expense.*
- *The Education and General and Student Financial Aid funds contain State Non-Capital Appropriations and Federal and State Student Financial Aid, respectively, which are reflected as revenues in the budget but GASB accounting principles require they be reflected as non-operating revenues in the financial statements.*

<sup>2</sup> *Educational and General (E&G) revenues include State Funding and Tuition and are net of waivers, uncollectible amounts, credit card surcharge, and 30% financial aid need-based amounts per Florida statute 1009.24 (16)(a). State Appropriations include an estimated allocation to FIU of \$72.4M associated with fiscal year 2023-24 performance-based funding and \$17.5M from non-recurring, performance-based funding recruitment and retention incentives for faculty.*

<sup>3</sup> *Interfund transactions have been included in the individual funds to allow for individual fund performance analysis. This has resulted in higher revenues and expenses by fund. The Interfund Adjustments eliminate this double counting of revenues and expenses with the exception of interfund transactions for auxiliary services provided to other units and Direct Support Organizations which have not been eliminated. The Interfund Adjustments also exclude interfund transfers and transfers for capital projects.*

<sup>4</sup> *Student loans represent a pass through for the university.*

<sup>5</sup> *Principal payment of debt is reflected as an expense per Florida Board of Governors requirement that debt service payments be shown on a cash basis.*

Florida International University

Financial Summary

2023-24 E&G Revenue

	General Revenue	Educational Enhancement (Lottery)	Total State Funding	Tuition (net) <sup>1</sup>	Total
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(In thousands of dollars)

**I. University (ex-Legislative Items: Risk Management, Financial Aid, & Nursing Education (PIPELINE))**

<b>2022-23 Base Budget</b>	<b>\$ 241,811</b>	<b>\$ 69,487</b>	<b>\$ 311,297</b>	<b>\$ 227,977</b>	<b>\$ 539,274</b>
<b>2023-24 Incremental Changes</b>					
<b>Tuition</b>	-	-	-	1,856	1,856
<b>Performance Based Funding <sup>2</sup></b>					
Reduction Prior Year State Investment	(32,894)	-	(32,894)	-	(32,894)
Current Year - State Investment	39,525	-	39,525	-	39,525
Transfer Base Funding to Performance	(32,837)	-	(32,837)	-	(32,837)
Current Year - Institutional Investment	32,837	-	32,837	-	32,837
Recruitment & Retention Incentives (Non-recurring)	17,500	-	17,500	-	17,500
<b>New Legislative Appropriations</b>					
FIU - Operational Support (\$10M non-recurring)	35,000	-	35,000	-	35,000
FIU - Adam Smith Center for the Study of Economic Freedom	5,000	-	5,000	-	5,000
<b>Educational Enhancement Trust Fund adjustment</b>	(10,113)	10,113	-	-	-
<b>Total Incremental Changes</b>	<b>54,018</b>	<b>10,113</b>	<b>64,131</b>	<b>1,856</b>	<b>65,987</b>
<b>2023-24 Base Budget</b>	<b>\$ 295,829</b>	<b>\$ 79,600</b>	<b>\$ 375,429</b>	<b>\$ 229,833</b>	<b>\$ 605,262</b>

**II. University (Legislative Items: Risk Management & Financial Aid)**

<b>2022-23 Base Budget</b>	<b>\$ 3,314</b>	<b>\$ -</b>	<b>\$ 3,314</b>	<b>\$ -</b>	<b>\$ 3,314</b>
Adjustment to Risk Management Insurance Base	(675)	-	(675)	-	(675)
<b>2022-23 Adjusted Base Budget</b>	<b>\$ 2,639</b>	<b>\$ -</b>	<b>\$ 2,639</b>	<b>\$ -</b>	<b>\$ 2,639</b>
<b>2023-24 Base Budget</b>	<b>\$ 2,639</b>	<b>\$ -</b>	<b>\$ 2,639</b>	<b>\$ -</b>	<b>\$ 2,639</b>

**III. University (Legislative Items: Nursing Education (PIPELINE))**

<b>2022-23 Base Budget</b>	<b>\$ 4,831</b>	<b>\$ -</b>	<b>\$ 4,831</b>	<b>\$ -</b>	<b>\$ 4,831</b>
Adjustment to Base Budget	-	-	-	-	-
<b>2022-23 Adjusted Base Budget</b>	<b>\$ 4,831</b>	<b>\$ -</b>	<b>\$ 4,831</b>	<b>\$ -</b>	<b>\$ 4,831</b>
<b>2023-24 Incremental Changes</b>					
FIU - Prepping Institutions, Programs, Employers, and Learners through Incentives for Nursing Education (PIPELINE)	(554)	-	(554)	-	(554)
<b>Total Incremental Changes</b>	<b>(554)</b>	<b>-</b>	<b>(554)</b>	<b>-</b>	<b>(554)</b>
<b>2023-24 Base Budget</b>	<b>\$ 4,277</b>	<b>\$ -</b>	<b>\$ 4,277</b>	<b>\$ -</b>	<b>\$ 4,277</b>

<b><u>I., II. &amp; III. University</u></b>					
<b>2022-23 Base Budget</b>	<b>\$ 249,956</b>	<b>\$ 69,487</b>	<b>\$ 319,443</b>	<b>\$ 227,977</b>	<b>\$ 547,419</b>
Adjustment to Base Budget	(675)	-	(675)	-	(675)
<b>2022-23 Adjusted Base Budget</b>	<b>\$ 249,281</b>	<b>\$ 69,487</b>	<b>\$ 318,768</b>	<b>\$ 227,977</b>	<b>\$ 546,745</b>
Total Incremental Changes	53,464	10,113	63,577	1,856	65,433
<b>2023-24 Base Budget</b>	<b>\$ 302,745</b>	<b>\$ 79,600</b>	<b>\$ 382,345</b>	<b>\$ 229,833</b>	<b>\$ 612,178</b>

<sup>1</sup> Tuition revenues are net of waivers, uncollectible amounts, credit card surcharge, and 30% financial aid need-based amounts per Florida statute 1009.24 (16)(a).

<sup>2</sup> Performance based funding is the estimated allocation to FIU of the SUS State Investment of \$350M, \$295M Institutional Investment (reallocation of base funds), and \$100M non-recurring funds for recruitment and retention incentives for faculty. Performance funds allocations to institutions will be approved by the Florida Board of Governors in their June 21, 2023, meeting, as such, the budget does not reflect the final allocation of performance-based funds to FIU.

Florida International University

Financial Summary

2023-24 E&G Revenue

	General Revenue	Educational Enhancement (Lottery)	Total State Funding	Tuition (net) <sup>1</sup>	Total
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(In thousands of dollars)

**III. College of Medicine (ex-Legislative Items: Risk Management)**

<b>2022-23 Base Budget</b>	<b>\$ 33,154</b>	<b>\$ -</b>	<b>\$ 33,154</b>	<b>\$ 18,331</b>	<b>\$ 51,485</b>
Deduct Prior Year Non-Recurring	-	-	-	-	-
<b>2022-23 Adjusted Base Budget</b>	<b>\$ 33,154</b>	<b>\$ -</b>	<b>\$ 33,154</b>	<b>\$ 18,331</b>	<b>\$ 51,485</b>
 <b>2023-24 Incremental Changes</b>					
Tuition	-	-	-	-	-
<b>Total Incremental Changes</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
 <b>2023-24 Base Budget</b>	<b>\$ 33,154</b>	<b>\$ -</b>	<b>\$ 33,154</b>	<b>\$ 18,331</b>	<b>\$ 51,485</b>

**IV. College of Medicine (Legislative Items: Risk Management)**

<b>2022-23 Base Budget</b>	<b>\$ 81</b>	<b>\$ -</b>	<b>\$ 81</b>	<b>\$ -</b>	<b>\$ 81</b>
Adjustment to Risk Management Base	(2)	-	(2)	-	(2)
<b>2022-23 Adjusted Base Budget</b>	<b>\$ 78</b>	<b>\$ -</b>	<b>\$ 78</b>	<b>\$ -</b>	<b>\$ 78</b>

**III. & IV. College of Medicine**

<b>2022-23 Base Budget</b>	<b>\$ 33,234</b>	<b>\$ -</b>	<b>\$ 33,234</b>	<b>\$ 18,331</b>	<b>\$ 51,565</b>
Adjustments to Base Budget	(2)	-	(2)	-	(2)
<b>2022-23 Adjusted Base Budget</b>	<b>\$ 33,232</b>	<b>\$ -</b>	<b>\$ 33,232</b>	<b>\$ 18,331</b>	<b>\$ 51,563</b>
Total Incremental Changes	-	-	-	-	-
<b>2023-24 Base Budget</b>	<b>\$ 33,232</b>	<b>\$ -</b>	<b>\$ 33,232</b>	<b>\$ 18,331</b>	<b>\$ 51,563</b>

<sup>1</sup> Tuition revenues are net of waivers, uncollectible amounts, and credit card surcharge.

Florida International University  
Financial Summary  
E&G Summary - Current Year

	Approved Budget 2022-23	Forecast 2022-23	2022-23 Forecast vs. Budget	Requested Budget <sup>1</sup> 2023-24	2023-24 vs. 2022-23 Budget
<i>(In thousands of dollars)</i>					
<b><u>I. University:</u></b>					
<b>Revenues</b>					
General Revenues <sup>1</sup>	\$ 241,224	\$ 248,053	\$ 6,829	\$ 294,568	\$ 53,344
General Revenues - Legislative Line Item	8,731	8,731	-	8,177	(554)
Educational Enhancement (Lottery) <sup>1</sup>	69,487	69,487	-	79,600	10,113
Total State Appropriations	319,443	326,271	6,829	382,345	62,902
Gross Tuition	280,776	284,422	3,647	292,899	12,123
Waivers	(33,315)	(40,252)	(6,937)	(43,670)	(10,355)
Financial Aid (30%)	(19,484)	(19,818)	(334)	(19,396)	88
Net Tuition <sup>2</sup>	227,977	224,353	(3,624)	229,833	1,856
<b>Total Revenues</b>	<b>\$ 547,419</b>	<b>\$ 550,624</b>	<b>\$ 3,205</b>	<b>\$ 612,178</b>	<b>\$ 64,758</b>
<b>Expenses</b>					
Salaries and Benefits	411,460	385,249	26,211	435,238	(23,777)
Other Personal Services (OPS)	41,126	46,612	(5,486)	65,719	(24,593)
Other Expenses	71,308	74,248	(2,940)	87,972	(16,664)
Student Financial Aid	18,452	24,130	(5,677)	19,193	(741)
Operating Capital Outlay (OCO)	5,073	4,444	628	4,056	1,016
<b>Total Operating Expenses</b>	<b>\$ 547,419</b>	<b>\$ 534,683</b>	<b>\$ 12,737</b>	<b>\$ 612,178</b>	<b>\$ (64,758)</b>
<b>Change in Net Position</b>	<b>\$ -</b>	<b>\$ 15,942</b>	<b>\$ 15,942</b>	<b>\$ -</b>	<b>\$ -</b>
<b><u>II. College of Medicine:</u></b>					
<b>Revenues</b>					
General Revenues	\$ 31,734	\$ 31,732	\$ (2)	\$ 31,732	\$ (2)
General Revenues - Legislative Line Item	1,500	1,500	-	1,500	-
Total State Appropriations	33,234	33,232	(2)	33,232	(2)
Gross Tuition	18,498	18,706	208	18,498	-
Waivers	(167)	(73)	94	(167)	(0)
Net Tuition <sup>2</sup>	18,331	18,633	302	18,331	(0)
<b>Total Revenues</b>	<b>\$ 51,565</b>	<b>\$ 51,865</b>	<b>\$ 299</b>	<b>\$ 51,563</b>	<b>\$ (2)</b>
<b>Expenses</b>					
Salaries and Benefits	41,979	34,341	7,637	41,022	957
Other Personal Services (OPS)	1,761	2,738	(977)	1,940	(179)
Other Expenses	7,825	7,273	553	8,600	(775)
Student Financial Aid	-	40	(40)	-	-
Operating Capital Outlay (OCO)	-	5	(5)	-	-
<b>Total Operating Expenses</b>	<b>\$ 51,565</b>	<b>\$ 44,398</b>	<b>\$ 7,167</b>	<b>\$ 51,563</b>	<b>\$ (2)</b>
<b>Change in Net Position</b>	<b>\$ -</b>	<b>\$ 7,467</b>	<b>\$ 7,467</b>	<b>\$ -</b>	<b>\$ -</b>

Notes:

<sup>1</sup> The amounts reported as state appropriations are based on the appropriations bill approved by the Legislature (SB 2500). Fiscal year 2023-24 state appropriations include an estimated allocation to FIU of \$72.4M of performance-based funding and \$17.5M of non-recurring, performance-based funding recruitment and retention incentives. Performance-based funds allocations to institutions will be approved by the Florida Board of Governors in their June 21, 2023, meeting, as such, the budget does not reflect the final allocation of performance-based funds to FIU.

<sup>2</sup> Net tuition revenues are estimated gross tuition revenues net of waivers, uncollectible amounts, credit card surcharge, and 30% financial aid need-based amounts per Florida statute 1009.24 (16)(a).

**Florida International University  
Financial Summary  
E&G Summary - Carry Forward**

(In dollars)

	University	College of Medicine
<b>Beginning E&amp;G Carry Forward Fund Balance, July 1, 2022</b>	<b>\$ 88,153,683</b>	<b>\$ 20,687,332</b>
<b>FY 2022-23 Estimated Activity:</b>		
Carry Forward Change in Net Position	(30,973,152)	(5,503,095)
Additional Carry Forward from FY 2022-23	15,601,043	7,466,777
<b>Estimated Beginning E&amp;G Carry Forward Fund Balance, July 1, 2023</b>	<b>\$ 72,781,574</b>	<b>\$ 22,651,014</b>
Less: 7% Statutory Reserve Requirement	(44,383,095)	(3,622,619)
<b>Estimated E&amp;G Carry Forward Available Fund Balance</b>	<b>\$ 28,398,479</b>	<b>\$ 19,028,395</b>
Continuation projects previously approved by BOT	(12,225,854)	(10,882,841)
Prior Year non-expended to be approved by BOT in September 2023	(3,258,871)	(24,794)
New Carry Forward to be approved by BOT in September 2023	(12,913,754)	(8,120,760)
<b>Estimated Available E&amp;G Carry Forward Fund Balance, June 30, 2024</b>	<b>\$ -</b>	<b>\$ -</b>



**Florida International University  
Financial Summary  
Total Auxiliary Enterprises**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 278,112</b>	<b>\$ 272,322</b>	<b>\$ (5,790)</b>	<b>\$ 272,317</b>	<b>\$ (5,795)</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	114,624	103,222	11,402	124,734	(10,110)
Other Personal Services (OPS)	22,037	19,743	2,294	19,356	2,681
Other Expenses	110,083	112,587	(2,504)	116,504	(6,421)
Student Financial Aid	4,347	4,003	344	3,993	354
Operating Capital Outlay (OCO)	1,535	2,024	(489)	840	695
Debt Service Interest	6,952	6,950	2	6,484	469
<b>Total Operating Expenses</b>	<b>\$ 259,578</b>	<b>\$ 248,528</b>	<b>\$ 11,050</b>	<b>\$ 271,910</b>	<b>\$ (12,333)</b>
<b>Net Operating Income</b>	<b>\$ 18,534</b>	<b>\$ 23,794</b>	<b>\$ 5,260</b>	<b>\$ 407</b>	<b>\$ (18,127)</b>
Investment Revenues	1,893	3,138	1,244	4,006	2,113
Principal Payment of Debt	(7,145)	(7,145)	-	(7,375)	(230)
Operational Transfers	-	-	-	-	-
Construction Projects	(11,169)	(12,263)	(1,094)	(14,652)	(3,483)
Institutional Transfers	(401)	(224)	176	(677)	(276)
<b>Change in Net Position</b>	<b>\$ 1,713</b>	<b>\$ 7,300</b>	<b>\$ 5,587</b>	<b>\$ (18,291)</b>	<b>\$ (20,004)</b>
<b><u>Net Position</u></b>					
Beginning Net Position	257,806	256,240		263,540	
Change in Net Position	1,713	7,300		(18,291)	
<b>Ending Net Position</b>	<b>\$ 259,519</b>	<b>\$ 263,540</b>		<b>\$ 245,250</b>	

Total Auxiliary Enterprises includes activities under Academic Auxiliaries, Housing, Parking and Transportation, Student Health Services, and Other Auxiliaries such as retail commissions, rentals, interdepartmental services, marketing and sponsorship activities, and other university-wide initiatives. Budget figures represent total revenues and expenses for all Auxiliary activities, hence interdepartmental transactions have not been eliminated.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

**Revenues**

Forecast revenue is \$5.8M lower than fiscal year 2022-23 budget. Lower revenues from Academic Auxiliaries, (\$9.1M), Parking and Transportation, (\$0.1M), and Student Health Services, (\$0.1M), were partially offset by higher revenues from Other Auxiliaries, \$3.2M, and Housing, \$0.3M.

- **Academic Auxiliaries** revenues are \$9.1M lower than planned due to lower than expected revenues from market rate programs, mostly in the College of Business, recharge centers, and distance learning fees; offset in part with greater revenues from study abroad programs, and other revenues.
- **Parking and Transportation** revenue is \$0.1M lower than planned due to lower headcount enrollment resulting in reduced revenue from student permits, and revenue from vehicle services now recognized by the Office of Business Services in Other Auxiliaries. The decrease in revenues was partially offset by higher revenues from on-campus events.
- **Student Health Services** revenue is \$0.1M lower than planned due to lower student health fee revenues as a result of lower student headcount enrollment.
- **Other Auxiliaries** revenue is \$3.2M higher than planned due to delayed transfer of clinical revenues to the FIU Health Care Network from the university; greater ticket sales from the South Beach Wine and Food Festival; and higher on-campus retail and auxiliary services revenue.
- **Housing** revenue is \$0.3M higher than planned primarily attributed to higher-than-anticipated revenue from conferences, application fees, and late fees. The average occupancy rate remained consistent with the approved budget at 98%.

Florida International University  
Financial Summary  
Total Auxiliary Enterprises

The favorable variance is partially offset with lower revenues in the Panther TECH computer store due to delayed Technology Fee projects; postponement of auxiliary funded construction projects resulting in lower construction services reimbursement fee revenue and deferred projects requiring Facilities services; delays in the transition of FIU Health Care Network's Office of International Affairs (OIA) line of business to the University that became effective in the second quarter of the fiscal year instead of the first quarter as initially planned; and less than anticipated shared services fee revenue commensurate with savings in expenditures across various auxiliary enterprises.

Expenses

Total forecast operating expenses in fiscal year 2022-23 are \$11.0M below budget due to lower expenses in Academic Auxiliaries, \$6.7M; Other Auxiliaries, \$2.9M; Student Health Services, \$1.1M; and Housing, \$0.4M; partially offset by higher expenses in Parking and Transportation, (\$0.2M).

- **Academic Auxiliaries** expenses are \$6.7M below forecast due to lower personnel costs associated with vacancies and unexpected turnover; and savings in operating expenses, especially in the College of Business and FIU Online. The favorable variance is partially reduced by greater scholarships for the School of Hospitality and Tourism Management, and higher than expected expenses such as professional services, membership, subscriptions, and travel across several programs.
- **Other Auxiliaries** expenses are \$3.0M less than budget, due to vacancies and delays in hiring employees mainly in the Controller's Office, Business Services, University Police, and the South Beach Wine and Food Festival; salaries and contracted services from clinical operations due to the delayed transfer to the FIU Health Care Network (HCN) from the university; delays in Technology Fee projects; and reimbursement from the Higher Education Emergency Relief Fund (HEERF) for eligible expenses related to the COVID Testing Center that were expended in prior fiscal years. The savings were partially offset by higher-than-expected operational expenses for the South Beach Wine and Food Festival commensurate with higher than anticipated revenue.
- **Student Health Services** expenses are \$1.1M below budget due to lower expenses related to vacant positions for counseling and clinical operations of Student Health Services.
- **Housing** expenses are \$0.4M lower than planned due to savings from vacant positions.
- **Parking and Transportation** expenses are \$0.2M higher than planned mainly due to higher expenses for maintenance and restoration of the garages, partially offset by savings from vacant positions.

Construction projects in fiscal year 2022-23 are forecast to be \$1.1M higher than budget due to unexpected projects such as water heater replacement at FIU Arena, basketball court renovations, SIPA II building, classroom renovations, and transferring remaining funds for the future pedestrian bridge.

Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget

Revenues

Operating revenues are \$5.8M lower compared to fiscal year 2022-23 approved budget. The decrease in revenues stems primarily from Academic Auxiliaries, which experienced a decrease of \$14.3M, partially offset by higher revenues from Other Auxiliaries, \$7.2M, and Housing, \$1.3M. Revenues from Parking and Transportation, as well as Student Health Services, remained consistent with the prior year approved budget

- **Academic Auxiliaries** revenues are projected to decrease by \$14.3M or 10.5 percent due to lower revenues in Market Rate and Self-Supporting programs, a decrease in FIU Online distance learning fee revenues, reduced revenue from recharge centers, and a decline in academic overhead revenues. The unfavorable variance will be partly offset by higher revenue in study abroad and other academic programs.
- **Other Auxiliaries** revenues are \$7.2M or 8.6 percent higher due to an increase in Herbert Wertheim College of Medicine (HWCUM) revenue from Clinical Support Services, and from the Office of International Affairs (OIA); and greater ticket sales for the South Beach Wine and Food Festival. The favorable variance is partially offset by less shared services fee revenue and lower network revenues from the Division of Information Technology due to cancelled phone lines, post-COVID.
- **Housing** revenue is \$1.3M higher due to higher average occupancy at approximately 99% (compared to 98% for fiscal year 2022-23), and a projected increase in conference revenues in Summer 2024.
- **Student Health Services, and Parking and Transportation** revenues are projected to be in line with the prior fiscal year approved budget.

Florida International University  
Financial Summary  
Total Auxiliary Enterprises

Expenses

Operating expenses have increased by \$12.3M, representing a 5 percent increase compared to the approved budget for fiscal year 2022-23. The increase can be attributed to higher personnel expenses resulting from new hires, payroll actions to attract and retain employees, and an increase in fringe benefits. Additionally, higher expenses at the Herbert Wertheim College of Medicine, related to support provided by the FIU Health Care Network for clinical services; and an increase in South Beach Wine Food Festival operating expenses in line with the expected increase in revenue generated from the event. The unfavorable variance is partially offset by a decrease in temporary faculty expenses in the College of Business, and allowable information technology security expenses now covered by the Technology Fee.

- **Other Auxiliaries** : expenses are \$5.5M higher compared to fiscal year 2022-23 approved budget mainly due to higher personnel expenses for new positions, payroll actions for employee recruitment and retention, and increased fringe benefits. The increase in Other Expenses is driven by higher expenditures in the Herbert Wertheim College of Medicine, specifically associated with the FIU Health Care Network support for clinical activities, increase of the South Beach Wine Food Festival which corresponds to the expected increase in revenues generated by the event. These increases in expenditures are partially offset by allowable information technology security expenses now covered by the Technology Fee, \$1.4M.
- **Academic Auxiliaries** : expenses are \$4.9M higher due to higher salaries and benefits for new positions, payroll actions aimed at recruiting and retaining employees, an increase in fringe benefits, and the shifting of positions from the Education & General fund. Additionally, higher expenses from FIU Online associated with the SIPA II building project; increase in travel and purchase for resale expenses within the Chaplin School of Hospitality & Tourism Management; and higher expenditures on memberships and subscriptions. The higher expenditures are partially offset by lower expenses related to temporary faculty expenses in the College of Business, and decrease in Student Financial Aid primarily due to less scholarships for College of Business MBA students.
- **Housing** : \$1.2M higher expenses mainly due to new positions, measures aimed at attracting and retaining employees, increase in fringe benefit, increase in minimum wage, and higher cost of recruiting seasonal custodial workers. Other Expenses have increased to account for inflationary costs and the Lakeview South interior renovation project.
- **Parking and Transportation** : increase in expenses of \$0.4M is due to increases in personnel expenses, which include measures aimed at attracting and retaining employees, as well as an increase in fringe benefit, increase in minimum wage. Other Expenses have increased to account for inflationary costs. Higher expenses are partially offset by \$0.2M of savings on the annual debt service payment (or a net present value of savings of \$3.3M over the term of the loan) due to the 2023A Parking refunding bond sale which resulted in a new rate of 3.6 percent, a reduction of 1.1 percent.
- **Student Health Services** : expenses are \$0.2M higher than fiscal year 2022-23 approved budget due to provisions for university-wide salary actions, higher costs associated with programming and outreach efforts, and an increase in utilities expenses; partially offset by a reduction in management fees for the FIU Health Care Network (HCN) due to reduced services.

Construction projects scheduled for fiscal year 2023-24 include the renovation of the Lakeview South student residential building; close-out payments for completed Tamiami Hall student residential building; repairs and renovations across all parking garages; safety and security features for the parking garages; paving the parking surface by the soccer stadium on the Modesto A. Maidique campus; architecture and design fees for the expansion of the Student Health Services building; maintenance projects for the Student Health Services facility; renovations associated with the bookstore, food services, and retail operations, as well as repairs and maintenance of the MARC building.

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Academic Auxiliaries**

<i>(In thousands of dollars)</i>	Approved Budget 2022-23	Forecast 2022-23	2022-23 Forecast vs. Budget	Requested Budget 2023-24	2023-24 vs. 2022-23 Budget
<b>Operating Revenues</b>	<b>\$ 136,041</b>	<b>\$ 126,933</b>	<b>\$ (9,108)</b>	<b>\$ 121,736</b>	<b>\$ (14,305)</b>
<b>Expenses</b>					
Salaries and Benefits	64,672	59,672	5,000	70,692	(6,020)
Other Personal Services (OPS)	16,404	13,765	2,640	12,688	3,716
Other Expenses	52,259	52,956	(697)	55,628	(3,369)
Student Financial Aid	4,278	3,741	537	3,457	821
Operating Capital Outlay (OCO)	42	789	(747)	128	(87)
Debt Service Interest	8	8	-	-	8
<b>Total Operating Expenses</b>	<b>\$ 137,663</b>	<b>\$ 130,931</b>	<b>\$ 6,732</b>	<b>\$ 142,593</b>	<b>\$ (4,930)</b>
<b>Net Operating Income</b>	<b>\$ (1,622)</b>	<b>\$ (3,998)</b>	<b>\$ (2,376)</b>	<b>\$ (20,857)</b>	<b>\$ (19,235)</b>
Investment Revenues	649	1,096	447	1,416	767
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	(150)	992	1,142	244	394
Construction Projects	-	(575)	(575)	(130)	(130)
Institutional Transfers	(488)	618	1,106	(55)	432
<b>Change in Net Position</b>	<b>\$ (1,611)</b>	<b>\$ (1,867)</b>	<b>\$ (256)</b>	<b>\$ (19,383)</b>	<b>\$ (17,772)</b>
<b>Net Position</b>					
Beginning Net Position	109,505	113,085		111,218	
Change in Net Position	(1,611)	(1,867)		(19,383)	
<b>Ending Net Position</b>	<b>\$ 107,895</b>	<b>\$ 111,218</b>		<b>\$ 91,835</b>	

Academic Auxiliary programs are comprised primarily of market rate and self-supporting programs, web-based courses, conferences, material and supply fees, equipment use fees, recharge centers, and distance learning programs. The revenues generated serve to support the actual programs and their growth.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Operating revenues are \$9.1M lower than projected and driven by lower than expected revenues from market rate programs, mostly in the College of Business, recharge centers, and distance learning fees; offset in part with greater revenues from study abroad programs, and other revenues.

**Market rate programs** are below budget \$6.5M due to lower than expected enrollment. The variance is driven by the Corporate Master of Business Administration (MBA) program (now referred to as Online MBA) increase in students transferring between tracks and taking longer to complete the program, which directly impacts revenue. Other factors include the impact of a stronger US dollar on international recruitment efforts and the overall decrease in demand for MBA's across many business schools nationwide as the economy recovers.

Programs with lower enrollment include:

- College of Business, the Online (Corporate) MBA, Professional MBAs, and the HealthCare MBA.
- College of Engineering and Computer Science, Professional Master of Science Engineering Management has put the face-to-face modality on pause indefinitely while they assess marketability and viability. The online modality has lower enrollment.
- College of Communication, Architecture + The Arts, Master of Science, Global Strategic Communications.
- Green School of International and Public Affairs, Master of Arts in Global Affairs

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Academic Auxiliaries**

**Self-supporting program** revenues are down by \$0.3M, driven by:

- College of Engineering and Computing dual degree programs revenue, partially offset with lower enrollment for the Biomedical Engineering - Orthotics and Prosthetics program
- College of Arts, Sciences & Education higher revenues in the Master of Science Behavior Analysis, and the Education Programs, partially offset by lower revenues in the Master of Science Organizational Science
- Herbert Wertheim College of Medicine lower enrollment in the Graduate Certificate in Molecular & Biomedical Sciences and the Physician Assistant Program
- Nicole Wertheim College of Nursing & Health Sciences lower enrollment in the Master of Health Services Administration

**Other academic program** revenues are down by \$2.3M and driven by:

- Distance learning fees, lower enrollment than projected
- Shortfalls associated with lower revenues across several recharge centers
- Lower academic overhead commensurate with lower revenues across academic programs

The unfavorable variance is partially offset by higher revenues from study abroad programs, and fees for materials, equipment and supplies.

Operating expenses are \$6.7M lower than budgeted, primarily due to lower personnel costs associated with vacancies, unexpected turnover, and delays in filling budgeted positions; and savings in operating expenses, especially in the College of Business, FIU Online and College of Medicine. However, the savings were partially offset by higher than planned expenditures such as professional services, membership and subscriptions, travel, scholarships for the School of Hospitality and Tourism Management as a result of higher revenues from the South Beach Wine and Food Festival, and expenses associated with new programs and conferences.

The favorable investment revenues variance against plan of \$0.4M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than projected due to higher interest rates.

Construction projects in fiscal year 2022-23 are higher due to unbudgeted construction expenses for various projects such as FIU Online for the SIPA II building and classroom renovations.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Operating revenues are projected to decrease by \$14.3M or 10.5 percent due to lower than expected revenues in Market Rate and Self-Supporting programs, a decrease in FIU Online distance learning fee revenues, reduced revenue from recharge centers, and a decline in academic overhead revenues. The unfavorable variance will be partly offset by higher revenue in study abroad and other academic programs, including the National Forensic Science Technology Center Online Training, FIU Global First Year, and Embrace Continuing Education.

**Market rate programs** are \$10.7M lower due to lower than expected enrollment. This variance is mainly driven by programs within the College of Business, reflecting a nationwide decline in demand for MBA's as the economy recovers. Furthermore, the increasing popularity of online courses and specialized certifications, which provide flexibility and a focused approach to specific areas of expertise, has contributed to the decrease in demand for MBAs.

Programs with lower enrollment include:

- College of Business: the Online (Corporate) MBA, Professional MBAs, Master of Science in International Real Estate, and the HealthCare MBA
- College of Communication, Architecture + The Arts, Master of Science, Global Strategic Communications
- College of Engineering and Computer Science, Professional Master of Science Engineering Management, partially offset with higher revenues from the Master of Science in Computer Science
- College of Communication, Architecture + The Arts: Online Global Strategic Communications Masters
- Green School of International and Public Affairs, Master of Arts in Global Affairs partially offset with higher revenues from the Master of Public Administration

**Self-supporting programs** are \$5.0M lower due to students taking longer to complete the programs, particularly within the College of Business and the closure of certain international dual degree undergraduate programs; effective December 1, 2023, a state university is not authorized to participate in a partnership with any college or university based in a foreign country of concern.

Programs driving the unfavorable variance include:

- College of Business: Master of Science in Finance, Undergraduate Dual Degree Programs, Masters in Logistics and Supply Chain Management, Masters of Accounting, and Masters of Science in Marketing. The decrease in revenues is partially offset by the new MBA in Cybersecurity Risk Management

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Academic Auxiliaries**

- Chaplin School of Hospitality & Tourism Management: closure of the Marriott Tianjin China Program, a dual degree undergraduate program
- College of Engineering and Computing lower enrollment for the Biomedical Engineering - Orthotics and Prosthetics program, and dual degree programs
- Herbert Wertheim College of Medicine lower enrollment in the Physician Assistant Program
- Nicole Wertheim College of Nursing & Health Sciences lower enrollment in the Master of Health Services Administration

**Other academic program** revenues are up by \$1.4M and driven by higher revenue in several academic programs totaling \$2.7M partially offset by lower revenue from:

- FIU Online distance learning fee
- Less academic overhead due to lower revenues
- Decrease in revenues across several recharge centers

The unfavorable variance is partially offset by higher than expected revenues from:

- Study abroad programs
- Fees including materials and supplies, lab and equipment use fees
- National Forensic Science Technology Center (NFSTC) online training programs
- Higher revenues expected from the FIU Global First Year and Embrace Continuing Education

Operating expenses are projected to increase by \$4.9M primarily due to higher salaries and benefits and other operating expenses, partially offset by a reduction in other personal services as well as scholarships.

- Salaries and benefits are increasing by \$6.0M due to new positions, payroll actions aimed at attracting and retaining employees, an increase in fringe benefits, and the shifting of positions from the Education & General fund. The unfavorable variance is primarily driven by the College of Business, FIU Online, and the Green School of International and Public Affairs.
- Other expenses are increasing by \$3.4M, driven by FIU Online expenses associated with the SIPA II building project, increase in travel and purchase for resale expenses within the Chaplin School of Hospitality & Tourism Management, and higher memberships and subscriptions expenditures.

The higher expenditures are partially offset by lower expenses related to:

- Other Personal Services (OPS), lower by \$3.7M, driven by a decrease in adjunct faculty and overload expenses in the College of Business
- Decrease in Student Financial Aid primarily due to less scholarships for College of Business MBA students, \$0.8M

The favorable variance for investment earnings of \$0.8M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than the prior year estimate due to higher interest rates.

Expenditures of \$0.1M on construction projects in fiscal year 2023-24 mainly consist of transfers to Facilities for renovations at the Wolfe University Center.

The negative change in net position of \$19.4M in fiscal year 2023-24 will be funded with accumulated balances from prior years of \$111.2M, which include reserves for capital projects.



Florida International University  
Financial Summary  
Auxiliary Enterprises | Housing

	Approved Budget 2022-23	Forecast 2022-23	2022-23 Forecast vs. Budget	Requested Budget 2023-24	2023-24 vs. 2022-23 Budget	Preliminary Budget 2024-25
<i>(In thousands of dollars)</i>						
<b>Operating Revenues</b>	<b>\$ 32,804</b>	<b>\$ 33,110</b>	<b>\$ 305</b>	<b>\$ 34,154</b>	<b>\$ 1,350</b>	<b>\$ 34,385</b>
<b>Expenses</b>						
Salaries and Benefits	6,150	5,876	274	6,773	(623)	6,804
Other Personal Services (OPS)	2,380	2,057	324	2,572	(191)	2,623
Other Expenses	8,469	9,030	(562)	9,736	(1,268)	10,711
Student Financial Aid	21	15	6	13	8	13
Operating Capital Outlay (OCO)	625	241	384	-	625	-
Debt Service Interest	4,844	4,844	0	4,590	254	4,297
<b>Total Operating Expenses</b>	<b>\$ 22,489</b>	<b>\$ 22,064</b>	<b>\$ 425</b>	<b>\$ 23,684</b>	<b>\$ (1,195)</b>	<b>\$ 24,448</b>
<b>Net Operating Income</b>	<b>\$ 10,315</b>	<b>\$ 11,046</b>	<b>\$ 731</b>	<b>\$ 10,470</b>	<b>\$ 155</b>	<b>\$ 9,937</b>
Investment Revenues	284	437	153	525	241	284
Principal Payment of Debt	(5,610)	(5,610)	-	(5,865)	(255)	(6,220)
Operational Transfers	22	22	1	45	23	-
Construction Projects	(5,300)	(4,949)	351	(9,542)	(4,242)	(4,655)
Institutional Transfers	-	-	-	-	-	-
<b>Change in Net Position</b>	<b>\$ (289)</b>	<b>\$ 946</b>	<b>\$ 1,235</b>	<b>\$ (4,368)</b>	<b>\$ (4,078)</b>	<b>\$ (654)</b>
<b>Net Position</b>						
Beginning Net Position	28,803	28,530		29,476		25,108
Change in Net Position	(289)	946		(4,368)		(654)
<b>Ending Net Position</b>	<b>\$ 28,514</b>	<b>\$ 29,476</b>		<b>\$ 25,108</b>		<b>\$ 24,454</b>
<b>Reserves included in the Ending Net Position</b>						
Debt Service Reserve	3,700	3,700		3,700		3,700
Maintenance & Equipment Reserve	894	894		894		894
General Reserve	3,000	3,000		3,000		3,000
	<b>\$ 7,594</b>	<b>\$ 7,594</b>		<b>\$ 7,594</b>		<b>\$ 7,594</b>

The Housing Auxiliary generates revenues in the form of rental income from students seeking housing accommodations on campus and from summer conference housing and rental of facilities and student housing parking.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Housing revenues are projected to exceed expectations by \$0.3M, primarily attributed to higher-than-anticipated revenue from conferences, application fees, and late fees. The average occupancy rate remained consistent with the approved budget at 98%.

Operating expenses are forecasted to be \$0.4M below plan, mainly due to savings resulting from vacant positions, partially offset by higher-than-expected expenses for repairs and maintenance, including painting, driveway repairs, landscape maintenance, and elevator and roof maintenance across different buildings.

The favorable investment revenues variance against plan of \$0.2M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than projected due to higher interest rates.

The favorable variance of \$0.3M in construction projects is related to the deferral of minor renovations to fiscal year 2023-24.

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Housing**

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

The additional \$1.3M in revenue is due to higher average occupancy at approximately 99% (compared to 98% for fiscal year 2022-23), and a projected increase in conference revenues in Summer 2024. Housing rates remain unchanged from the prior year.

Operating expenses are \$1.2M higher mainly due to an increase in operating costs:

- Salaries and benefits increase of \$0.6M includes the addition of new positions in Facilities and Residential Life, payroll actions aimed at attracting and retaining employees, and an increase in fringe benefits.
- Other Personal Services (OPS) have increased by \$0.2M, driven by the higher cost of recruiting seasonal custodial workers.
- Other Expenses have increased by \$1.2M or 14 percent due to an adjustment to accommodate inflationary factors and cover the cost of furniture for the Lakeview South interior renovation project.

The increase in expenses is partially offset by a reduction in Operating Capital Outlay (OCO), \$0.6M. The fiscal year 2022-23 plan included expenses for Tamiami Hall that will no longer be incurred in fiscal year 2023-24.

Additionally, there is a lower interest payment required for servicing the debt, \$0.2M, offset by a higher principal payment in accordance with the established debt service payment schedule.

The favorable variance for investment earnings of \$0.2M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than the prior year estimate due to higher interest rates.

Expenditures of \$9.5M on construction projects in fiscal year 2023-24 consist mainly of \$4.2M for the Lakeview South interior renovation project and \$4.8M for the remaining close-out payments for the completed Tamiami Hall.

The negative change in net position of \$4.4M in fiscal year 2023-24 will be funded with unrestricted accumulated balances from prior years of \$21.9M (excludes debt service, maintenance and equipment, and general reserves of \$7.6M).

Housing continues to have enough operating revenues to cover the debt service payment and meet required debt service ratios. A component of the net position is held in reserve for debt and as part of the bond indenture for major repairs and capital replacements.



**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Parking and Transportation**

	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>	<b>Preliminary Budget 2024-25</b>
<i>(In thousands of dollars)</i>						
<b>Operating Revenues</b>	<b>\$ 13,560</b>	<b>\$ 13,490</b>	<b>\$ (70)</b>	<b>\$ 13,578</b>	<b>\$ 18</b>	<b>\$ 13,824</b>
<b><u>Expenses</u></b>						
Salaries and Benefits	2,938	2,859	80	3,224	(286)	3,289
Other Personal Services (OPS)	814	867	(54)	857	(44)	874
Other Expenses	4,934	5,250	(316)	5,310	(376)	5,416
Student Financial Aid	-	-	-	-	-	-
Operating Capital Outlay (OCO)	250	121	129	190	60	194
Debt Service Interest	2,100	2,099	2	1,894	206	1,818
<b>Total Operating Expenses</b>	<b>\$ 11,036</b>	<b>\$ 11,197</b>	<b>\$ (160)</b>	<b>\$ 11,475</b>	<b>\$ (439)</b>	<b>\$ 11,591</b>
<b>Net Operating Income</b>	<b>\$ 2,524</b>	<b>\$ 2,294</b>	<b>\$ (230)</b>	<b>\$ 2,103</b>	<b>\$ (421)</b>	<b>\$ 2,233</b>
Investment Revenues	92	150	58	184	92	92
Principal Payment of Debt	(1,535)	(1,535)	-	(1,510)	25	(1,580)
Operational Transfers	28	243	215	267	239	-
Construction Projects	(715)	(708)	7	(1,650)	(935)	(1,650)
Institutional Transfers	-	-	-	-	-	-
<b>Change in Net Position</b>	<b>\$ 394</b>	<b>\$ 443</b>	<b>\$ 49</b>	<b>\$ (606)</b>	<b>\$ (1,000)</b>	<b>\$ (904)</b>
<b><u>Net Position</u></b>						
Beginning Net Position	11,413	11,165		11,608		11,002
Change in Net Position	394	443		(606)		(904)
<b>Ending Net Position</b>	<b>\$ 11,807</b>	<b>\$ 11,608</b>		<b>\$ 11,002</b>		<b>\$ 10,097</b>
<b>Reserves included in the Ending Net Position</b>						
Debt Service Reserve	1,000	1,000		1,000		1,000
Maintenance & Equipment Reserve	1,610	1,610		1,610		1,610
General Reserve	390	390		390		390
	<b>\$ 3,000</b>	<b>\$ 3,000</b>		<b>\$ 3,000</b>		<b>\$ 3,000</b>

Parking and Transportation auxiliary operating revenues are primarily generated from parking and transportation access fees charged to students, faculty, staff, and visitors. The parking system currently provides 17,032 vehicle spaces, with 15,445 of those spaces available for general faculty, staff, and student parking, and 1,587 spaces available for reserved, handicapped, service vehicle, loading and visitor parking spaces. The university has 7,893 surface parking spaces and 9,139 spaces in seven multi-level parking garages.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

The \$0.1M unfavorable revenue variance is due to lower revenue from student permits and vehicle services, offset by increased revenues from on-campus events. Lower headcount enrollment resulted in reduced revenue from student permits, and revenue from vehicle services is now recognized by the Office of Business Services in Other Auxiliaries. The decrease in revenues was partially offset by higher revenues from on-campus events.

Operating expenses are forecasted to be \$0.2M higher than planned, mainly due to higher than expected expenses for maintenance and restoration of the garages, partially offset by savings resulting from vacant positions.

The favorable investment revenues variance against plan of \$58K is based on the University's Treasury operations investment portfolio which is anticipated to perform better than projected due to higher interest rates.

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Parking and Transportation**

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Parking and transportation fees remain unchanged for fiscal year 2023-24. Although revenues are projected to be in line with the prior year approved budget, it is important to note there is a decrease in student permit revenues due to lower than anticipated headcount enrollment. In addition, vehicle services revenue is now recognized under the Office of Business Services, resulting in a reduction of revenue of \$0.2M. However, these declines in revenue to the parking system are offset by an anticipated increase in revenue from a greater number of on-campus events.

Operating expenses have risen by \$0.4M primarily due to increases in salaries and benefits, \$0.3M, which include measures aimed at attracting and retaining employees, as well as an increase in fringe benefit. Other Personal Services (OPS) expenses have gone up due to the increase in minimum wage from \$11 per hour to \$12 per hour. Furthermore, Other Expenses and Operating Capital Outlay have increased by \$0.3M to account for inflationary costs. Higher expenses are partially offset by savings of \$0.2M on the annual debt service payment (or net present value of savings of \$3.3M over the term of the loan) due to the 2023A Parking refunding bond sale which resulted in a new rate of 3.6 percent, a reduction of 1.1 percent.

The favorable variance for investment earnings of \$0.1M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than the prior year estimate due to higher interest rates.

Construction projects for fiscal year 2023-24 include repairs and renovations across all parking garages, safety and security features for the parking garages, and paving the parking surface by the soccer stadium on the Modesto A. Maidique campus.

Parking continues to have sufficient operating revenues to cover the debt service payment and meet required debt service ratios. A component of the net position is held as a reserve as required by the terms in the bond indenture for major repairs and capital replacement, and for future expansion and maintenance of parking facilities.

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Student Health Services**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 12,338</b>	<b>\$ 12,268</b>	<b>\$ (70)</b>	<b>\$ 12,295</b>	<b>\$ (43)</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	9,690	8,096	1,594	10,157	(468)
Other Personal Services (OPS)	481	765	(284)	481	(0)
Other Expenses	2,201	2,378	(177)	1,959	242
Student Financial Aid	-	-	-	-	-
Operating Capital Outlay (OCO)	-	-	-	-	-
Debt Service Interest	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 12,372</b>	<b>\$ 11,239</b>	<b>\$ 1,133</b>	<b>\$ 12,597</b>	<b>\$ (226)</b>
<b>Net Operating Income</b>	<b>\$ (34)</b>	<b>\$ 1,029</b>	<b>\$ 1,063</b>	<b>\$ (302)</b>	<b>\$ (269)</b>
Investment Revenues	-	-	-	-	-
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	-	-	-	-	-
Construction Projects	(495)	31	526	(420)	75
Institutional Transfers	-	-	-	-	-
<b>Change in Net Position</b>	<b>\$ (529)</b>	<b>\$ 1,060</b>	<b>\$ 1,589</b>	<b>\$ (722)</b>	<b>\$ (194)</b>
<b><u>Net Position</u></b>					
Beginning Net Position	15,220	15,386		16,447	
Change in Net Position	(529)	1,060		(722)	
<b>Ending Net Position</b>	<b>\$ 14,691</b>	<b>\$ 16,447</b>		<b>\$ 15,724</b>	

The Student Health Services at the Modesto A. Maidique Campus (MMC) and Biscayne Bay Campus (BBC) provide health, wellness, and mental health care services to students, who fund the operations through a health fee paid each semester. Services provided at no additional cost include routine medical exams, certain screenings, medical education, and counseling and disability services. Other clinical services, such as laboratory tests and immunization services, are available for a nominal fee. Clinical operations of Student Health Services transitioned back from the FIU Health Care Network (HCN) to Student Health Services on July 1, 2022. A new agreement was established for the HCN to continue to provide billing services and Herbert Wertheim College of Medicine faculty to provide specialty care services for Student Health Services. The updated agreement establishes a fixed management fee of \$90,000 per year, instead of the previous arrangement based on 10% of revenue.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

The unfavorable revenue variance of \$0.1M is due to lower than anticipated student health fee revenues as a result of lower student headcount enrollment.

Forecasted operating expenses are lower by \$1.1M due to vacant positions for counseling and clinical operations of Student Health Services, partially offset by higher Other Personal Services and Other Expense categories primarily due to an increase in events related to Healthy Living Practices, which required additional resources; an increase in professional services due to the extension of the BetterMynd contract, in addition to compliance and the Division of Information Technology security mandates for a new service for patient monitoring.

The favorable variance in transfers of \$0.5M are due to delays in maintenance projects, such as the replacement of HVAC system and the exterior painting of the building. These projects have been postponed to fiscal year 2023-24.

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Student Health Services**

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

The Student Health Fee remains unchanged in fiscal year 2023-24 at \$93.69 per semester, the unfavorable variance vs. fiscal year 2022-23 budget of \$0.1M is mainly due to lower student headcount enrollment projections.

Operating expenses are \$0.2M higher than the prior year approved budget due to provisions for university-wide salary actions, higher costs associated with programming and outreach efforts, and an increase in utilities expenses. However, these higher expenses are partially offset by a reduction in management fees for the FIU Health Care Network (HCN) as the management fees have transitioned from a percentage-based fee averaging \$470K to a flat fee of \$90K due to reduced services.

Net transfers out for construction projects of \$0.4M are related to architecture and design fees for the expansion of the Student Health Services building and maintenance projects on the Student Health Services facility, such as the replacement of the HVAC system, painting the exterior of the building, and replacement of the ceiling grid and lighting.

The negative change in net position of \$0.7M in fiscal year 2023-24 will be funded with accumulated balances from prior years of \$16.4M, which include reserves for capital projects.

The net position is maintained to support the organization's ongoing operations, accommodate future growth and expansion, and address necessary maintenance and improvement projects.

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Other Auxiliaries**

	Approved Budget 2022-23	Forecast 2022-23	2022-23 Forecast vs. Budget	Requested Budget 2023-24	2023-24 vs. 2022-23 Budget
<i>(In thousands of dollars)</i>					
<b>Operating Revenues</b>	<b>\$ 83,369</b>	<b>\$ 86,521</b>	<b>\$ 3,152</b>	<b>\$ 90,555</b>	<b>\$ 7,186</b>
<b>Expenses</b>					
Salaries and Benefits	31,174	26,719	4,455	33,888	(2,714)
Other Personal Services (OPS)	1,958	2,288	(331)	2,758	(800)
Other Expenses	42,220	42,972	(752)	43,870	(1,650)
Student Financial Aid	48	246	(198)	523	(475)
Operating Capital Outlay (OCO)	618	872	(254)	522	96
Debt Service Interest	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 76,018</b>	<b>\$ 73,097</b>	<b>\$ 2,921</b>	<b>\$ 81,561</b>	<b>\$ (5,543)</b>
<b>Net Operating Income</b>	<b>\$ 7,351</b>	<b>\$ 13,424</b>	<b>\$ 6,073</b>	<b>\$ 8,993</b>	<b>\$ 1,643</b>
Investment Revenues	868	1,454	586	1,881	1,013
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	100	(1,257)	(1,357)	(555)	(656)
Construction Projects	(4,659)	(6,061)	(1,403)	(2,910)	1,749
Institutional Transfers	87	(842)	(929)	(621)	(708)
<b>Change in Net Position</b>	<b>\$ 3,748</b>	<b>\$ 6,718</b>	<b>\$ 2,970</b>	<b>\$ 6,788</b>	<b>\$ 3,040</b>
<b>Net Position</b>					
Beginning Net Position	92,864	88,075		94,792	
Change in Net Position	3,748	6,718		6,788	
<b>Ending Net Position</b>	<b>\$ 96,612</b>	<b>\$ 94,792</b>		<b>\$ 101,580</b>	

Other auxiliaries include activities which have the following revenue streams:

- Interdepartmental services such as publications, information technology and telecom, construction service reimbursement charges (CSR), and the auxiliary shared services fee. The shared services fee funds the pro-rata share of university-wide services indirectly benefitting auxiliary businesses such as legal, finance, human resources, police, and compliance along with funding special projects and investments.
- Retail commissions and rental earnings from food service, bookstore and retail operations managed by the Office of Business Services.
- Other auxiliary enterprises support marketing and sponsorship activities, operations of the PantherTECH computer store, South Beach Wine and Food Festival, international medical education programs (formerly a business line under the FIU Health Care Network), and miscellaneous university-wide initiatives.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Forecasted revenues are \$3.2M or 4 percent higher than planned and primarily due to

- Delayed transfer of clinical revenues to the FIU Health Care Network from the university, \$3.5M
- Higher-than-anticipated revenue from the South Beach Wine and Food Festival, \$1.5M
- Higher than expected revenues from Business Services due to unbudgeted funds from the Management and Advanced Research Center (MARC) building reserve and better performance across food services and retail operations, \$1.2M
- Higher than expected revenues from events held at the teaching gym, soccer, and baseball fields, \$0.4M
- Unbudgeted revenues from College of Engineering and Computer Science events, Career Expo \$0.3M
- Unbudgeted revenues related to Commencement, \$0.3M
- Higher revenues across other auxiliaries, \$0.5M

**Florida International University**  
**Financial Summary**  
**Auxiliary Enterprises | Other Auxiliaries**

The favorable variance is partially offset with lower revenues in the Panther TECH computer store due to delayed Technology Fee projects, (\$1.8M); postponement of auxiliary funded construction projects resulting in lower construction services reimbursement fee revenue and deferred projects requiring Facilities services, (\$1.5M); delayed receipts of revenues related to the transition of FIU Health Care Network's Office of International Affairs (OIA) line of business to the University that became effective in the second quarter of the fiscal year instead of the first quarter as initially planned, (\$0.7M); and less than anticipated shared services fee revenue commensurate with savings in expenditures across various auxiliary enterprises, (\$0.5M).

Operating expenses are \$3.0M less than the approved budget, and driven by:

- Vacancies and delays in hiring employees mainly in the Controller's Office, Business Services, Public Safety, and the South Beach Wine and Food Festival, \$3.8M
- Salaries and contracted services from clinical operations due to the delayed transfer to the FIU Health Care Network (HCN) from the university, \$0.7M
- Delays in Technology Fee projects, \$1.8M
- Reimbursement for eligible expenses over the period March 13, 2020, the start of the pandemic, through the end of fiscal year 2021-22 for the COVID Testing Center from the Higher Education Emergency Relief Fund (HEERF), \$1.1M

The savings are partially offset by:

- Higher than expected operational expenses for the South Beach Wine and Food Festival commensurate with higher than anticipated revenue, (\$2.0M)
- Higher than anticipated expenses associated with the FIU Health Care Network support for clinical activities, (\$1.2M)
- Unbudgeted expenses for Publications, (\$1.0M)
- Unbudgeted scholarships covered by academic affairs overhead, (\$0.2M)

The favorable investment revenues variance against plan of \$0.6M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than projected due to higher interest rates.

Construction projects in fiscal year 2022-23 are higher than budget due to unexpected projects such as water heater replacement at FIU Arena, basketball court renovations, and transferring remaining funds for the future pedestrian bridge.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenues are projected to increase by \$7.2M or 8.6 percent as compared to fiscal year 2022-23 approved budget. This increase is driven mainly by:

- Herbert Wertheim College of Medicine (HWCOM) revenue from Clinic Support Services, \$5.2M
- Herbert Wertheim College of Medicine (HWCOM) revenue from the Office of International Affairs (OIA), \$1.8M
- Increase in revenue from the South Beach Wine and Food Festival, \$1.7M

The favorable variance is partially offset by:

- Less shared services fee revenue across various auxiliary enterprises, (\$3.9M)
- Lower revenues from Division of Information Technology, (\$1.2M), primarily from a decline in network services revenue due to multiple units disconnecting their phone lines, post-COVID

Expenses are \$5.5M or 7 percent higher compared to fiscal year 2022-23 approved budget mainly due to higher personnel expenses and additional scholarships:

- Higher personnel expenses are due to new positions, payroll actions aimed at attracting and retaining employees, and an increase in fringe benefits. The unfavorable variance is primarily driven by the Herbert Wertheim College of Medicine, Recreational Center, Operations and Safety, and the Office of the Controller, Facilities, and Auxiliary and Enterprise Development.
- Increase in Other Operating Expenses is primarily driven by higher expenditures in the Herbert Wertheim College of Medicine, specifically associated with the FIU Health Care Network support for clinical activities, (\$3.4M). Additionally, there is an increase of \$1.1M attributed to the South Beach Wine Food Festival which corresponds to the expected increase in revenues generated by the event. These increases in expenditures are partially offset by allowable information technology security expenses now covered by the Technology Fee, \$1.4M, and the National Forensic Science Technology Center sublease, which decreased by \$1.1M.
- Increase in scholarship expenses is driven by an increase in scholarships from FIU College of Law, and Innovative Education and Student Success, (\$0.3M).

The favorable variance for investment earnings of \$1.0M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than the prior year estimate due to higher interest rates.

Construction projects in fiscal year 2023-24 are related to renovations associated with the bookstore, food services, retail operations, and MARC building repairs and maintenance, \$2.9M.



**Florida International University  
Financial Summary  
Intercollegiate Athletics**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 30,309</b>	<b>\$ 32,311</b>	<b>\$ 2,002</b>	<b>\$ 31,005</b>	<b>\$ 695</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	12,060	11,854	207	13,357	(1,297)
Other Personal Services (OPS)	1,921	1,451	469	1,435	486
Other Expenses	11,246	11,649	(402)	12,174	(927)
Student Financial Aid	6,163	6,045	119	5,922	241
Operating Capital Outlay (OCO)	107	101	6	79	29
Debt Service Interest	190	190	-	186	4
<b>Total Operating Expenses</b>	<b>\$ 31,688</b>	<b>\$ 31,289</b>	<b>\$ 399</b>	<b>\$ 33,152</b>	<b>\$ (1,465)</b>
<b>Net Operating Income</b>	<b>\$ (1,378)</b>	<b>\$ 1,022</b>	<b>\$ 2,401</b>	<b>\$ (2,148)</b>	<b>\$ (769)</b>
Investment Revenues	22	108	85	120	98
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	-	-	-	-	-
Construction Projects	-	(897)	(897)	-	-
Institutional Transfers	(780)	(597)	183	(668)	112
<b>Change in Net Position</b>	<b>\$ (2,136)</b>	<b>\$ (364)</b>	<b>\$ 1,772</b>	<b>\$ (2,695)</b>	<b>\$ (560)</b>
<b><u>Net Position</u></b>					
Beginning Net Position	(5,538)	(4,331)		(4,695)	
BOT Approved Long Term Loan Balance	10,329	10,329		10,119	
Loan Principal Payment	(210)	(210)		(314)	
Change in Net Position	(2,136)	(364)		(2,695)	
<b>Ending Net Position</b>	<b>\$ 2,445</b>	<b>\$ 5,424</b>		<b>\$ 2,414</b>	

Intercollegiate Athletics is the functional area of the University responsible for team sports and their support activities. The principle revenue sources for this fund are a per credit hour and a per semester athletics fee charged to students, including fully online students. Athletics revenues also include ticket sales, sponsorships, and conference distributions. The Athletics Stadium operations and its associated bonds are reflected in the FIU Athletics Finance Corp., a Direct Support Organization (DSO).

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Revenues are \$2.0M above budget primarily driven by higher than budgeted NCAA Conference distributions, additional DSO revenue, and an unbudgeted buyout for a football coach, partially offset by lower athletics fee revenue resulting from lower student credit hour enrollment.

Expenses are \$0.4M lower compared to the approved budget primarily due to significant cost savings of \$1.2M resulting from turnover within the athletic staff and temporary positions, as well as reductions in team travel, recruiting expenses, and lower scholarship expenses. Savings are partially offset by an increase in costs such as professional services, sports uniforms, investments in equipment, and expenditures on facilities-related materials, \$0.8M.

The favorable investment revenues variance against plan of \$0.1M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than projected due to higher interest rates.

Construction Projects have an unfavorable variance of \$0.9M due to unbudgeted costs for tennis court renovations.

**Florida International University**  
**Financial Summary**  
**Intercollegiate Athletics**

Institutional Transfers in fiscal year 2022-23 consist primarily of funding for the FIU marching band and pledged revenues to the FIU Athletics Finance Corp. (AFC) which are applied towards the stadium debt service payments, partially offset by an unplanned transfer from Business Services related to catering commissions from the prior fiscal year.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenues are projected to increase by \$0.7M, primarily driven by anticipated higher NCAA and conference distributions, an increase in funding support from the FIU Foundation Inc., and additional revenue from a buyout totaling \$1.0M. This positive projection is partially offset by lower athletic fee revenues resulting from projected lower student enrollment, (\$0.4M). The athletic fee remains unchanged in fiscal year 2023-24 at \$16.50 per student credit hour and \$10.00 per semester.

Expenses are greater by \$1.5M primarily due to projected higher personnel expenses, assuming full staffing in the next fiscal year, and an increase in fringe benefits, (\$1.3M); additionally, there is an increase in team travel expenses, Conference USA dues, and game-related expenses, (\$1.0M). These expense increases are partially offset by savings resulting from the elimination of temporary positions, reduced guarantee expenses, and lower materials and supplies expenses, \$0.8M.

The favorable variance for investment earnings of \$0.1M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than the prior year estimate due to higher interest rates.

Institutional transfers in fiscal year 2023-24 consist primarily of funding for the FIU marching band and university support to the FIU Athletics Finance Corp.

The negative change in net position of \$2.7M will be funded with the remaining proceeds from the Board of Trustees approved long term loan of \$5.1M.



**Florida International University  
Financial Summary  
Activity and Service**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 19,811</b>	<b>\$ 19,372</b>	<b>\$ (440)</b>	<b>\$ 19,560</b>	<b>\$ (251)</b>
<b>Expenses</b>					
Salaries and Benefits	9,744	7,997	1,747	9,874	(130)
Other Personal Services (OPS)	3,819	2,988	831	3,857	(39)
Other Expenses	7,344	7,735	(391)	6,680	664
Student Financial Aid	25	1	24	-	25
Operating Capital Outlay (OCO)	-	157	(157)	-	-
<b>Total Operating Expenses</b>	<b>\$ 20,931</b>	<b>\$ 18,877</b>	<b>\$ 2,054</b>	<b>\$ 20,411</b>	<b>\$ 520</b>
<b>Net Operating Income</b>	<b>\$ (1,120)</b>	<b>\$ 494</b>	<b>\$ 1,615</b>	<b>\$ (851)</b>	<b>\$ 269</b>
Investment Revenues	-	-	-	-	-
Construction Projects	(3,135)	(4,736)	(1,601)	(1,800)	1,335
Institutional Transfers	164	164	-	164	-
<b>Change in Net Position</b>	<b>\$ (4,091)</b>	<b>\$ (4,078)</b>	<b>\$ 13</b>	<b>\$ (2,487)</b>	<b>\$ 1,604</b>
<b>Net Position</b>					
Beginning Net Position	20,091	19,420		15,342	
Change in Net Position	(4,091)	(4,078)		(2,487)	
<b>Ending Net Position</b>	<b>\$ 16,000</b>	<b>\$ 15,342</b>		<b>\$ 12,855</b>	

The Activity and Service Fee fund is the student life component of the University which supports clubs, organizations, student centers and recreational sports for all campuses. The purpose of this activity is to provide students with the opportunity to enhance learning through co-curricular activities. The principle revenue source for this fund is a per credit hour activity and service fee charged to all students.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Forecasted revenues are below plan by \$0.4M due to less activity and service fees from lower student credit hour enrollment, (\$0.5M); offset by savings on bad debt and waiver expenses, \$0.1M.

Forecasted expenses are \$2.1M lower than anticipated mainly due to employee recruitment and retention difficulties which are reflected in the savings in salaries and benefits and temporary personnel, mainly in the student unions and recreation centers and Campus Life, \$2.6M; offset by higher other expenses and operating capital outlay expenses in the student unions and wellness and recreation centers, (\$0.5M).

Net transfers out for construction projects include replacement of the flooring and generator in the Graham Center, \$3.4M; Wolf University Center ballroom refurbishment and lighting upgrades, \$0.5M; office renovations and tennis courts upgrades at the Wellness and Recreation Center on the Modesto A. Maidique Campus, \$0.5M; and other unbudgeted maintenance projects, \$0.3M.

**Florida International University**  
**Financial Summary**  
**Activity and Service**

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

The activity and service fee remains unchanged in fiscal year 2023-24 at \$14.45 per student credit hour. Revenues are declining due to lower activity and service fee revenues from projected lower enrollment, (\$0.3M); slightly offset by higher revenues from the student orientation program which are returning to pre-pandemic levels, \$0.1M.

Expenses are lower by \$0.5M due to the lower cost of the concert and events at homecoming and less expenditures for professional services, building rental, and other operational expenses, \$0.7M; offset by university-wide salary actions net of a reduction in personnel expenses, (\$0.2M).

Net transfers out for construction projects include maintenance projects for the third floor renovation and furniture purchase for the Graham Center, \$1.2M, and fixture, furniture and equipment for the new Trish and Dan Bell Chapel at Modesto A. Maidique Campus, \$0.6M.

The negative change in net position of \$2.5M in fiscal year 2023-24 will be funded with accumulated balances from prior years of \$15.3M and is mainly due to maintain programming in student organizations given the reduced revenue outlook, \$0.3M, university-wide salary actions, \$0.4M, and construction projects, \$1.8M.

The net position is held as a contingency reserve to cover unanticipated revenue shortfalls, and emergency repairs and maintenance projects at the student unions (Graham Center and Wolfe University Center) and wellness and recreation centers at the Modesto A. Maidique Campus and Biscayne Bay Campus.

**Florida International University  
Financial Summary  
Technology Fee**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 11,029</b>	<b>\$ 10,770</b>	<b>\$ (259)</b>	<b>\$ 10,657</b>	<b>\$ (372)</b>
<b>Expenses</b>					
Salaries and Benefits	815	836	(21)	970	(155)
Other Personal Services (OPS)	337	403	(66)	504	(168)
Other Expenses	10,363	13,217	(2,854)	11,727	(1,364)
Student Financial Aid	-	-	-	-	-
Operating Capital Outlay (OCO)	2,307	615	1,692	640	1,667
<b>Total Operating Expenses</b>	<b>\$ 13,822</b>	<b>\$ 15,072</b>	<b>\$ (1,250)</b>	<b>\$ 13,841</b>	<b>\$ (20)</b>
<b>Net Operating Income</b>	<b>\$ (2,793)</b>	<b>\$ (4,302)</b>	<b>\$ (1,509)</b>	<b>\$ (3,184)</b>	<b>\$ (391)</b>
Investment Revenues	27	283	256	287	261
Construction Projects	(204)	-	204	-	204
Institutional Transfers	-	-	-	-	-
<b>Change in Net Position</b>	<b>\$ (2,971)</b>	<b>\$ (4,019)</b>	<b>\$ (1,048)</b>	<b>\$ (2,897)</b>	<b>\$ 74</b>
<b>Net Position</b>					
Beginning Net Position	8,322	10,394		6,375	
Change in Net Position	(2,893)	(4,019)		(2,897)	
<b>Ending Net Position</b>	<b>\$ 5,428</b>	<b>\$ 6,375</b>		<b>\$ 3,478</b>	

Technology fee revenues are 5 percent of resident base tuition. The fee revenues are used to enhance instructional technology resources for students and faculty. Project proposals are reviewed by the Technology Fee Committee which makes investment recommendations to the Provost for final approval. The Committee is comprised of 12 members (6 students and 6 faculty and staff) from across the University.

**Financial Highlights**

Current Technology Fee projects include security initiatives; classroom technology maintenance and upgrades; Library initiatives including the expansion of the geo-spatial infrastructure and the lending system, catalog and curriculum management system; Wi-Fi support contracts and WiPS (Wireless intrusion Prevention System); academic software for students; network enhancements; and the International Center for Tropical Botany at The Kampong.

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Forecast revenues are below plan by \$0.3M due to lower than anticipated student credit hour enrollment.

Operating expenditures have exceeded expectations by \$1.3M due to a change in the billing process for the Panther TECH store. Under the new process, the Panther TECH store bills for products purchased upon receipt of a purchase order vs. when the goods are received. This adjustment in the billing process has resulted in higher-than-anticipated expenses; the Technology Fee fund has sufficient accumulated balances from prior years to cover the higher expenses.

The favorable investment revenues variance against plan of \$0.3M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than projected due to higher interest rates.

**Florida International University**  
**Financial Summary**  
**Technology Fee**

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

The Technology Fee remains unchanged at 5 percent of resident base tuition per credit hour in fiscal year 2023-24; revenues are \$0.4M or 3% lower due to lower projections for student credit hour enrollment.

Total expenses for fiscal year 2023-24 are marginally higher than the prior year approved budget. Higher personnel expenses, (\$0.3M), are offset by lower project expenses, \$0.3M.

Project expenses of \$11.7M include:

- \$7.3M for committed projects (\$3.8M for continuance of prior year projects and \$3.5M for recurring projects in their second or third year)
- \$2.5M for security initiatives
- \$1.9M as a placeholder for potential new projects approved in the new fiscal year

The favorable variance in Operating Capital Outlay (OCO) compared to the prior year approved budget is a result of better categorization of expenses between Operating Expenses and OCO, which is more aligned with the forecast.

The favorable variance for investment earnings of \$0.3M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than the prior year estimate due to higher interest rates.

The negative change in net position of \$2.9M is due to the timing of expenditures on multi-year or delayed projects and will be funded with accumulated balances from prior years of \$6.4M.

**Florida International University  
Financial Summary  
Board Approved Fees**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 420</b>	<b>\$ 420</b>	<b>\$ -</b>	<b>\$ 420</b>	<b>\$ -</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	-	-	-	-	-
Other Personal Services (OPS)	-	-	-	-	-
Other Expenses	419	419	-	419	-
Student Financial Aid	-	-	-	-	-
Operating Capital Outlay (OCO)	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 419</b>	<b>\$ 419</b>	<b>\$ -</b>	<b>\$ 419</b>	<b>\$ -</b>
<b>Net Operating Income</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ -</b>	<b>\$ 1</b>	<b>\$ -</b>
Investment Revenues	-	-	-	-	-
Construction Projects	-	-	-	-	-
Institutional Transfers	-	-	-	-	-
<b>Change in Net Position</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ -</b>	<b>\$ 1</b>	<b>\$ -</b>
<b><u>Net Position</u></b>					
Beginning Net Position	55	91		92	
Change in Net Position	1	1		1	
<b>Ending Net Position</b>	<b>\$ 56</b>	<b>\$ 92</b>		<b>\$ 92</b>	

Board Approved Fees, specifically approved by the University's Board of Governors, include the Florida Bar Test Preparation Fee. This fee remains unchanged at \$2,750 per eligible student. The fee is assessed to students in the College of Law who have completed a minimum of seventy (70) credit hours. The purpose of the test preparation fee is to enhance accessibility to test preparation courses provided by a third-party vendor through FIU.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Revenues are in line with budget, assuming 13 students will meet the minimum eligibility threshold of seventy credit hours to be assessed the Bar Test Prep Fee during the Summer.

Expenses are forecasted to be on budget.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

The projected revenues for the fiscal year 2023-24 are expected to align with the approved budget for fiscal year 2022-23, as the number of students reaching 3L status remains consistent, with a norm of 154 students.

Expenses which are pass-through payments to third-party vendors are incurred only when students register for bar prep courses after graduation and are anticipated to remain in line with the fiscal year 2022-23 budget.

**Florida International University  
Financial Summary  
Total Contracts & Grants**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 237,317</b>	<b>\$ 273,995</b>	<b>\$ 36,678</b>	<b>\$ 243,764</b>	<b>\$ 6,448</b>
<b>Expenses</b>					
Salaries and Benefits	96,505	99,547	(3,042)	105,647	(9,142)
Other Personal Services (OPS)	27,737	28,904	(1,166)	28,982	(1,244)
Other Expenses	65,303	85,228	(19,925)	75,562	(10,258)
Student Financial Aid	344	7,733	(7,389)	549	(204)
Operating Capital Outlay (OCO)	32,537	13,910	18,627	9,302	23,234
Debt Service Interest	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 222,427</b>	<b>\$ 235,322</b>	<b>\$ (12,895)</b>	<b>\$ 220,041</b>	<b>\$ 2,385</b>
<b>Net Operating Income</b>	<b>\$ 14,890</b>	<b>\$ 38,673</b>	<b>\$ 23,783</b>	<b>\$ 23,723</b>	<b>\$ 8,833</b>
Investment Revenues	74	849	775	569	495
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	-	-	-	-	-
Construction Projects	-	(23,309)	(23,309)	(6,088)	(6,088)
Institutional Transfers	(1,134)	(1,227)	(93)	(920)	214
<b>Change in Net Position</b>	<b>\$ 13,830</b>	<b>\$ 14,986</b>	<b>\$ 1,156</b>	<b>\$ 17,284</b>	<b>\$ 3,454</b>
<b>Net Position</b>					
Beginning Net Position	33,378	30,924		45,910	
Change in Net Position	13,830	14,986		17,284	
<b>Ending Net Position</b>	<b>\$ 47,208</b>	<b>\$ 45,910</b>		<b>\$ 63,195</b>	

Contracts and grants include sponsored research, public service and training activities, incidental non-research initiatives, and direct support organization (DSO) reimbursements.

Sponsored research revenues are derived from federal, state, local and private sources in support of the sponsored programs of the University. The use of these funds is restricted to the specific purpose for which they are awarded. Sponsored research awards are comprised of direct costs and facilities and administrative (F&A) costs. Direct costs are those costs directly related to research projects such as the salaries and benefits of researchers and supplies, while F&A costs represent the University's overhead costs, which are not directly allocable to a specific project such as administrative functions, utilities, etc.

Expenditure levels of the Office of Research and Economic Development (ORED) administration are driven by the University's direct research expenditures and the associated F&A cost recovery. F&A cost recovery derived from sponsored research projects supports the administrative costs of sponsored research and provides funding to deans, department chairs, and faculty in support of research.

Incidental non-research activities receive revenue from external sources in exchange for services.

DSO Reimbursements are revenues received from the University's 501c3 Direct Support Organizations and the FIU Health Care Network, Inc., which exist solely to support the University's mission.

**Florida International University  
Financial Summary  
Total Contracts & Grants**

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Total Contracts and Grants revenues are forecasted to be \$36.7M higher than planned for fiscal year 2022-23 mainly due to higher sponsored research revenue from federal and state sponsored research activity, \$18.1M, unbudgeted non-sponsored revenue and royalty payments, \$6.6M, higher revenue from the U.S. Department of Education from the Higher Education Emergency Relief Fund (HEERF) grant program, \$5.0M, and additional incidental contractual revenues, \$4.9M, DSO reimbursement revenues, \$2.7M; offset in part by less private sponsored research activity, (\$0.6M).

Expenses are forecasted to be \$12.9M greater than budgeted mainly as a result of higher sponsored research expenses driven by additional spending on federal and state sponsored research projects commensurate with higher than planned sponsored research revenue and ORED support areas, such as FIU Center for Translational Science, (\$28.6M), higher incidental contractual expenses, (\$1.6M), DSO reimbursement expenses related to Advancement, College of Engineering and Computing Science, (\$0.9M); offset by lower expenses against the HEERF grant program as expenditures associated with minor construction projects to replace HVAC systems are recorded as transfers-out instead of operating capital outlay, \$17.7M, and private sponsored research activity, \$0.5M.

Unfavorable construction transfers due to minor construction projects to replace HVAC systems budgeted as operating capital outlay instead of construction transfers, (\$22.4M), laboratory renovations for the Center for Translational Science and College of Arts, Sciences and Education, (\$0.9M).

Institutional transfers represent unbudgeted transfer out from the Frost Art Museum DSO reimbursement account, Citi Food FIU, and College of Medicine Clinical activities, additional support from Research to the recharge centers; partially offset by the change of funding support for the National Forensic Science Technology Center (NFSTC) sublease.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenue is expected to be \$6.4M higher than the fiscal year 2022-23 approved budget. This increase is mainly driven by greater sponsored research revenue of \$25.5M, higher incidental contract revenue from various programs related to College of Medicine and Nursing programs, \$1.7M, additional DSO reimbursement, \$0.7M; offset in part by lower revenues from the HEERF grant program as it comes to an end, (\$21.5M).

Expenses are \$2.4M greater than fiscal year 2022-23 approved budget. This increase is mainly driven by higher expenses from sponsored research activities, (\$21.3M), higher incidental contract activity from College of Medicine and College of Nursing and Health Sciences programs, (\$2.2M), DSO reimbursements, (\$0.7M); offset by lower expenses on the HEERF grant, \$26.6M, as the grant comes to an end. The Department of Education has granted FIU a no-cost extension to extend the end date of the institutional portion of the grant from June 30, 2023, to June 30, 2024.

**Florida International University**  
**Financial Summary**  
**Contracts and Grants | Sponsored Research**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 177,902</b>	<b>\$ 201,879</b>	<b>\$ 23,977</b>	<b>\$ 203,429</b>	<b>\$ 25,527</b>
<b>Expenses</b>					
Salaries and Benefits	76,739	78,107	(1,368)	84,954	(8,215)
Other Personal Services (OPS)	24,776	25,121	(345)	26,594	(1,818)
Other Expenses	53,330	68,489	(15,160)	62,522	(9,193)
Student Financial Aid	3	6,840	(6,838)	-	3
Operating Capital Outlay (OCO)	7,002	11,361	(4,360)	9,061	(2,059)
Debt Service Interest	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 161,848</b>	<b>\$ 189,918</b>	<b>\$ (28,070)</b>	<b>\$ 183,131</b>	<b>\$ (21,283)</b>
<b>Net Operating Income</b>	<b>\$ 16,054</b>	<b>\$ 11,961</b>	<b>\$ (4,092)</b>	<b>\$ 20,298</b>	<b>\$ 4,244</b>
Investment Revenues	1	287	286	-	(1)
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	29	296	267	-	(29)
Construction Projects	-	(897)	(897)	-	-
Institutional Transfers	(1,128)	(1,004)	124	(1,009)	119
<b>Change in Net Position</b>	<b>\$ 14,955</b>	<b>\$ 10,642</b>	<b>\$ (4,313)</b>	<b>\$ 19,289</b>	<b>\$ 4,333</b>
<b>Net Position</b>					
Beginning Net Position	13,191	10,318		20,960	
Change in Net Position	14,955	10,642		19,289	
<b>Ending Net Position</b>	<b>\$ 28,146</b>	<b>\$ 20,960</b>		<b>\$ 40,249</b>	

Sponsored research revenues are derived from federal, state, local and private sources in support of the sponsored programs of the University. The use of these funds is restricted to the specific purpose for which they are awarded. Sponsored research awards are comprised of direct costs and facilities and administrative (F&A) costs. Direct costs are those costs directly related to research projects such as the salaries and benefits of researchers and supplies, while F&A costs represent the University's overhead costs, which are not directly allocable to a specific project such as administrative functions, utilities, etc.

Expenditure levels of the Office of Research and Economic Development (ORED) administration are driven by the University's direct research expenditures and the associated F&A cost recovery. F&A cost recovery derived from sponsored research projects supports the administrative costs of sponsored research and provides funding to deans, department chairs, and faculty in support of research.

**Financial Highlights**

The federally negotiated F&A cost reimbursement rate for on-campus research is 47.5 percent and 48.0 percent for instruction. The fiscal year 2022-23 forecasted actual recovery rate is 23.3 percent since state and other private sponsors often reimburse FIU overhead at a lower rate than the federally negotiated rate. The projected fiscal year 2022-23 effective F&A return on sponsored projects is \$36.8M. For fiscal year 2023-24, the projected effective F&A rate is 23.4 percent resulting in \$38.5M in F&A collected.

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

The favorable forecast revenue variance of \$24.0M against fiscal year 2022-23 approved plan is primarily driven by greater federal, state sponsored research, and unbudgeted non-sponsored revenue and royalty payments; partially offset by less private sponsored projects. Amounts exclude the Higher Education Emergency Relief Fund (HEERF) grant program which is reported separately.

Expenditures are \$28.1M higher due to more spending on federal and state sponsored research projects commensurate with higher than planned sponsored research revenue, additional support for FIU Center for Translational Science; offset in part by less private sponsored research activity.



**Florida International University**  
**Financial Summary**  
**Contracts and Grants | Sponsored Research**

Construction and institutional transfers are forecast to have net transfers-out of \$1.9M, which are greater than budget due to unbudgeted laboratory renovations for the Center for Translational Science and College of Arts, Sciences and Education, additional support to the recharge centers; partially offset by the change of funding support for the National Forensic Science Technology Center (NFSTC) sublease.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenue is expected to be \$25.5M greater than fiscal year 2022-23 approved budget. This increase is mainly driven by greater federal sponsored research excluding the Higher Education Emergency Relief Fund (HEERF) grant program funding, state, and privately sponsored research funding.

Expenditures are \$21.3M greater than fiscal year 2022-23 approved budget. This increase is driven by greater spending on sponsored research activities including federal, state, and private funded projects commensurate with greater than planned sponsored research revenue, offset in part by anticipated less spending on Startup FIU.

ORED will apply 34 percent of the F&A collected to support ORED internal operations including the Innovation and Economic Development unit; 63 percent that directly support research activity including returning F&A to Colleges, Centers, and Principal Investigators (PI's) inclusive of support for the FIU Center for Translational Science (formerly FIU at Torrey Pines Research Center) and the Applied Research Center (ARC); and 3 percent directly to areas outside of ORED that support research activity such as the Controller's office, Environmental Health and Safety (EH&S), and Internal Audit.

Net institutional transfers out of \$1.0M, are \$0.1M lower than fiscal year 2022-23 approved budget due to the change of funding support to the National Forensic Science Technology Center (NFSTC) sublease, partially offset by additional support to the recharge centers, including Center for Imaging Science and Center of Translational Science.

**Florida International University**  
**Financial Summary**  
**Contracts and Grants | Higher Education Emergency Relief Fund (HEERF) Grant**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 26,627</b>	<b>\$ 31,648</b>	<b>\$ 5,021</b>	<b>\$ 5,159</b>	<b>\$ (21,468)</b>
<b>Expenses</b>					
Salaries and Benefits	167	\$ 1,128	(961)	-	167
Other Personal Services (OPS)	253	\$ 1,282	(1,029)	-	253
Other Expenses	726	\$ 4,422	(3,696)	-	726
Student Financial Aid	267	\$ 473	(206)	-	267
Operating Capital Outlay (OCO)	25,185	\$ 1,599	23,586	-	25,185
Debt Service Interest	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 26,598</b>	<b>\$ 8,904</b>	<b>\$ 17,694</b>	<b>\$ -</b>	<b>\$ 26,598</b>
<b>Net Operating Income</b>	<b>\$ 29</b>	<b>\$ 22,744</b>	<b>\$ 22,714</b>	<b>\$ 5,159</b>	<b>\$ 5,130</b>
Investment Revenues	-	-	-	-	-
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	(29)	(296)	(267)	-	29
Construction Projects	-	(22,411)	(22,411)	(5,159)	(5,159)
Institutional Transfers	-	-	-	-	-
<b>Change in Net Position</b>	<b>\$ 0</b>	<b>\$ 36</b>	<b>\$ 36</b>	<b>\$ -</b>	<b>\$ (0)</b>
<b>Net Position</b>					
Beginning Net Position	(0)	(36)		0	
Change in Net Position	0	36		-	
<b>Ending Net Position</b>	<b>\$ (0)</b>	<b>\$ 0</b>		<b>\$ 0</b>	

The President of the United States of America signed into law three separate acts to mitigate the economic impact of the coronavirus which appropriated federal funds for institutes of higher education through the Higher Education Emergency Relief Fund (HEERF) grant program: 1) the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law No. 116-136), signed on March 27, 2020; 2) the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) (Public Law 116-260), signed on December 27, 2020; and the American Rescue Plan Act of 2021 (ARP) (Public Law 117-2), signed on March 11, 2021. The U.S. Department of Education (USDOE) allocates funds to each institute of higher education using a formula based on student enrollment. Each tranche of HEERF is structured such that a certain amount of funds must be used for financial aid grants to students and to defray the economic impact to the institution. Florida International University received a third category of HEERF for Minority Serving Institutions (MSI).

Florida International University received HEERF allocations from the USDOE totaling \$245,069,609, which are broken down as follows:

- HEERF I | CARES: Student Portion, \$19,150,979; Institutional Portion, \$19,150,978; and MSI Portion, \$2,824,773
- HEERF II | CRRSAA: Student Portion, \$19,150,979; Institutional Portion, \$51,748,048; and MSI Portion, \$4,625,871
- HEERF III | ARP: Student Portion, \$62,758,318; Institutional Portion, \$58,010,064; and MSI Portion, \$7,649,599

Institutions must expend the HEERF funds within one year from the date when the USDOE processes the most recent obligation of funds, unless the USDOE grants a one-year no cost-extension. The Department of Education granted FIU an extension until June 30, 2024, to expend any remaining balances on the Institutional portion. The MSI portion has been fully expended.

Total Student Portion of \$101,060,276 was fully expended by the end of fiscal year 2021-22.

Total funds of \$144,009,333 consisting of the Institutional Portion of \$128,909,090 and MSI Portion of \$15,100,243 are covered in the financial highlights below.

**Florida International University**  
**Financial Summary**  
**Contracts and Grants | Higher Education Emergency Relief Fund (HEERF) Grant**

**Financial Highlights**

The USDOE allocated \$144.0M of Institutional and Minority Serving Institutions funds to FIU under the HEERF grant program. FIU spent \$107.2M through fiscal year 2021-22, leaving a balance of \$36.8M which is entirely on the institutional portion. Of the balance of \$36.8M, \$31.6M is forecast to be spent in fiscal year 2022-23 and \$5.2M in fiscal year 2023-24 for the completion of HVAC projects. The Department of Education has granted FIU a no-cost extension to extend the end date of the institutional portion of the grant from June 30, 2023, to June 30, 2024.

Revenues are drawdowns from the federal government and are driven by the timing of cash outflows.

The remaining balance at the beginning of fiscal year 2022-23 of \$36.8M will be spent as follows: Expenses, \$8.9M; Operational Transfers (transfers to other areas within the same fund group), \$0.3M; and Construction Projects, \$27.6M.

Total Operating Expenses of \$8.9M are forecast to be spent in full in fiscal year 2022-23. Initiatives include defraying the cost of student debt, \$3.7M; instructional resources to provide additional class sections and student support, \$1.9M; equipment for engineering labs, \$1.6M; preventive and detective measures to stop the spread of COVID-19, such as, establishing an FIU COVID Prevention and Response Team to provide contact tracing and training to FIU employees and students, on-campus vaccination sites available to students, faculty, and staff, surveillance testing laboratory, and a COVID-19 testing lab, \$1.4M; and research support, \$0.3M.

Operational transfers of \$0.3M in fiscal year 2022-23 represent the facilities and administrative (F&A) charge to cover the cost of administering the grant funds.

Construction projects of \$27.6M represent expenses incurred to complete minor construction HVAC replacement and renovation projects: FIU estimates \$5.2M of these expenses will be incurred in fiscal year 2023-24.

**Florida International University**  
**Financial Summary**  
**Contracts and Grants | DSO Reimbursements**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 27,671</b>	<b>\$ 30,404</b>	<b>\$ 2,733</b>	<b>\$ 28,329</b>	<b>\$ 658</b>
<b>Expenses</b>					
Salaries and Benefits	15,568	15,829	(261)	15,269	299
Other Personal Services (OPS)	2,173	2,275	(103)	2,115	58
Other Expenses	9,777	9,756	21	10,879	(1,102)
Student Financial Aid	75	30	45	9	66
Operating Capital Outlay (OCO)	100	700	(600)	157	(57)
Debt Service Interest	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 27,693</b>	<b>\$ 28,590</b>	<b>\$ (897)</b>	<b>\$ 28,429</b>	<b>\$ (736)</b>
<b>Net Operating Income</b>	<b>\$ (22)</b>	<b>\$ 1,814</b>	<b>\$ 1,836</b>	<b>\$ (100)</b>	<b>\$ (79)</b>
Investment Revenues	-	-	-	-	-
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	-	-	-	-	-
Construction Projects	-	-	-	-	-
Institutional Transfers	(6)	(182)	(176)	89	95
<b>Change in Net Position</b>	<b>\$ (27)</b>	<b>\$ 1,632</b>	<b>\$ 1,660</b>	<b>\$ (11)</b>	<b>\$ 16</b>
<b>Net Position</b>					
Beginning Net Position	(812)	(1,384)		249	
Change in Net Position	(27)	1,632		(11)	
<b>Ending Net Position</b>	<b>\$ (839)</b>	<b>\$ 249</b>		<b>\$ 238</b>	

DSO Reimbursements are revenues received from the University's 501c3 Direct Support Organizations and the FIU Health Care Network, which exist solely to support the University's mission.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

The favorable forecasted revenue variance of \$2.7M is primarily driven by additional support from Advancement, School of Biomedical Engineering, Chaplin School of Hospitality and Tourist Management, College of Nursing and Health Sciences undergraduate programs, student affairs, and various other programs throughout the university. These are partially offset by less reimbursements from the FIU Health Care Network administration, the Wolfsonian and Jewish Museums, several programs related to College of Medicine, and College of Business.

Expenditures are \$0.9M higher than budget corresponding to greater than planned DSO reimbursement revenue.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenue is expected to be \$0.7M greater, mainly driven by greater reimbursements associated with several programs in the College of Medicine, including Humanities, Health and Society and Leon Geriatrics; College of Nursing and Health Sciences undergraduate programs, College of Engineering and Computing Science, Research Graduate school, Student Affairs, Office of the President; partially offset by less reimbursements for the FIU Health Care Network administration and Ambulatory Care Center clinical support due to the business restructure, and less support for Advancement.

Expenditures have increased also by \$0.7M, corresponding to additional reimbursed activity from DSO's.

The negative change in net position of \$11K is mainly related to the timing of reimbursement for operating expenses support from the FIU Foundation Inc. to the Frost Art Museum.

**Florida International University**  
**Financial Summary**  
**Contracts and Grants | External Contracts**

<i>(In thousands of dollars)</i>	Approved Budget 2022-23	Forecast 2022-23	2022-23 Forecast vs. Budget	Requested Budget 2023-24	2023-24 vs. 2022-23 Budget
<b>Operating Revenues</b>	<b>\$ 5,117</b>	<b>\$ 10,063</b>	<b>\$ 4,947</b>	<b>\$ 6,847</b>	<b>\$ 1,730</b>
<b>Expenses</b>					
Salaries and Benefits	4,031	4,483	(452)	5,424	(1,393)
Other Personal Services (OPS)	536	226	310	273	263
Other Expenses	1,471	2,561	(1,090)	2,160	(690)
Student Financial Aid	-	390	(390)	540	(540)
Operating Capital Outlay (OCO)	250	250	-	84	166
Debt Service Interest	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 6,288</b>	<b>\$ 7,909</b>	<b>\$ (1,622)</b>	<b>\$ 8,481</b>	<b>\$ (2,193)</b>
<b>Net Operating Income</b>	<b>\$ (1,171)</b>	<b>\$ 2,154</b>	<b>\$ 3,325</b>	<b>\$ (1,634)</b>	<b>\$ (463)</b>
Investment Revenues	73	563	489	569	496
Principal Payment of Debt	-	-	-	-	-
Operational Transfers	-	-	-	-	-
Construction Projects	-	-	-	(929)	(929)
Institutional Transfers	-	(41)	(41)	-	-
<b>Change in Net Position</b>	<b>\$ (1,098)</b>	<b>\$ 2,676</b>	<b>\$ 3,774</b>	<b>\$ (1,994)</b>	<b>\$ (896)</b>
<b>Net Position</b>					
Beginning Net Position	20,999	22,025		24,701	
Change in Net Position	(1,098)	2,676		(1,994)	
<b>Ending Net Position</b>	<b>\$ 19,901</b>	<b>\$ 24,701</b>		<b>\$ 22,707</b>	

External contracts relating to incidental non-research activities receive revenue from external sources in exchange for services. Activities include internet connectivity services to Latin America by the Center for Internet Augmented Research & Assessment (CIARA), clinical affiliations, and other external contracts.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

The favorable forecast revenue variance of \$4.9M is driven by unbudgeted incidental contracts in support of the Herbert Wertheim College of Medicine clinical affairs due to the delay in executing agreements on revenue transition to the FIU Health Care Network, unbudgeted contracts with the state to fund HWCOC activities which serve communities that cannot afford healthcare, unbudgeted revenue in the College of Nursing and Health Sciences from Nursing (LINE) healthcare partner agreements, and Athletics Student Assistance Opportunity Fund.

The unfavorable forecast expense variance of \$1.6M is driven by higher HWCOC clinical-service related expenses due to the delay in agreement transition to FIU Health Care Network, and College of Nursing and Health Sciences programs corresponding to the increase in revenues.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenue is expected to be \$1.7M above the prior year driven mainly by increased incidental contract revenue from additional resident rotations in the HWCOC Graduate Medical Education programs, College of Nursing and Health Sciences undergraduate programs, College of Law, and Athletics Student Assistance Opportunity Fund.

Expenditures are expected to increase by \$2.2M mainly due to higher expenses from various HWCOC activities, including Graduate Medical Education program support, the low income pool which provides healthcare to underprivileged communities. Additionally, expenses in Athletics and programs in the College of Nursing and Health Sciences and the College of Law are increasing consistent with the increase in revenues.

The negative change in net position of \$2.0M is mainly due to the use of accumulated prior year balances from a state contract that allows the Herbert Wertheim College of Medicine to provide services to communities that cannot afford healthcare, the Graduate Medical Education program, and transfers out to facilities for a laboratory renovation. These are partially offset by projected increase in investment revenues of \$0.5M.

**Florida International University  
Financial Summary  
Student Financial Aid**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 247,205</b>	<b>\$ 240,903</b>	<b>\$ (6,301)</b>	<b>\$ 245,531</b>	<b>\$ (1,674)</b>
<b>Expenses</b>					
Salaries and Benefits	2,521	2,108	413	2,483	38
Other Personal Services (OPS)	3,380	2,324	1,056	3,466	(86)
Other Expenses	149	121	29	189	(40)
Student Financial Aid	245,193	236,916	8,277	241,937	3,256
Operating Capital Outlay (OCO)	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 251,243</b>	<b>\$ 241,469</b>	<b>\$ 9,775</b>	<b>\$ 248,075</b>	<b>\$ 3,168</b>
<b>Net Operating Income</b>	<b>\$ (4,039)</b>	<b>\$ (565)</b>	<b>\$ 3,473</b>	<b>\$ (2,544)</b>	<b>\$ 1,495</b>
Investment Revenues	93	672	579	664	571
Institutional Transfers	3,640	1,574	(2,066)	1,640	(2,000)
<b>Change in Net Position</b>	<b>\$ (305)</b>	<b>\$ 1,681</b>	<b>\$ 1,986</b>	<b>\$ (240)</b>	<b>\$ 66</b>
<b>Net Position</b>					
Beginning Net Position	4,293	4,208		5,889	
Change in Net Position	(305)	1,681		(240)	
<b>Ending Net Position</b>	<b>\$ 3,987</b>	<b>\$ 5,889</b>		<b>\$ 5,649</b>	

Student Financial Aid is the area of the University responsible for administering Financial Aid to students. It is comprised of funding from student financial aid fees (5 percent of base tuition and out-of-state fee), support from federal and state financial aid awards, institutional programs, as well as numerous donor-related and private scholarships.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Student financial aid revenues are forecast to be under plan by \$6.3M primarily driven by less than anticipated revenues from Pell Grant awards, (\$4.9M), and less than anticipated Bright Futures disbursements, (\$2.3M), due to less eligible students. Additionally, lower distributions of institutional aid from tuition-driven sources due to a decrease in student credit hour enrollment are offset by higher than anticipated Florida Student Assistance Grant (FSAG) awards, reimbursement of prior year Higher Education Emergency Relief Fund (HEERF) grant expenses, and higher than anticipated need-based institutional aid, \$0.9M.

Forecasted expenses are \$9.8M lower than budgeted and are largely driven by the same factors as revenue: Bright Futures and Pell Grant awards, \$8.6M; less than anticipated merit-based institutional financial aid, \$2.1M; and less than anticipated departmental scholarships, \$0.5M; offset by greater than expected need-based institutional aid, (\$0.8M); Florida Student Assistance Grant (FSAG) awards, (\$0.4M); and other sources of financial aid, (\$0.2M).

The favorable investment revenues variance against plan of \$0.6M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than projected due to higher interest rates.

Net institutional transfers-in are \$2.1M below plan due to less support required from Treasury operations due to lower than budgeted merit-based institutional aid.

**Florida International University**  
**Financial Summary**  
**Student Financial Aid**

**Fiscal Year 2023-24 Requested vs Fiscal Year 2022-23 Approved Budget**

Student financial aid revenues of \$245.5M are comprised of the following sources of aid: Pell Grant awards, \$116.9M; institutional aid, \$45.4M; Bright Futures, \$37.4M; Florida Student Assistance Grant (FSAG), \$24.2M; donor-related scholarships, \$13.3M; federal work study, \$3.7M; and other aid, \$4.6M.

Revenue projections are \$1.7M lower mainly due to lower Bright Futures scholarships, (\$3.9M); offset by an increase in donor related scholarships, \$1.4M; slightly higher Pell Grant awards, \$0.3M; and increases in other sources of financial aid, \$0.5M.

Expenses are below fiscal year 2022-23 approved budget by \$3.2M and are driven by the same factors as described in revenues, in addition to less than expected non-need based institutional aid due to less merit-based scholarships, \$1.6M.

The favorable variance for investment earnings of \$0.6M is based on the University's Treasury operations investment portfolio which is anticipated to perform better than the prior year estimate due to higher interest rates.

Net institutional transfers-in of \$1.6M represent institutional aid support from auxiliary investment earnings distributions, \$1.0M; Treasury operations support for Bayview Housing scholarships, \$0.2M; and the Barnes and Noble book scholarship, \$0.4M. The decrease of \$2.0M vs. fiscal year 2022-23, reflects less support required from Treasury operations due to less merit-based institutional aid.

Institutional Aid: Student Financial Aid includes institutional aid revenues which are derived from financial aid fees to students (net of administrative costs), 30% allocation of tuition differential fees collected by Florida statute, state appropriations, university strategic allocations, Education & General tuition allocations, and other auxiliary sources. The financial aid fee remains unchanged at 5 percent of base tuition and out-of-state fee in fiscal year 2023-24. Institutional aid scholarships of \$44.5M for fiscal year 2023-24 will be used in support of need-based and non-need based student financial aid and reflects a decrease of \$1.9M mainly due to less merit-based undergraduate scholarships as a result of lower enrollment.

Federal Work Study: Other Personal Services (OPS) expenses include federal work study. The departmental match percentage remains unchanged in fiscal year 2023-24 at 0% to fully utilize the federal allocation.

The projected negative change in net position in fiscal year 2023-24 of \$0.2M is mainly due to the spend down of the prior year fund balance in donor-related scholarships.



**Florida International University  
Financial Summary  
Concessions**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Operating Revenues</b>	<b>\$ 662</b>	<b>\$ 740</b>	<b>\$ 79</b>	<b>\$ 850</b>	<b>\$ 189</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	-	-	-	-	-
Other Personal Services (OPS)	-	-	-	-	-
Other Expenses	1,000	974	26	1,087	(87)
Student Financial Aid	-	-	-	-	-
Operating Capital Outlay (OCO)	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 1,000</b>	<b>\$ 974</b>	<b>\$ 26</b>	<b>\$ 1,087</b>	<b>\$ (87)</b>
<b>Net Operating Income</b>	<b>\$ (338)</b>	<b>\$ (234)</b>	<b>\$ 105</b>	<b>\$ (237)</b>	<b>\$ 102</b>
Investment Revenues	8	56	48	58	49
Institutional Transfers	-	-	-	-	-
<b>Change in Net Position</b>	<b>\$ (330)</b>	<b>\$ (177)</b>	<b>\$ 153</b>	<b>\$ (179)</b>	<b>\$ 151</b>
<b><u>Net Position</u></b>					
Beginning Net Position	2,191	2,380		2,203	
Change in Net Position	(330)	(177)		(179)	
<b>Ending Net Position</b>	<b>\$ 1,861</b>	<b>\$ 2,203</b>		<b>\$ 2,024</b>	

The Concessions fund contains commission-based revenues from beverage and pouring, snack vending as well as student housing laundry machines. The beverage pouring and vending contract with Pepsi and Bettoli provides an annual amount for sponsorship in addition to commissions on product sales. Pepsi provides an annual sponsorship for exclusive pouring rights over the life of the contract. The commission and sponsorship revenues are used to support the purchase of food and refreshment items at university-wide events, faculty and staff recruitment, commencements, training, lecture series, board meetings, student housing socials, and convocation events.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

The increase of \$79K in forecasted revenues for fiscal year 2022-23 reflects higher on-campus foot traffic and is reflected in higher than anticipated Pepsi sponsorship revenue for meeting pouring rights volume incentives, \$59K, and more beverage vending sales than anticipated, \$20K.

Favorable forecast expense variance of \$26K, are mainly savings from university events which will not occur, \$76K; offset by higher expenses due to more student housing events, (\$15K), and unanticipated expenses from hosting the Florida Board of Governors meeting on behalf of Florida Gulf Coast University, (\$24K).

The favorable variance against budget of \$48K for investment earnings is based on the University's Treasury operations investment portfolio which is anticipated to perform better than projected due to higher interest rates.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

The increase in revenue of \$189K for fiscal year 2023-24 reflects higher Pepsi sponsorship of \$59K, for a total sponsorship of \$300K; higher anticipated snack commissions due to a new snack vendor, \$115K; and higher laundry vending commission revenues from renovated laundry rooms, \$15K.

Expenses are expected to increase by \$87K due to higher vending operations including overhead, operating expenses, and utility rate increases, (\$68K); increased programming for student residence halls and housing events, (\$15K); and additional events in support of university activities, (\$4K).

The favorable variance for investment earnings of \$49K is based on the University's Treasury operations investment portfolio which is anticipated to perform better than the prior year estimate due to higher interest rates.

The negative change in net position of \$0.2M will be funded with accumulated balances from prior years of \$2.2M.



**Florida International University  
Financial Summary  
FIU Athletics Finance Corp.**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Total Revenues</b>	<b>\$ 4,915</b>	<b>\$ 5,178</b>	<b>\$ 263</b>	<b>\$ 5,582</b>	<b>\$ 667</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	-	-	-	-	-
Other Personal Services (OPS)	-	-	-	-	-
Other Expenses	1,496	1,719	(222)	1,929	(433)
Student Financial Aid	-	-	-	-	-
Operating Capital Outlay (OCO)	-	-	-	-	-
Net Unrealized Investment Loss	-	-	-	-	-
Debt Service Interest	1,075	867	208	1,056	19
<b>Total Operating Expenses</b>	<b>\$ 2,571</b>	<b>\$ 2,585</b>	<b>\$ (14)</b>	<b>\$ 2,985</b>	<b>\$ (414)</b>
<b>Net Operating Income</b>	<b>\$ 2,343</b>	<b>\$ 2,593</b>	<b>\$ 249</b>	<b>\$ 2,596</b>	<b>\$ 253</b>
Investment Revenues	-	80	80	45	45
Principal Payment of Debt	(1,645)	(1,645)	-	(1,730)	(85)
Operational Transfers	-	(1,500)	(1,500)	(1,500)	(1,500)
<b>Change in Net Position</b>	<b>\$ 698</b>	<b>\$ (472)</b>	<b>\$ (1,171)</b>	<b>\$ (589)</b>	<b>\$ (1,287)</b>
<b><u>Net Position</u></b>					
Beginning Net Position	14,400	15,652		15,180	
Change in Net Position	698	(472)		(589)	
<b>Total Net Position</b>	<b>\$ 15,099</b>	<b>\$ 15,180</b>		<b>\$ 14,591</b>	

The FIU Athletics Finance Corp. (AFC) serves as the entity to finance and operate the FIU Football Stadium. Primary sources of revenues are transferred into the AFC from the University's Athletics Department and include beverage vending and pouring contract support, naming rights, premium suite and ticket revenues and a percentage of athletic student fees (per statute 1010.62). These revenue streams are pledged for the annual debt service associated with the stadium's construction costs.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Forecasted revenues are expected to exceed plan by \$0.3M, attributed to an increase in sponsorship revenue from Pepsi due to higher on-campus consumption. Additionally, there is more rental income, concessions revenue, and other operating revenue generated from external events and home football games. The favorable revenue variance is partially offset by lower-than-budgeted support from the FIU Foundation Inc. and Athletic fees.

Operating expenses are slightly higher than budget by \$14K; additional professional services expenses are offset by a one-time adjustment resulting in lower debt service interest.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenues are projected to exceed the current year budget by \$0.7M, primarily due to an increase in game guarantees and sponsorship revenue. However, this positive trend is partially offset by a decrease in funding support from the FIU Foundation Inc.

Expenses are \$0.4M higher mainly due to additional professional services, repairs and maintenance, and rental expenses, partially offset by less expenses related to games.

**Florida International University**  
**Financial Summary**  
**FIU Foundation Inc.**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>REVENUES:</b>					
<u>Contributions for University Support:</u>					
Endowments	\$ 8,006	\$ 4,540	\$ (3,466)	\$ 5,214	\$ (2,792)
Scholarships & Programs (Non-Endowed)	24,393	27,082	2,689	25,351	958
Building Funds	8,278	3,162	(5,116)	4,175	(4,102)
Pledged Revenue	-	-	-	-	-
Total Contributions	40,677	34,783	(5,893)	34,741	(5,936)
<u>Contributions and Foundation Operating Revenues:</u>					
Foundation Enterprise Holdings I	200	233	34	199	(1)
Foundation Enterprise Holdings II	7	7	-	7	-
Foundation Enterprise Holdings V	-	-	-	-	-
Annual Revenues and Fees	1,150	1,042	(107)	1,171	21
Total Foundation Operating Revenues	1,357	1,283	(74)	1,377	20
Estimated Investment Returns	24,207	20,307	(3,901)	23,008	(1,200)
<b>Total Revenues</b>	<b>\$ 66,241</b>	<b>\$ 56,373</b>	<b>\$ (9,867)</b>	<b>\$ 59,126</b>	<b>\$ (7,115)</b>
<b>EXPENSES:</b>					
<u>University Program Support:</u>					
Scholarships & Programs	28,836	32,295	(3,459)	30,502	(1,666)
Building Funds	8,929	5,286	3,643	2,948	5,981
Operational Support	1,285	1,412	(127)	1,592	(308)
Transfer of MARC Building and Cash Reserves	250	680	(430)	-	250
Total University Program Support	39,300	39,673	(373)	35,042	4,257
<u>Foundation Operating Expenses:</u>					
Foundation Enterprise Holdings I	223	190	33	227	(4)
Foundation Enterprise Holdings II	99	77	22	87	11
Foundation Enterprise Holdings V	40	1	39	1	39
Foundation Enterprise Holdings VI	135	13	122	50	85
Administrative Operating Expenses	12,500	11,942	558	9,033	3,467
Other Expenses	405	195	210	415	(10)
Total Foundation Operating Expenses	13,401	12,418	982	9,813	3,588
<b>Total Operating Expenses</b>	<b>\$ 52,701</b>	<b>\$ 52,091</b>	<b>\$ 609</b>	<b>\$ 44,855</b>	<b>\$ 7,845</b>
<b>Net Operating Income</b>	<b>\$ 13,540</b>	<b>\$ 4,282</b>	<b>\$ (9,258)</b>	<b>\$ 14,271</b>	<b>\$ 730</b>

Notes: This budget is pending FIU Foundation Inc. Board of Directors approval at the next scheduled meeting in early June.

**Financial Highlights**

**Revenues:**

**Contributions for University Support**

The FIU Foundation Inc. collects cash contributions which provide support for the university. Cash contributions in fiscal year 2023-24 are comprised of pledge payments on existing receivables, cash installments on expected new pledges, and outright cash gifts to the Foundation. The breakdown of the \$34.7M in expected cash contributions is as follows: 15 percent endowed, 73 percent non-endowed, and 12 percent for buildings.

**Florida International University  
Financial Summary  
FIU Foundation Inc.**

**Foundation Operating Revenues**

Operating revenues for the FIU Foundation Inc. consist mainly of rental income and common area maintenance for the Foundation subsidiaries. Foundation Subsidiaries represent the operating budgets of several properties acquired since 2011 which are included in the Foundation budget.

*Foundation Enterprise Holdings I* is a wholly-owned subsidiary of the Foundation consisting of 5,353 square feet of commercial real-estate on Washington Avenue in Miami Beach. Budgeted revenues for fiscal year 2023-24 include rental income from three building tenants; assumes a vacancy rate of 10 percent.

*Foundation Enterprise Holdings II* is a single member LLC established for the acquisition of the Jewish Museum of Florida-FIU (JMOF). Budgeted revenues in fiscal year 2023-24 of \$7K are derived from plant operations and maintenance from the state for the academic use of the space.

*Foundation Enterprise Holdings V* (FEH V) is a single member LLC established for real property transferred to the FIU Foundation Inc. (sole member) gifted in October 2017 and located at 11800 N.W. 41 Street, Doral, Florida.

*Foundation Enterprise Holdings VI* (FEH VI) is a single member LLC established for real property purchased by the FIU Foundation Inc. (sole member) on March 31, 2022, and located at 144 Southwest 109<sup>th</sup> Avenue, Sweetwater, Florida.

**Investment Returns**

The FIU Foundation's investment returns for fiscal year 2023-24 have been budgeted at 6 percent (net of fees) or \$23.0M. Investment return projections are based on the Foundation's asset allocation and a fundamental analysis of each asset class, including historical returns. Investment returns for fiscal year 2022-23 have been forecasted at 5.9 percent or \$20.3M, which is based on March 31, 2023, actual investment returns.

**Expenses:**

**University Program Support**

Scholarships and Programs expenses are \$30.5M for fiscal year 2023-24, which represents an increase of 6 percent over fiscal year 2022-23 budget. Scholarships and programs in the Herbert Wertheim College of Medicine, Nicole Wertheim College of Nursing & Health Sciences; College of Engineering & Computing, Knight Foundation School of Computing and Information Sciences; College of Arts, Sciences & Education; College of Business; Chaplin School of Hospitality & Tourism Management; College of Communication, Architecture + the Arts, and Steven J. Green School of International & Public Affairs account for 68 percent of the total Scholarships and Programs expense budget.

Donated building funds are anticipated to be requested from the FIU Foundation Inc. during fiscal year 2022-23 to cover construction, renovations and improvements to existing facilities: \$2.7M for the Trish and Dan Bell Chapel and \$0.2M for the Wertheim Music Atrium. The Foundation donated the MARC building to the university on June 30, 2022; the final transfer of cash reserves of \$680K held for the MARC building was completed in fiscal year 2022-23.

Operational Support expenses can be paid only by the Foundation and are funded by the two percent administrative fee charged to the endowments; examples include certain salaries, lobbying expenses, and dues to the Florida Board of Governors Foundation.

**Foundation Operating Expenses**

Foundation Enterprise Holdings expenses reflect customary costs related to owning commercial real estate including management fees, replacement reserve, bank fees, repairs and maintenance, other building costs, and real estate taxes. In fiscal year 2023-24, expenses related to the Washington Avenue Properties have been budgeted at \$227K, Jewish Museum of Florida-FIU at \$87K, Doral property at \$1K, and Sweetwater property at \$50K.

The administrative operating expenses decline in fiscal year 2023-24 mainly driven by the decrease in salaries funded by the Foundation and less professional services expenses; partially offset by the increase in expenses related to donor events and Board of Directors meetings.

**Florida International University  
Financial Summary  
FIU Health Care Network, Inc.**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Total Revenues</b>	<b>\$ 2,888</b>	<b>\$ 4,650</b>	<b>\$ 1,762</b>	<b>\$ 3,545</b>	<b>\$ 657</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	1,593	2,555	(963)	2,671	(1,078)
Other Personal Services (OPS)	-	-	-	-	-
Other Expenses	1,160	1,944	(784)	714	445
Student Financial Aid	-	-	-	-	-
Operating Capital Outlay (OCO)	-	-	-	-	-
Debt Service Interest	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 2,752</b>	<b>\$ 4,499</b>	<b>\$ (1,747)</b>	<b>\$ 3,385</b>	<b>\$ (633)</b>
<b>Net Operating Income</b>	<b>\$ 136</b>	<b>\$ 151</b>	<b>\$ 15</b>	<b>\$ 160</b>	<b>\$ 24</b>
Investment Revenues	8	36	28	12	5
Principal Payment of Debt	-	-	-	-	-
Institutional Transfers	(522)	-	522	-	522
<b>Change in Net Position</b>	<b>\$ (378)</b>	<b>\$ 187</b>	<b>\$ 565</b>	<b>\$ 172</b>	<b>\$ 551</b>
<b><u>Net Position</u></b>					
Beginning Net Position	4,859	5,074		5,260	
Loan Principal Payment					
Change in Net Position	(378)	187		172	
<b>Total Net Position</b>	<b>\$ 4,481</b>	<b>\$ 5,260</b>		<b>\$ 5,433</b>	

The FIU Health Care Network (HCN) serves as the entity for the collection and administration of income generated from the University's clinical operations. Pursuant to Florida Board of Governors regulation 9.017 governing SUS Faculty Practices, the distribution of all faculty practice funds will be for the improvement and support of the mission of FIU.

HCN provides management and staffing (non-clinical staff only) services to support clinical operations, including Student Health Services, throughout the University. The budget reflects the transition from a management services organization model to one focused on clinical services support (faculty provider effort is subsidized, in part, by the University by international medical education auxiliary operations under the College of Medicine).

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Forecasted revenue is higher than expected by \$1.8M, mainly driven by unbudgeted management fee and program revenue from the American University of Antigua College of Medicine (AUA) programs under the Office of International Affairs (OIA) due to the delayed transition of agreements from FIU Health Care Network to the University. This overage helps to offset the shortfall under patient revenues resulting from the change in timelines to move the Faculty Group Practice clinic payer agreements from FIU to the FIU Health Care Network.

Forecasted operating expenses are above budget by \$1.7M, mainly due to unbudgeted contracted services expenses from AUA programs commensurate with the overage from OIA program revenues, partially offset by savings from vacant positions under the management services organization business line and the delayed implementation of the scheduling system for the OIA program.

**Florida International University  
Financial Summary  
FIU Health Care Network, Inc.**

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenue is projected to be \$0.7M higher than fiscal year 2022-23 budget. FIU Health Care Network revenues include management fees from the Herbert Wertheim College of Medicine (HWCOM) for clinical faculty professional services and operations not to exceed the amount of collected patient revenues received by HWCOM. Patient revenue will continue under HWCOM until the finalization of the future clinical affiliation agreement. Revenue from management and programmatic fees from the International Affairs unit (OIA) will now be reported under HWCOM in the Auxiliary Enterprises fund.

Rental revenue from the Nicklaus Children's Hospital and common area maintenance fees tied to Consumer Price Index (CPI) increases have also contributed to the overall increase in revenue.

Operating expenses have increased by \$0.6M, primarily due to professional fees associated with services provided to the FIU Health Care Network by HWCOM. These fees include salary and benefits for faculty physicians, clinical staff, and other clinical-related activities. However, there have been some savings realized from the transition of certain clinical personnel expenses to HWCOM. Additionally, the expenses related to the Athena Electronic Medical Records (EMR) system have been reallocated from the FIU Health Care Network to the university, contributing to the overall expense offset.

Under the new financial model, HCN will no longer report management and programmatic revenues from OIA, as such, there will be no institutional transfers of net position from the OIA educational programs to the university.

**Florida International University  
Financial Summary  
FIU Self-Insurance Program**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Total Revenues</b>	<b>\$ 400</b>	<b>\$ 340</b>	<b>\$ (60)</b>	<b>\$ 400</b>	<b>\$ -</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	-	-	-	-	-
Other Personal Services (OPS)	-	-	-	-	-
Expense (Admin. & Overhead)	200	152	48	200	-
Student Financial Aid	-	-	-	-	-
Operating Capital Outlay (OCO)	-	-	-	-	-
Incurred But Not Reported	-	-	-	-	-
Contingent Liability Expense	-	-	-	-	-
<b>Total Operating Expenses</b>	<b>\$ 200</b>	<b>\$ 152</b>	<b>\$ 48</b>	<b>\$ 200</b>	<b>\$ -</b>
<b>Net Operating Income</b>	<b>\$ 200</b>	<b>\$ 189</b>	<b>\$ (11)</b>	<b>\$ 200</b>	<b>\$ -</b>
Investment Earnings	-	2	2	-	-
Institutional Transfers	-	-	-	-	-
<b>Change in Net Position</b>	<b>\$ 200</b>	<b>\$ 191</b>	<b>\$ (9)</b>	<b>\$ 200</b>	<b>\$ -</b>
<b><u>Net Position</u></b>					
Beginning Net Position	3,800	3,488		3,679	
Change in Net Position	200	191		200	
<b>Ending Net Position</b>	<b>\$ 4,000</b>	<b>\$ 3,679</b>		<b>\$ 3,879</b>	

The Self-Insurance Program has been established by the Florida Board of Governors regulation 10.001 to provide professional liability protection to the Florida Board of Governors, the FIU Board of Trustees, and other authorized entities and individuals. The Self-Insurance Program (SIP) entity serves to record the activities associated with the Self-Insurance Program and is subject to oversight by the SIP Council.

The SIP includes coverage for the clinical activities of the Colleges of Medicine, Nursing, and University Health Services. Revenues include funding for premium contributions, claims, and insurance premiums directly associated with the SIP. In addition, provisions are made for administrative expenses primarily for the University of Florida as the SIP administrator.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Revenues are \$60K less than plan due to less transfers required to cover lower premium costs. Forecast operating expenses are \$48K lower than approved budget due to lower administration costs.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Projected revenues and operating expenses are based on current estimates of SIP related costs as the SIP Council has not approved premiums for the upcoming year.

**Florida International University  
Financial Summary  
FIU Research Foundation, Inc.**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
<b>Total Revenues</b>	<b>\$ 150</b>	<b>\$ 149</b>	<b>\$ (1)</b>	<b>\$ 375</b>	<b>\$ 225</b>
<b><u>Expenses</u></b>					
Salaries and Benefits	-	-	-	-	-
Other Personal Services (OPS)	-	-	-	-	-
Other Expenses	5	30	(25)	5	0
Student Financial Aid	-	-	-	-	-
Operating Capital Outlay (OCO)	-	-	-	-	-
Debt Service Interest	-	-	-	-	-
<b>Total Expenditures</b>	<b>\$ 5</b>	<b>\$ 30</b>	<b>\$ (25)</b>	<b>\$ 5</b>	<b>\$ 0</b>
<b>Net Operating Income</b>	<b>\$ 145</b>	<b>\$ 119</b>	<b>\$ (26)</b>	<b>\$ 370</b>	<b>\$ 225</b>
Principal Payment of Debt	-	-	-	-	-
Unrealized Gains & Losses	-	-	-	-	-
Institutional Transfers	(25)	(71)	(46)	(100)	(75)
<b>Change in Net Position</b>	<b>\$ 120</b>	<b>\$ 47</b>	<b>\$ (72)</b>	<b>\$ 270</b>	<b>\$ 150</b>
<b><u>Net Position</u></b>					
Beginning Net Position	459	364		412	
Change in Net Position	120	47		270	
<b>Total Net Position</b>	<b>\$ 578</b>	<b>\$ 412</b>		<b>\$ 681</b>	

The FIU Research Foundation Inc. serves as an agent with respect to special grants awarded to the University. These activities and the entire amount of the grant are recognized by FIU in the Sponsored Research Development Trust Fund and are not included as part of this Foundation's budget.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Revenue projections are slightly lower than planned as the FIU Research Foundation Inc. received less transfers of accumulated royalty revenues from the University.

Operating expenses are above budget by \$25K due to unbudgeted event expenses to support the annual meeting for the Academy of Science Engineering and Medicine of Florida held at the University of Central Florida.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Revenue projections are \$0.2M greater than fiscal year 2022-23 approved budget due to more accumulated royalty revenues transferred from the University to the FIU Research Foundation Inc. based on existing and new agreements.

The FIU Research Foundation Inc. will continue to incur annual audit, accounting, and tax fees of approximately \$5,000 in order to maintain the FIU Research Foundation Inc.'s status as an active 501(c)(3) organization.

**Florida International University**  
**Financial Summary**  
**University Support to Direct Support Organizations**

	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
University Employees providing Personal Services to DSO's, <i>FTE</i>	131.3	119.6	(11.7)	139.2	8.0
<b><u>Personal Services Expenses*</u></b>					
University Support	9,131	8,226	(905)	11,900	2,770
Reimbursed by DSO's	7,044	6,727	(316)	5,062	(1,981)
<b>Total Personal Services Expenses</b>	<b>\$ 16,174</b>	<b>\$ 14,953</b>	<b>\$ (1,221)</b>	<b>\$ 16,963</b>	<b>\$ 789</b>
Square feet of Space*	14.4	13.2	1.3	15.3	(0.9)
* <i>(in thousands)</i>					

Under Florida Statute 1004.28(3)(b), the University Board of Trustees (BOT) is authorized to permit the use of university property, facilities, and personal services by a university direct support organization (DSO). Additionally, the BOT must set by rule any conditions with which a DSO must comply in order to use property, facilities, and personal services of the university. The rules provide for budget and audit review and oversight by the BOT.

The schedule above reflects the anticipated use of university property, facilities, and personal resources by the DSO's. The cost of personal services provided by the university is partially reimbursed by the DSO's and includes full-time and part-time staff.

**Financial Highlights**

The fiscal year 2022-23 approved budget reflects the budget approved by the FIU Board of Trustees in June 2022. The lower than budgeted personal services expenses in fiscal year 2022-23 in university support to DSO's is mainly due to vacant positions and position turnover.

In fiscal year 2023-24, the university plans to provide \$17.0M or 139.2 FTE of personal services, \$5.1M of which will be reimbursed by DSO's. These resources will utilize approximately 15,316 square feet of space, valued at \$414K.



**Florida International University**  
**Financial Summary**  
**University Support to Direct Support Organizations (Continued)**

**Fiscal Year 2023-24 - University Employees providing Personal Services to DSO's**

<b><u>Position Title</u></b>	<b><u>FTE</u></b>	<b><u>Position Title</u></b>	<b><u>FTE</u></b>
<b>Administrative</b>		<b>Administrative (continued)</b>	
Accounting Manager	1.0	Professional Accountant 1	1.0
Alumni Relations Coordinator	1.0	Professional Accountant 2	1.0
Alumni Relations Manager	2.0	Program Director	1.0
Annual Giving Coordinator	1.0	Project Manager	2.0
Annual Giving Manager	1.0	Prospect Management Analyst	2.0
Annual Giving Officer	3.0	Prospect Researcher	2.0
Assistant Controller	2.0	Senior Development Officer	1.0
Assistant Director of Finance	1.0	Senior Editor	1.0
Assoc Dir Donor Stewardship	1.0	Senior Executive Assistant	1.0
Assoc Director Alumni Rel	1.0	Senior Systems Administrator	1.0
Assoc Director of Development	2.0	Sr Advr Gift Compliance & Adm	1.0
Assoc. VP Adv./Alumni Affairs	2.0	Sr Coordinator Admin Services	3.0
Associate Controller	1.0	Sr Dir Administrative Svcs	2.0
Asst Dir Administrative Svcs	2.0	Sr Director of Development	4.0
Asst Dir Marketing & Comm	1.0	Sr Prospect Mgmt Analyst	1.0
Asst Director Alumni Rel	1.0	Sr. VP Advancement	1.0
Asst Director Annual Giving	1.0	Vice President Public Affairs	1.0
Asst Director Human Resources	1.0		
Asst. VP Admin. Affairs	2.0		
Asst. VP Advance./Alumni Aff.	1.0		
BI Data Warehouse Arch III	1.0	<b>Faculty</b>	
Business Intelligence Dev III	1.0	Faculty Administrator	1.0
Campaign Director	1.0		
College Department IT Director	1.0	<b>Staff</b>	
Content Strategist	1.0	Accounting Specialist	3.0
Coordinator Admin. Services	5.5	Data Management I	1.0
Data Management Manager	1.0	Gift Services Specialist	3.0
Deputy General Counsel	0.3		
Development Officer	0.0		
Dir Alumni Relations Central	3.0		
Dir Donor Stewardship Central	1.0	<b>Temporary Employees</b>	
Dir Marketing & Communications	1.0	Temporary Employees - Non Student	3.4
Dir of Development Central	3.0	Graduate & Student Assistants	11
Dir of Development CFR	2.0		
Dir of Development Unit	4.0		
Dir Program Administration	2.0		
Dir Research Prospect Mgmt	1.0		
Director Administrative Svcs	2.0		
Director Gift Services	1.0		
Donor Events Officer I	1.0		
Donor Events Officer II	2.0		
Donor Stewardship Officer II	2.0		
Editor	1.0		
Exec Dir Development	12.0		
Executive Assistant	4.0		
Financial Analyst 2	1.0		
Gift Services Manager	1.0		
Grant Proposal Writer	1.0		
Junior Account Manager	1.0		
Manager Administrative Svcs	2.0		
Museum Membership Manager	1.0		
Planned Giving Officer II	1.0		
Principal Gifts Officer	1.0		

**Total Fiscal Year 2023-24 - University Employees providing Personal Services to DSO's, FTE**

**139.2**

**Florida International University  
Financial Summary  
University Treasury Operations**

<i>(In thousands of dollars)</i>	<b>Approved Budget 2022-23</b>	<b>Forecast 2022-23</b>	<b>2022-23 Forecast vs. Budget</b>	<b>Requested Budget 2023-24</b>	<b>2023-24 vs. 2022-23 Budget</b>
Investment Revenues	\$ 14,455	\$ 10,016	\$ (4,439)	\$ 17,078	\$ 2,623
Operating Expenses	(1,708)	(1,603)	105	(2,057)	(350)
<b>Net Revenues</b>	<b>\$ 12,748</b>	<b>\$ 8,413</b>	<b>\$ (4,334)</b>	<b>\$ 15,021</b>	<b>\$ 2,273</b>
<b>Net Operating Income</b>	<b>12,748</b>	<b>8,413</b>	<b>(4,334)</b>	<b>15,021</b>	<b>2,273</b>
Investment Earnings Distribution	(2,650)	(7,422)	(4,772)	(8,501)	(5,850)
Operational Transfers	-	-	-	-	(1)
Construction Projects	(1,000)	(1,750)	(750)	(25,218)	(24,218)
Institutional Transfers	(2,240)	(174)	2,066	(240)	2,000
<b>Change in Net Position</b>	<b>\$ 6,857</b>	<b>\$ (933)</b>	<b>\$ (7,790)</b>	<b>\$ (18,938)</b>	<b>\$ (25,797)</b>
<b>Net Position</b>					
Beginning Net Position	123,446	93,870		92,938	
Change in Net Position	6,857	(933)		(18,938)	
<b>Total Net Position</b>	<b>\$ 130,303</b>	<b>\$ 92,938</b>		<b>\$ 73,999</b>	

Treasury operations revenue consists of earnings from the University's investment portfolio. Earnings include interest income, realized gains (which are reinvested each month) and unrealized gains or losses.

Investment earnings are distributed to designated funds (restricted), including Educational and General (E&G) carry forward, Financial Aid, student fees, concessions, agency, and auxiliary funds. The designated funds receive the realized Working Capital Pool return rate.

**Financial Highlights**

**Fiscal Year 2022-23 Forecast vs. Approved Budget**

Forecasted investment revenues for fiscal year 2022-23 are expected to be \$4.4M lower than budget due to market concerns over inflation and rising interest rates. Overall, net investment returns are projected to end the fiscal year at 1.7 percent, which is 1.0 percent lower than projected.

Fiscal year 2022-23 forecasted operational expenses are expected to be lower than budget due to an open position for part of the fiscal year and lower bank fees.

Investment earnings distributions in fiscal year 2022-23 are projected to be significantly higher than budget due to higher interest rates, \$4.8M.

Construction project transfers to Facilities Management in fiscal year 2022-23 included \$1.8M for the East Loop Road Alignment project. The unfavorable variance to budget was due to the acceleration of the timing of the project.

Institutional transfers include Treasury operations support for institutional scholarships. Fiscal year 2022-23 forecast is expected to be lower than budget due to less merit-based institutional aid due to lower enrollment.

**Fiscal Year 2023-24 Requested vs. Fiscal Year 2022-23 Approved Budget**

Investment revenues in fiscal year 2023-24 are projected to be \$2.6M higher than the fiscal year 2022-23 budget due to higher interest rates. Net returns are expected to be 3.0 percent in fiscal year 2023-24 compared to 2.7 percent in the fiscal year 2022-23 budget.

Fiscal year 2023-24 operational expenses are expected to be higher than the 2022-23 budget due to investment manager fees, \$0.4M.

**Florida International University**  
**Financial Summary**  
**University Treasury Operations**

Investment earnings distributions in fiscal year 2023-24 are projected to be \$5.8M higher than in the fiscal year 2022-23 budget due to higher interest rates.

Construction projects in fiscal year 2023-24 include \$23.4M toward the Engineering Building I and \$1.8M towards the East Loop Road Alignment project.

Treasury anticipates institutional transfers of \$0.2M in fiscal year 2023-24, in support of undergraduate scholarships.

# **State University System of Florida**

## **Glossary of Budget and Finance Terms<sup>1</sup>**

### **Activity and Service**

The Activity and Service budget consists of funds from the student Activity and Service (A&S) fee to support student government operations, student activities such as clubs and organizations, student centers, and recreational sports for all campuses.

### **Auxiliary Enterprises**

The Auxiliary Enterprises budget consists of university business operations that are self-supporting through user fees, payments and charges; no General Revenue Support. These budgets include: Academic Auxiliary programs, Housing, Parking and Transportation, Student Health Services, and other auxiliaries such as commissions on food services and bookstore sales, rentals, and interdepartmental services. Each institution may determine whether its auxiliary services will be self-supporting on an individual or collective basis, except for athletics, which shall be a self-supporting entity.

### **Board Approved Fees**

Board Approved Fees are fees specific to the university and have been approved by the Board of Governors (Regulation 7.003(23)). Every five years, the Board of Trustees is required to review the fee to determine if the fee has met its intended outcomes. Current Board of Governors approved fees include:

- ✓ Green Fee – USF, NCF and UWF
- ✓ Test Preparation Fee (Law Schools) – FIU and FAMU
- ✓ Student Life & Services Fee - UNF

### **Bonded Projects (Capital Funding)**

Generally includes housing and parking garage debt. Can be bonded through the State Division of Bond Finance or via a university DSO

### **Capital Improvement Trust Fund Fee (CITF) (Capital Funding)**

Funded by student fees to support student related projects. Funds are collected by the university and transmitted to the State to pay for debt service. Remaining funds are returned to university after receiving legislative authorization. A portion of the fee may be used for university childcare centers.

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<sup>1</sup> More information regarding these terms may be found in Florida Statutes 1009.24 and the Board of Governors Tuition and Fee Regulations (Chapter 7)

## **Carryforward**

The accumulated ending Education and General (E&G) fund balance. Carryforward can be used for operating activities such as, but not limited to, a contingency for unfunded enrollment growth, potential budget reductions, anticipated increases in university operations, and prior year encumbrances. Interest or investment earnings on carryforward are used for operating activities. At any time the unencumbered available balance in the E&G fund of the university board of trustees approved operating budget falls below seven (7) percent of the approved total, the president shall provide a written notification and explanation to the Board of Governors (Regulation 9.007).

Carryforward funds cannot be used for new construction. Any unexpended E&G appropriation carried forward to the fund balance in a new fiscal year shall be utilized in support of activities outlined in the Board of Governors Regulation 9.007(3)(a)(4).

## **Concessions**

The Concessions fund contains all the commission-based revenues from beverage and pouring, snack vending, as well as student housing laundry machines. The commission revenues are used to support the purchase of food and refreshment items at university-wide events, faculty and staff recruitment, commencements, training, lecture series, board of trustees, student housing socials and convocation events. Funds shall not be expended for the construction or reconstruction of buildings except as provided under s. 1013.74 F.S.

## **Contracts and Grants**

The Contracts and Grants (C&G) budget consists of funding from federal agencies, state agencies, foundations, and private sources that enables the university to conduct specific research projects or to provide specific non-research services. The C&G budget also includes direct support organization reimbursements for use of university resources.

Expenditures to support research grants include: a) direct costs such as salaries, wages, and benefits of research personnel, materials, supplies, travel, equipment, and rental of space that are directly attributed to the research project, and b) Indirect Costs such as building and equipment use and depreciation, physical plant and maintenance, hazardous waste disposal, libraries, general administration costs (legal, purchasing, accounting), janitorial services, and utilities.

## **Developmental Research Schools**

These are a category of public schools affiliated with a state university college of education as provided by F.S. 1002.32. Currently, FSU, FAMU, UF and FAU operate DRS schools.

## **Direct Support Organizations; DSO's**

**Per Florida Statute 1004.28 (1)(a), "University direct-support organization" means an organization which is:**

1. A Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State.
2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a state university in Florida or for the benefit of a research and development park or research and development authority affiliated with a state university and organized under part V of chapter 159."

Similar to Auxiliary Enterprises, DSO's must be self-supporting; the key distinction is that DSO's are formally incorporated.

## **Education and General (E&G)**

The Education and General (E&G) budget consists of State appropriated General Revenue, Educational Enhancement (Lottery) funding, and Student Tuition and Matriculation payments. Incremental funding is provided by the following primary mechanisms: Performance-based funding, tuition increases, and special legislative appropriations. State appropriated funding is no longer based on enrollments. E&G funds are used for general instruction, research, public service, plant operations and maintenance, student services, libraries, administrative support, and other enrollment-related and stand-alone operations of the university.

## **Faculty Practice**

Faculty Practice Plans collect and distribute income from faculty billings for patient services to the UF, FSU, USF, FAU, UCF, and FIU Medical Clinics to cover the cost of medical services.

## **Gifts (Academic or Capital Funding)**

Another source of academic or capital funding is philanthropy. Philanthropic gifts usually come with donor restrictions on the use of the funds.

## **Intercollegiate Athletics**

The Athletics Operating budget supports the university's student athletics program. Funding is generated from student athletics fees as well as ticket sales to athletics events, game guarantees, NCAA distributions, sponsorships, and private support. Intercollegiate Athletics is also supported by Title IX funding, waivers and scholarships, and a statutory tax on ticket sales to support women's sports.

## **Local Funds**

Local funds is a term used to describe a grouping of university operating units that, prior to the devolution of the state universities from the State's central accounting system (FLAIR), were allowed to deposit operating revenues into local bank accounts as opposed to the State Treasury. These units include Student Activities, Financial Aid, Concessions, Intercollegiate Athletics, Technology Fee, Board-Approved Fees, and university Self-Insurance Plans.

## **Performance-Based Funding**

Performance-based funding is a mechanism by which the Florida Board of Governors (BOG) allocates state appropriations to the state universities. The BOG Performance Funding Model (PFM) includes 10 metrics that evaluate institutions on a range of issues. Nine of the 10 metrics are common for all universities, the remaining metric is selected by the university board of trustees. The Performance-based Funding Model has been in effect since fiscal year 2014-15.

## **Public Education Capital Outlay (PECO) (Capital Funding)**

Funded by the Gross Receipts Tax, which is a 2.5 percent levy on the gross receipts of electric, gas and telecommunications as well as a portion of the Communications Services tax. This tax is devoted entirely to the Public Education Capital Outlay and Debt Service Trust fund. PECO is established in the Florida Constitution and must be used for K-20 Capital projects, including the state universities. The Legislature appropriates PECO annually. PECO distributions are administered by the Florida DOE.

## **Self-Insurance Programs**

These are revenues received by the university from entities and individuals protected by the self-insurance program for medical schools, including the Faculty Practice Plans. These programs at UF, FSU, USF, UCF, FIU, and FAU are directed by the respective self-insurance councils and the captive insurance companies (these companies underwrite the risks of its owner and the owner's affiliates). These activities are supported by premiums charged to the insured individuals and entities (primarily medical faculty and institutions). There shall be no funds appropriated to a self-insurance program (Chapter 1004.24(3) Florida Statutes).

## **Special Legislative Appropriations**

These are legislative appropriations tied to specific university requested or member projects. Funding is based upon the university's Legislative Budget Request and may be recurring or non-recurring.

## **Student Financial Aid**

The Student Financial Aid budget consists of funding from student financial aid fees, support from federal and state financial aid awards, institutional programs, and private scholarships. The financial aid fee may not exceed 5 percent of the combined total of the tuition and out-of-state- fee. A minimum of 75 percent of the fee shall be used to provide student financial aid based on absolute need. Examples of other sources of student financial aid are: Federal Pell Grants, Florida Bright Futures Scholarship Program, university scholarships, Florida Student Assistance Grant, Federal Work Study, and First Generation Scholarships.

## **Student Loans**

The Student Loans Budget is comprised of loans from federal and private sources. Federal sources include Stafford and Plus, and private sources include Sallie Mae, Discover, and the PNC Financial Services Group Inc. The university acts as an agent with respect to these funds.

## **Technology Fee**

The Technology Fee budget consists of funding from the technology fee which is assessed at 5 percent of resident base tuition. The fee revenues are used to enhance instructional technology resources for students and faculty.

## **Tuition Increase Funding**

The Florida Legislature establishes undergraduate tuition and authorizes the Board of Governors to establish graduate and professional tuition, as well as non-Florida resident tuition. Tuition differential beyond the base tuition for undergraduate Florida residents, up to 15 percent, is currently being implemented by each university with the exception of Florida Polytechnic University. A minimum of 30 percent of the tuition differential fee must be used to provide need-based financial aid to undergraduate students. The ability to request an increase in the Tuition differential fee beyond existing levels was eliminated effective fiscal year 2014-15 (per Chapter 1009.24(16) F.S.) with the exception of those universities designated as Preeminent by the Board of Governors (may request an increase not to exceed 6 percent per year for tuition and tuition differential fee combined). The Board of Governors approves tuition for market rate programs subject to parameters established by the Florida Legislature and Board Regulation 8.002.

## **University Treasury Operations**

Treasury operations revenue consists of earnings from the university's investment portfolio. Earnings include interest income, realized gains and unrealized gains or losses.



**THE FLORIDA INTERNATIONAL UNIVERSITY  
BOARD OF TRUSTEES**

**Finance and Facilities Committee**

June 15, 2023

**Subject: Proposed 2023-24 Appropriated Fixed Capital Outlay Budget/Capital Improvement**

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**Proposed Committee Action:**

Recommend to The Florida International University Board of Trustees (the BOT) approval of Florida International University's 2023-24 Appropriated Fixed Capital Outlay Budget (pending Governor's approval) and authorize the University President to amend the budget as necessary, consistent with Legislative, Florida Board of Governors' and BOT directives and guidelines.

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**Background Information:**

Section 1013.61, Florida Statutes, requires that the BOT adopt a capital outlay budget for the ensuing year in order that the capital outlay needs of the BOT for the entire year may be well understood by the public. The capital outlay budget is part of the annual budget and shall be based upon and in harmony with the BOT's capital outlay plan. The budget shall designate the proposed capital outlay expenditures by project for 2023-24 from all fund sources, as amended.

Florida Board of Governors Regulation 1.001(6)(a) provides, in relevant part, that each board of trustees shall submit an institutional budget request, including a request for fixed capital outlay appropriations, to the Board of Governors for approval in accordance with the guidelines established by the Board of Governors.

Florida Board of Governors Regulation 14.003(1) provides that each university will prepare an annual Fixed Capital Outlay (FCO) Budget for all appropriated Fixed Capital Outlay (FCO) Projects in accordance with the instructions, guidelines, and standard formats provided by the Chancellor for those FCO Projects as defined in Board Regulation 14.001. The FCO Budget must be approved by both the university board of trustees and the Board of Governors. Such approval remains in effect for the life of the FCO Projects. The annual FCO Budget must include all FCO Projects, including previously approved projects which have not yet been completed.

The Capital Outlay Budget governs the University's capital expenditures during the year.

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**Supporting Documentation:** 2023-24 Appropriated Fixed Capital Outlay Budget  
Request/Capital Improvement for Florida International  
University

**Facilitator/Presenter:** Aime Martinez

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
**FY23-24 Fixed Capital Outlay (FCO) Appropriated Funding**  
**(Pending Governors approval)**  
**6/15/23**

	Previous PECO/CITF Funding	FY23-24 For Approval	Future PECO/CITF Funding	Future Supplemental Funding	Total Project	Status
<b>PUBLIC EDUCATION CAPITAL OUTLAY PROJECTS (PECO)/OTHER</b>						
Engineering Building Phase II	\$ 33,500,000	\$ 15,150,000		\$ 20,850,000	\$ 69,500,000	Planning
Honors College	\$ -	\$ 11,000,000	\$ 35,898,527	\$ -	\$ 46,898,527	Planning
Herbert Wertheim College of Medicine (HWCOM) Academic	\$ -	\$ 5,000,000	\$ -	\$ -	\$ 5,000,000	Planning
<b>Total Capital Outlay PECO/Other Funding</b>	<b>\$ 33,500,000</b>	<b>\$ 31,150,000</b>	<b>\$ 35,898,527</b>	<b>\$ 20,850,000</b>	<b>\$ 121,398,527</b>	
<b>CAPITAL IMPROVEMENT TRUST FUND PROJECTS (CITF)/OTHER</b>						
Wellness & Recreation Fields Support Building	\$ 1,396,523	\$ 1,494,404	\$ -	\$ -	\$ 2,890,927	Design
Aquatic Center	\$ 5,000,000	\$ 2,000,000	\$ 500,000	\$ 8,360,115	\$ 15,860,115	Planning
Soccer & Track Stadium	\$ -	\$ 2,500,000	\$ -	\$ 8,920,000	\$ 11,420,000	Planning
<b>Total Capital Outlay CITF/Other Funding</b>	<b>\$ 6,396,523</b>	<b>\$ 5,994,404</b>	<b>\$ 500,000</b>	<b>\$ 17,280,115</b>	<b>\$ 30,171,042</b>	
<b>Total Fixed Capital Outlay/Other Funding</b>	<b>\$ 39,896,523</b>	<b>\$ 37,144,404</b>	<b>\$ 36,398,527</b>	<b>\$ 38,130,115</b>	<b>\$ 151,569,569</b>	

**THE FLORIDA INTERNATIONAL UNIVERSITY  
BOARD OF TRUSTEES**

**Finance and Facilities Committee**

June 15, 2023

**Subject: Request for Approval of Florida International University's 2024-25 Fixed Capital Outlay Legislative Budget Request Consisting of the five-year Capital Improvement Plan**

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**Proposed Committee Action:**

Recommend to The Florida International University Board of Trustees (the BOT) approval of FIU's 2024-25 Fixed Capital Outlay Legislative Budget Request, consisting of the five-year Capital Improvement Plan and authorize the University President to amend the Legislative Budget Request as necessary, consistent with Florida Board of Governors (BOG) and BOT directives and guidelines.

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**Background Information:**

Sections 1001.706 (12), 1011.40(1), and 1013.60, Florida Statutes, require each university to submit a legislative budget request for Fixed Capital Outlay (FCO) in the form of a Capital Improvement Plan (CIP) in accordance with the instructions, guidelines, and standard formats provided by the Chancellor of the State University System of Florida. The CIP includes Public Education Capital Outlay (PECO) Projects and Capital Improvement Trust Fund (CITF) Projects, Back-of-Bill (BOB) Legislative Project Authorization Requests, and shows the university's proposed capital expenditures over the next five years.

While each university may include any project recommended on the university's most recent Educational Plant Survey, the BOG will only consider/score those projects that are: (i) incomplete PECO projects which received a prior appropriation and requires additional PECO funds to complete; and/or (ii) the top two priorities for each university. The BOG will adopt the State University System Legislative Budget Request for Fixed Capital Outlay at its August 30, 2023 meeting based upon a points-based prioritization method to rank projects for consideration from the selection of projects submitted by each university BOT in accordance with Section 1001.706 (12), Florida Statutes.

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**Supporting Documentation:**

Summary of Projects

Project Detail, five-Year CIP, PECO, Supplemental, CITF

FIU 2024-25 Fixed Capital Outlay Legislative Budget Letter to Mr. Tim Jones, Vice Chancellor, Finance/Administration and CFO for State University System of Florida

**Facilitator/Presenter:**

Aime Martinez

### Summary of Projects - PECO-Eligible Projects

[amartin@fiu.edu](mailto:amartin@fiu.edu)  
(email)

Programs to Benefit from Project	Net Assignable Sq. Ft. (NASF)	Gross Sq. Ft. (GSF)	Total Project Cost	Project Cost Per GSF	EPS Recommendation Date & Rec. # <sup>(1)</sup>
Honors	35,018	56,029	\$ 46,898,527	\$ 837.04	3-11-21/5.3
Sciences	77,184	123,495	\$ 123,873,950	\$ 1,003.07	3-11-21/5.4

[illegible]

Form CIP-2A (Rev. 3/30/23)

## Summary of Projects - CITF Projects

University: **FLORIDA INTERNATIONAL UNIVERSITY**

Contact: Aime Martinez  
(name)

305-348-2101  
(phone)

[amartin@fiu.edu](mailto:amartin@fiu.edu)  
(email)

**CITF PROJECT REQUESTS (ONLY)**[illegible]

**FY 2024-25 Back of Bill (BOB)**  
**Fixed Capital Outlay Projects Requiring Board Approval to be Constructed, Acquired and Financed**  
**by a University or a Direct Support Organization**

University: **FLORIDA INTERNATIONAL UNIVERSITY**

Contact: Aime Martinez  
(name) 305-348-2101 (phone) [amartin@fiu.edu](mailto:amartin@fiu.edu) (email)

						Estimated Annual Operating & Maintenance Cost	
Project Name *	Brief Description of Project	GSF	Project Location	Project Cost	Funding Source(s)	Amount (\$)	Source
HWCOM Academic Health Sciences/Clinical Partnership	The proposed Medical Clinical facility on campus will provide direct primary and specialty clinical health services to the community through partnership with a hospital system as well as interdisciplinary health science education for the FIU academic health science disciplines, including medicine, nursing, social work, public health and the allied health sciences.	130,000	MMC	\$150,000,000	Partnership/Clinical Revenue/State	\$3,000,000	Partnership/Clinical Revenue/State
University Student Housing	700 Bed private bedroom style residence hall	300,000	MMC	\$135,000,000	Revenue Bonds	\$2,700,000	Housing auxiliary
University Workforce Housing	150 unit apartment style housing	150,000	MMC	\$135,000,000	Revenue Bonds	\$2,700,000	Housing auxiliary

\* List all proposed projects for FY 2024-25 requiring Legislative (Back-of-Bill) authorization pursuant to s.1010.62 and s.1013.71, F.S.

State University System  
5-Year Capital Improvement Plan (CIP)  
FY 2024-25 through 2028-29

**PECO Project Detail**

University: **FLORIDA INTERNATIONAL UNIVERSITY**  
Project Name: **HONORS COLLEGE**  
**Modesto Maidique Campus**  
Project Address: **11200 SW 8th Street, Miami FL. 33199**

Priority #: 1

**PROJECT NARRATIVE**

This project is meant both to satisfy university space needs and to facilitate the enrollment growth and programmatic development of Honors consistent with the mandate to become "the centerpiece of undergraduate educational excellence" at Florida International University.

The project is envisioned as a major multi-story addition to the Ernest R. Graham University Center or possibly a stand alone building near student housing. Both options are consistent with the campus master plan at the Modesto Maidique Campus. Main components of the facility will include administrative offices, student services offices, advising offices and support spaces together with computer and innovation labs, seminar and conference rooms.

In recognition of the University's commitment to sustainability practices this project will be designed and built with the goal of meeting the USGBC's LEED-NC "Silver" certification rating or equivalent. The Project shall comply with Florida Statutes 255.251 Energy Conservation and Sustainable Buildings Act including 255.252 (3) and (4).

Private funding will be solicited to expand the project. The project is included in the approved "2021-2025 Educational Plant Survey" dated 3/11/2021, recommendation 5.3.

**RESERVE ESCROW PLAN**

Renovation/Remodeling Projects (1% per s. 1001.706(12)(c) F.S.)		New Construction Projects (2% per Board Regulation 14.002)	
Estimated Bldg Value:	\$ 5,719,655	\$ 27,071,820	
Value Basis/Source:		Total building construction cost	
Estimated 1st Yr Deposit:	\$ 57,197	\$ 541,436	
Funding Source:	E&G CF	E&G CF	
Comments:			

**BUILDING SPACE DESCRIPTION (account for all building space below)**

Space Type (per FICM)	Net Sq. Ft. (NSF)	Net-to-Gross Conversion Factor	Gross Sq. Ft. (GSF)	Unit Cost * (per GSF)	Building Cost		
NEW CONSTRUCTION							
Classroom	9,000	1.6	14,400	573	8,251,065		
Teaching Lab	2,700	1.6	4,320	622	2,685,392		
Study	4,900	1.6	7,840	569	4,464,599		
Research Lab	6,000	1.6	9,600	724	6,949,730		
Office	3,650	1.6	5,840	581	3,390,748		
Instructional Media	2,000	1.6	3,200	416	1,330,286		
	-		-		-		
Subtotal NASF:	28,250		45,200		27,071,820	-	-
'Other Assignable' E&G Space	-		-		-		
Other Non-E&G Budget Entity Space	-		-		-		
Total:	28,250		45,200		27,071,820	-	-
* Apply Unit Cost to total GSF based on Space Type							
						Remodeling Projects Only	
						BEFORE	AFTER
	6,768		10,829	528	5,719,655	6,768	6,768
	-		-		-	-	-
Subtotal NASF:	6,768		10,829		5,719,655	6,768	6,768
'Other Assignable' E&G Space	-		-		-	-	-
Other Non-E&G Budget Entity Space	-		-		-	-	-
Total:	6,768		10,829		5,719,655	6,768	6,768
Grand Total:							
	35,018		56,029		32,791,474		

PROJECT COMPONENT COSTS & PROJECTIONS							
	Costs Incurred to Date	Year 1	Year 2	Year 3	Year 4	Year 5	Total
<b>Basic Construction Costs</b>							
Building Cost (from above)	8,000,000	14,000,000	10,791,369	-	-	-	32,791,369
Environmental Impacts/Mitigation			-		-	-	
Site Preparation		532,400	-		-	-	532,400
Landscape / Irrigation			266,200		-	-	266,200
Plaza / Walks			352,715		-	-	352,715
Roadway Improvements			-		-	-	
Parking :      spaces			-		-	-	
Telecommunication		266,200	-		-	-	266,200
Electrical Service		266,200	-		-	-	266,200
Water Distribution		106,480	-		-	-	106,480
Sanitary Sewer System		266,200	-		-	-	266,200
Chilled Water System		598,950	-		-	-	598,950
Storm Water System		99,825	-		-	-	99,825
Energy Efficient Equipment			66,550		-	-	66,550
<b>Subtotal: Basic Const. Costs</b>	<b>8,000,000</b>	<b>16,136,255</b>	<b>11,476,834</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>35,613,089</b>
<b>Other Project Costs</b>							
Land / existing facility acquisition	-	-	-	-	-	-	
Professional Fees	1,544,468	1,152,328	27,771	-	-	-	2,724,567
CM Fees	356,131	-	(0)	-	-	-	356,131
Fire Marshall Fees	81,978	-	0	-	-	-	81,978
Inspection Services	-	50,000	500,000	-	-	-	550,000
BIM Consultant	-	-	53,420	-	-	-	53,420
Surveys & Tests	130,000	-	-	-	-	-	130,000
Permit / Impact / Environmental Fees	-	5,000	-	-	-	-	5,000
Artwork	-	-	100,000		-	-	100,000
Moveable Furnishings & Equipment	-	1,768,994	1,981,155		-	-	3,750,149
<b>Subtotal:</b>	<b>2,112,577</b>	<b>2,976,322</b>	<b>2,662,346</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>7,751,245</b>
Project Contingency	557,064	557,064	1,054,089		-	-	2,168,217
Construction Service Reimbursement	330,359	330,359	705,259		-	-	1,365,977
<b>Subtotal: Other Project Costs</b>	<b>3,000,000</b>	<b>3,863,745</b>	<b>4,421,693</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>11,285,438</b>
<b>Total Project Cost:</b>	<b>11,000,000</b>	<b>20,000,000</b>	<b>15,898,527</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>46,898,527</b>

PROJECT FUNDING							
Funding Received to Date (all sources)			Projected Supplemental Funding			Projected PECO Requests	
Source	FY	Amount	Source	FY	Amount	FY	Amount
PECO	23-24	11,000,000				24-25	20,000,000
						25-26	15,898,527
						Should equal <i>Total Project Cost</i> above	
		<b>11,000,000</b>			<b>-</b>	<b>35,898,527</b>	<b>46,898,527</b>



State University System  
5-Year Capital Improvement Plan (CIP)  
FY 2024-25 through 2028-29

**PECO Project Detail**

University: **FLORIDA INTERNATIONAL UNIVERSITY**  
Project Name: **SCIENCE LABORATORY COMPLEX**  
Project Address: **Modesto Maidique Campus**  
**11200 SW 8th Street, Miami FL. 33199**

Priority #: 2

**PROJECT NARRATIVE**

To support current and expanding science programs, Florida International University needs considerable science specific classrooms, teaching laboratories and offices. Existing facilities are severely inadequate to meet University needs.

This facility will provide critically needed classrooms, laboratories and offices to address existing shortfalls and to meet educational and research needs of the University. The Science Laboratory Complex is an essential element in the FIU/State University System Strategic Plan to meet statewide professional and workforce needs in the science area.

The project budget includes extraordinary costs of upgrading and extending existing central campus infrastructure to the project site.

In recognition of the University's commitment to sustainability practices this project will be designed and built with the goal of meeting the USGBC's LEED-NC "Silver" certification rating or equivalent. The Project shall comply with Florida Statutes 255.251 Energy Conservation and Sustainable Buildings Act including 255.252 (3) and (4).

This project is included in the approved "2021-2025 Educational Plant Survey" dated 3/11/2021, recommendation 5.4.

**RESERVE ESCROW PLAN**

Renovation/Remodeling Projects (1% per s. 1001.706(12)(c) F.S.)		New Construction Projects (2% per Board Regulation 14.002)	
Estimated Bldg Value:		\$	85,006,092
Value Basis/Source:		Total building construction cost	
Estimated 1st Yr Deposit:	\$ -	\$	1,700,122
Funding Source:		50% E&G CF & 50% Sponsored Research	
Comments:			

**BUILDING SPACE DESCRIPTION (account for all building space below)**

Space Type (per FICM)	Net Sq. Ft. (NSF)	Net-to-Gross Conversion Factor	Gross Sq. Ft. (GSF)	Unit Cost * (per GSF)	Building Cost
<b>NEW CONSTRUCTION</b>					
Classroom	7,282	1.6	11,650	630	7,343,181
Teaching Lab	3,883	1.6	6,214	684	4,248,732
Study	17,476	1.6	27,961	626	17,515,171
Office	19,417	1.6	31,068	639	19,842,120
Instructional Media	1,942	1.6	3,107	457	1,420,694
Research Lab	27,184	1.6	43,495	796	34,636,193
	-		-		-
Subtotal NASF:	77,184		123,495		85,006,092
'Other Assignable' E&G Space	-		-		-
Other Non-E&G Budget Entity Space	-		-		-
Total:	77,184		123,495		85,006,092
* Apply Unit Cost to total GSF based on Space Type					

REMODELING / RENOVATION					Remodeling Projects <b>Only</b>	
					BEFORE	AFTER
	-		-	-	-	-
Subtotal NASF:	-		-	-	-	-
'Other Assignable' E&G Space	-		-	-	-	-
Other Non-E&G Budget Entity Space	-		-	-	-	-
Total:	-		-	-	-	-
Grand Total:	77,184		123,495		85,006,092	

# PROJECT COMPONENT COSTS & PROJECTIONS

	Costs Incurred	Projected Costs					Total
	to Date	Year 1	Year 2	Year 3	Year 4	Year 5	
Basic Construction Costs							
Building Cost (from above)		20,000,000	23,000,000	22,680,985	19,325,106		85,006,091
Environmental Impacts/Mitigation							
Site Preparation			439,230	-	-	-	439,230
Landscape / Irrigaiton			500,000	232,050	-	-	732,050
Plaza / Walks			250,000	116,025	-	-	366,025
Roadway Improvements			250,000	116,025	-	-	366,025
Parking : <div></div> spaces			300,000	139,230	-	-	439,230
Telecommunication			658,845	-	-	-	658,845
Electrical Service			146,410	-	-	-	146,410
Water Distribution			146,410	-	-	-	146,410
Sanitary Sewer System			292,820	-	-	-	292,820
Chilled Water System			512,435	-	-	-	512,435
Storm Water System			146,410	-	-	-	146,410
Energy Efficient Equipment			36,603	-	-	-	36,603
Subtotal: Basic Const. Costs	-	20,000,000	26,679,163	23,284,315	19,325,106	-	89,288,584
Other Project Costs							
Land / existing facility acquisition	-	-	-	-	-	-	-
Professional Fees	-	4,671,886	1,555,429	-	-	-	6,227,315
CM Fees	-	664,269	228,617	-	-	-	892,886
Fire Marshall Fees	-	223,221	-	-	-	-	223,221
Inspection Services	-	-	400,000	-	-	-	400,000
BIM Consultant	-	-	89,290	-	-	-	89,290
Surveys & Tests	-	50,000	225,000	-	-	-	275,000
Permit / Impact / Environmental Fees	-	40,000	40,000	-	-	-	80,000
Artwork	-	-	-	-	100,000	-	100,000
Moveable Furnishings & Equipment	-	-	-	4,513,787	12,448,844	-	16,962,631
Subtotal:	-	5,649,376	2,538,336	4,513,787	12,548,844	-	25,250,343
	-	-	-	-	-	-	-
Project Contingency	-	850,624	3,600,175	1,276,242	-	-	5,727,041
Construction Service Reimbursement	-	500,000	2,182,326	925,656	-	-	3,607,982
Subtotal: Other Project Costs	-	7,000,000	8,320,837	6,715,685	12,548,844	-	34,585,366
Total Project Cost:	-	27,000,000	35,000,000	30,000,000	31,873,950	-	123,873,950

# PROJECT FUNDING

Funding Received to Date (all sources)			Projected Supplemental Funding			Projected PECO Requests		Total Project Cost
Source	FY	Amount	Source	FY	Amount	FY	Amount	Should equal Total Project Cost above
						24-25	27,000,000	
						25-26	35,000,000	
						26-27	30,000,000	
						27-28	31,873,950	
		-			-		123,873,950	123,873,950

State University System  
5-Year Capital Improvement Plan (CIP)  
FY 2024-25 through 2028-29

**PECO Project Detail**

University: **FLORIDA INTERNATIONAL UNIVERSITY**  
Project Name: **ACADEMIC HEALTH CENTER STUDY COMPLEX**  
Project Address: **Modesto Maidique Campus**  
**11200 SW 8th Street, Miami FL. 33199**

Priority #: 3

**PROJECT NARRATIVE**

The purpose of this project is to consolidate study environments for three colleges, the Herbert Wertheim College of Medicine, the Nicole Wertheim College of Nursing and Health Sciences and the Robert Stempel College of Public Health & Social Work into one facility - consistent with the spirit of an Academic Health Center.

A variety of learning spaces are necessary to provide casual, small group learning and quiet individual study environments. The proposed program anticipates informal gathering environments, open collaborative spaces, quiet reading rooms, small group study rooms, a student lounge with vending area, as well as other support functions. It is anticipated that the facility will have the capacity to serve a population of 560 upper division students from the three colleges. In addition, the program calls for administrative offices for the Academic Health Center.

Upon its completion, the third floor dedicated HWCOC Library spaces (approximately 6,500 net square feet) will be released back to the Green Library. The Educational Plant Survey also shows shortage of library/study space, so this project will benefit the wider university community in that capacity.

The project budget includes extraordinary costs required to integrate new structure and building systems with the two adjacent existing buildings, AHC1 & AHC2.

In recognition of the University's commitment to sustainability practices this project will be designed and built with the goal of meeting the USGBC's LEED-NC "Silver" certification rating or equivalent. The Project shall comply with Florida Statutes 255.251 Energy Conservation and Sustainable Buildings Act including 255.252 (3) and (4).

This project is included in the approved "2021-2025 Educational Plant Survey" dated 3/11/2021, recommendation 5.1.

**RESERVE ESCROW PLAN**

Renovation/Remodeling Projects (1% per s. 1001.706(12)(c) F.S.)		New Construction Projects (2% per Board Regulation 14.002)	
Estimated Bldg Value:		\$	39,821,735
Value Basis/Source:		Total building construction cost	
Estimated 1st Yr Deposit:	\$ -	\$	796,435
Funding Source:		E&G CF	
Comments:			

**BUILDING SPACE DESCRIPTION (account for all building space below)**

Space Type (per FICM)	Net Sq. Ft. (NSF)	Net-to-Gross Conversion Factor	Gross Sq. Ft. (GSF)	Unit Cost * (per GSF)	Building Cost
<b>NEW CONSTRUCTION</b>					
Classroom	4,500	1.6	7,200	630	4,538,086
Teaching Lab	5,250	1.6	8,400	684	5,743,755
Study	12,390	1.6	19,824	626	12,417,964
Office	15,866	1.6	25,386	639	16,212,976
Instructional Media	480	1.6	768	457	351,196
Research Lab	600	1.6	960	581	557,757
	-		-		-
Subtotal NASF:	39,086		62,538		39,821,735
'Other Assignable' E&G Space	-		-		-
Other Non-E&G Budget Entity Space	-		-		-
Total:	39,086		62,538		39,821,735
* Apply Unit Cost to total GSF based on Space Type					

					Remodeling Projects <b>Only</b>	
					BEFORE	AFTER
<b>REMODELING / RENOVATION</b>						
	-		-	-	-	-
	-		-	-	-	-
Subtotal NASF:	-		-	-	-	-
'Other Assignable' E&G Space	-		-	-	-	-
Other Non-E&G Budget Entity Space	-		-	-	-	-
Total:	-		-	-	-	-
Grand Total:	39,086		62,538		39,821,735	

# PROJECT COMPONENT COSTS & PROJECTIONS

	Costs Incurred	Projected Costs					Total
	to Date	Year 1	Year 2	Year 3	Year 4	Year 5	
Basic Construction Costs							
Building Cost (from above)	-	10,000,000	11,253,356	18,568,379	-	-	39,821,735
Environmental Impacts/Mitigation	-	-	-	-	-	-	-
Site Preparation	-	215,000	99,782	-	-	-	314,782
Landscape / Irrigaiton	-			95,167	-	-	95,167
Plaza / Walks	-			951,665	-	-	951,665
Roadway Improvements	-			-	-	-	-
Parking : <div></div> spaces	-			-	-	-	-
Telecommunication	-			161,051	-	-	161,051
Electrical Service	-		146,410	-	-	-	146,410
Water Distribution	-		109,808	-	-	-	109,808
Sanitary Sewer System	-		146,410	-	-	-	146,410
Chilled Water System	-		219,615	-	-	-	219,615
Storm Water System	-		175,692	-	-	-	175,692
Energy Efficient Equipment	-	-			-	-	-
Subtotal: Basic Const. Costs	-	10,215,000	12,151,072	19,776,261	1	-	42,142,333
Other Project Costs							
Land / existing facility acquisition	-	-	-	-	-	-	-
Professional Fees	-	2,046,088	1,067,856	-	-	-	3,113,944
CM Fees	-	421,423		-	-	-	421,423
Fire Marshall Fees	-	105,356		-	-	-	105,356
Inspection Services	-	100,000	200,000	-	-	-	300,000
BIM Consultant	-	21,071	21,071	-	-	-	42,142
Surveys & Tests	-	80,000	40,000	-	-	-	120,000
Permit / Impact / Environmental Fees	-	50,000	70,000	-	-	-	120,000
Artwork	-		100,000	-	-	-	100,000
Moveable Furnishings & Equipment	-	-	-	4,390,022	-	-	4,390,022
Subtotal:	-	2,823,938	1,498,927	4,390,022	-	-	8,712,887
Project Contingency	-	960,000	750,000	832,836	-	-	2,542,836
Construction Service Reimbursement	-	501,062	600,000	500,882	-	-	1,601,944
Subtotal: Other Project Costs	-	4,285,000	2,848,927	5,723,739	-	-	12,857,667
Total Project Cost:	-	14,500,000	15,000,000	25,500,000	1	-	55,000,000

# PROJECT FUNDING

Funding Received to Date (all sources)			Projected Supplemental Funding			Projected PECO Requests		Total Project Cost
Source	FY	Amount	Source	FY	Amount	FY	Amount	Should equal Total Project Cost above
						24-25	14,500,000	
						25-26	15,000,000	
						27-28	25,500,000	
		-			-		55,000,000	<b>55,000,000</b>

State University System  
5-Year Capital Improvement Plan (CIP)  
FY 2024-25 through 2028-29

## PECO Project Detail

University: **FLORIDA INTERNATIONAL UNIVERSITY**

Project Name: **REMOD./RENOV. OF DM BLDG.**

Project Address: **Modesto Maidique Campus**  
11200 SW 8th Street, Miami FL. 33199

Priority #: 4

### PROJECT NARRATIVE

This request will accommodate renovations to space vacated in conjunction with construction of new facilities that require no significant changes in space categories. In addition, it will provide much needed renovation to existing classroom space in the DM building, the second oldest building on campus.

Academic reorganizations and university strategic initiatives such as classroom, class lab and open lab refurbishments, media upgrades, renovations and/or remodeling will take place throughout the building. Large scale renovations will include upgrades to life safety systems and replacements of HVAC, electrical and conveying systems that are not possible in smaller room-by-room-type renovations.

Comprehensive renovation is crucial to compliance with Florida Statute 255.251 Energy Conservation and Sustainable Building Act including Sections 255.252 (3) and (4) regarding retrofitting buildings. FIU is a signatory to the ACUP Climate Commitment with a goal of meeting a minimum rating of USGBC LEED Silver or equivalent.

This project is included in the approved "2021-2025 Educational Plant Survey" dated 3/11/2021, recommendation 3.1.

### RESERVE ESCROW PLAN

	Renovation/Remodeling Projects (1% per s. 1001.706(12)(c) F.S.)	New Construction Projects (2% per Board Regulation 14.002)
Estimated Bldg Value:	\$ 32,194,754	
Value Basis/Source:		Total building construction cost
Estimated 1st Yr Deposit:	\$ 321,948	\$ -
Funding Source:	E&G CF	
Comments:		

### BUILDING SPACE DESCRIPTION (account for all building space below)

Space Type (per FICM)	Net Sq. Ft. (NSF)	Net-to-Gross Conversion Factor	Gross Sq. Ft. (GSF)	Unit Cost * (per GSF)	Building Cost
<b>NEW CONSTRUCTION</b>					
Classroom	-	1.6	-	630	-
Teaching Lab	-	1.6	-	684	-
Study	-	1.6	-	626	-
Research Lab	-	1.6	-	796	-
Office	-	1.6	-	639	-
Instructional Media	-	1.6	-	709	-
Subtotal NASF:	-		-		-
'Other Assignable' E&G Space	-		-		-
Other Non-E&G Budget Entity Space	-		-		-
Total:	-		-		-

\* Apply Unit Cost to total GSF based on Space Type

### REMODELING / RENOVATION

						Remodeling Projects <u>Only</u>	
						BEFORE	AFTER
	70,404		70,404	457	32,194,754	70,404	70,404
Subtotal NASF:	70,404		70,404		32,194,754	70,404	70,404
'Other Assignable' E&G Space	-		-		-	-	-
Other Non-E&G Budget Entity Space	-		-		-	-	-
Total:	70,404		70,404		32,194,754	70,404	70,404
Grand Total:	70,404		70,404		32,194,754		

PROJECT COMPONENT COSTS & PROJECTIONS							
	Costs Incurred to Date	Year 1	Year 2	Year 3	Year 4	Year 5	Total
<b>Basic Construction Costs</b>							
Building Cost (from above)		10,468,116	21,726,410				32,194,526
Environmental Impacts/Mitigation							
Site Preparation							
Landscape / Irrigation							
Plaza / Walks							
Roadway Improvements							
Parking : <div></div> spaces							
Telecommunication							
Electrical Service							
Water Distribution							
Sanitary Sewer System							
Chilled Water System							
Storm Water System							
Energy Efficient Equipment							
Subtotal: Basic Const. Costs	-	10,468,116	21,726,410	-	-	-	32,194,526
<b>Other Project Costs</b>							
Land / existing facility acquisition	-	-	-	-	-	-	
Professional Fees	-	3,219,453					3,219,453
CM Fees	-	321,945					321,945
Fire Marshall Fees	-	80,486					80,486
Inspection Services	-	200,000					200,000
BIM Consultant	-						
Surveys & Tests	-	250,000					250,000
Permit / Impact / Environmental Fees	-	150,000					150,000
Artwork	-						
Moveable Furnishings & Equipment	-		2,579,399	-	-	-	2,579,399
Subtotal:	-	4,221,884	2,579,399	-	-	-	6,801,283
Project Contingency	-	1,150,000	800,355	0			1,950,355
Construction Service Reimbursement	-	810,000	418,385	-			1,228,385
Subtotal: Other Project Costs	-	6,181,884	3,798,139	0	-	-	9,980,023
Total Project Cost:	-	16,650,000	25,524,549	0	-	-	42,174,549

Funding Received to Date (all sources)			Projected Supplemental Funding			Projected PECO Requests		Total Project Cost
Source	FY	Amount	Source	FY	Amount	FY	Amount	
						24-25	16,650,000	Should equal <i>Total Project Cost</i> above
						25-26	25,524,549	
		-			-		42,174,549	42,174,549

State University System  
5-Year Capital Improvement Plan (CIP)  
FY 2024-25 through 2028-29

CITF Project Detail

University: FLORIDA INTERNATIONAL UNIVERSITY

Priority #: 1

Project Name: GRAHAM UNIVERSITY CENTER  
EXPANSION/RENOVATION/REMODELING

Project Address: Modesto Maidique Campus  
11200 SW 8th Street, Miami FL. 33199

PROJECT NARRATIVE

The Ernest R. Graham University Center (Graham Center) expansion project (BT-921) is expected to add an estimated 59,362 GSF (44,300 NASF) to the existing facility. The objective of the project is twofold: first, it will expand programming and event spaces to meet the needs of the FIU community; second, it will provide additional student-use spaces and a military students suite.

Constructed in 1974, the Graham Center began as a 78,000-square-foot student union. Since then, the Graham Center has grown to become FIU's primary hub for academic and affinity events, student services, academic instruction, departmental functions, and retail operations. As FIU continues to soar in national rankings, and be a magnet for millions internationally, it is imperative the Graham Center have facilities fitting of a world-class student union.

This expansion represents FIU's opportunity to cement itself as the go-to venue for research conferences, official governmental events and student programming. As a Carnegie R1 institution, FIU needs spaces to attract a variety of large-scale programs and events in the fields of technology, medicine, international affairs, commerce, and journalism. The existing event spaces in the Graham Center are fragmented and disintegrated. For example, there are no breakout rooms attached to the current ballrooms. Guests must exit and re-enter the building to access additional event spaces. What is more, existing breakout rooms are scattered throughout the building. The proposed project will have the required venue amenities such as breakout rooms, green rooms, and other interrelated spaces, to accommodate events in a centralized location.

This expansion also offers FIU the opportunity to enhance student services by allocating suite space for the Office of Veteran & Military Affairs and Army ROTC. As a result, student services and amenities will be reconfigured in more accessible areas. Furthermore, the project creates an opportunity to equip the Graham Center with modernized common areas for students to gather, study, interact and collaborate in organic settings. Overall, these enhancements to the Graham Center will further FIU's reputation as a hub for innovation and knowledge.

In recognition of the University's commitment to sustainability practices this project will be designed and built with the goal of meeting the USGBC's LEED-NC "Silver" certification rating or equivalent. The Project shall comply with Florida Statutes 255.251 Energy Conservation and Sustainable Buildings Act including 255.252 (3) and (4).

RESERVE ESCROW PLAN

Renovation/Remodeling Projects (1% per s. 1001.706(12)(c) F.S.)		New Construction Projects (2% per Board Regulation 14.002)	
Estimated Bldg Value:			
Value Basis/Source:			
Estimated 1st Yr Deposit:		\$	-
Funding Source:			
Comments:	1% RESERVE ESCROW [ per F.S. 1001.706 (12) c. ] - pertains to PECO projects only, not CITF	2% RESERVE ESCROW (per BOG regulation 14.002) - pertains to PECO projects only, not CITF	

BUILDING SPACE DESCRIPTION (account for all building space below)

Space Type (per FICM)	Net Sq. Ft. (NSF)	Net-to-Gross	Gross Sq. Ft. (GSF)	Unit Cost *	Building Cost
		Conversion Factor		(per GSF)	
NEW CONSTRUCTION					
Classroom	10,000	1.34	13,400	630	8,445,881
Instructional Media	20,300	1.34	27,202	457	12,439,090
Study	5,000	1.34	6,700	626	4,196,951
Office	5,000	1.34	6,700	639	4,279,077
Campus Support Services	4,000	1.34	5,360	581	3,114,146
Subtotal NASF:	44,300		59,362		32,475,146
'Other Assignable' E&G Space	-		-		-
Other Non-E&G Budget Entity Space	-		-		-
Total:	44,300		59,362		32,475,146
* Apply Unit Cost to total GSF based on Space Type					
REMODELING / RENOVATION					
	-		-		-
Subtotal NASF:	-		-		-
'Other Assignable' E&G Space	-		-		-
Other Non-E&G Budget Entity Space	-		-		-
Total:	-		-		-
Grand Total:	44,300		59,362		32,475,146

# PROJECT COMPONENT COSTS & PROJECTIONS

	Costs Incurred to Date	Year 1	Year 2	Projected Costs			Total
				Year 3	Year 4	Year 5	
Basic Construction Costs							
Building Cost (from above)	19,200,000	3,500,000	5,524,684	4,250,462			32,475,146
Environmental Impacts/Mitigation	-		-				
Site Preparation	-	400,000		39,230			439,230
Landscape / Irrigaiton	-		200,000	19,615			219,615
Plaza / Walks	-		200,000	19,615			219,615
Roadway Improvements	-	1,000,000					1,000,000
Parking : <div></div> spaces	-	-	-				
Telecommunication	-		300,000	139,230			439,230
Electrical Service/Fire Alarm Upgrade	-	30,000		970,000			1,000,000
Water Distribution	-	215,000		77,820			292,820
Sanitary Sewer System	-	32,000		11,923			43,923
Chilled Water System	-	300,000		66,025			366,025
Storm Water System	-	275,000		17,820			292,820
Energy Efficient Equipment/HVAC	-			1,000,000			1,000,000
Subtotal: Basic Const. Costs	19,200,000	5,752,000	6,224,684	6,611,740	-	-	37,788,424
Other Project Costs							
Land / existing facility acquisition	-	-	-	-	-	-	
Professional Fees	1,804,537	130,000	114,912	384,871			2,434,320
CM Fees	300,000			77,884			377,884
Fire Marshall Fees	60,000	18,956		15,515			94,471
Inspection Services	659,000						659,000
BIM Consultant	38,800			-			38,800
Surveys & Tests	200,000						200,000
Permit / Impact / Environmental Fees	59,329			671			60,000
Artwork	-						
Moveable Furnishings & Equipment	-		-	4,730,145			4,730,145
Subtotal:	3,121,666	148,956	114,912	5,209,086	-	-	8,594,620
Project Contingency	997,132	300,000	250,000	772,013			2,319,145
Construction Service Reimbursement	581,497	99,044	210,404	570,121			1,461,066
Subtotal: Other Project Costs	4,700,295	548,000	575,316	6,551,220	-	-	12,374,831
Total Project Cost:	23,900,295	6,300,000	6,800,000	13,162,960	-	-	50,163,255

# PROJECT FUNDING

Funding Received to Date (all sources)			Projected Supplemental Funding			Projected CITF Requests		Total Project Cost
Source	FY	Amount	Source	FY	Amount	FY	Amount	Should equal Total Project Cost above
CITF	17-18	6,075,636	Auxiliaries	26-27	2,000,000	23-24	-	
CITF	18-19	3,906,644	Donations/Gifts	26-27	1,500,000	24-25	6,300,000	
CITF	19-20	6,319,109	Others	26-27	2,862,960	25-26	6,800,000	
CITF	20-21	7,002,807				26-27	6,800,000	
CITF	21-22	500,000						
CITF	22-23	96,099						
		<b>23,900,295</b>			<b>6,362,960</b>			<b>50,163,255</b>



State University System  
5-Year Capital Improvement Plan (CIP)  
FY 2024-25 through 2028-29

CITF Project Detail

University: FLORIDA INTERNATIONAL UNIVERSITY

Priority #: 2

Project Name: AQUATIC CENTER

Modesto Maidique Campus

Project Address: 11200 SW 8th Street, Miami FL. 33199

PROJECT NARRATIVE

This project will build a new 50 meter Olympic-sized pool with full diving complex meeting all NCAA Division 1 training and event requirements for the FIU swim team practice and competition, student recreation, and also public use as a way to generate revenue and support operating expenses. Facilities will include FIU Varsity Team and visiting team locker rooms, general locker rooms, family and handicap accessible changing rooms, public restrooms, meeting and function space, offices, and spectator seating for viewing competitive athletic events.

In recognition of the University's commitment to sustainability practices this project will be designed and built with the goal of meeting the USGBC's LEED-NC "Silver" certification rating or equivalent. The Project shall comply with Florida Statutes 255.251 Energy Conservation and Sustainable Buildings Act including 255.252 (3) and (4).

RESERVE ESCROW PLAN

Renovation/Remodeling Projects (1% per s. 1001.706(12)(c) F.S.)		New Construction Projects (2% per Board Regulation 14.002)	
Estimated Bldg Value:			
Value Basis/Source:			
Estimated 1st Yr Deposit:		\$	-
Funding Source:			
Comments:	1% RESERVE ESCROW [ per F.S. 1001.706 (12) c. ] - pertains to PECO projects only, not CITF	2% RESERVE ESCROW (per BOG regulation 14.002) - pertains to PECO projects only, not CITF	

BUILDING SPACE DESCRIPTION (account for all building space below)

Space Type (per FICM)	Net Sq. Ft. (NSF)	Net-to-Gross Conversion Factor	Gross Sq. Ft. (GSF)	Unit Cost * (per GSF)	Building Cost
NEW CONSTRUCTION					
			-		-
	-		-		-
Subtotal NASF:			-		-
'Other Assignable' E&G Space	-		-		-
Other Non-E&G Budget Entity Space	35,078	1.05	36,816	287	10,561,094
Total:	35,078		36,816		10,561,094
* Apply Unit Cost to total GSF based on Space Type					
REMODELING / RENOVATION					
			-		-
	-		-		-
Subtotal NASF:	-		-		-
'Other Assignable' E&G Space	-		-		-
Other Non-E&G Budget Entity Space	-		-		-
Total:	-		-		-
Grand Total:	35,078		36,816		10,561,094

Remodeling Projects <u>Only</u>	
BEFORE	AFTER
-	-
-	-
-	-
-	-
-	-

PROJECT COMPONENT COSTS & PROJECTIONS							
	Costs Incurred to Date	Year 1	Year 2	Year 3	Year 4	Year 5	Total
<b>Basic Construction Costs</b>							
Building Cost (from above)	3,629,941	1,342,713	4,511,821	1,076,619		-	10,561,094
Environmental Impacts/Mitigation	-	-	-	-	-	-	
Site Preparation	-		350,000	455,255	-	-	805,255
Landscape / Irrigation	-			146,410	-	-	146,410
Plaza / Walks	-			175,692	-	-	175,692
Roadway Improvements	-			292,820	-	-	292,820
Parking :      spaces	-	-	-	-	-	-	
Telecommunication	-			292,820	-	-	292,820
Electrical Service	-		30,000	79,808	-	-	109,808
Water Distribution	-		146,410		-	-	146,410
Sanitary Sewer System	-		44,641	138,372	-	-	183,013
Chilled Water System	-				-	-	
Storm Water System	-		117,128		-	-	117,128
Natural Gas	-			36,603	-	-	36,603
Subtotal: Basic Const. Costs	3,629,941	1,342,713	5,200,000	2,694,399	-	-	12,867,053
<b>Other Project Costs</b>							
Land / existing facility acquisition	-	-	-	-	-	-	
Professional Fees	837,032					-	837,032
CM Fees	128,671					-	128,671
Fire Marshall Fees	12,477	19,691				-	32,168
Inspection Services		250,000				-	250,000
BIM Consultant						-	
Surveys & Tests		60,000				-	60,000
Permit / Impact / Environmental Fees	50,000	25,000				-	75,000
Artwork	-			15,000		-	15,000
Moveable Furnishings & Equipment	0			400,000		-	400,000
Subtotal:	1,028,180	354,691	-	415,000	-	-	1,797,871
Project Contingency	241,879	202,596	200,000	88,771		-	733,246
Construction Service Reimbursement	100,000	100,000	100,000	161,945		-	461,945
Subtotal: Other Project Costs	1,370,059	657,287	300,000	665,716	-	-	2,993,062
Total Project Cost:	5,000,000	2,000,000	5,500,000	3,360,115	-	-	15,860,115

Funding Received to Date (all sources)			Projected Supplemental Funding			Projected CITF Requests		Total Project Cost
Source	FY	Amount	Source	FY	Amount	FY	Amount	Should equal <i>Total Project Cost</i> above
CITF	22-23	5,000,000	Auxiliaries	24-25	5,000,000	24-25	500,000	
CITF	23-24	2,000,000	Auxiliaries	25-26	3,360,115			
		7,000,000	8,360,115			500,000		15,860,115

State University System  
5-Year Capital Improvement Plan (CIP)  
FY 2024-25 through 2028-29

**CITF Project Detail**

University: **FLORIDA INTERNATIONAL UNIVERSITY**

Priority #: 3

Project Name: **WELLNESS & RECREATION FACILITY IMPROVEMENTS**

**Modesto Maidique Campus**

Project Address: 11200 SW 8th Street, Miami FL. 33199

**PROJECT NARRATIVE**

This project includes remodeling and renovation of the existing Wellness and Recreation Center spaces to meet the increasing demand for fitness offerings indoors and outdoors.

In recognition of the University's commitment to sustainability practices this project will be designed and built with the goal of meeting the USGBC's LEED-NC "Silver" certification rating or equivalent. The Project shall comply with Florida Statutes 255.251 Energy Conservation and Sustainable Buildings Act including 255.252 (3) and (4).

**RESERVE ESCROW PLAN**

Renovation/Remodeling Projects (1% per s. 1001.706(12)(c) F.S.)		New Construction Projects (2% per Board Regulation 14.002)	
Estimated Bldg Value:			
Value Basis/Source:		Total construction cost or insurable value, whichever is greater.	
Estimated 1st Yr Deposit:		\$	-
Funding Source:			
Comments:	1% RESERVE ESCROW [ per F.S. 1001.706 (12) c. ] - pertains to PECO projects only, not CITF	2% RESERVE ESCROW (per BOG regulation 14.002) - pertains to PECO projects only, not CITF	

**BUILDING SPACE DESCRIPTION (account for all building space below)**

	Space Type (per FICM)	Net Sq. Ft. (NSF)	Net-to-Gross Conversion Factor	Gross Sq. Ft. (GSF)	Unit Cost * (per GSF)	Building Cost		
NEW CONSTRUCTION								
		-		-		-		
		-		-		-		
		-		-		-		
	Subtotal NASF:	-		-		-		
Other		-		-		-		
	Total:	-		-		-		
* Apply Unit Cost to total GSF based on Space Type								
REMODELING / RENOVATION							Remodeling Projects <u>Only</u>	
		9,500		22,000	<u>496</u>	10,912,798	BEFORE	AFTER
		-		-		-	-	-
	Subtotal NASF:	-		-		-	-	-
Other		-		-		-	-	-
	Total:	9,500		22,000		10,912,798	9,500	9,500
	Grand Total:	9,500		22,000		10,912,798		

# PROJECT COMPONENT COSTS & PROJECTIONS

	Costs Incurred	Projected Costs					Total
	to Date	Year 1	Year 2	Year 3	Year 4	Year 5	
Basic Construction Costs							
Building Cost (from above)	-	-	-	-	6,175,000	4,737,798	10,912,798
Environmental Impacts/Mitigation	-	-	-	-	-	-	-
Site Preparation	-	-	-	-	-	-	-
Landscape / Irrigaiton	-	-	-	-	-	-	-
Plaza / Walks	-	-	-	-	-	-	-
Roadway Improvements	-	-	-	-	-	-	-
Parking :  spaces	-	-	-	-	-	-	-
Telecommunication	-	-	-	-	-	-	-
Electrical Service	-	-	-	-	-	-	-
Water Distribution	-	-	-	-	-	-	-
Sanitary Sewer System	-	-	-	-	-	-	-
Chilled Water System	-	-	-	-	-	-	-
Storm Water System	-	-	-	-	-	-	-
Energy Efficient Equipment	-	-	-	-	-	-	-
Subtotal: Basic Const. Costs	-	-	-	-	6,175,000	4,737,798	10,912,798
Other Project Costs							
Land / existing facility acquisition	-	-	-	-	-	-	-
Professional Fees	-	-	-	-	190,000	683,024	873,024
CM Fees	-	-	-	-	23,750	85,378	109,128
Fire Marshall Fees	-	-	-	-	5,938	21,344	27,282
Inspection Services	-	-	-	-	70,200	-	70,200
BIM Consultant	-	-	-	-	-	-	-
Surveys & Tests	-	-	-	-	20,000	-	20,000
Permit / Impact / Environmental Fees	-	-	-	-	11,875	42,689	54,564
Artwork	-	-	-	-	-	-	-
Moveable Furnishings & Equipment	-	-	-	-	77,000	431,000	508,000
Subtotal:	-	-	-	-	398,763	1,263,435	1,662,198
Project Contingency	-	-	-	-	138,838	490,030	628,868
Construction Service Reimbursement	-	-	-	-	87,399	308,738	396,137
Subtotal: Other Project Costs	-	-	-	-	625,000	2,062,202	2,687,202
Total Project Cost:	-	-	-	-	6,800,000	6,800,000	13,600,000

# PROJECT FUNDING

Funding Received to Date (all sources)			Projected Supplemental Funding			Projected CITF Requests		Total Project Cost
Source	FY	Amount	Source	FY	Amount	FY	Amount	
						27-28	6,800,000	Should equal <i>Total Project Cost</i> above
						28-29	6,800,000	
		-			-		13,600,000	<b>13,600,000</b>



July 1, 2023

Mr. Tim Jones  
Chief Financial Officer  
Board of Governors  
325 W. Gaines Street  
Tallahassee, FL 32399-1950

Dear Mr. Jones,

We are pleased to transmit the FIU 2024-25 Fixed Capital Outlay Legislative Budget Request. The FIU Board of Trustees unanimously approved the Legislative Budget Request at its June 15<sup>th</sup>, 2023, meeting. The link to the agenda materials can be found at <https://trustees.fiu.edu/>.

The 2024-25 Legislative Budget Request has been developed in accordance with policy guidelines established by the Board of Governors and State University System. Project priorities identified in the 5-year CIP request are consistent with the Adopted Campus Master Plan and the Approved Educational Plant Survey. Space utilization and efficient space planning is a key component in the prioritization of planned capital improvements.

The Legislative Budget Request includes two New Facility Requests for PECO funding that are essential to the University's ability to continue and enhance critical SUS and University priorities. Independent analysis of existing facilities by Sightlines has demonstrated effective stewardship of existing academic facilities as required by SUS guidelines. Two top priority FIU projects are included in this category:

- **Honors College** - This project, included in last year's CIP submittal, has been adjusted to reflect 12% and 10% construction cost increases over the past two years as indicated in SUS construction cost data. The Honors College building received \$11 million partial funding in 2023-24.

This building project is necessary to facilitate the enrollment growth and programmatic development of the Honors program consistent with its purpose to become "the centerpiece of undergraduate educational excellence" at Florida International University.

- **Science Laboratory Complex** - This project is requested as new construction at the Modesto Maidique Campus consistent with recommendations contained in the March 11, 2021, Educational Plant Survey.

To support current and expanding science and STEM programs, Florida International University needs considerable science specific classrooms, teaching laboratories and offices. Existing facilities are severely inadequate to meet University needs.

Finally, the CIP document includes Capital Improvement Trust Fund (CITF) Projects and three Back of Bill (BOB) Projects. BOB projects include continuation of the HWCOM Academic Health Sciences/Clinical Partnership facility funded for planning in 2023-24, a new University Student Housing project and a new University Workforce Housing development. FIU has no reversions, re-appropriations or other special legislative FCO requests.

This request has been prepared pursuant to sections 1001.706 (12), 1011.40(1) and 1013.60, Florida Statutes. Aime Martinez, Interim CFO and Senior Vice President will be the primary contact for questions or comments on this document, [amartin@fiu.edu](mailto:amartin@fiu.edu).

We appreciate your support and the support of the Board of Governors in these essential and critically needed projects as we continue build for the future of Florida International University.

Sincerely,

---

Kenneth A. Jessell  
President

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Dean Colson  
Board of Trustees Chair

Enclosures

CC: K. Pichard, BOG  
K. Azzato, BOG

**THE FLORIDA INTERNATIONAL UNIVERSITY  
BOARD OF TRUSTEES**

**Finance and Facilities Committee**

June 15, 2023

**Subject: Approval of the renewal of a lease agreement with Iskalo Asset Fund LLC for a location at 4600 Main Street, Snyder, New York; and delegate to the University President, or his designee, the authority to negotiate and execute the First Amendment to Lease Agreement on behalf of the University**

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**Proposed Committee Action:**

Recommend that the FIU Board of Trustees approve (1) the renewal of a lease agreement for a location for FIU at 4600 Main Street, Snyder, New York; (2) the delegation of authority to the University President, or designee, to negotiate the First Amendment to Lease Agreement; and (3) the delegation of authority to the University President, or designee, to execute the First Amendment to Lease Agreement on behalf of the University and all other documents that may be necessary to effectuate the transactions contemplated therein.

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**Background Information:**

The FIU Center for Children and Families (FIU CCF) operates a clinical research center in western New York, located at 4600 Main Street Suite 101, Snyder, NY. The space is currently used to support four federally funded research projects from the National Institute of Health, the National Institute of Child Health and Human Development, the Centers for Disease Control and Prevention, and the U.S. Department of Education, Institute of Educational Sciences, totaling approximately \$7,351,035 in awards. Currently, Dr. Gregory Fabiano, Professor of Psychology and Dr. Brittany Merrill, Research Assistant Professor are based in the area.

FIU entered into a Lease Agreement in September 2019 for space to house these operations. The original term of the lease was forty-eight months and is scheduled to expire on September 30, 2023. The space consists of approximately 2,175 leasable square feet. It includes a small entry-way foyer used as a participant waiting area, seven individual offices for faculty and staff, a conference room, and a multi-purpose room. Ample off-street parking is available for staff and research participants visiting the research clinic. The total base rent plus common area maintenance (CAM), initial signage, deposit and taxes paid by FIU for the initial term of the lease is \$223,606.23.

FIU wishes to extend the term of the Lease Agreement for an additional three years. FIU CCF has considered other locations. However, the location of the current premises remains the area which is most desirable for the recruitment of participants for the grants. In addition, the team has spent considerable effort marketing these studies at that location and a move would disrupt these prior efforts to establish the center in another area. Additionally, FIU has invested substantial funds in the renovation of the space to meet the needs and purposes of the grants, including installation of sophisticated technology to ensure the privacy of subjects, and preparation of multiple areas for research interviews that are comfortable for parents and children attending meetings. Moving to a new space would result in substantial new capital expenditures to recreate these investments. For

these reasons, FIU wants to remain in the existing space. The total estimated rent to be paid by FIU for the three-year renewal term plus CAM will be approximately \$196,000.

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**Supporting Documentation:**

First Amendment to Lease Agreement  
Lease Agreement  
Grants Summary  
Funding Certification Form

**Facilitator/Presenter:**

Aime Martinez



## FIRST AMENDMENT TO LEASE AGREEMENT

**THIS FIRST AMENDMENT TO LEASE AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between **THE FLORIDA INTERNATIONAL BOARD OF TRUSTEES**, a public party corporate, having its principal office at 11200 SW 8<sup>th</sup> Street, Miami, Florida 33199 (the “Tenant”) and **ISKALO ASSET FUND LLC**, a New York limited liability company having an office c/o Iskalo Development Corp., Harbinger Square, 5166 Main Street, Williamsville, New York 14221 (the “Landlord”).

### WITNESSETH:

**WHEREAS**, Landlord and Tenant entered into a certain Lease Agreement dated September 16, 2019, for certain premises containing approximately 2,175 square feet of leasable office space located at 4600 Main Street, Snyder, New York; and,

**WHEREAS**, Landlord and Tenant intend to amend the Lease as herein provided;

**NOW, THEREFORE**, for one dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Definitions. All capitalized terms not defined herein shall have their respective meanings set forth in the Lease.
2. Lease Term. The Term of the Lease shall be extended for three (3) years, with the new Lease Term commencing on October 1, 2023 and expiring on September 30, 2026 (the “Renewal Term”).
3. Base Rent. Base Rent for the Premises during the Renewal Term shall be paid at the annual rate and in monthly installments as follows:

10/1/2023 – 9/30/2024:	\$39,168.00 annually; \$3,264.00 monthly
10/1/2024 – 9/30/2025:	\$40,344.00 annually; \$3,362.00 monthly
10/1/2025 – 9/30/2026:	\$41,556.00 annually; \$3,463.00 monthly
4. Ratification of Lease. Except as set forth herein, all terms and conditions of the Lease are hereby ratified and confirmed in all respects.

[Remainder of page left blank intentionally]

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amendment to Lease Agreement dated as of the date first above written.


**LANDLORD:**  
**ISKALO ASSET FUND LLC**

**TENANT:**  
**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**

By: \_\_\_\_\_  
Paul B. Iskalo, President & CEO

By: \_\_\_\_\_  
Dr. Luis Salas, Associate VP of Research

APPROVED AS TO FORM AND LEGALITY:

By:   
Wendy Vargas  
Senior University Counsel

## LEASE AGREEMENT

THIS LEASE AGREEMENT is made as of this 16<sup>th</sup> day of September, 2019, by and between **THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES**, a public body corporate, having its principal office 11200 SW 8<sup>th</sup> Street, Miami, Florida 33199 ("Tenant") and **ISKALO ASSET FUND LLC**, a New York limited liability company having an office c/o Iskalo Development Corp., Harbinger Square, 5166 Main Street, Williamsville, New York 14221 ("Landlord").

**NOW, THEREFORE**, for one dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

### ARTICLE 1 BASIC LEASE INFORMATION

1.1 Basic Lease Information. As used in this Lease, the following basic lease terms shall have the meanings ascribed thereto:

(a) **Lease Date:** September 16<sup>th</sup>, 2019

(b) **Landlord's Address:**

Iskalo Asset Fund LLC  
c/o Iskalo Development Corp.  
Harbinger Square  
5166 Main Street  
Williamsville, New York 14221

with a copy at the same time to:

Hodgson Russ LLP  
Guaranty Building  
140 Pearl Street  
Buffalo, New York 14203  
Attention: Terrence M. Gilbride, Esq.

(c) **Tenant's Address:**

Florida International University  
Office of Research and Economic Development  
11200 SW 8<sup>th</sup> Street, MARC 430  
Miami, Florida 33199  
Attention: Tonja Moore

With a copy to:

Florida International University  
Office of the General Counsel

11200 SW 8<sup>th</sup> Street, PC 511  
Miami, Florida 33199  
Attention: General Counsel

(d) **Building Address:**

4600 Main Street  
Snyder, New York 14226

(e) **Premises:** Suite 101, in the Building consisting of approximately 2,175 leasable square feet of space as shown on **Exhibit A** to this Lease.

(f) **Tenant's Pro Rata Share:** (i) With respect to any Additional Rent charges that relate to the Building only, a percentage, based upon the ratio of the total leasable square footage of the Premises to the total leasable square footage of the Building. Tenant's Pro Rata Share, based upon the current leasable square footage of the Building (consisting of 10,235 leasable square feet) and the current leasable square footage of the Premises, is 21.251% and (ii) with respect to any Additional Rent charges that relate to the Land or both the Building and Landlord's Adjacent Building, a percentage, based upon the ratio of the total leasable square footage of the Premises to the total leasable square footage of the Building and Landlord's Adjacent Building (consisting of 2,473 leasable square feet), which utilizing the current configuration of the Building and Landlord's Adjacent Building and the Premises is 17.183%. Landlord reserves the right to change Tenant's Pro Rata Share during the term to take into account any changes in the leasable area of the Building or the Landlord's Adjacent Building occurring after the Commencement Date.

(g) **Term:** Forty-eight (48) months, beginning on the Commencement Date and expiring on the Expiration Date.

(h) **Commencement Date:** October 1, 2019 or such earlier or later date upon which Delivery of Possession (as defined in **Article 3**) shall occur and as set forth in the Commencement Date Certificate to be executed by the parties as set forth in **Article 3**.

(i) **Expiration Date:** The last day of the forty-eighth (48<sup>th</sup>) month following the month in which the Commencement Date occurs, unless adjusted or sooner terminated as provided herein.

(j) **Security Deposit:** \$4,060.00

(k) **Base Rent:**

<b>Term</b>	<b>Annual Base Rent</b>	<b>Monthly Base Rent</b>
Months 1 – 12	\$34,800.00	\$2,900.00
Months 13 – 24	\$35,844.00	\$2,987.00
Months 25 – 36	\$36,919.32	\$3,076.61
Months 37 – 48	\$38,026.92	\$3,168.91

(l) **Broker:** None

(m) **Estimated Monthly Additional Rent Charge (not including Tenant's Pro Rata Share of Taxes):** \$700.00

1.2 **Additional Definitions.** As used in this Lease, the following terms shall have the meanings ascribed thereto:

(a) **Additional Rent:** Any amounts that this Lease requires Tenant to pay in addition to Base Rent.

(b) **Building:** The building and related improvements (including, without limitation, parking lots, walkways, driveways, fences and landscaping) of which the Premises are a part.

(c) **Landlord's Adjacent Building:** The real property and improvements owned by Landlord and commonly known as 4610 Main Street, Snyder, New York.

(d) **Common Areas:** The hallways, entryways, stairs, elevators, driveways, walkways, terraces, docks, loading areas, restrooms, trash facilities, and all other areas and facilities in and about the Building that are provided and designated from time to time by Landlord for the general nonexclusive use and convenience of Tenant with Landlord and other tenants of the Building and their respective employees, invitees, licensees or visitors.

(e) **Land:** The land on which the Building, the Landlord's Adjacent Building and the Parking Areas are located, which is described on **Exhibit B**.

(f) **Parking Areas:** The parking lots adjacent to and behind the Building, which parking lots will be used in common with the tenants of Landlord's Adjacent Building, the employees, invitees and customers of Tenant and those of the tenants of Landlord's Adjacent Building and no other persons.

(g) **Prime Rate:** The rate of interest from time to time announced by Manufacturers and Traders Trust Company as its prime rate of interest.

(h) **Rent:** The Base Rent and Additional Rent.

If any other provision of this Lease contradicts any definition of this Article, the other provision will prevail.

1.3 **Exhibits.** The following exhibits are attached to and made a part of this Lease:

**EXHIBIT A** -- The Premises

**EXHIBIT B** -- Legal Description of the Land

**EXHIBIT C** -- Intentionally Deleted

**EXHIBIT D** -- Commencement Date Certificate

**EXHIBIT E -- Rules and Regulations**

**EXHIBIT F -- Tenant/Employee/Staff Parking Area**

**ARTICLE 2           AGREEMENT**

2.1    Grant of Lease. Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, on the terms and conditions set forth in this Lease.

**ARTICLE 3           DELIVERY OF PREMISES**

3.1           Delivery of Possession.

(a)    Landlord shall deliver the Premises in “as is” condition. “Delivery of Possession” shall occur on the Commencement Date.

(b)    Landlord represents and warrants that the Premises and all systems contained in or related to operation of the Premises, including, without limitation, the electrical, lighting, heating, ventilating and air conditioning systems shall be free of defects and in good working condition on the date of Delivery of Possession.

(c)    “Delivery of Possession” shall be deemed to occur when the Premises are ready for occupancy by Tenant, as reasonably determined by Landlord, and Landlord has obtained a certificate of use or occupancy, as applicable, for the Premises. Landlord shall be deemed to have complied with its obligations hereunder notwithstanding that there may be insubstantial items of construction, installation, finishing work or mechanical adjustments which do not unreasonably or materially interfere with Tenant’s use and occupancy of the Premises.

(d)    In the event that Delivery of Possession shall occur on a date other than the first day of a calendar month, the Expiration Date (unless sooner terminated as provided herein) shall be deemed to be the last day of the forty-eighth (48<sup>th</sup>) month following the month in which Delivery of Possession occurs. Tenant shall pay to Landlord Rent on a pro rata basis for any such partial month based upon the actual number of days remaining in such month from and after the date of Delivery of Possession.

(e)    Tenant acknowledges that neither Landlord nor its agents or employees have made any representations or warranties as to the suitability or fitness of the Premises for the conduct of Tenant’s business or for any other purpose, nor has Landlord or its agents or employees agreed to undertake any alterations or construct any Tenant improvements to the Premises except as expressly provided in this Lease. Tenant and Landlord shall execute the Commencement Date Certificate attached to this Lease as **Exhibit D** within 15 days of Delivery of Possession.

(f)    Promptly following the Lease Date, but in no event any later than five (5) days prior to the Commencement Date, Tenant shall make arrangements with the gas and electric utility providers for service at the Premises in Tenant’s name and shall deliver to Landlord meter and account numbers evidencing the establishment of such gas and electric utility service. To the extent that Tenant shall fail to so establish such service, for each day such service is not so

established, Tenant shall pay to Landlord as Additional Rent all gas and electric charges incurred by Landlord with respect to the Premises.

(g) Any access to the Premises, the Building or the Common Areas by Tenant prior to Delivery of Possession, including any access to the Premises by Tenant's contractors, agents and employees for purposes of equipping or otherwise preparing the Premises for Tenant's use and operation, is subject to all of the terms and conditions of this Lease, excluding the obligation to pay Base Rent and Additional Rent pursuant to **Article 6** or **Taxes**.

#### **ARTICLE 4 BASE RENT**

4.1 Payment of Base Rent. Throughout the Term, Tenant will pay Base Rent to Landlord in monthly installments, the first of which shall become due on the Commencement Date with successive installments to become due on the first day of each successive calendar month thereafter. Base Rent will be paid to Landlord, without written notice or demand, and without deduction or offset, in lawful money of the United States of America at Landlord's Address, or to such other address as Landlord may from time to time designate in writing. Landlord acknowledges receipt of a \$2,500.00 deposit from Tenant in connection with Tenant's execution of the lease proposal, which deposit shall be applied towards the first month's rent due under this Lease. The balance of the first month's rent shall be due and payable by Tenant upon execution of this Lease.

4.2 Late Payment. In the event that Tenant fails to pay any installment of Rent or any reimbursement, Additional Rent, or any other payment hereunder as and when such payment is due (after taking into account any notice or grace periods set forth in this Lease), to help defray the additional cost to Landlord for processing such late payments, Tenant shall pay to Landlord on demand as Additional Rent, a late charge in an amount of \$25 for each \$500 of delinquency. The provision for such late charge shall be in addition to all of Landlord's other rights hereunder, and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner.

4.3 Approved Vendor. Landlord acknowledges and agrees that Landlord shall take all actions reasonably necessary to register as an approved vendor with Tenant's Office of Finance and Administration.

#### **ARTICLE 5 REAL ESTATE AND ASSESSMENTS**

5.1 Tenant's Obligation to Pay Taxes. Tenant covenants and agrees that it shall pay to Landlord, as Additional Rent, Tenant's Pro Rata Share of all real property taxes and assessments of whatever kind and nature, including water and sewer rents, special assessments and payments in lieu of taxes levied, imposed, assessed or fixed on or against the Building and the Land or arising from the use, occupancy or possession thereof, during the Term hereof (hereinafter collectively referred to as the "Taxes"). Tenant shall pay such Pro Rata Share within fifteen days of Landlord's invoice therefor.

5.2 Contest by Landlord. Landlord shall have the right to contest in good faith any Tax or assessment and all costs and expenses, including, but not limited to, reasonable actual out of pocket legal fees, incurred by Landlord in such contest shall be deemed to constitute additional charges for which Tenant shall pay its Pro Rata Share. Tenant shall pay any such

sums, as Additional Rent, on the later of the first day of the month following demand therefor or within fifteen days of Landlord's invoice therefor. Provided that Tenant shall have paid its Pro Rata Share of all costs and expenses in accordance with the provisions of this **Paragraph 5.2**, Tenant shall be entitled to its Pro Rata Share of the net proceeds of any refund received by Landlord as a result of any such contest.

**5.3 Contest by Tenant.** In the event that Landlord shall fail to contest any Tax or assessment, Tenant shall have the right to contest such tax or assessment in good faith, at its own cost and expense, provided, however, that notwithstanding such contest, (1) Tenant shall pay when due its Pro Rata Share of any Taxes; (2) Tenant shall comply with all applicable laws, rules and regulations regarding the payment of Taxes; (3) Tenant shall not take any action which would adversely affect, threaten or jeopardize the interest of the Landlord in the Building or the Land; and (4) Tenant shall promptly pay, indemnify and save Landlord harmless from, all penalties and interest which may be charged or imposed as a result of or during the pendency of, any such contest. In the event of any such contest by Tenant, Landlord agrees to reasonably cooperate with Tenant, provided, however, that such cooperation shall be without any cost or expense to Landlord and shall not be construed so as to require the Landlord to withhold the payment of any Tax, interest or penalty otherwise due and owing to, or charged by, any taxing authority.

**5.4 Adjustments for Partial Lease Years.** It is further agreed that for the first and last lease years of the Term, the portion of all Taxes, other than such as result from assessments attributable to Tenant, to be paid by the Tenant shall be prorated, depending on the proportion which each such lease year shall bear to the tax year in which it falls.

**5.5 Alternative Taxes.** If at any time during the Term, a tax or excise on rents or other tax, however described, is levied or assessed by any municipality, county, state or country or any political subdivision thereof, against Landlord or the Rent, or any part thereof, as a substitute, in whole or in part, for any revenues derived from any Tax assessed or imposed by any such political entity on land and buildings, Tenant covenants to pay to Landlord, such sum as shall be necessary to pay and discharge such tax or excise on rents or other tax, which sum shall be paid to Landlord in the manner herein set forth for Taxes, provided, however, that the parties shall have the right to contest said levy in the same manner as provided herein for Taxes.

**5.6 Other Taxes Imposed on Landlord.** Tenant shall not be obligated or required hereunder to pay any franchise, excise, corporate, estate, inheritance, succession, capital levy or transfer tax of Landlord, or any income, profit or revenue tax upon the income or receipts of Landlord.

**5.7 Taxes Attributable to Tenant.** Tenant shall be responsible for and shall pay prior to the time when such payment shall be deemed delinquent, all Taxes assessed during the Term against any leasehold interest, or any improvements, alterations, additions, fixtures or personal property of any nature placed in, on or about the Premises by the Tenant, whether such tax shall have been levied or assessed against Landlord or Tenant.



## ARTICLE 6            ADDITIONAL RENT

6.1     In addition to all other rental charges provided for in this Lease, Tenant agrees to pay as Additional Rent:

(a)     its Pro Rata Share of all insurance premium costs incurred by Landlord in connection with its obtaining and maintaining of fire, extended coverage and all risk insurance; rental insurance sufficient to include both Base Rent and Additional Rent; sprinkler damage insurance; and public liability insurance, all of which insurance coverages, if maintained, shall be in such amounts and with such companies as Landlord may deem reasonable or proper;

(b)     its Pro Rata Share of all costs and expenses incurred by Landlord in connection with the management, operation, maintenance and repair of the Land and the Building during the Term, including, but not limited to, all costs and expenses incurred by Landlord with respect to (i) gardening and cleaning, (ii) planting, replanting and maintaining landscaping, (iii) insurance deductibles, (iv) repair, replacement, resurfacing and maintenance of blacktop, (v) Building painting, (vi) line painting, (vii) sanitary control, (viii) canopy repairs, (ix) electricity, (x) light poles and fixtures, (xi) sprinkler system, (xii) traffic control devices, (xiii) maintenance of common bathrooms, sewers and drainage, (xiv) removal of snow, trash, rubbish and other refuse, (xv) depreciation on machinery and equipment used in such management, operation, maintenance and repair, (xvi) the cost of personnel to implement such management, operation, maintenance and repairs and (xvii) capital improvements required by any governmental law, ordinance or regulation; and

(c)     One hundred percent (100%) of the cost of any janitorial or other service furnished exclusively to the Premises; and

(d)     Fifteen percent (15%) of all the foregoing costs to cover Landlord's administrative and overhead costs.

Costs and expenses for the Building shall not include the cost of alterations to other rentable spaces in the Building; lease commissions; debt service, interest or other finance charges, including any payment of principal and interest on mortgages; costs to Landlord or any work or service performed for any tenant at the cost of such tenant; any expenses for which Landlord actually receives reimbursement from insurance, condemnation awards, other tenants or any warranty; legal, space planning, construction, and other expenses incurred in connection with disputes with tenants, other occupants or prospective tenants; costs incurred in connection with the sale, financing, refinancing, mortgaging, selling or change of ownership of the Building; fines or penalties incurred due to the violation by Landlord of any governmental rule, regulation, ordinance or order; costs, fines, interest, penalties, legal fees or costs of litigation incurred due to the late payment of taxes, utility bills and other costs incurred by Landlord's failure to make such payments when due; the cost of services provided to other tenants in the Building and not to Tenant; overhead and profit increments paid to subsidiaries or other affiliates of Landlord for services on or to the Building, to the extent that the costs of such services exceed competitive costs of such services where they not so rendered by a subsidiary or other affiliate of Landlord; salaries, wages or other compensation paid to officers of Landlord; costs incurred in connection with the original construction of the Building; costs for sculptures, paintings or other art; and any

cost or expense resulting from the negligence or willful misconduct of Landlord, its agents or employees.

6.2 Estimated Payments. It is acknowledged that the total annual Additional Rent to be paid by the Tenant pursuant to the provisions of this Lease cannot be determined except on an annual basis. It is therefore agreed that, in addition to the payments of Additional Rent as may be provided for elsewhere in this Lease, Tenant shall pay the estimated monthly sum set forth in **Paragraph 1.1** on account of its Additional Rent obligations pursuant to the provisions of this Lease. Such estimated monthly sum shall not include Tenant's Pro Rata Share of Taxes, which shall be paid by Tenant in accordance with **Paragraph 5.1** of this Lease. Said estimated Additional Rental payments shall be paid in advance, on the first day of each month, and shall be based on an annual period from January 1 through December 31 during each year of the Term hereof, and shall be adjusted annually within ninety (90) days following the conclusion of each such annual period by written notice delivered by Landlord to Tenant. Said notice shall set forth the total amount of the costs and expenses incurred by the Landlord for such annual period, the sum which represents the proportion to be paid by Tenant, the sum actually paid by Tenant for such period, and the amount of any required adjustment (and if any refund is due Tenant, then, at Tenant's discretion, such refund shall be paid to Tenant or applied against future rent payments). Said notice shall also set forth the estimated monthly payment to be paid by Tenant for the following annual period.

6.3 Adjustment for Partial Years. For the first and last lease years of the Term hereof, the portion of Additional Rental to be paid by Tenant (other than for real estate taxes, which are covered by **Article 5** hereof), shall be prorated depending on the proportion which each such lease year shall bear to the aforesaid annual period in which it falls.

## **ARTICLE 7                   INTENTIONALLY DELETED**

## **ARTICLE 8                   INSURANCE**

8.1 Tenant's Insurance. At all times during the Term, Tenant will carry and maintain, at Tenant's expense, the following insurance, in the amounts specified below or such other amounts as Landlord may from time to time reasonably request, with insurance companies and on forms satisfactory to Landlord:

(a) Commercial general liability insurance with coverage for bodily injury and property damage liability, with a combined single occurrence limit of not less than \$2,000,000. All such insurance shall include contractual liability coverage for the performance by Tenant of the indemnity agreements set forth in **Article 24** of this Lease;

(b) Insurance covering all of Tenant's furniture and fixtures, machinery, equipment, stock, and any other personal property owned and used in Tenant's business and found in, on, or about the Building, and any leasehold improvements to the Premises in an amount not less than full replacement cost. Property forms shall provide coverage on a broad form basis insuring against "all risks of direct physical loss." All policy proceeds will be used for the repair or replacement of the property damaged or destroyed; however, if this Lease ceases under the provisions of **Article 21**, Tenant will be entitled to any proceeds resulting from damage to Tenant's furniture and fixtures, machinery, equipment, stock, and any other personal property;

(c) Worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation laws of the State of New York; and

(d) If Tenant operates owned, hired, or non-owned vehicles on or about the Building, comprehensive automobile liability at a limit of liability not less than \$500,000 combined bodily injury and property damage.

**8.2 Forms of Policies.** Certificates of insurance, together with copies of the endorsements, when applicable, naming Landlord and Landlord's manager as an additional insureds, will be delivered to Landlord prior to Tenant's occupancy of the Premises and from time to time at least 10 days prior to the expiration of the term of each such policy. All commercial general liability or comparable policies maintained by Tenant will name Landlord and Landlord's manager as additional insureds, entitling Landlord and Landlord's manager to recover under such policies for any loss sustained by Landlord, Landlord's manager and their agents, and employees as a result of the acts or omissions of Tenant. All such policies maintained by Tenant will provide that they may not be terminated nor may coverage be reduced except after 30 days' prior written notice to Landlord and Landlord's manager. All commercial general liability and property policies maintained by Tenant will be written as primary policies, not contributing with and not supplemental to the coverage that Landlord or Landlord's Mortgagee may carry.

**8.3 Waiver of Subrogation.** Landlord and Tenant each waive any and all rights to recover against the other, or against the officers, directors, shareholders, partners, joint venturers, employees, agents, customers, invitees or business visitors of such other party, for any loss or damage to such waiving party arising from any cause covered by any property insurance required to be carried by such party pursuant to this **Article 8** or any other property insurance actually carried by such party to the extent of the limits of such policy, including, without limitation, any Tenant property which is insured through Tenant's self-insurance program (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom said other party may be responsible). Landlord and Tenant from time to time will cause their respective insurers to issue appropriate waiver of subrogation rights endorsements to all property insurance policies carried in connection with the Building or the Premises or the contents of the Building or the Premises. Tenant agrees to cause all other occupants of the Premises claiming by, under, or through Tenant to execute and deliver to Landlord such a waiver of claims and to obtain such waiver of subrogation rights endorsements.

**8.4 Adequacy of Coverage.** Landlord, its agents, and employees make no representation that the limits of liability specified to be carried by Tenant pursuant to this **Article 8** are adequate to protect Tenant. If Tenant believes that any of such insurance coverage is inadequate, Tenant will obtain such additional insurance coverage as Tenant deems adequate, at Tenant's sole expense.

## **ARTICLE 9           USE**

**9.1 Tenant's Use of the Premises.** The Premises will be used by Tenant solely as a professional and administrative office providing research and development services and for no other purpose. Tenant acknowledges and agrees that the Premises will not be used for the retail sale of any goods and services and for any outdoor sales or storage. Tenant will use the Premises

in a careful, safe, and proper manner. Tenant will not use or permit the Premises to be used or occupied for any purpose or in any manner prohibited by any applicable laws. Tenant will not commit waste or suffer or permit waste to be committed in, on, or about the Premises. Tenant will conduct its business and control its employees, agents, and invitees in such a manner as not to create any nuisance or interfere with, annoy, or disturb any other tenant or occupant of the Building or Landlord in its operation of the Building. Tenant shall have access to the Premises and to the Building 24 hours per day, 7 days per week. Landlord shall install Building standard, Landlord approved Tenant signage on the Building at Tenant's expense.

## **ARTICLE 10            REQUIREMENTS OF LAW; FIRE INSURANCE**

10.1 General. At its sole cost and expense, Tenant will promptly comply with all laws, statutes, ordinances, and governmental rules, regulations, or requirements now in force or in force after the Lease Date, with the requirements of any board of fire underwriters or other similar body, with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, as well as with the provisions of all recorded documents affecting the Premises, insofar as they relate to the condition, use, or occupancy of the Premises, excluding requirements of structural changes to the Premises or the Building, unless required solely by the unique nature of Tenant's use or occupancy of the Premises.

### 10.2 Hazardous Materials.

(a) For purposes of this Lease, "Hazardous Materials" means any explosives, radioactive materials, hazardous wastes, or hazardous substances, including without limitation substances defined as "hazardous substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9657; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 1801-1812; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-6987; or any other federal, state, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning hazardous materials, waste, or substances now or at any time hereafter in effect (collectively, "Hazardous Materials Laws").

(b) Tenant will not cause or permit the storage, use, generation, or disposition of any Hazardous Materials in, on, or about the Premises or the Building by Tenant, its agents, employees, or contractors in violation of Hazardous Materials Laws. Tenant will not permit the Premises to be used or operated in a manner that may cause the Premises or the Building to be contaminated by any Hazardous Materials in violation of any Hazardous Materials Laws. Tenant will immediately advise Landlord in writing of (i) any and all enforcement, cleanup, remedial, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Hazardous Materials Laws relating to any Hazardous Materials affecting the Premises; and (ii) all claims made or threatened by any third party against Tenant, Landlord, or the Premises relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from any Hazardous Materials on or about the Premises. Without Landlord's prior written consent, Tenant will not take any remedial action or enter into any agreements or settlements in response to the presence of any Hazardous Materials in, on, or about the Premises.

(c) To the extent not prohibited by Florida Statutes, Chapter 768.28, and without waiving any rights or defenses thereunder, Tenant will be solely responsible for and will defend,

indemnify and hold Landlord, its agents, and employees harmless from and against all claims, costs, and liabilities, including reasonable and actual out of pocket attorneys' fees and costs, arising out of or in connection with Tenant's breach of its obligations in this **Article 10**. Tenant will be solely responsible for and will defend, indemnify, and hold Landlord, its agents, and employees harmless from and against any and all claims, costs, and liabilities, including reasonable and actual out of pocket attorneys' fees and costs, arising out of or in connection with the removal, cleanup, and restoration work and materials necessary to return the Premises and any other property of whatever nature located on the Building to their condition existing prior to the appearance of Tenant's Hazardous Materials on the Premises. Tenant's obligations under this **Article 10** will survive the expiration or other termination of this Lease.

10.3 Certain Insurance Risks. Tenant will not do or permit to be done any act or thing upon the Premises or the Building which would (a) jeopardize or be in conflict with fire insurance policies covering the Building or fixtures and property in the Building; (b) increase the rate of fire insurance applicable to the Building to an amount higher than it otherwise would be for use of the Building as an office; or (c) subject Landlord to any liability or responsibility for injury to any person or persons or to property by reason of any business or operation being carried on upon the Premises.

## **ARTICLE 11            ASSIGNMENT AND SUBLETTING**

11.1 General. Tenant, for itself, its heirs, distributees, executors, administrators, legal representatives, successors, and assigns, covenants that it will not assign, mortgage, or encumber this Lease, nor sublease, nor permit the Premises or any part of the Premises to be used or occupied by others, without the prior written consent of Landlord in each instance, which consent will not be unreasonably withheld or delayed. Any assignment or sublease in violation of this **Article 11** will be void. If this Lease is assigned, or if the Premises or any part of the Premises are subleased or occupied by anyone other than Tenant, Landlord may, after an Even of Default by Tenant, collect rent from the assignee, subtenant, or occupant, and apply the net amount collected to Rent. No assignment, sublease, occupancy, or collection will be deemed (a) a waiver of the provisions of this **Section 11.1**; (b) the acceptance of the assignee, subtenant, or occupant as Tenant; or (c) a release of Tenant from the further performance by Tenant of covenants on the part of Tenant contained in this Lease. The consent by Landlord to an assignment or sublease will not be construed to relieve Tenant from obtaining Landlord's prior written consent in writing to any further assignment or sublease. No permitted subtenant may assign or encumber its sublease or further sublease all or any portion of its subleased space, or otherwise permit the subleased space or any part of its subleased space to be used or occupied by others, without Landlord's prior written consent in each instance.

11.2 Submission of Information. If Tenant requests Landlord's consent to a specific assignment or subletting, Tenant will submit in writing to Landlord (a) the name and address of the proposed assignee or subtenant; (b) the business terms of the proposed assignment or sublease; (c) reasonably satisfactory information as to the nature and character of the business of the proposed assignee or subtenant, and as to the nature of its proposed use of the space; (d) banking, financial, or other credit information reasonably sufficient to enable Landlord to determine the financial responsibility and character of the proposed assignee or subtenant; and (e) the proposed form of assignment or sublease for Landlord's reasonable approval.

11.3 Payments to Landlord. If Landlord consents to a proposed assignment or sublease, then Landlord will have the right to require Tenant to pay to Landlord a sum equal to Landlord's reasonable attorneys' fees and costs incurred in connection with negotiation, review, and processing of the transfer but in any individual instance not to exceed \$2,000. All such sums payable will be payable to Landlord at the time the next payment of Additional Rent is due.

11.4 Intentionally Deleted.

11.5 Prohibited Transfers. The transfer of a majority of the issued and outstanding capital stock of any corporate Tenant or subtenant of this Lease, or a majority of the total interest in any partnership Tenant or subtenant, however accomplished, and whether in a single transaction or in a series of related or unrelated transactions, will be deemed an assignment of this Lease or of such sublease requiring Landlord's consent in each instance.

11.6 Permitted Transfer. No Landlord consent shall be necessary in the case of an assignment of this Lease or sublease of all or part of the Premises to a wholly-owned subsidiary of Tenant or the parent of Tenant or to any corporation into or with which Tenant may be merged or consolidated; provided that Tenant promptly provides Landlord with a fully executed copy of such assignment or sublease, Tenant shall remain liable under the terms of this Lease, and the resulting or surviving entity has a net worth at the time of such assignment, equal to or in excess of Tenant's.

11.7 Remedies. If Tenant believes that Landlord has unreasonably withheld its consent pursuant to this **Article 11**, Tenant's sole remedy will be to seek a declaratory judgment that Landlord has unreasonably withheld its consent or an order of specific performance or mandatory injunction of the Landlord's agreement to give its consent.

## **ARTICLE 12            RULES AND REGULATIONS**

12.1 Landlord's Rules and Regulations. Tenant and its employees, agents, licensees and visitors will at all times observe faithfully, and comply strictly with, the rules and regulations set forth in **Exhibit E**. Landlord may from time to time reasonably amend, delete, or modify existing rules and regulations, or adopt new rules and regulations for the use, safety, cleanliness, and care of the Premises and the Building, and the comfort, quiet, and convenience of occupants of the Building. Modifications or additions to the rules and regulations will be effective upon 30 days' prior written notice to Tenant from Landlord. In the event of any breach of any rules or regulations or any amendments or additions to such rules and regulations, Landlord will have all remedies that this Lease provides for default by Tenant, and will in addition have any remedies available at law or in equity, including the right to enjoin any breach of such rules and regulations. Landlord will not be liable to Tenant for violation of such rules and regulations by any other tenant, its employees, agents, visitors, or licensees or any other person. Landlord shall use commercially reasonable efforts to enforce such rules and regulations. In the event of any conflict between the provisions of this Lease and the rules and regulations, the provisions of this Lease will govern.

## **ARTICLE 13            COMMON AREAS**

13.1 Tenant's Use of the Common Areas. Landlord grants Tenant, its employees, invitees, licensees, and other visitors a nonexclusive license for the Term to use the Common

Areas with others, subject to the terms and conditions of this Lease. Without advance written notice to Tenant, except with respect to matters covered by subsection (a) below, and without any liability to Tenant in any respect, provided Landlord will take no action permitted under this **Article 13** in such a manner as to materially impair or adversely affect Tenant's substantial benefit and enjoyment of the Premises, access to the Premises or the Building, Landlord will have the right to:

(a) Close off any of the Common Areas to whatever extent required in the opinion of Landlord and its counsel to prevent a dedication of any of the Common Areas or the accrual of any rights by any person or the public to the Common Areas;

(b) Temporarily close any of the Common Areas for maintenance, alteration, or improvement purposes; and

(c) Change the size, use, shape, or nature of any such Common Areas, including erecting additional buildings on the Common Areas, expanding the Building or other buildings to cover a portion of the Common Areas, converting Common Areas to a portion of the Building or other buildings, or converting any portion of the Building (excluding the Premises) or other buildings to Common Areas. Upon erection of any additional buildings or change in Common Areas, the portion of the Building upon which buildings or structures have been erected will no longer be deemed to be a part of the Common Areas.

#### **ARTICLE 14 LANDLORD'S REPAIR AND MAINTENANCE**

14.1 Landlord's Repair of Building and Common Areas. Landlord shall maintain and shall keep in good order, condition and repair, the Building and Common Areas consistent with the level of care for similar buildings in the locality of the Building, excluding, however, all windows, doors, plate glass, signs and all repairs required by any casualty. For the purpose of this Lease, a structural repair shall be defined as any structural repair to the steel frame, footings, foundations, masonry walls, and roof of the Building. Except as hereinafter provided, Tenant shall pay its Pro Rata Share of the cost of any such repairs in accordance with **Article 6** of this Lease. To the extent that any repairs, whether structural or otherwise, result from damage caused by any act, omission or negligence of Tenant, any subtenant or concessionaire, or their respective employees, agents, invitees, licensees or contractors, provided such repairs are not covered by Landlord's property insurance, such repairs shall be performed by Landlord at the sole cost and expense of Tenant, which expenses (including 15% of such expense for Landlord's overhead) shall constitute Additional Rent.

14.2 Limitation on Liability. Landlord will not be in default under this Lease or be liable to Tenant or any other person for direct or consequential damage, or otherwise, for any failure to supply any heat, air conditioning, cleaning, lighting, security; for surges or interruptions of electricity; or for other services Landlord has agreed to supply during any period when Landlord uses reasonable diligence to supply such services. Landlord will use reasonable efforts to diligently remedy any interruption in the furnishing of such services. Landlord reserves the right temporarily to discontinue such services at such times as may be necessary by reason of accident; repairs, alterations or improvements; strikes; lockouts; riots; acts of God; governmental preemption in connection with a national or local emergency; any rule, order, or regulation of any governmental agency; conditions of supply and demand that make any product unavailable;



Landlord's compliance with any mandatory governmental energy conservation or environmental protection program, or any voluntary governmental energy conservation program at the request of or with consent or acquiescence of Tenant; or any other happening beyond the control of Landlord. Landlord will not be liable to Tenant or any other person or entity for direct or consequential damages resulting from the admission to or exclusion from the Building of any person. In the event of invasion, mob, riot, public excitement, strikes, lockouts, or other circumstances rendering such action advisable in Landlord's sole opinion, Landlord will have the right to prevent access to the Building during the continuance of the same by such means as Landlord, in its sole discretion, may deem appropriate, including without limitation locking doors and closing Parking Areas and other Common Areas. Landlord will not be liable for damages to person or property or for injury to, or interruption of, business for any discontinuance permitted under this **Article 14**, nor will such discontinuance in any way be construed as an eviction of Tenant or cause an abatement of Rent or operate to release Tenant from any of Tenant's obligations under this Lease.

## **ARTICLE 15           TENANT'S CARE OF THE PREMISES**

### **15.1   Care of the Premises.**

(a)     Tenant shall take good care of the Premises and shall not permit the Premises to be used in any manner as to cause excessive depreciation of or to the Building, nor permit waste of or damage or nuisance to, in, or about the Premises or the Building. Tenant shall not cause nor permit any dirt, debris or rubbish to be put, placed or maintained in the Common Areas. Tenant further agrees that it shall promptly notify Landlord or Landlord's Manager of any repair that may be required to the Premises, the Building or the Common Areas.

(b)     Tenant shall have no right of access to the roof of the Premises or the Building and shall not install, repair, place or replace any aerial, fan, air conditioner or other device on the roof of the Premises or the Building without the prior written consent of Landlord. Any aerial, fan, air conditioner or device installed without such written consent shall be subject to removal, at Tenant's expense, without notice at any time. Landlord shall repair at Tenant's expense, any damage to the Building or roof resulting from the installation, repair, use, or replacement of any such air conditioner or other device.

## **ARTICLE 16           ALTERATIONS**

### **16.1   General.**

(a)     During the Term, Tenant will not make or allow to be made any alterations, additions, or improvements to or of the Premises or any part of the Premises, or attach any fixtures or equipment to the Premises, without first obtaining Landlord's written consent. Unless otherwise arranged by Landlord and Tenant, all such alterations, additions, and improvements consented to by Landlord, and capital improvements that are required to be made to the Building as a result of the nature of Tenant's use of the Premises will be made by Landlord for Tenant's account, and Tenant will reimburse Landlord for its cost (including 15% for Landlord's overhead) within 15 days after receipt of a statement of such cost. Notwithstanding anything contained herein to the contrary, Landlord approves of Tenant installing chandeliers, track lighting, furniture, racking and equipment which Tenant shall remove upon expiration or earlier



termination of the Lease. Any damage caused by such removal shall be repaired at Tenant's expense.

(b) Subject to Tenant's rights in **Article 19**, all alterations, additions, fixtures, and improvements, whether temporary or permanent in character, made in or upon the Premises either by Tenant or Landlord, will immediately become Landlord's property and at the end of the Term will remain on the Premises without compensation to Tenant, unless when consenting to such alterations, additions, fixtures, or improvements, Landlord has advised Tenant in writing that such alterations, additions, fixtures, or improvements must be removed at the expiration or other termination of this Lease.

**16.2 Removal.** If Landlord has required Tenant to remove any or all alterations, additions, fixtures, and improvements that are made in or upon the Premises pursuant to this **Article 16**, Tenant will remove such alterations, additions, fixtures, and improvements at Tenant's sole cost and will restore the Premises to the condition in which they were before such alterations, additions, fixtures, improvements, and additions were made, reasonable wear and tear excepted.

## **ARTICLE 17 UTILITY SERVICE**

**17.1 Utility Service for Premises.** Tenant agrees to pay as and when the same become due and payable, all charges for electricity, gas, heat, steam, hot water, telephone and other utilities supplied to the Premises during the Term, together with cost of repair, maintenance, replacement and reading of all meters measuring Tenant's use or consumption thereof. If any such services are separately metered or billed to Tenant, Tenant shall pay all charges for such services directly. If, however, any such services are not separately metered or billed to Tenant but rather are billed to and paid by Landlord, Tenant will pay to Landlord its proportionate share of the cost of such services (as determined by Landlord) as Additional Rent. In the event that Tenant shall fail to pay any charges for any or all of the aforesaid services when due, Landlord shall have the right, but not the obligation to make such payments, in which event, a sum equal to any such payments (plus 20% for Landlord's overhead) shall be considered Additional Rent, and shall be collectible as such, together with interest at an annual rate equal to five (5%) percent above the Prime Rate, from the date of payment by Landlord. In no event shall Landlord be responsible or liable for the failure to supply Tenant or for the failure of Tenant to receive, any utility service, nor shall Tenant be entitled to any cessation, abatement, reduction or other offset of Rent in the event of any failure to receive any utility service.

## **ARTICLE 18 MECHANICS' LIENS**

**18.1 Removal of Liens.** Tenant will pay or cause to be paid all costs and charges for work (a) done by Tenant or caused to be done by Tenant, in or to the Premises, and (b) for all materials furnished for or in connection with such work. Tenant will indemnify Landlord against and hold Landlord, the Premises, and the Building free, clear, and harmless of and from all mechanics' liens and claims of liens, and all other liabilities, liens, claims, and demands on account of such work by or on behalf of Tenant, other than work performed by Landlord pursuant to the Work Letter attached hereto as **Exhibit C**. If any such lien, at any time, is filed against the Premises or any part of the Building, Tenant will cause such lien to be discharged of record within 10 days after Tenant becomes aware of the filing of such lien, except that if Tenant

desires to contest such lien, it will furnish Landlord, within such 10-day period, security reasonably satisfactory to Landlord of at least 150% of the amount of the claim, plus estimated costs and interest, or comply with such statutory procedures as may be available to release the lien. If a final judgment establishing the validity or existence of a lien for any amount is entered, Tenant will pay and satisfy the same at once. If Tenant fails to pay any charge for which a mechanics' lien has been filed, and has not given Landlord security as described above, or has not complied with such statutory procedures as may be available to release the lien, Landlord may, at its option, pay such charge and related costs and interest, and the amount so paid, together with reasonable actual out of pocket attorneys' fees incurred in connection with such lien, will be immediately due from Tenant to Landlord as Additional Rent. Nothing contained in this Lease will be deemed the consent or agreement of Landlord to subject Landlord's interest in the Building to liability under any mechanics' or other lien law. If Tenant receives written notice that a lien has been or is about to be filed against the Premises or the Building, or that any action affecting title to the Building has been commenced on account of work done by or for or materials furnished to or for Tenant, it will immediately give Landlord written notice of such notice. At least 15 days prior to the commencement of any work (including but not limited to any maintenance, repairs, alterations, additions, improvements, or installations) in or to the Premises, by or for Tenant, Tenant will give Landlord written notice of the proposed work and the names and addresses of the persons supplying labor and materials for the proposed work. Landlord will have the right to post notices of non-responsibility or similar written notices on the Premises in order to protect the Premises against any such liens.

## **ARTICLE 19           END OF TERM**

19.1 End of Term. At the end of this Lease, Tenant will promptly quit and surrender the Premises broom-clean, in good order and repair, ordinary wear and tear, casualty and condemnation excepted. If an Event of Default is not then continuing, Tenant may remove from the Premises any trade fixtures, equipment, and movable furniture placed in the Premises by Tenant, whether or not such trade fixtures or equipment are fastened to the Building. Tenant will not remove any trade fixtures or equipment without Landlord's prior written consent if such fixtures or equipment are used in the operation of the Building, or if the removal of such fixtures or equipment will result in impairing the structural strength of the Building. Whether or not an Event of Default is continuing, Tenant will remove such alterations, additions, improvements, trade fixtures, equipment, and furniture as Landlord has requested in accordance with **Article 16**. Tenant will fully repair any damage occasioned by the removal of any trade fixtures, equipment, furniture, alterations, additions, and improvements. All trade fixtures, equipment, furniture, inventory, effects, alterations, additions, and improvements on the Premises after the end of the Term will be deemed conclusively to have been abandoned and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without written notice to Tenant or any other person and without obligation to account for them (unless Landlord has granted Tenant additional time to remove same after the end of the Term). Tenant will pay Landlord for all expenses incurred in connection with the removal of such property, including but not limited to the cost of repairing any damage to the Building or Premises caused by the removal of such property. Tenant's obligation to observe and perform this covenant will survive the expiration or other termination of this Lease.

## **ARTICLE 20            EMINENT DOMAIN**

20.1 Condemnation of Premises. If all of the Premises are taken by exercise of the power of eminent domain (or conveyed by Landlord in lieu of such exercise) this Lease will terminate on a date (the "Termination Date") which is the earlier of the date upon which the condemning authority takes possession of the Premises or the date on which title to the Premises is vested in the condemning authority. If condemnation results in any material impairment to the Premises, that cannot be mitigated or corrected by Landlord to Tenant's reasonable satisfaction (i.e. through reconfiguration of the Premises or Tenant's layout of the Premises), Tenant will have the right to cancel this Lease by written notice to Landlord given within 20 days after the Termination Date. If the condemnation does not result in a material impairment of the Premises is so taken, or if the Tenant does not cancel this Lease according to the preceding sentence, the Rent will be abated in the proportion of the rentable area of the Premises so taken to the rentable area of the Premises immediately before such taking, and Tenant's Pro Rata Share will be appropriately recalculated. If 25% or more of the Building is so taken, Landlord may cancel this Lease by written notice to Tenant given within 30 days after the Termination Date, provided Landlord also cancels all other leases in the Building. In the event of any such taking, the entire award will be paid to Landlord and Tenant will have no right or claim to any part of such award; however, Tenant will have the right to assert a claim against the condemning authority in a separate action, so long as Landlord's award is not otherwise reduced, for Tenant's moving expenses and leasehold improvements.

## **ARTICLE 21            DAMAGE AND DESTRUCTION**

21.1 Notice of Casualty. If the Premises or the Building are damaged by fire or other insured casualty, Landlord will give Tenant written notice of the time which will be needed to repair such damage, as determined by Landlord in its reasonable discretion, and the election (if any) which Landlord has made according to this **Article 21**. Such notice will be given before the 30th day (the "Notice Date") after the fire or other insured casualty.

21.2 Minor Damage. If the Premises or the Building are damaged by fire or other insured casualty to an extent which may be repaired within 120 days after the Notice Date, as reasonably determined by Landlord, Landlord will promptly begin to repair the damage after the Notice Date and will diligently pursue the completion of such repair. In that event this Lease will continue in full force and effect except that Rent will be abated on a pro rata basis from the date of the damage until the date of the completion of such repairs (the "Repair Period") based on the proportion of the rentable area of the Premises Tenant is unable to use during the Repair Period.

21.3 Major Damage. If the Premises or the Building are damaged by fire or other insured casualty to an extent that may not be repaired within 120 days after the Notice Date, as reasonably determined by Landlord, then (a) Landlord may cancel this Lease as of the date of such damage by written notice given to Tenant on or before the Notice Date or (b) Tenant may cancel this Lease as of the date of such damage by written notice given to Landlord within 15 days after Landlord's delivery of a written notice that the repairs cannot be made within such 120-day period. If neither Landlord nor Tenant so elects to cancel this Lease, Landlord will diligently proceed to repair the Building and Premises and Rent will be abated on a pro rata basis during the Repair Period based on the proportion of the rentable area of the Premises Tenant is unable to use during the Repair Period.

21.4 Uninsured/Underinsured Casualty. Notwithstanding the provisions of Paragraphs 21.1, 21.2 and 21.3 above, if the Premises or the Building are damaged by uninsured casualty, or if the proceeds of insurance are insufficient to pay for the repair of any damage to the Premises or the Building, Landlord will have the option to repair such damage or cancel this Lease as of the date of such casualty by written notice to Tenant on or before the Notice Date.

## **ARTICLE 22            SUBORDINATION**

22.1 General. This Lease and Tenant's rights under this Lease are subject and subordinate to any mortgage, together with any renewals, extensions, modifications, consolidations, and replacements of such mortgage (a "Superior Lien"), now or after the date affecting or placed, charged, or enforced against the Land, the Building, or all or any portion of the Building or any interest of Landlord in them or Landlord's interest in this Lease and the leasehold estate created by this Lease (except to the extent any such instrument expressly provides that this Lease is superior to such instrument). This provision will be self-operative and no further instrument of subordination will be required in order to effect it. Notwithstanding the foregoing, Tenant will execute, acknowledge, and deliver to Landlord, within 20 days after written demand by Landlord, such commercially reasonable documents as may be requested by Landlord or the holder of any Superior Lien to confirm or effect any such subordination.

22.2 Attornment. Tenant agrees that in the event that any holder of a Superior Lien succeeds to Landlord's interest in the Premises, Tenant will pay to such holder all Rents subsequently payable under this Lease. Further, Tenant agrees that in the event of the enforcement by the holder of a Superior Lien of the remedies provided for by law or by such Superior Lien, Tenant will, upon request of any person or party succeeding to the interest of Landlord as a result of such enforcement, automatically become the tenant of and attorn to such successor in interest without change in the terms or provisions of this Lease. Such successor in interest will not be bound by:

- (a) Any payment of Rent for more than one month in advance;
- (b) Any amendment or modification of this Lease made without the written consent of such successor in interest, other than amendments relating to the ordinary course of operation or tenancy of the Premises that do not materially or adversely affect the rights of Landlord or such successor in interest;
- (c) Any claim against Landlord arising prior to the date on which such successor in interest succeeded to Landlord's interest, provided, however, that Tenant's rights shall not be limited as a result of conditions existing as of the date that the successor in interest succeeds to the interest of Landlord under the Lease and which the successor in interest has the obligation to correct as the landlord under the Lease; or
- (d) Any claim or offset of Rent against Landlord.

Upon request by such successor in interest and without cost to Landlord or such successor in interest, Tenant will, within 20 days after written demand, execute, acknowledge, and deliver an commercially reasonable instrument or instruments confirming the attornment, so long as such

instrument provides that such successor in interest will not disturb Tenant in its use of the Premises in accordance with this Lease.

## **ARTICLE 23 ENTRY BY LANDLORD**

23.1 Landlord's Right of Entry. Landlord, its agents, employees, and contractors may enter the Premises at any time in response to an emergency and at reasonable hours to (a) inspect the Premises; (b) exhibit the Premises to prospective purchasers, lenders or tenants (provided that the Premises shall be exhibited to prospective tenants only during the last year of the Term); (c) determine whether Tenant is complying with all its obligations in this Lease; (d) supply services to be provided by Landlord to Tenant according to this Lease; (e) post written notices of nonresponsibility or similar notices; or (f) make repairs required of Landlord under the terms of this Lease or make repairs to any adjoining space or utility services or make repairs, alterations, or improvements to any other portion of the Building; however, all such work will be done as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible, and Landlord shall use all commercially reasonable efforts to minimize interference with Tenant's operations during any such visits. Notwithstanding anything to the contrary set forth in this Lease, Landlord acknowledges and agrees that (i) a certain area of the Premises will contain a locked filing cabinet(s) with files containing protected health information, and (ii) Landlord shall not, except in the event of an emergency, be allowed access to said area of the Premises without being accompanied by an authorized representative of Tenant at all times.

Tenant, by this **Article 23**, waives any claim against Landlord, its agents, employees, or contractors for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by any entry in accordance with this **Article 23**. Landlord will, at all times, have and retain a key with which to unlock all of the doors in, on or about the Premises. Landlord will have the right to use any and all means it may deem proper to open doors in and to the Premises in an emergency in order to obtain entry to the Premises. Any entry to the Premises by Landlord in accordance with this **Article 23** will not be construed or deemed to be a forcible or unlawful entry into or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises or any portion of the Premises, nor will any such entry entitle Tenant to damages or an abatement of Base Rent, Additional Rent, or other charges that this Lease requires Tenant to pay.

## **ARTICLE 24 INDEMNIFICATION, WAIVER, AND RELEASE**

24.1 Indemnification. Except for any injury or damage to persons or property on the Premises that is proximately caused by or results proximately from the negligence or deliberate act of Landlord, its employees, or agents, and subject to the provisions of **Section 8.3**, Tenant will neither hold nor attempt to hold Landlord, its employees, or agents liable for, and to the extent not prohibited by Florida Statutes, Chapter 768.28, and without waiving any rights or defenses thereunder, Tenant will indemnify and hold harmless Landlord, its employees, and agents from and against, any and all losses, demands, claims, causes of action, fines, penalties, damages (including consequential damages), liabilities, judgments, and expenses (including without limitation reasonable actual out of pocket attorneys' fees and disbursements) incurred in connection with or arising from:

(a) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person claiming under Tenant;

(b) any activity, work, or thing done or permitted by Tenant in or about the Premises or the Building;

(c) any breach by Tenant or its employees, agents, contractors, or invitees of this Lease; and

(d) any injury or damage to the person, property, or business of Tenant, its employees, agents, contractors, or invitees entering upon the Premises under the express or implied invitation of Tenant.

If any action or proceeding is brought against Landlord, its employees, or agents by reason of any such claim for which Tenant has indemnified Landlord, Tenant, upon written notice from Landlord, will defend the same at Tenant's expense, with counsel reasonably satisfactory to Landlord.

**24.2 Waiver and Release.** Tenant, as a material part of the consideration to Landlord for this Lease, by this **Section 24.2** waives and releases all claims against Landlord, its employees, and agents with respect to all matters for which Landlord has disclaimed liability pursuant to the provisions of this Lease.

## **ARTICLE 25 SECURITY DEPOSIT**

**25.1 Security for Performance by Tenant.** Tenant, simultaneously herewith, has deposited with Landlord the sum set forth in **Section 1.1** to be held by Landlord as security for the faithful performance by Tenant of all of the terms, covenants, provisions and conditions of this lease to be performed by Tenant. If an Event of Default occurs with respect to any of the terms, covenants, provisions or conditions of this Lease, including, but not limited to, the payment of Rent, then without notice to Tenant, and in addition to any other remedies to which Landlord may be entitled by virtue of the provisions of this Lease, or pursuant to law or equity, Landlord shall have the right to use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any Rent or any other sum as to which Tenant is in default or any sum which Landlord may expend or may be required to expend by reason of Tenant's Event of Default, including, but not limited to, damages or deficiencies resulting from the reletting of the Premises, whether such damages or deficiencies accrued before or after summary proceedings or other reentry by Landlord. If any portion of the Security Deposit is so used, applied, or retained, Tenant will within 15 days after written demand deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount. Landlord will not be required to keep the Security Deposit separate from its general funds, and Tenant will not be entitled to interest on the Security Deposit. The Security Deposit will not be deemed a limitation on Landlord's damages or a payment of liquidated damages or a payment of the Base Rent due for the last month of the Term. If Tenant fully, faithfully, and timely performs every provision of this Lease to be performed by it, the Security Deposit or any balance of the Security Deposit will be returned to Tenant within 60 days after the expiration of the Term. Landlord may deliver the funds deposited under this Lease by Tenant to the purchaser of the Building in the

event the Building is sold, and after such time Landlord will have no further liability to Tenant with respect to the Security Deposit.

## **ARTICLE 26            QUIET ENJOYMENT**

26.1 Covenant of Quiet Enjoyment. Landlord covenants and agrees with Tenant that so long as Tenant pays the Rent and observes and performs all the terms, covenants, and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises subject, nevertheless, to the terms and conditions of this Lease, and Tenant's possession will not be disturbed by anyone claiming by, through, or under Landlord.

## **ARTICLE 27            EFFECT OF SALE**

27.1 Sale of the Building. A sale, conveyance, or assignment of the Building will operate to release Landlord from liability from and after the effective date of such sale, conveyance, or assignment upon all of the covenants, terms, and conditions of this Lease, express or implied, except those liabilities that arose prior to such effective date, and, after the effective date of such sale, conveyance, or assignment, Tenant will look solely to Landlord's successor in interest in and to this Lease (but Tenant shall look to Landlord if Landlord retains the Security Deposit). This Lease will not be affected by any such sale, conveyance, or assignment, and Tenant will attorn to Landlord's successor in interest to this Lease, so long as such successor in interest assumes Landlord's obligations under the Lease from and after such effective date.

## **ARTICLE 28            DEFAULT**

28.1 Events of Default. The following events are referred to, collectively, as "Events of Default" or, individually, as an "Event of Default":

(a) Tenant defaults in the due and punctual payment of Rent, and such default continues for 5 days after receipt of written notice from Landlord; however, Tenant will not be entitled to more than 2 written notices for monetary defaults during any 12-month period, and if after such written notice any Rent is not paid when due, an Event of Default will be considered to have occurred without further notice;

(b) Tenant fails to take possession of the Premises on the Commencement Date or later vacates or abandons the Premises without Notice to Landlord (but excluding any period the Premises are not being operated due to casualty, condemnation, renovation or repairs and periods falling under Force Majeure);

(c) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subject to any attachment by any creditor of Tenant or claimant against Tenant, and said attachment is not discharged or disposed of within 15 days after its levy;

(d) Tenant files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any

state, or admits the material allegations of any such petition by answer or otherwise, or is dissolved or makes an assignment for the benefit of creditors;

(e) Involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for all or substantially all of the property of Tenant, and such proceeding is not dismissed or such receivership or trusteeship vacated within 60 days after such institution or appointment; or

(f) Tenant breaches any of the other agreements, terms, covenants, or conditions that this Lease requires Tenant to perform, and such breach continues for a period of 30 days after written notice from Landlord to Tenant or, if such breach cannot be cured reasonably within such 30-day period, if Tenant fails to diligently commence to cure such breach within 30 days after written notice from Landlord and to complete such cure within a reasonable time thereafter.

**28.2 Landlord's Remedies.** If any one or more Events of Default set forth in **Section 28.1** occurs then Landlord has the right, at its election:

(a) To give Tenant ten (10) days' written notice of the expiration of the Term and upon the giving of such notice and the expiration of such ten (10) day period, Tenant's right to possession of the Premises will cease and this Lease will be terminated, except as to Tenant's liability, as if the expiration of the term fixed in such notice were the end of the Term;

(b) Without further demand or notice, to reenter and take possession of the Premises or any part of the Premises, repossess the same, expel Tenant and those claiming through or under Tenant, and remove the effects of both or either, using such force for such purposes as may be necessary, without being liable for prosecution, without being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Rent or other amounts payable under this Lease or as a result of any preceding breach of covenants or conditions; or

(c) Without further demand or notice to cure any Event of Default and to charge Tenant for the cost of effecting such cure, including without limitation reasonable actual out of pocket attorneys' fees and interest on the amount so advanced at the rate set forth in **Section 30.21**, provided that Landlord will have no obligation to cure any such Event of Default of Tenant.

Should Landlord elect to reenter as provided in subsection (b), or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided by law, Landlord may, from time to time, without terminating this Lease, relet the Premises or any part of the Premises in Landlord's or Tenant's name, but for the account of Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term) and on such conditions and upon such other terms (which may include concessions of free rent and alteration and repair of the Premises) as Landlord, in its reasonable discretion, may determine, and Landlord may collect and receive the rent. Landlord will in no way be responsible or liable for any failure to relet the Premises, or any part of the Premises, or for any failure to collect any rent due upon such reletting. No such reentry or taking possession of the Premises by Landlord will be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant. No written notice from Landlord under this Section or under a forcible or unlawful entry and detainer statute or similar



law will constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Landlord reserves the right following any such reentry or reletting to exercise its right to terminate this Lease by giving Tenant such written notice, in which event this Lease will terminate as specified in such notice.

**28.3 Certain Damages.** In the event that Landlord does not elect to terminate this Lease as permitted in **Section 28.2(a)**, but on the contrary elects to take possession as provided in **Section 28.2(b)**, Tenant will pay to Landlord Rent and other sums as provided in this Lease that would be payable under this Lease if such repossession had not occurred, less the net proceeds, if any, of any reletting of the Premises after deducting all of Landlord's reasonable expenses in connection with such reletting, including without limitation all repossession costs, brokerage commissions, attorneys' fees, expenses of employees, alteration and repair costs, and expenses of preparation for such reletting. If, in connection with any reletting, the new lease term extends beyond the scheduled expiration of the existing term, or the Premises covered by such new lease include other premises not part of the Premises, a fair apportionment of the rent received from such reletting and the expenses incurred in connection with such reletting as provided in this Section will be made in determining the net proceeds from such reletting, and any rent concessions will be equally apportioned over the term of the new lease. Tenant will pay such rent and other sums to Landlord on the days on which the Rent would have been payable under this Lease if possession had not been retaken, and Landlord will be entitled to receive such Rent and other sums from Tenant on each such day. Notwithstanding anything to the contrary set forth in this Lease, neither party shall be liable to the other for any indirect, special, consequential, incidental, punitive or exemplary damages or lost revenues or profits.

**28.4 Continuing Liability After Termination.** If this Lease is terminated on account of the occurrence of an Event of Default, Tenant will remain liable to Landlord for damages in an amount equal to Rent and other amounts that would have been owing by Tenant for the balance of the Term, had this Lease not been terminated, less the net proceeds, if any, of any reletting of the Premises by Landlord subsequent to such termination, after deducting all of Landlord's expenses in connection with such reletting, including without limitation, the expenses enumerated in **Section 28.3**. Landlord will be entitled to collect such damages from Tenant on the days on which Rent and other amounts would have been payable under this Lease if this Lease had not been terminated, and Landlord will be entitled to receive such Rent and other amounts from Tenant on each such day.

**28.5 Cumulative Remedies.** Any suit or suits for the recovery of the amounts and damages set forth in **Sections 28.3 and 28.4** may be brought by Landlord, from time to time, at Landlord's election, and nothing in this Lease will be deemed to require Landlord to await the date upon which this Lease or the Term would have expired had there occurred no Event of Default. Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for in this Lease or now or after the Lease Date existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or after the Lease Date existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or after the Lease Date existing at law or in equity or by statute or otherwise. All costs incurred by Landlord in collecting any amounts and damages owing by Tenant pursuant to the provisions of this Lease or to enforce any provision of this Lease, including reasonable

actual out of pocket attorneys' fees from the date any such matter is turned over to an attorney, whether or not one or more actions are commenced by Landlord, will also be recoverable by Landlord from Tenant.

28.6 Waiver of Redemption. Tenant waives any right of redemption arising as a result of Landlord's exercise of its remedies under this **Article 28**.

## **ARTICLE 29            PARKING**

29.1 Use of Parking Areas. Tenant will be entitled to non-exclusive use of the Parking Areas during the Term subject to the rules and regulations set forth in **Exhibit E**, and any amendments or additions to them. Tenant shall require that all employees, vendors, and contractors of Tenant park in the Tenant/Employee/Staff area of the Parking Area as set forth in **Exhibit F**.

## **ARTICLE 30            MISCELLANEOUS**

30.1 No Offer. This Lease is submitted to Tenant on the understanding that it will not be considered an offer and will not bind Landlord in any way until Tenant has duly executed and delivered duplicate originals to Landlord and Landlord has executed and delivered one of such originals to Tenant.

30.2 Joint and Several Liability. If Tenant is composed of more than one signatory to this Lease, each signatory will be jointly and severally liable with each other signatory for payment and performance according to this Lease. The act of, written notice to, written notice from, refund to, or signature of any signatory to this Lease (including without limitation modifications of this Lease made by fewer than all such signatories) will bind every other signatory as though every other signatory had so acted, or received or given the written notice or refund, or signed.

30.3 No Construction Against Drafting Party. Landlord and Tenant acknowledge that each of them and their counsel have had an opportunity to review this Lease and that this Lease will not be construed against Landlord merely because Landlord has prepared it.

30.4 Time of the Essence. Time is of the essence of each and every provision of this Lease.

30.5 No Recordation. Tenant's recordation of this Lease or any memorandum or short form of it will be void and a default under this Lease.

30.6 No Waiver. The waiver by Landlord of any agreement, condition, or provision contained in this Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision contained in this Lease, nor will any custom or practice that may grow up between the parties in the administration of the terms of this Lease be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms of this Lease. The subsequent acceptance of Rent by Landlord will not be deemed to be a waiver of any preceding breach by Tenant of any agreement, condition, or provision of this Lease, other than the failure of Tenant to pay the particular Rent

so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.

**30.7 Limitation on Recourse.** The term "Landlord" as used in this Lease means only the owner, the holder of a lease or the mortgagee in possession for the time being of the Premises, so that in the event of any sale of the Building or an assignment of this Lease or an underlying lease, Landlord herein shall be and hereby is entirely freed and relieved of all obligations of Landlord hereunder without the necessity of further agreement between the parties and such purchaser, assignee or lessee agrees that the purchaser, assignee or lessee has assumed and agreed to observe and perform all obligations of Landlord hereunder. Notwithstanding anything herein contained to the contrary, it is specifically understood and agreed that there shall be no personal liability on the part of the Landlord (or its shareholders, venturers and partners, their shareholders, venturers and partners, and all of their officers, directors and employees), with respect to any of the terms, provisions, covenants and conditions of this Lease, and that Tenant shall look solely to the estate, property and equity of Landlord or such successor in interest in the Building and subject to the prior rights of any mortgagee or ground lessee, for the satisfaction of each and every remedy of Tenant in the event of any breach by Landlord or by such successor in interest of any of the terms, provisions, covenants and conditions of this Lease to be performed by Landlord, which exculpation of personal liability shall be absolute and without exception.

**30.8 Estoppel Certificates.** At any time and from time to time but within 15 days after prior written request by Landlord, Tenant will execute, acknowledge, and deliver to Landlord, promptly upon request, a certificate certifying (a) that this Lease is unmodified and in full force and effect or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification; (b) the date, if any, to which Rent and other sums payable under this Lease have been paid; (c) that no written notice of any default has been delivered to Landlord which default has not been cured, except as to defaults specified in said certificate; (d) that Tenant is not aware of an Event of Default under this Lease or an event which, with notice or the passage of time, or both, would result in an Event of Default under this Lease, except for defaults specified in said certificate; and (e) such other matters as may be reasonably requested by Landlord. Any such certificate may be relied upon by any prospective purchaser or existing or prospective mortgagee of the Building. Tenant's failure to deliver such a certificate within such time will be conclusive evidence of the matters set forth in it.

**30.9 Waiver of Jury Trial.** Landlord and Tenant by this **Section 30.9** waive trial by jury in any action, proceeding, or counterclaim brought by either of the parties to this Lease against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any other claims (except claims for personal injury or property damage), and any emergency statutory or any other statutory remedy.

**30.10 No Merger.** The voluntary or other surrender of this Lease by Tenant or the cancellation of this Lease by mutual agreement of Tenant and Landlord or the termination of this Lease on account of Tenant's Event of Default will not work a merger, and will, at Landlord's option, (a) terminate all or any subleases and subtenancies or (b) operate as an assignment to Landlord of all or any subleases or subtenancies. Landlord's option under this **Section 30.10** will

be exercised by written notice to Tenant and all known sublessees or subtenants in the Premises or any part of the Premises.

30.11 Holding Over. Tenant will have no right to remain in possession of all or any part of the Premises after the expiration of the Term. If Tenant remains in possession of all or any part of the Premises after the expiration of the Term, with the express or implied consent of Landlord: (a) such tenancy will be deemed to be a periodic tenancy from month-to-month only; (b) such tenancy will not constitute a renewal or extension of this Lease for any further Term; and (c) such tenancy may be terminated by Landlord upon the earlier of 30 days' prior written notice or the earliest date permitted by law. In such event, Base Rent will be increased to an amount equal to 150% of the Base Rent payable during the last month of the Term, and any other sums due under this Lease will be payable in the amount and at the times specified in this Lease. Such month-to-month tenancy will be subject to every other term, condition, and covenant contained in this Lease.

30.12 Notices. Any notice, request, demand, consent, approval, or other communication required or permitted under this Lease must be in writing and will be deemed to have been given when personally delivered, deposited with any nationally recognized overnight carrier that routinely issues receipts, or deposited in any depository regularly maintained by the United States Postal Service, postage prepaid, certified mail, return receipt requested, addressed to the party for whom it is intended at its address set forth in **Section 1.1**. Either Landlord or Tenant may add additional addresses or change its address for purposes of receipt of any such communication by giving 10 days' prior written notice of such change to the other party in the manner prescribed in this **Section 30.12**.

30.13 Severability. If any provision of this Lease proves to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected by such finding, and in lieu of each provision of this Lease that is illegal, invalid, or unenforceable a provision will be added as a part of this Lease as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

30.14 Written Amendment Required. No amendment, alteration, modification of, or addition to the Lease will be valid or binding unless expressed in writing and signed by Landlord and Tenant. Tenant agrees to make any modifications of the terms and provisions of this Lease required or requested by any lending institution providing financing for the Building, provided that no such modifications will materially adversely affect Tenant's rights and obligations under this Lease.

30.15 Entire Agreement. This Lease, the exhibits and addenda, if any, contain the entire agreement between Landlord and Tenant. No promises or representations, except as contained in this Lease, have been made to Tenant respecting the condition or the manner of operating the Premises or the Building.

30.16 Captions. The captions of the various articles and sections of this Lease are for convenience only and do not necessarily define, limit, describe, or construe the contents of such articles or sections.

30.17 Notice of Landlord's Default. In the event of any alleged default in the obligation of Landlord under this Lease, Tenant will deliver to Landlord written notice listing the reasons for Landlord's default and Landlord will have 30 days following receipt of such notice to cure such alleged default or, in the event the alleged default cannot reasonably be cured within a 30-day period, to commence action and proceed diligently to cure such alleged default. A copy of such notice to Landlord will be sent to any holder of a mortgage or other encumbrance on the Building of which Tenant has been notified in writing, and any such holder will also have the same time periods to cure such alleged default.

30.18 Authority. Tenant and the party executing this Lease on behalf of Tenant represent to Landlord that such party is authorized to do so by requisite action of the board of directors or partners, as the case may be, and agree upon request to deliver to Landlord a resolution or similar document to that effect.

30.19 Brokers. Landlord and Tenant respectively represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises except the broker named in **Section 1.1**, if any. Each of them will indemnify the other against and hold the other harmless from any claims for fees or commissions from anyone with whom either of them has consulted or negotiated with regard to the Premises except the broker. Landlord will pay any fees or commissions due the broker.

30.20 Governing Law. This Lease will be governed by and construed pursuant to the laws of New York, without regard to principles of conflict of laws, it being acknowledged by Landlord that Tenant is considered a state agency of the State of Florida.

30.21 Late Payments. Any Rent that is not paid when due will accrue interest at a late rate charge of the Prime Rate plus 5% per annum (but in no event in an amount in excess of the maximum rate allowed by applicable law) from the date on which it was due until the date on which it is paid in full with accrued interest.

30.22 Intentionally Deleted.

30.23 Intentionally Deleted.

30.24 Intentionally Deleted.

30.25 Landlord's Consent. With respect to any provision hereof which provides for the consent or approval of Landlord, said consent or approval shall be in writing and shall not be unreasonably withheld. Tenant in no event shall be entitled to make any claim, and Tenant hereby waives any claim for money damages, whether by way of set off, counterclaim, defense or otherwise, based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or delayed any consent or approval. Tenant's sole remedies shall be an action or proceeding to enforce any such provision, or for an injunction or declaratory judgment. All expenses reasonably incurred by Landlord in reviewing and acting upon any request for consent hereunder, including but not limited to, attorneys' and architects' fees, shall be reimbursed by Tenant to Landlord, shall be deemed to constitute Additional Rent and shall be paid over to Landlord on the first day of the month following demand therefor.

30.26 Binding Effect. The covenants, conditions, and agreements contained in this Lease will bind and inure to the benefit of Landlord and Tenant and their respective heirs, distributees, executors, administrators, successors, and, except as otherwise provided in this Lease, their assigns.

30.27 Operating Covenant. If Tenant ceases to operate its business on the Premises for more than sixty (60) consecutive days (excluding any period the Premises are not being operated due to casualty, condemnation, renovation or repairs and periods falling under Force Majeure), Landlord shall have the right to terminate this Lease by giving written notice to Tenant ("Landlord's Termination Notice"). If Tenant fails to re-open within 30 days following receipt of Landlord's Termination Notice, this Lease shall terminate and shall be of no further force and effect.

30.28 Public Records. Tenant is subject to Florida's Public Records Law (Chapter 119, Florida Statutes). This Lease and any related documents and/or correspondences Landlord submits to Tenant shall also become a public record subject to the Public Records Law. Tenant will respond to public records requests without providing Landlord any notice. This provision shall survive the termination or expiration of this Lease.

30.29 Logos. This Lease does not confer upon Landlord any rights to use the name, logos, marks and/or likeness of Tenant. Landlord must obtain the written permission of Tenant prior to using its name, logos, marks and/or likeness.

30.30 Non-Recourse. Notwithstanding anything to the contrary in this Lease, in the event of any controversy or claim arising out of or relating to this Lease, the breach hereof, or the transactions contemplated hereby, Landlord acknowledges and agrees that it shall look solely to the assets of Tenant and shall have no recourse against any other party, including, without limitation, any officer or employee of Tenant.


[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

**LANDLORD:**

**ISKALO ASSET FUND LLC**

By: Iskalo Development Corp., its Manager

By:   
Paul B. Iskalo, President & CEO

**TENANT:**

**THE FLORIDA INTERNATIONAL  
UNIVERSITY BOARD OF TRUSTEES**

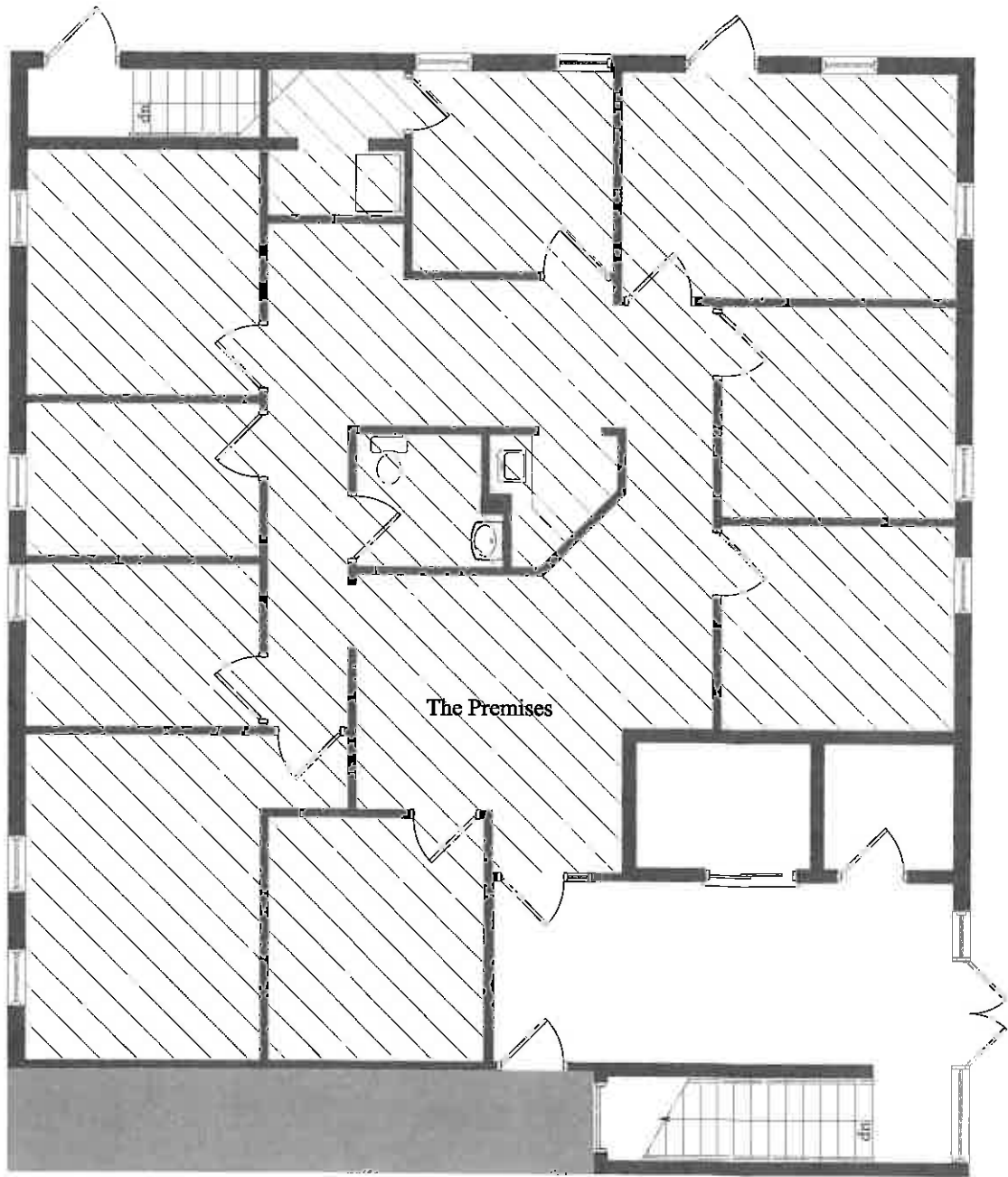
By: 

Name: Luis Salas

Title: Associate VP of Research

Approved as to form  
and legality  
  
F.I.U. Attorney

Exhibit A  
The Premises





## **EXHIBIT B**

### **Legal Description of the Land**

#### **PARCEL A**

**ALL THAT TRACT OR PARCEL OF LAND**, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 12, Township 12, Range 7 of the Holland Land Company's Survey, described as follows:

**BEGINNING** in the southerly line of said Lot No. 13, being also the northerly boundary of Main Street at a point distant 232.16 feet westerly from the southeasterly corner of said Lot No. 13; running thence northerly on a line parallel with the westerly boundary of lands conveyed to Joseph Fischer by deed recorded in Erie County Clerk's Office in Liber 1015 of Deeds page 608, said westerly bound of Fischer's land being also the easterly boundary of lands devised by the Will of Emma A. Schueckler, about 440.71 feet recorded distance and 441.03 feet measured distance to the southerly line of College Hill Terrace as established by deed recorded in Erie County Clerk's Office in Liber 1416 of Deeds page 349; running thence westerly along the southerly boundary of College Hill Terrace about 56.42 feet to the northwesterly corner of lands conveyed to Mildred S. Hartman by deed recorded in Erie County Clerk's Office in Liber 4196 of Deeds page 430; thence southerly along the westerly boundary of lands conveyed to Mildred S. Hartman as aforesaid 441.70 feet recorded distance and 441.40 feet measured to the northerly line of Main Street at the point which is the south westerly corner of lands conveyed to Mildred S. Hartman as aforesaid; thence easterly along the northerly line of Main Street 56.42 feet to the point of beginning.

#### **PARCEL B**

**ALL THAT TRACT OR PARCEL OF LAND**, situate in the Town of Amherst, County of Erie and State of New York, begin part of Lot No. 13, Township 12, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

**BEGINNING** in the southerly line of said Lot 13, being also the northerly boundary of Main Street at a point distant 182.16 feet westerly from the southeasterly corner of said Lot 13, said point being also the southeasterly corner of said lands devised by the Will of Emma A. Schueckler; running thence westerly along said northerly line of Main Street, 50 feet to a point; running thence northerly on a line parallel with the westerly boundary of lands conveyed to Joseph Fischer by Deed recorded in Erie County Clerk's Office in Liber 1015 of Deeds at page 608, said westerly boundary of Fischer's land being also the easterly boundary of lands devised by Emma A. Schueckler, as aforesaid, about 440.71 feet to the southerly line of College Hill Terrace as established by Deed recorded in Erie County Clerk's Office in Liber 1416 of Deeds at page 349; running thence easterly along the southerly boundary of College Hill Terrace, about 50 feet to the northeasterly corner of said lands devised by said Will of Emma A. Schueckler, being a point in said westerly boundary of lands conveyed as aforesaid to Joseph Fischer; running thence southerly along the easterly boundary of lands devised, as aforesaid, by the Will of Emma A. Schueckler and the westerly boundary of lands conveyed, as aforesaid to Joseph Fischer, 440.71 feet to the point of beginning.

### Commencement Date Certificate

This Commencement Date certificate is entered into by Landlord and Tenant pursuant to **Section 3.1** of the Lease.

1. **DEFINITIONS.** In this certificate the following terms have the meanings given to them:
  - (a) Landlord: **ISKALO ASSET FUND LLC**
  - (b) Tenant: **THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES**
  - (c) Lease: Lease dated September 16, 2019 between Landlord and Tenant.
  - (d) Premises: Suite 101 in the Building consisting of approximately 2,175 square feet of leasable area.
  - (e) Building Address: 4600 Main Street, Snyder, New York
2. **CONFIRMATION OF LEASE COMMENCEMENT:** Landlord and Tenant confirm that the Commencement Date of the Lease is October 1, 2019 and the Expiration Date is September 30, 2023 and that **Sections 1.1(h) and (i)** are accordingly amended.

Landlord and Tenant have executed this Commencement Date certificate as of the dates set forth below.

Tenant:

**THE FLORIDA INTERNATIONAL  
BOARD OF TRUSTEES**

By: 

Name: Luis Salas

Title: Associate VP of Research

Date: 10/1/19

Landlord:

**ISKALO ASSET FUND LLC**

By: Iskalo Development Corp., its manager

By:   
Paul B. Iskalo, President & CEO

Date: 10-3-19

## **EXHIBIT E**

### **Rules and Regulations**

1. Landlord may from time to time adopt appropriate systems and procedures for the security or safety of the Building, any persons occupying, using, or entering the Building, or any equipment, finishings, or contents of the Building, and Tenant will comply with Landlord's reasonable requirements relative to such systems and procedures.

2. The sidewalks, halls, passages, exits, entrances, elevators, and stairways of the Building will not be obstructed by any tenants or used by any of them for any purpose other than for ingress to and egress from their respective premises. The halls, passages, exits, entrances, elevators, escalators, and stairways are not for the general public, and Landlord will in all cases retain the right to control and prevent access to such halls, passages, exits, entrances, elevators, and stairways of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation, and interests of the Building and its tenants, provided that nothing contained in these rules and regulations will be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. No tenant and no employee or invitee of any tenant will go upon the roof of the Building. No tenant will be permitted to place or install any object (including without limitation radio and television antennas, loudspeakers, sound amplifiers, microwave dishes, solar devices, or similar devices) on the exterior of the Building or on the roof of the Building.

3. No sign, placard, picture, name, advertisement, or written notice visible from the exterior of the Premises will be inscribed, painted, affixed, or otherwise displayed by Tenant on any part of the Building or the Premises without the prior written consent of Landlord. All approved signs or lettering on doors will be printed, painted, affixed, or inscribed at the expense of the Tenant by a person approved by Landlord. In the event of the violation of this rule by Tenant, Landlord may remove the violating items without any liability, and may charge the expense incurred by such removal to Tenant.

4. No cooking will be done or permitted by any tenant on the Premises, except in areas of the Premises which are specially constructed for cooking and except that use by Tenant of microwave ovens and Underwriters' Laboratory approved equipment for brewing coffee, tea, hot chocolate, and similar beverages will be permitted, provided that such use is in accordance with all applicable federal, state, and city laws, codes, ordinances, rules, and regulations.

5. No smoking shall be done or permitted by any tenant or by any agent, employee, guest or invitee of any tenant in the Building.

6. The toilet rooms, toilets, urinals, wash bowls and other plumbing fixtures will not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags, or other foreign substances will be thrown in such plumbing fixtures. All damages resulting from any misuse of the fixtures will be borne by the tenant who, or whose servants, employees, agents, visitors, or licensees, caused the same.

7. No tenant will in any way deface any part of the Premises or the Building. In those portions of the Premises where carpet has been provided directly or indirectly by Landlord, Tenant will at its own expense install and maintain pads to protect the carpet under all furniture having casters other than carpet casters.

8. Tenant will not alter, change, replace, or rekey any lock or install a new lock or a knocker on any door of the Premises. Landlord, its agent, or employees will retain a pass (master) key to all door locks on the Premises. Any new door locks required by Tenant or any change in keying of existing locks will be installed or changed by Landlord following Tenant's written request to Landlord and will be at Tenant's expense. All new locks and rekeyed locks will remain operable by Landlord's pass (master) key. Landlord will furnish each Tenant, free of charge, with two (2) keys to each door lock on the Premises. Landlord will have the right to collect a reasonable charge for additional keys requested by any Tenant. Tenant, upon termination of its tenancy, will deliver to Landlord all keys for the Premises and Building that have been furnished to such Tenant.

9. No tenant will use or keep in the Premises or the Building any kerosene, gasoline, or inflammable or combustible or explosive fluid or material or chemical substance other than limited quantities of such materials or substances reasonably necessary for the operation or maintenance of office equipment or limited quantities of cleaning fluids and solvents required in such tenant's normal operations in the Premises. Without Landlord's prior written approval, no tenant will use any method of heating or air conditioning other than that supplied by Landlord. No tenant will use or keep or permit to be used or kept any foul or noxious gas or substance in the Premises.

10. Landlord will have the right, exercisable upon written notice and without liability to any tenant, to change the name and street address of the Building.

11. Landlord will have the right to prohibit any advertising by Tenant mentioning the Building that, in Landlord's reasonable opinion, tends to impair the reputation of the Building or its desirability, and upon written notice from Landlord, Tenant will refrain from or discontinue such advertising.

12. Tenant will not bring any animals or birds into the Building, and will not permit bicycles or other vehicles inside or on the sidewalks outside the Building except in areas designated from time to time by Landlord for such purposes.

13. Tenant will store all its trash and garbage within the Premises or in receptacles provided by Landlord. No material will be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage without being in violation of any law or ordinance governing such disposal. Removal of any furniture or furnishings, large equipment, packing crates and packing materials will be the responsibility of each tenant and such items may not be disposed of in the Building trash receptacles. No furniture, appliances, equipment, or flammable products of any type may be disposed of in the Building trash receptacles.

14. Canvassing, peddling, soliciting, and distributing handbills or any other written materials in the Building are prohibited, and each tenant will cooperate to prevent the same.

15. The requirements of the tenants will be attended to only upon application by written, personal, or telephone notice to Landlord at the Landlord's Address. Employees of Landlord will not perform any work or do anything outside of their regular duties unless under special instructions from Landlord.

16. An area on the Building will be provided for the display of the name of Tenant only. All signage will conform to standards and style set by Landlord in its sole discretion. Space on any designated exterior signage area will be provided in Landlord's sole discretion.

17. Tenant will see that the doors of the Premises are closed and locked and that all water faucets, water apparatus, and utilities are shut off before Tenant or Tenant's employees leave the Premises, so as to prevent waste or damage, and for any default or carelessness in this regard Tenant will make good all injuries sustained by other tenants or occupants of the Building or Landlord.

18. Tenant will not conduct itself in any manner that is inconsistent with the character of the Building or that will impair the comfort and convenience of other tenants in the Building.

19. Neither Landlord nor any operator of the Parking Areas will be liable for loss of or damage to any vehicle or any contents of such vehicle or accessories to any such vehicle, or any property left in any of the Parking Areas, resulting from fire, theft, vandalism, accident, conduct of other users of the Parking Areas and other persons, or any other casualty or cause. Further, Tenant understands and agrees that: (a) Landlord will not be obligated to provide any traffic control, security protection or operator for the Parking Areas; (b) Tenant uses the Parking Areas at its own risk; and (c) Landlord will not be liable for personal injury or death, or theft, loss of, or damage to property. Tenant waives and releases Landlord from any and all liability arising out of the use of the Parking Areas by Tenant, its employees, agents, invitees, and visitors, whether brought by any of such persons or any other person.

20. Tenant (including Tenant's employees, agents, invitees, and visitors) will use the Parking Areas solely for the purpose of parking passenger model cars, small vans, and small trucks and will comply in all respects with any rules and regulations that may be promulgated by Landlord from time to time with respect to the Parking Areas. The Parking Areas may be used by Tenant, its agents, or employees, for occasional overnight parking of vehicles, but shall not under any circumstances be used by Tenant or its agents or employees for the display or parking of vehicles advertised as being for sale. Tenant will ensure that any vehicle parked in any of the Parking Areas will be kept in proper repair and will not leak excessive amounts of oil or grease or any amount of gasoline. If any of the Parking Areas are at any time used (a) for any purpose other than parking as provided above; (b) in any way or manner reasonably objectionable to Landlord; or (c) by Tenant after default by Tenant under the Lease, Landlord, in addition to any other rights otherwise available to Landlord, may consider such default an Event of Default under the Lease.

21. Tenant's right to use the Parking Areas will be in common with other tenants of the Building and with other parties permitted by Landlord to use the Parking Areas. Landlord reserves the right to assign and reassign, from time to time, particular parking spaces for use by persons selected by Landlord, provided that Tenant's rights under the Lease are preserved. Landlord will not be liable to Tenant for any unavailability of Tenant's designated spaces, if any, nor will any unavailability entitle Tenant to any refund, deduction, or allowance. Tenant will not park in any numbered space or any space designated as: RESERVED, HANDICAPPED, VISITORS ONLY, or LIMITED TIME PARKING (or similar designation).

22. If the Parking Areas are damaged or destroyed, or if the use of the Parking Areas is limited or prohibited by any governmental authority, or the use or operation of the Parking Areas is limited or prevented by strikes or other labor difficulties or other causes beyond Landlord's control, Tenant's inability to use the Parking Areas will not subject Landlord or any operator of the Parking Areas to any liability to Tenant and will not relieve Tenant of any of its obligations under the Lease and the Lease will remain in full force and effect.

23. Tenant has no right to assign or sublicense any of its rights in the Parking Areas, except as part of a permitted assignment or sublease of the Lease.

24. No act or thing done or omitted to be done by Landlord or Landlord's agent during the Term of the Lease in connection with the enforcement of these rules and regulations will constitute an eviction by Landlord of any Tenant nor will it be deemed an acceptance of surrender of the Premises by any Tenant, and no agreement to accept such termination or surrender will be valid unless in writing signed by Landlord. The delivery of keys to any employee or agent of Landlord will not operate as a termination of the Lease or a surrender of the Premises unless such delivery of keys is done in connection with a written instrument executed by Landlord approving the termination or surrender.

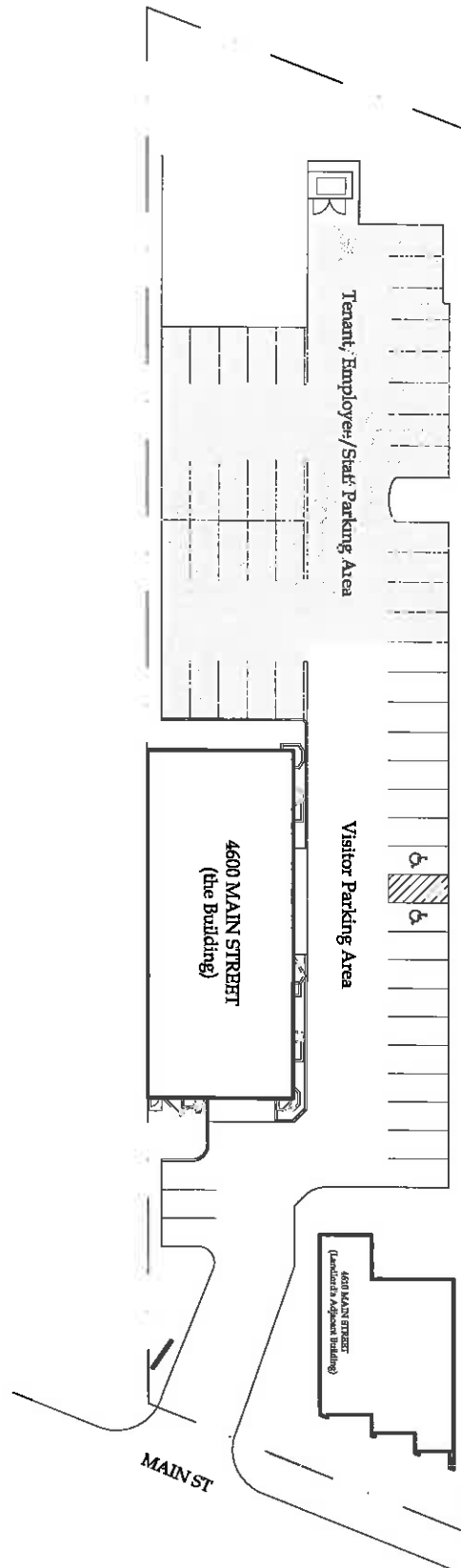
25. In these rules and regulations, Tenant includes the employees, agents, invitees, and licensees of Tenant and others permitted by Tenant to use or occupy the Premises.

26. Landlord may waive any one or more of these rules and regulations for the benefit of any particular tenant or tenants, but no such waiver by Landlord will be construed as a waiver of such rules and regulations in favor of any other tenant or tenants, nor prevent Landlord from enforcing any such rules and regulations against any or all of the tenants of the Building after such waiver.

27. These rules and regulations are in addition to, and will not be construed to modify or amend, in whole or in part, the terms, covenants, agreements, and conditions of the Lease.

**EXHIBIT F**

**Tenant/Employee/Staff Parking Area**



### Grants Summary – Lease Agreement for 4600 Main Street, Snyder, NY.

Project ID	Name	Description	Dates	Principal Investigator	Total Costs
800013424	National Institutes of Health, National Institute of Child Health and Human Development	Single and Combined Effects of Positive Behavior Support, Medication and Academic Accommodation for Children with ADHD	September 01, 2021 – August 31, 2026	Gregory Fabiano	\$3,060,441
800014555	National Institutes of Health, Centers for Disease Control and Prevention	Engaging Male Caregivers in Effective Prevention Programming to Reduce Risk of Violence and Violence-Related Injury	September 30, 2021 – September 29, 2024	Gregory Fabiano	\$1,049,902
800012285	National Institutes of Health, National Institutes of Mental Health	Development of strategies to reduce the impact of the relative age effect on kindergarteners with ADHD	August 01, 2020 – July 31, 2023	Gregory Fabiano	\$680,143
800012072	U.S. Department of Education, Institute of Educational Sciences	Project Enhancing IEP Implementation of Children with ADHD Using Daily Report Cards: An Efficacy Trial	November 04, 2019 – August 31, 2023	Gregory Fabiano	\$2,560,549
<b>TOTAL</b>					<b>\$7,351,035</b>



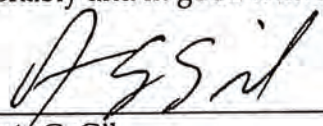
Funding Certification Form

This form is required by the FIU Board of Trustees ("BOT") and/or a committee of the BOT as a condition for approval of items, containing a funding component, that come for approval before the Board and/or a BOT committee pursuant to the Delegations of Authority from the BOT to the University President or otherwise.

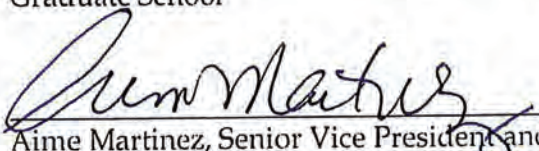
Item name/description: Lease renewal agreement with Iskalo Asset Fund, LLC for a location at 4600 Main Street, Snyder, New York

Funding Source(s): Fund Code: 654, Project ID 8000012005


This is to certify that the above item has been reviewed and approved, and to the best of our professional judgment and knowledge, the type of funding for the item is authorized by state law and Board of Governors Regulations, and the Trustees may reasonably and in good faith rely on this certification.

  
\_\_\_\_\_  
Andrés G. Gil,  
Senior Vice President for Research & Economic  
Development and Dean of the University  
Graduate School

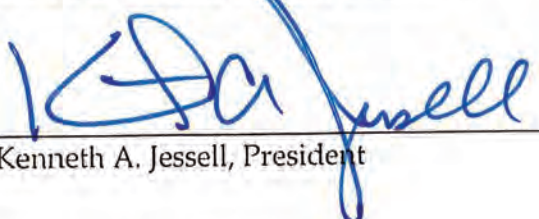
5/11/2023  
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Date

  
\_\_\_\_\_  
Aime Martinez, Senior Vice President and  
Interim Chief Financial Officer

5/19/2023  
\_\_\_\_\_  
Date

DocuSigned by:  
  
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Carlos B. Castillo, General Counsel

5/31/2023  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Kenneth A. Jessell, President

5-31-2023  
\_\_\_\_\_  
Date

**THE FLORIDA INTERNATIONAL UNIVERSITY  
BOARD OF TRUSTEES**

**Finance and Facilities Committee**

June 15, 2023

**Subject: Approval of Contracts greater than or equal to \$3,000,000:**

- 1) *Apple Goods and Services Resale Exemption with D&H Distributing*
- 2) *Blanket Purchase Order for Smiley Audio Visual*
- 3) *Contract PUR-06870 Academic HealthPlans, Inc.*

**Proposed Committee Action:**

Pursuant to the Delegations of Authority from the Florida International University Board of Trustees to the University President, as reflected in the Resolution on the President's Powers and Duties approved by the Board of Trustees on March 4, 2019, recommend that the FIU Board of Trustees (i) approve, as listed and described below, the University entering into the contracts and purchase orders and/or change orders to the purchase orders and (ii) authorize the University President or his designee to execute, on behalf of the University, the aforementioned contracts and/or purchase orders.

**Background Information:**

**1. Resale Exemption. Supplier: D&H Distributing.** Approval to procure Apple goods and services is being requested by FIU Panther Tech for Personal and Institutional usage per executed Reseller Agreement with Apple utilizing exception under Florida Board of Governors (BOG) Regulation 18.001 (6)(d)(18) Purchases for Resale. Annual Spend of Apple products total \$2,340,813, effective period: 4/2/2023 – 6/30/2026.

- **Term:** Started on April 2, 2023, through June 30, 2026
- **Cost:** \$7,412,574.50
- **Funding Source:** Auxiliary

**Supporting Documentation:** PUR-06796 – D&H Apple Reseller Agreement  
C00001625 Reseller Agreement (Personal / Institutional)  
C00001625 Addendum  
BOG Regulation 18.001 (6)(d)(18) Purchases for Resale  
Funding Certification Form

**Facilitator/Presenter:** Aime Martinez

## **2. Blanket Purchase Order. Supplier: Smiley's Audio Visual, Inc.**

A Blanket Purchase Order is being requested by FIU Panther Tech to procure goods and services for institutional usage. Piggyback Contract under St. Johns County Schools Bid # 2021-05, currently being renewed for three (3) years. Annual spending of Smiley's Audio-Visual products total \$1,700,000, effective period: 7/1/2023 – 6/30/2026. Additional purchase authority of \$300,000 annually for three (3) years for other University departments is also being requested.

- **Term:** Starts on July 1, 2023, through June 30, 2026
- **Cost:** Total Purchasing Authority is \$6,000,000
- **Funding Source:** Auxiliary

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**Supporting Documentation:** St. Johns County Schools Bid # 2021-05, Expires 6/30/2023

Notice of Intent (Current Renewal: St. Johns County Schools ITB2023-11 Catalog Percentage Discount – Equipment and Supplies / 4.0 CONTRACT / RENEWAL 4.1 The term of this contract shall be from July 1, 2023 to June 30, 2026

Recommendation to Award Letter

St. John's School District Board Approval of ITB2023-11

Funding Certification Form

**Facilitator/Presenter:** Aime Martinez

**3. Contract PUR-06870. Supplier: Academic HealthPlans, Inc.** In 2014, FIU joined a consortium of other State University System (SUS) schools, which includes University of South Florida, University of Central Florida, Florida Gulf Coast University, and University of Northern Florida, for an insurance broker to provide student health insurance. The consortium was put together then and exists now to enable the SUS to have greater buying power with a larger participant base to provide student health insurance.

In 2022, the consortium, led by the University of South Florida, sought a qualified company for student accident and illness insurance options for its students in its Invitation to Negotiate Insurance Broker Services, 2023-058-ITN-PRO\_SHS to ensure the consortium was receiving competitive pricing along with excellent customer service to our students. Academic HealthPlans, Inc. (AHP) is a qualified broker who submitted a response and after negotiation for fair and reasonable financial terms, the consortium selected AHP.

This process requires that each university sign an agreement with AHP who will serve as a qualified broker and plan administrator for FIU which includes plan consultation, plan experience, managing market review, plan administration for waivers, enrollment, premium collection, customer service

and carrier management. AHP solicited health care plans that meet federal requirements and state coverage/limit requirements and the consortium selected Aetna as the plan provider. FIU will be required to sign a rate binder with Aetna, or another health plan provider, on an annual basis as part of this package once the insurance policy filing is approved by the State of Florida. It will include the specific premiums, eligibility requirements, etc.

The contract with AHP is being requested by The Office of Research and Economic Development to provide voluntary and hard waiver insurance coverage to FIU enrolled students and non-paid visiting scholars, including but not limited to, international students, student athletes, graduate assistants, and students on FIU fellowships. Since USF did a competitive solicitation for the consortium, FIU is piggybacking Invitation to Negotiate Insurance Broker Services, 2023-058-ITN-PRO\_SHS.

- **Term:** Two (2) years. The University will have the option to renew for three (3) additional, one (1) year terms.
- **Estimated Cost:** Based on the anticipated spend for this vendor during the contract term including renewals: \$25,000,000.00 (approximately \$5M annually contingent upon enrollments)
- **Funding source:** E&G, Auxiliary, Athletics, University Wide Pooled Activity or Sponsored Research Funds

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**Supporting Documentation:**     SUS Participation Agreement  
   Funding Certification Form

**Facilitator/Presenter:**             Aime Martinez



## Apple Resale Terms Acknowledgement

These Apple Resale Terms are by and between D&H Distributing Co. ("D&H") and the undersigned reseller ("Reseller") that purchases Apple products ("Products") from D&H. These Apple Resale Terms govern the sale of all Apple Products from D&H to Reseller, as mandated by Apple.

### 1. **DELIVERY**

- a. D&H offers a freight program where D&H pays freight for in-stock orders of Apple Products as long as Reseller meets a certain minimum dollar threshold. That threshold differs for online orders versus phone orders.
- b. If Reseller opts against participating in D&H's freight program, then Reseller is responsible for all freight charges.
- c. Reseller may not charge any penalties or fees to D&H.
- d. Reseller may not export the Apple Products outside of the United States.

### 2. **OPEN BOX CUSTOMER RETURNS**

- a. Reseller may not return any open box customer returns through D&H, unless they qualify as "DOA" as described below.

### 3. **DEAD ON ARRIVAL ("DOA") RETURNS**

- a. Apple Products are deemed dead on arrival ("DOA") only if it is:
  - i. visibly and physically undamaged;
  - ii. inoperable upon first use out of the box or shows symptoms of hardware failure preventing basic operation prior to any network activation or initialization of installed software;
  - iii. returned within thirty (30) days of D&H's invoice date; and
  - iv. the returns do not exceed the allowance below ("Return Caps").
- b. The Return Caps for each of the categories of Apple Products set forth below is one percent (1%) of total previous quarter's Net Purchases of Apple Products from D&H.
  - i. Apple TV and Apple TV Accessories;
  - ii. Beats and Beats Accessories;
  - iii. iPod, iPod Accessories and HomePod;
  - iv. iPad and iPad Accessories;
  - v. Mac and Mac Accessories; and
  - vi. Watch and Watch Accessories.
- c. Apple Products excluded from the above list may not be returned.
- d. Apple or D&H may disqualify or exclude Apple Products from any DOA return rights if such Apple Products do not meet the definition.
- e. Apple may further inspect and test returned DOA Apple Products. If Reseller has misrepresented the condition of the Apple Products or the Apple Products does not meet the DOA requirements, as determined by Apple in its discretion, Apple may require Reseller to reimburse Apple (through D&H) for the costs attributable to the misrepresented or non-DOA Authorized Product and the return of such Authorized Product.
- f. Qualifying DOA customer returns under this Section may be returned to D&H, freight prepaid by Reseller.

### 4. **QUALIFYING CUSTOMER RETURNS**

- a. Unsold Apple Products may be returned to Apple via D&H if such Apple Products are:
  - i. returned to Apple within ninety (90) days of D&H's invoice date;
  - ii. returned in the original packaging with all accessories;
  - iii. the returns do not exceed the allowance below ("Return Caps"); and

- iv. Reseller complies with the return process set forth in any guidelines communicated by Apple or D&H.
- b. The Return Caps for each of the categories of Apple Products set forth below is four percent (4%) of total previous quarter's Net Purchases of Apple Products from D&H.
  - i. Apple TV and Apple TV Accessories;
  - ii. Beats and Beats Accessories;
  - iii. iPod, iPod Accessories and HomePod;
  - iv. iPad and iPad Accessories;
  - v. Mac and Mac Accessories; and
  - vi. Watch and Watch Accessories.
- c. Apple Products excluded from the above list may not be returned to D&H.
- d. Qualifying customer returns of Apple Products are returned to D&H, freight prepaid by Reseller.

#### 5. **ADDITIONAL UNAUTHORIZED RETURNS**

- a. In addition to the above limits on Qualifying Customer Returns, Open Box Customer Returns, and DOA Returns, Apple Products may not be returned to D&H under the following circumstances:
  - i. Demonstration units of Apple Products;
  - ii. Products not manufactured by Apple;
  - iii. Visibly damaged Apple Products;
  - iv. Apple Products sold by parties other than D&H;
  - v. Apple Products that have been modified from their original specifications or tampered with in any way;
  - vi. Apple Products that are damaged;
  - vii. Certified pre-owned or refurbished Apple Products;
  - viii. Apple Products opened by government officials or customs; and
  - ix. Apple Products discontinued for more than thirty (30) days.
- b. Apple Products improperly returned pursuant to this Section will be returned to Reseller at Reseller's cost.

#### 6. **GENERAL**

- a. All Apple Resale Terms must remain confidential.
- b. All open-box, non-DOA Apple Products are governed by Apple's Apple Care program.
- c. Apple may request changes to these Apple Resale Terms at any time.
- d. Reseller must keep records tied to Apple Products for a minimum of five (5) years.
- e. Reseller may not deduct from any payments due to D&H for Apple Products.
- f. Reseller is responsible for the payment of any copyright levies, recycling fees, and other fees imposed on the Apple Products.
- g. Reseller will comply with all applicable local, state and federal laws.

## Acknowledgement of Terms

The signatory below represents that they are duly authorized to enter into this Amendment on behalf of Reseller.

First Name\*

Last Name\*

Title\*

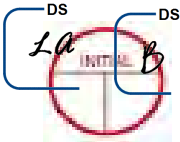
Email\*

Date\*



Submit

The attached Supplemental Addendum is hereby incorporated by reference





1. **Incorporation by Reference.** The Florida International University Board of Trustees ("FIU") and the undersigned ("Vendor") hereby incorporate this Supplemental Addendum - General ("Addendum") into the agreement between FIU and Vendor (the "Agreement"). If this Addendum conflicts with the Agreement terms, this Addendum shall control.

2. **Payment.** Vendor shall submit bills for compensation for goods, services and/or expenses in detail sufficient for a pre-and post-audit; invoice requirements are available on FIU's Office of the Controller's Payment Services [website](#). FIU shall make payment in accordance with [FIU-2202 – Prompt Payment](#). If FIU does not issue payment within forty (40) days of receipt of a proper invoice, FIU may pay Vendor an interest penalty at the rate established pursuant to § 55.03(1), F.S., if the interest exceeds one dollar. Vendors experiencing payment problems may contact Accounts Payable at (305) 348-3889. FIU's performance and obligation to pay is contingent upon the legislature's annual appropriation; FIU will give notice to Vendor of the non-availability of funds when FIU has knowledge thereof. FIU will be responsible for paying only for any goods/services it receives; Vendor must refund any payment for goods/services that are unused upon the termination of the Agreement. FIU is a tax immune sovereign and exempt from the payment of sales, use or excise taxes. Vendor is responsible for and shall pay any taxes due under the Agreement. FIU may require Vendor to accept payments via FIU's EFT/ACH payment process. If Vendor is making any payment to FIU, Vendor shall pay timely and not offset any amounts. FIU shall not make any deposits or prepay any amounts; any deposits are refundable.

3. **Relationship of the Parties.** Each of the parties is an independent contractor and nothing in the Agreement shall designate any of the employees or agents of one party as employees or agents of the other. Vendor represents and warrants that it is not on the Convicted Vendor List (see § 287.133, F.S.). Vendor hereby assumes all risks attributable to the willful or negligent acts or omissions of Vendor and its officers, employees, agents and subcontractors or persons otherwise acting at the instance of Vendor, in furtherance of fulfilling Vendor's obligations.

4. **Information.** Vendor acknowledges that all documents, materials and information furnished to or learned by Vendor in connection with the Agreement (the "Information") are and shall remain at all times proprietary and the sole property of FIU. Vendor shall not disclose Information to third parties unless it obtains FIU's prior written consent. All Information shall be stored in the United States or other jurisdictions approved by FIU in writing and shall not be transferred to any other countries or jurisdictions without the prior written consent of FIU. Vendor acknowledges and agrees that it is responsible for the security of all Information in its possession. Vendor represents and warrants that for the life of the Agreement and/or while Vendor is involved with Information, the software and services used for processing the Information shall be compliant with current regulatory standards. Vendor shall, upon written request, furnish proof of compliance within 10 business days of the request. Vendor will inform FIU's Chief Information Security Officer within 24 hours if it has knowledge of, or can reasonably expect that, a security breach of Information has occurred. Vendor shall provide appropriate level of detail regarding the breach including, but not limited to, start and end dates, system(s) impacted, estimated number of users impacted, and remediation plans and timeline. Vendor, upon termination of the Agreement, it shall erase, destroy, and render un-readable all FIU data from all computer systems and backups, and certify in writing that these actions have been completed within thirty (30) days of the termination of the Agreement or within seven (7) days of the request of an agent of FIU, whichever shall come first.

5. **Public Records.** FIU is subject to Chapter 119 of Florida Statutes, the Florida Public Records Law. The Agreement, this Addendum and any related documents and/or correspondence shall also become a public record subject to the Public Records Law, regardless of any confidentiality provision outlined in the Agreement. FIU may respond to public records requests without providing Vendor any notice. FIU may unilaterally cancel the Agreement for Vendor's refusal to allow public access to public records related to the Agreement. Additionally, Vendor shall comply with all applicable requirements of the Public Records Laws, particularly if Vendor is a "Contractor" as defined under § 119.0701, F.S. This provision shall survive the expiration or termination of the Agreement. **IF VENDOR HAS QUESTIONS REGARDING THE APPLICABILITY OF CHAPTER 119 TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS, VENDOR MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 348-1377, [recordsmanagement@fiu.edu](mailto:recordsmanagement@fiu.edu), OR BY MAIL AT 11200 S.W. 8th ST., GL 460, MIAMI, FLORIDA 33199.**

6. **Indemnity.** Vendor will indemnify, defend and hold harmless FIU, the FIU Board of Trustees, the State of Florida, the Florida Board of Governors, and their officers, employees, and agents from and against any and all actions, claims, liabilities, assertions of liability, losses, costs and expenses, which may arise in any

manner or are alleged to have arisen, from: (i) the acts, omissions, negligence or misconduct of Vendor or its officers, employees, agents, representatives or sub-contractors in connection with or related to (a) Vendor's operations, activities, business and/or services or (b) Vendor's occupancy or use of the FIU premises; or (ii) that Vendor's products and/or services (collectively, the IP") infringes upon or violates any proprietary right of any third party. FIU will provide reasonable co-operation in the defense of the suit at Vendor's expense. Vendor's indemnification obligations shall not be limited by any limitation of liability outlined in the Agreement. Such defense and indemnity shall survive termination or expiration of the Agreement. **Nothing in the Agreement shall be construed as a waiver of sovereign immunity nor as an indemnification of Vendor by FIU, and then such indemnification is limited to the express terms of §768.28, F.S.**

7. **Compliance.** In its performance, Vendor shall, at its own expense, at all times in the term:

a. **Permits:** have all applicable permits, licenses, consents, and approvals necessary;

b. **General:** comply with all applicable federal, state, local and FIU laws, rules, regulations, and ordinances and all other governmental requirements;

c. **Privacy:** comply with all applicable state and federal laws and FIU policies and procedures governing the use and/or safe-keeping of confidential, highly sensitive, and/or personally identifiable or protected health information (as may be defined by state or federal law), including, but not limited to, the Family Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach Bliley Act, and the Federal Trade Commission's Red Flags Rule (which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003). Vendor shall obtain, in advance, all necessary permissions and consents required in regards to its collection and/or receipt of any such information. In the event that FIU will share with or provide access to Vendor of any protected health information ("PHI"), as may be defined by state or federal law, FIU and Vendor enter into a separate business associate agreement which will govern the use of the PHI (in lieu of this provision). Vendor agrees to include all such terms and conditions contained in any subcontractor or agency contracts providing services on behalf of Vendor;

d. **Federal Funds.** If FIU has entered into an agreement with the United States of America, or any Department thereof, and the Agreement is in furtherance of the commitments and/or requirements of such federal agreement or funds, Vendor agrees to comply with the terms contained in FIU's **Federally Funded Projects Addendum**, found at <https://generalcounsel.fiu.edu/contract-forms/>, herein incorporated by this reference; and

e. **E-Verify.** All terms defined in §448.095, Fla. Stat., are adopted and incorporated into this provision. Pursuant to §448.095, Fla. Stat., Vendor certifies that it is registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor during the term of this Agreement. If Vendor enters into a contract with a subcontractor to perform work or provide services pursuant to this Agreement, Vendor shall likewise require the subcontractor to comply with the requirements of §448.095, Fla. Stat., and the subcontractor shall provide to Vendor an affidavit stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. Vendor shall maintain a copy of such affidavit for the duration of the contract. FIU may terminate this Agreement immediately upon notice to Vendor for any violation of this provision.

8. **General Provisions.**

a. **Warranties.** Vendor, at a minimum, warrants that the IP, the goods, and/or services to be provided by Vendor will be free of any material defects and will operate and conform to the specifications provided in all material aspects throughout the term of the Agreement. This warranty shall be in addition to any warranties provided in the Agreement.

b. **Publicity.** Vendor shall not make any announcements relating to the Agreement, nor shall Vendor use FIU's name, trademarks, logos or marks, without the prior written approval from FIU's External Relations department in each instance.

c. **Insurance.** FIU, as a public body corporate entity, warrants and represents that it is self-funded for liability insurance, with said protection being applicable to officers, employees, servants, and agents while acting within the scope of their employment by FIU. Any provision requiring FIU to provide or acquire insurance coverage other than such self-insurance shall not be effective. Vendor shall have and maintain the types and amounts of insurance that, at minimum, will cover Vendor's (or subcontractor's) exposure in performing the Agreement and name FIU as additional insured and be primary and non-contributory on Vendor's policies (except for workers' compensation & professional liability). All policies shall be in a form and with deductible limits reasonably satisfactory to FIU, with insurance companies reasonably approved by FIU and authorized to do business in the State of Florida. Certificates of all insurance shall be deposited with FIU prior to the



date of the Agreement. All insurance policies and certificates shall contain a provision that it will not be cancelled without giving FIU thirty (30) days' written notice prior to the effective date of cancellation. Timely renewal certificates will be provided to FIU as coverage renews. Vendor, for and on behalf of itself and each of its insurers, hereby waives any and all rights of subrogation against FIU for any loss or damage arising from any cause covered by any insurance required to be carried under the Agreement by any other insurance actually carried by Vendor. Vendor shall provide copies of any insurance policies upon request by FIU. If the professional liability coverage is provided on a claims-made basis, then such insurance shall continue for three (3) years following the expiration or termination of the Agreement. The insurance shall have a retroactive date of placement by the effective date of the Agreement. If the coverage is canceled or non-renewed and not replaced with another similar claims-made policy form, the Vendor must purchase Extended Reporting ("Tail") coverage for a minimum of three (3) years following the expiration or termination of the Agreement.

d. **Third Parties.** FIU is not liable for the acts of third parties or the consequences of the acts of third parties. There shall be no third party beneficiary to the Agreement.

e. **Governing Law.** The Agreement is governed by the laws of the State of Florida, without regards to its conflicts of law principles. Exclusive venue of any actions shall be in Miami-Dade County, Florida. FIU is entitled to the benefits of sovereign immunity.

f. **Travel Expenses.** If FIU is responsible for reimbursing Vendor for travel expenses pursuant to the Agreement, bills shall be subject to, and shall be submitted by Vendor in accordance with, § 112.061, F.S. and [FIU Policy 1110.060 – Travel: University Travel Expense Policy](#). FIU reserves the right not to pay travel expenses unless FIU approves such expenses in advance, in writing. FIU has the right to make travel arrangements for Vendor.

g. **Lobbying.** Vendor is prohibited from using funds provided under the Agreement to lobby the Legislature or any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government.

h. **Conflicts.** Vendor represents that it is aware of the requirements of Chapter 112, Florida Statutes and in compliance with the requirements thereof, and other laws and regulations concerning conflicts of interests in dealing with entities of the State of Florida. Vendor certifies that its directors and/or principal officers are not employed and/or affiliated with FIU unless a current Conflict of Interest (Report of Outside Activity/Employment) form has been completed, executed by such director or officer and approved in accordance with applicable University policies or rules. Violation of this section shall be grounds for termination of the Agreement.

i. **Termination.** Upon giving at least thirty (30) days' written notice to Vendor, FIU may terminate the Agreement, at any time, with no further obligation to Vendor, other than to pay for any goods received or services rendered in compliance with the Agreement prior to the effective date of termination. FIU shall not be liable for any early termination charges.

j. **Records.** Vendor agrees to keep and maintain, separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its obligations and activities under the Agreement. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations under the Agreement. FIU or its authorized agent shall have the right to audit and inspect such records from time to time during the term of the Agreement, upon reasonable notice to Vendor.

k. **PCI-DSS:** as may be applicable, deliver all services in full compliance with the most recent version of the Payment Card Industry Data Security Standard (PCI-DSS) in effect at the time of service delivery. Vendor will treat all FIU provided infrastructure and resources as public and non-secure, regardless of measures FIU may choose to put in place. Vendor will also maintain all required qualifications and periodically furnish proof of ongoing compliance in the form of an Attestation of Compliance to demonstrate to FIU that Vendor is continuously operating in full compliance with PCI-DSS and is not relying on FIU for any aspect of that compliance. If Vendor loses any required certification or the certification lapses, Vendor shall immediately notify FIU, and FIU will have an option to terminate this contract and receive a refund for un-rendered services.

l. **Force Majeure.** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by due to conditions beyond its reasonable control including but not limited to: an act of war, hostile foreign action, labor strike, epidemics, pandemics, quarantines, national or regional emergency, public health emergency, changes in laws and governmental policies, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Either party shall provide the other party with prompt written notice of any delay or failure to perform that occurs by reason of

force majeure. The parties shall mutually seek a resolution of the delay or the failure to perform as noted above.

m. **Section 889 Compliance Certification.** Vendor certifies its compliance with § 889 of the McCain National Defense Authorization Act (prohibition against use of covered telecommunications equipment).

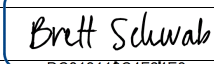
n. **Deletion.** Any term and/or condition in the Agreement on the following subject matters are hereby deleted in their entirety and declared null and void: (a) Grants of exclusivity by FIU to Vendor; (b) Restrictions on the hiring of Vendor's employees; (c) FIU's responsibility to pay intangible taxes, property taxes, or sales taxes; (d) FIU's tort liability; (e) Automatic renewals of the term of the Agreement; (f) Limitation of time to bring suit; (g) Limitation of Vendor's liability; (h) that FIU performs reporting functions and/or maintains certain types of operations (i) Granting Vendor any right to audit FIU; (j) Attorneys' or collection fees provisions; (k) Arbitration and mediation clauses; and (l) Indemnification of Vendor by FIU.

o. **Assignment.** Vendor shall not assign, transfer, delegate, subcontract, or otherwise dispose of, whether voluntarily, involuntarily, or by operation of law, any right or obligation under the Agreement without the prior written consent of FIU, not to be unreasonably withheld. Any such unapproved assignment, subcontracting or transfer is void. No subcontracting or delegation shall in any event relieve Vendor of any obligation or liability under the Agreement.

9. **No counterparts; Signatures.** The Agreement may not be executed in counterparts. It may be signed electronically and such electronic signatures shall constitute an original for all purposes. The parties represent and warrant that any person signing the Agreement has the authority to do so and that such signature shall be sufficient to bind Vendor. This Agreement shall be considered signed if/when a party's signature is delivered by facsimile or e-mail transmission of a ".pdf" format date file, including via DocuSign. Such signature via DocuSign shall be treated in all respects as having the same force and effect as an original signature.

**By signing below, Vendor's authorized representative agrees to incorporate this Addendum into the Agreement, and hereby executes this Addendum as of the date set forth below.**

VENDOR: D & H Distributing Co

DocuSigned by:  
  
 By: Brett Schwab  
 Name: Brett Schwab  
 Title: Corporate Counsel  
 Date: 4/20/2023



### Apple Authorized Campus Reseller Agreement

This Agreement is entered into by and between Apple Inc., a California corporation located at 1 Infinite Loop, Cupertino, CA 95014 ("Apple") and Campus Reseller, each of whom agrees to be bound by and comply with all terms and conditions contained in the Agreement.

Institution or Company Legal Name ("Campus Reseller"): The Florida International University Board of Trustees

DBA Name: Florida International University

Address: 11200 SW 8 Street  
Miami, FL 33199

#### Purpose

Campus Reseller wishes to purchase and resell Products to Customers in the Territory and the Parties intend that this Agreement will govern the purchase and sale of such Products in accordance with the terms and conditions set forth below.

#### 1. Definitions

"Agreement" means, collectively, this Campus Reseller Agreement, including the Exhibits, the Ancillary Terms, and any variations or amendments to the foregoing made by Apple as permitted herein, and any mutually executed amendments to the Agreement.

"Ancillary Terms" means and includes the Policies and Requirements, Channel Member Code of Conduct, Apple Identity Guidelines, the terms of service and/or terms of use pertaining to ASW, any additional documents that Apple subsequently incorporates by reference in any of the foregoing, and any variations or amendments to the foregoing made by Apple as permitted herein.

"Apple Authorized Campus Reseller" or "Campus Reseller" means a reseller of Products, as defined below, with which Apple has an Apple Authorized Campus Reseller Agreement then in effect.

"Apple Confidential Information" means any and all information in oral or written form that Campus Reseller knows or has reason to know is confidential information and that is disclosed in connection with this Agreement or to which Campus Reseller may have access in connection with this Agreement, including but not limited to business and marketing plans, financial information and data, personnel information, information regarding strategic alliances, costs or pricing data, the identities of customers and prospective customers, and any information relating to new product launch, including the release dates and product specifications. Apple Confidential Information shall not include any information that: (i) was rightfully in a Campus Reseller's possession prior to disclosure without any obligation to maintain its confidentiality; (ii) was independently developed by Campus Reseller without the use of or reference to Apple Confidential Information; or (iii) is now, or hereafter becomes, publicly available other than through disclosure by Campus Reseller in breach of this Agreement.

"Apple Content" means Apple Product specifications, Apple Product literature, images, and other textual, graphical and/or multimedia content regarding Apple Products, and any other marketing collateral regarding Apple Product, in any form or medium, which is designed by Apple for use in preparing advertising and promotional material in accordance with the Agreement, including but not limited to Apple's applicable trademark, merchandising and marketing guidelines and policies.

"Apple Intellectual Property" means all intellectual property rights directly or indirectly owned or exclusively licensed by Apple, including but not limited to Apple Marks, patents, design rights, service marks and copyrights, registered or unregistered, anywhere in the world.

"Apple Marks" means all trademarks, service marks, trade dress, logos, taglines, slogans, product names, any other similar intellectual property, registered or unregistered, directly or indirectly owned by or licensed to Apple anywhere in the world, including but not limited to Apple, the Apple logo and any channel designations, marks or program identifiers (e.g., as "Apple Authorized Campus Reseller").

"Apple Product" or "Apple Products" means Services, CTO Products, hardware and software products manufactured, distributed or licensed under an Apple-owned or licensed brand name that Campus Reseller has paid to acquire or has properly licensed from Apple for resale and/or distribution to Customers but excluding any third party software and all other third party products.

"Apple Sales Web" or "ASW" means the web site maintained by Apple for access and use by Apple Authorized Campus Resellers and through which Apple may provide Product information, Ancillary Terms, sales information, marketing support and materials, business and Product announcements, and certain other information and materials relevant to Campus Reseller's activities as an Apple Authorized Campus Reseller.

"Appointment" means Apple's appointment of Campus Reseller as a limited and non-exclusive Apple Authorized Campus Reseller as provided in this Agreement under Section 3 (Appointment) below.

"Campus Reseller Confidential Information" means and is limited to information that is: (i) reduced to a tangible form, (ii) independently developed by Campus Reseller without the use of or reference to any Apple Confidential Information, and (iii) provided specifically at Apple's request after execution of this Agreement and after execution of an acknowledgment signed by an Apple Sales Director that such information shall be treated as Campus Reseller Confidential Information. Campus Reseller



Confidential Information shall not include any information that: (a) is communicated verbally; (b) was rightfully in Apple's possession prior to disclosure without any obligation to maintain its confidentiality; (c) was independently developed by Apple without the use of Campus Reseller Confidential Information; (d) is required to verify Campus Reseller's compliance with export laws or any other provisions of this Agreement; (e) is now, or hereafter becomes, publicly available other than through disclosure by Apple in breach of this Agreement; or (f) is Customer Information.

**"Campus Store Location"** means physical sales locations where Campus Reseller is authorized by Apple in writing to resell Products; and other locations including warehouses and billing addresses approved by Apple, as applicable, in writing, subject to the terms of the Agreement.

**"Policies and Requirements"** mean Apple's policies, practices and programs that: (i) govern Campus Reseller's performance under this Agreement and its use of, or activities with respect to any Apple-provided resources and systems; (ii) are posted to Apple Sales Web or other Apple web sites or otherwise provided to Campus Reseller; and (iii) which are incorporated herein by reference and which Apple may update periodically.

**"Configure-to-Order Product" or "CTO Product"** means Products that Apple modifies from its standard configurations and that are available to Campus Reseller only by special order.

**"Customers"** means (i) EIPs (as defined below); (ii) end users, whether or not the end users are the actual purchasers; and (iii) purchasers not purchasing the Products for resale.

**"Customer Information"** means all of the information Apple collects from or about end users and purchasers of its Products or potential end users or purchasers.

**"Effective Date"** means the date upon which an authorized representative of Apple signs this Agreement.

**"Eligible Individual Purchasers" or "EIPs"** means any of the following:

- (1) Students: Any individual enrolled in a course of study leading to a degree or certificate from Campus Reseller Institution.
- (2) Entering Students: Any person with confirmed intent to enroll in Campus Reseller Institution after notice of acceptance.
- (3) Faculty: Any member of the Campus Reseller Institution's faculty.
- (4) Staff: Any person employed by Campus Reseller Institution who supports the Institution's academic mission and is not temporary, employed as a contractor, or acting as a consultant on behalf of the Institution.

**"Institution"** means state accredited higher educational institution or entities offering certificates or degrees or the substantive equivalent thereof.

**"Limited Warranty"** means Apple's standard limited warranty that is set forth in the documentation that accompanies any Apple Products purchased under this Agreement.

**"Line of Credit"** means a line of credit established for Campus Reseller by Apple in its sole discretion.

**"Modifications"** means any changes to Product(s) that alter the functionality or capability of such Product(s), or bundling Products with third party Products.

**"Party"** means either Apple or Campus Reseller and **"Parties"** means both of them.

**"Products"** mean, collectively, Services, Apple Products and other products that are sold or licensed by Apple to Campus Reseller.

**"Prohibited Products"** means non-genuine (counterfeit) Apple Products or products that infringe Apple's Intellectual Property.

**"Return Material Authorization" or "RMA"** means the process to return Products to Apple, which must be authorized in advance by Apple, as set out in the Ancillary Terms.

**"Services"** mean collectively, the standard, price-listed services, support and/or training products sold under the Apple brand name.

**"Term"** means the term of this Agreement, which will begin on the Effective Date and continue until Midnight, Pacific Standard Time, on April 30, 2018, unless terminated earlier as provided in this Agreement.

**"Territory"** means the contiguous United States, Alaska and Hawaii.

**"Transshipping"** means the sale or transfer of Products between a Campus Reseller and any other reseller (including other Apple Authorized Campus Resellers or unauthorized reseller).

**"Verification of Eligibility Form"** means the document certifying eligibility, signed by Eligible Individual Purchasers when purchasing Apple Products from Campus Reseller.

## 2. Interpretation

In the event of any inconsistency between or among any components of the Agreement, the following precedence will apply in descending order:



- (i) Agreement
- (ii) Exhibit A, Trademark License Agreement
- (iii) Policies and Requirements
- (iv) Channel Member Code of Conduct
- (v) Apple Identity Guidelines

Campus Reseller acknowledges, by its signature hereunder, that it has received or is able to access physical or electronic copies of all documents listed above

### **3. Appointment**

**3.1** Subject to the terms of the Agreement, Apple appoints Campus Reseller as a limited and non-exclusive Apple Authorized Campus Reseller to resell Apple Products to Customers in accordance with the terms of this Agreement, and/or facilitate Customers' purchases directly from Apple, and for so long as Campus Reseller continuously complies with and satisfies its obligations under the Agreement, including but not limited to those described in the Ancillary Terms.

**3.2** Campus Reseller's subsidiaries and/or affiliates may not purchase Products from Apple under this Agreement unless Apple has agreed in signed writing with Campus Reseller that such subsidiaries and/or affiliates are authorized to purchase Products from Apple pursuant to this Agreement. Such authorization shall be subject to the parent company having provided a guarantee of the debts to Apple of such subsidiaries and/or affiliates and compliance with the obligations of this Agreement by such subsidiaries and/or affiliates. Notwithstanding the foregoing, Apple may require at its sole discretion that the debts to Apple of such subsidiaries and/or affiliates must be included in a parent company guarantee

### **4. Scope of Authorization**

**4.1** Campus Reseller will sell Products to Customers in the Territory, in accordance with the policies outlined in the Ancillary Terms. Campus Reseller will solely determine the prices for those Products. Except as expressly authorized in the Appointment, no other sales or distribution of Products is authorized. Campus Reseller is expressly prohibited from purchasing Apple Products for sale and/or distribution outside of the Territory.

**4.2** Campus Reseller will not, and will not directly or indirectly permit any other person or entity to, sell, rent or lease any Products or Services: (i) for resale; (ii) for export outside the Territory, either directly or indirectly; (iii) to certain Apple customers participating in special programs and identified by Apple; (iv) for sales via the internet; or direct mail order; (v) for promotional, leasing, or rental purposes; (vi) for Transshipping; or (vii) that are Prohibited Products.

**4.3** Campus Reseller is expressly prohibited from Transshipping any Apple Products to any other resellers (including Apple Authorized Resellers or unauthorized resellers) or to any non-authorized Campus Store Locations, including but not limited to Campus Reseller's subsidiaries, franchisees, and other affiliates, without Apple's prior written approval.

### **5. Rights Reserved to Apple**

**5.1** This Agreement is non-exclusive and grants Campus Reseller only those rights specifically stated in this Agreement during the Term. All other rights in and regarding the Products, Apple Marks and Apple Content, whether express or implied, are expressly reserved to Apple. Nothing in this Agreement limits Apple's own marketing, sale or distribution activities with respect to the Products or Services, or Apple's appointment of other resellers, agents, licensees, or distributors. Apple's ability to sell directly to any person, including Customers or potential Customers of Campus Reseller in competition with Campus Reseller, or any other rights that Apple has or may have. Campus Reseller acknowledges and agrees that as between Campus Reseller and Apple, Apple retains ownership of all rights, including intellectual property rights, in and to Apple Intellectual Property, Apple Marks and Apple Content.

**5.2** Campus Reseller's Appointment is made at Apple's sole discretion and is made on a non-exclusive basis. Apple is free to sell Products to Customers, either directly or indirectly. Campus Reseller acknowledges and agrees that Apple may, at any time and in its sole discretion: (i) open Apple retail stores in any location, including in locations that are proximate to Campus Store Locations; (ii) sell Products directly to Customers from a sales location owned by Apple or an Apple affiliate which may or may not be proximate to a Campus Store Location; (iii) sell Products directly to Customers through web-based (whether electronic commerce or mobile commerce) stores; (iv) authorize additional Campus Resellers in any location, including in locations that are proximate to Campus Store Locations; (v) reserve an area or location where it does not want to approve a Campus Store Location or appoint a Campus Reseller in that area or location; and/or (vi) permit others to do any of the foregoing. Campus Reseller shall not enter into any lease or other agreement, or enforce any provision of a pre-existing lease or other agreement, with respect to an Campus Store Location that in any manner restricts or impacts Apple's ability to open an Apple Retail Store, or authorize another reseller, in any particular area or location. Campus Reseller acknowledges and agrees that any activities carried out for the purposes of this Agreement and any investments relating thereto take into account the non-exclusive nature of its Appointment as a Campus Reseller and Apple's rights.

**5.3** Apple reserves the right to remove or add Products from or to the Apple price lists, restrict or otherwise limit Configure-to-Order Products, and change the Ancillary Terms and scope of Campus Reseller's authorization at any time and without prior notice. Apple will have the right to restrict Campus Reseller's access to Apple Products until Apple determines that Campus Reseller complies with any and all changes to the Ancillary Terms.

**5.4** Apple may allocate Products in its sole discretion and without liability to Campus Reseller. Campus Reseller acknowledges that Apple may choose to allocate Products to or among Apple's own retail and web-based stores, direct customers, education customers, sales territories, other resellers, or other sales channels, before Campus Reseller, and that there may be delays in Apple's fulfillment of Campus Reseller orders.



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## **6. Campus Reseller's Obligations**

**6.1** Without limitation and throughout the Term, Campus Reseller will at its own expense: (i) comply with the Agreement and all Ancillary Terms; (ii) promote and sell the Products in a manner that maintains the good name, goodwill and reputation of Apple, its employees, directors, affiliates, the Products, the Apple brand and does not infringe any Apple Intellectual Property; (iii) upon Customers' request, provide to Customers a copy of (a) Apple's standard limited warranty for Apple Products that consist of hardware; (b) any warranties provided by vendors of products bundled with the Products; (c) Apple's end user licenses that accompany any Apple Product consisting of hardware and/or devices of any kind; and (d) Apple's end user licenses for Apple Product consisting of software whether distributed as standalone or accompanying the Products; (iv) conduct its activities in a professional and competent manner; (v) actively promote and sell Products to Customers and maintain a high level of Customer satisfaction; (vi) not sell, offer for sale, distribute, or promote any Prohibited Products, and will not allow any third party to sell, offer for sale, distribute, or promote any Prohibited Products; and (viii) not engage in any illegal, false or deceptive acts or practices in the course of its business activities or performance of the Agreement.

**6.2** Throughout the Term, Campus Reseller will provide knowledgeable assistance to Customers and potential Customers in connection with the Products, including: (i) training and maintaining a sufficient number of capable personnel to sell the Products in accordance with the training requirements identified by Apple and/or described in the Ancillary Terms; (ii) assisting to determine appropriate Product configurations that fit the needs of Customers; and (iii) providing information and advice on the general intended use of Products.

**6.3** Upon the sale of Products to a Customer, Campus Reseller will provide each Customer with (i) a bill of sale or other receipt that states, at a minimum, the date of sale, the Product serial number(s), and the address of the Campus Store Location where the sale occurred; and (ii) the then-current limited warranties for the Products, along with any end user license agreements accompanying the Products.

**6.4** Campus Reseller will promptly notify Apple in writing of any: (i) suspected Product defect or safety issue; (ii) violations of Apple's rights under end-user licenses for the Products; or (iii) any claims or proceedings concerning Products. All such notices shall be regarded as Apple Confidential Information by Campus Reseller and will be subject to the Confidentiality provision(s) contained in this Agreement.

**6.5** In the event that Apple decides to communicate safety notices or implement safety changes to Products, upon Apple's request, and at no cost to Apple, Campus Reseller will promptly: (i) communicate all Apple safety notices to Campus Reseller's Customers; (ii) reasonably assist with the proactive implementation of safety changes/recalls of Products in relation to Campus Reseller's Customers; and (iii) report to Apple on the progress of such actions.

**6.6** Campus Reseller will provide Apple with sales and inventory reports, in accordance with formats prescribed by Apple.

**6.7** Campus Reseller will not make or facilitate Modifications to any Product, without authorization in writing signed by Apple.

**6.8** Campus Reseller may not sell, offer for sale, distribute or promote any Prohibited Products. If Campus Reseller learns or suspects that it has Prohibited Products in inventory and/or available for sale or distribution, Campus Reseller will (i) promptly, and in no event more than three (3) working days after discovery, notify Apple and remove product listings and discontinue sales or distribution of the Prohibited Products; (ii) provide Apple with details on how the Prohibited Products were acquired; (iii) assist Apple's investigation of such Prohibited Products; (iv) permanently refrain from selling or reselling Prohibited Products; and (v) take steps to ensure that Prohibited Products are not inadvertently sold by Campus Reseller in the future, including as applicable, setting up appropriate buying and promotions guidelines and online listing screening and review procedures. A failure by the Campus Reseller to respond promptly to or cooperate with Apple's requests or inquiries concerning Prohibited Products will be viewed as a material breach of this Agreement and grounds for immediate termination.

**6.9** Campus Reseller will distribute Products with all warranties, notices, licenses, disclaimers, packaging, logos, labels, and in-box materials intact, as shipped from Apple.

**6.10** Campus Reseller will not make or issue any representations, warranties, or guarantees to Customers or any other third party through any medium with respect to the specifications, features, or capabilities of any Apple Products that are inconsistent with the representations, warranties, guarantees and disclaimers specifically stated in Apple's end user license agreements and then-current Apple Product documentation. Campus Reseller's representations to Customers with respect to Apple Products shall at all times be consistent with Apple's end user license agreements and Apple's then-current Apple Product documentation as made available to Campus Reseller by Apple.

**6.11** Campus Reseller will pay any applicable sales or use taxes, duties and other imposts due on account of purchases under the Agreement. Campus Reseller will be responsible for the collection (and remittance to the proper taxing authority) of all applicable sales tax and use taxes associated with the resale of Products. In addition, Campus Reseller is responsible for the payment of any copyright levies, recycling fees, and other fees imposed on the Products, parts thereof, or their packaging by any central or local authority, collecting society, or other institution, attributable to its activities under this Agreement and which legally must be paid by Campus Reseller and not by Apple. Notwithstanding the foregoing, Apple may elect to account to the relevant institution or join an arrangement or collective agreement in relation to a specific Product on behalf of its resellers, and if it does so, Apple may charge such levies, or fees, to Campus Reseller on the Product invoice. Apple may also require that Campus Reseller take one or more of the following actions with respect to such levies or fees: (i) reflect them separately on Campus Reseller's own invoices; (ii) inform Customers about them; (iii) pass them on to Campus Reseller's Customers in a visible manner, and (iv) provide such information as Apple may reasonably request regarding any exports which would permit Apple to reclaim the amounts paid.



**6.12** In addition to the payment of recycling fees or similar duties, local law or recycling schemes may require Campus Reseller to comply with certain take-back, collection or recycling requirements. Campus Reseller shall comply with such requirements and any additional requirements as may be communicated by Apple in the Ancillary Terms.

**6.13** Campus Reseller shall comply with the Policies and Requirements. Apple shall communicate any changes to the Policies and Requirements prior to the effective date of such changes. Campus Reseller shall have a reasonable period of time to implement changes requiring Campus Reseller to materially alter its activities, provided such period does not exceed thirty (30) days from the stated effective date.

**6.14** Throughout the Term, Campus Reseller will maintain an active internet email address, which it will provide to Apple. Campus Reseller will have internet access at each Campus Store Location at all times and will access email at least daily, and ASW at least weekly to ascertain whether Apple has varied or amended the Ancillary Terms.

**6.15** Campus Reseller must notify and obtain Apple's written approval and consent in advance of any of the following changes: (i) changing the location of a Campus Store Location; (ii) closing a Campus Store Location; (iii) adding a new Campus Store Location; (iv) modifying the status of a Campus Store Location; (v) changing its legal or operating business name, address (including web URLs) or contact information; or (vi) any change of ownership. In the event of any change of ownership, Campus Reseller shall not transfer its Appointment prior to Apple's specific written approval. All requests for approvals of any of the changes described in this Section shall be evaluated at Apple's sole discretion. Apple makes no guarantee that it will grant any such approval(s) or as to the conditions under which any such approval(s) might be granted.

#### **6.16 Verification of EIPs**

Campus Reseller shall verify the eligibility of EIPs purchasing Apple Products as prescribed in the Ancillary Terms and shall comply with the resale limitations as set forth in the Ancillary Terms and in this Agreement. Campus Reseller shall ensure that for each applicable purchase as described within the Policies and Requirements, EIP status is verified and the EIP executes a Verification of Eligibility Form incorporating the certifications and information on the "Sample Verification of Eligibility Form" attached hereto as Exhibit B. Executed forms must be maintained pursuant to Section 11 " below.

**6.17** Campus Reseller shall not engage in the sale, distribution, export or handling of any Apple Products that have not been distributed by Apple for sale in the Territory.

**6.18** Campus Reseller will not sell, distribute or offer for sale Apple Products that are factory refurbished, reseller-reconditioned, or used, unless expressly authorized in writing signed by Apple.

#### **7. Export Obligations**

This Agreement is subject to all applicable laws, regulations, orders and other limitations on the export and re-export of commodities, technical data and software. CAMPUS RESELLER SHALL BE SOLELY RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE EXPORT AND REEXPORT CONTROL RULES THAT APPLY TO ITS RESALE ACTIVITIES AND further agrees that it will not export, re-export, resell or transfer any export-controlled commodity, technical data or software: (i) in violation of such limitations imposed by the United States, or any other relevant national government authority; (ii) to any country for which an export license or other governmental approval is required at the time of export, without first obtaining all necessary licenses or other approvals; (iii) to any country or national or resident of a country to which trade is embargoed by the United States, or any other relevant national authority; (iv) to any person or firm on any relevant government agency restricted party lists, (examples: United Nations Sanctions list, United States Denial Lists, Office of Foreign Assets Control Specially Designated Nationals List, etc.); or (v) for use in, or to an entity that might engage in, any sensitive nuclear, chemical or biological weapons, or missile technology end-uses unless authorized by the United States Government, and any other relevant government agency by regulation or specific license.

#### **8. Terms and Conditions of Purchase**

**8.1** In order to qualify to purchase Products directly from Apple, Campus Reseller must satisfy all requirements and perform all obligations of the Ancillary Terms applicable to or governing direct Campus Reseller purchases of Products.

**8.2** Campus Reseller may order Products from Apple by either (i) ordering from the Apple Reseller Online Store, (ii) by submitting a purchase order to Apple, (iii) if qualified, by sending data via Electronic Data Interchange (EDI), or (iv) by any other means communicated by Apple. Campus Reseller may not purchase Products for resale from any Apple retail store, other Apple online store, or an Apple direct purchase team unless authorized in writing by Apple. In the event Campus Reseller submits orders via an online portal managed by Apple, Campus Reseller agrees to Apple's Terms of Use and Privacy Policy located on such online portal. Furthermore, purchases through an online portal may also be subject to an Online Sales Policy. In the event of any inconsistency between this Agreement and the Online Sales Policy, this Agreement will govern.

**8.3** Any order placed with Apple is subject to acceptance by Apple, and Apple may decline any order, in whole or in part, for any reason. The taking and acknowledgment of orders does not, in any way, constitute automatic acceptance of such orders by Apple. Apple may cancel any accepted order prior to shipment.

**8.3.1** Campus Reseller may request a change to or cancellation of an order for Products, other than CTO Products, prior to commencement of the shipping process. Campus Reseller may request a change to or cancellation of an order for CTO Products according to the Ancillary Terms. The acceptance of such a request is at Apple's sole discretion.

**8.4** Apple may at any time reject orders and change or modify Product models, offerings, specifications, construction or design. Any Products so changed or modified and offered to Campus Reseller in fulfillment of original orders from Campus Reseller are subject to acceptance by Campus Reseller. If Campus Reseller does not cancel the original orders within seven (7) days the change or



modification will be deemed as accepted. Campus Reseller acknowledges and agrees that Apple shall have no liability to Campus Reseller as a result of any action it takes in furtherance of any of the foregoing.

**8.5** Apple may make partial shipments of Campus Reseller's orders without liability for any failure to ship complete orders or for any shipment delay. Campus Reseller will be invoiced separately for each partial shipment and will pay each invoice when due, without regard to subsequent deliveries.

**8.6** Without prejudice to Campus Reseller's rights under Section 10 (Limited Warranty to Campus Reseller), each shipment shall be deemed correct and undamaged unless Campus Reseller notifies Apple of the discrepancy or damage in writing within forty eight (48) hours of delivery of the given shipment and in accordance with the Ancillary Terms. All such notifications must include the purchase order number, and the exact nature of the damage or the discrepancy between the order and the shipment in number or type of Products shipped. For under-shipments, Apple shall, at its sole discretion, issue a replacement shipment, or a credit to Campus Reseller's account within thirty (30) days of receipt of such written notice from Campus Reseller. For the avoidance of doubt, Apple will not process such notices from Campus Reseller that are not supported evidentially by proof-of-delivery documentation.

**8.7** The title and risk of loss to all Products will pass to Campus Reseller upon shipment from Apple's shipping location. However, for Products shipped pursuant to Apple's standard practices in all but the last week of every Apple fiscal quarter (as posted on ASW) during the Term, Apple will issue credits or replace Products returned due to damage in transit or that are lost in transit. For Products shipped pursuant to Apple's standard practices in the last week of every Apple fiscal quarter during the Term, Apple will not issue credits or replace Products returned due to damage in transit or that are lost in transit. Instead, Apple will provide for a policy of insurance under which Campus Reseller may make a claim for any loss. When Products are not shipped pursuant to Apple's standard practices but instead via a carrier selected by Campus Reseller, Apple will not issue credits or replace Products returned due to damage in transit or that are lost in transit. Campus Reseller shall insure Products for their full replacement value from delivery to Campus Reseller until Campus Reseller has paid Apple in full for such Products, and shall name Apple as a loss payee on the Campus Reseller's policy.

**8.8** The return of any Products by Campus Reseller must be authorized in advance by Apple. The Return Material Authorization process is set out in the Ancillary Terms. Apple may make a charge for any Products that are not returned in accordance with the RMA.

**8.9** Apple may in its sole discretion establish a Line of Credit for Campus Reseller. If Apple establishes a Line of Credit it will do so under the following terms and conditions:

**8.9.1** Payment terms for all amounts due from Campus Reseller to Apple (including payments for Services) will be net thirty (30) days from the date of Apple's invoice, except as may otherwise be required by Apple in writing. Invoices must be paid in full by direct debit or other electronic payment method agreed between the parties in the currency invoiced without deduction, counterclaim or set off (statutory or otherwise) and in clear funds. If a direct debit is returned unpaid, Apple shall be entitled to place the Campus Reseller's account on credit hold until payment is received in full. Overdue amounts will be subject to an additional interest charge computed daily for each day that the payment is late at the rate of interest of the Inter Bank Offer Rate prevailing in the country of payment plus two per cent (2%). If payment is required to be made on a basis other than net thirty (30) days, then such modified terms, whether net fifteen (15) days, cash in advance, or otherwise, will become the ordinary course of business and dealing between Apple and Campus Reseller.

**8.9.2** The Line of Credit will limit the aggregate amount of credit that may be extended at any time to Campus Reseller for amounts owing to Apple under this Agreement, any other agreement or for any other sales or extensions of credit of any kind by Apple to Campus Reseller. The amount of the Line of Credit may be immediately adjusted upwards or downwards at any time as appropriate, at the discretion of Apple. In exercising its discretion, Apple reserves the right to consider and act upon the following, among other criteria: (i) the profitability and financial well being of Campus Reseller; (ii) whether current and accurate financial and business performance information are provided in a timely fashion by Campus Reseller; (iii) the amount and likely present value of whatever collateral or credit enhancement has been provided; and (iv) whether Apple will likely be, or has been required to realize upon and liquidate such collateral or credit enhancement. Campus Reseller acknowledges that Apple can reduce, vary or cancel the Line of Credit at any time.

**8.9.3** Apple may place sales to Campus Reseller on immediate credit hold (i.e., suspend all sales to Campus Reseller) whenever the outstanding balance owed by Campus Reseller and its subsidiaries and/or affiliates to Apple would exceed the Line of Credit or whenever Campus Reseller fails to make payment to Apple in accordance with established terms.

**8.9.4** Without prejudice to its right to terminate this Agreement for breach under Section 17, Apple reserves the right to withhold shipment and/or to declare all sums immediately due and payable in the event of a breach by Campus Reseller of any of its obligations to Apple, including the failure to comply with any credit terms.

**8.9.5** Should there at any time be monies owing from Apple to Campus Reseller, Apple will have the right to setoff such sums and apply them to any sums (whether or not due) owed by Campus Reseller or its affiliates or subsidiaries to Apple.

**8.9.6** Campus Reseller will provide to Apple (or an Apple affiliate): (i) audited annual financial statements, including a balance sheet, cash flow and profit and loss statements, as well as auditors' report and notes to financials; (ii) financial statements and similar financial information or reports routinely provided to any other vendor, lender or creditor to support extensions of credit, and (iii) such other financial information as may be reasonably requested by Apple in a format agreed upon by Apple and Campus Reseller. If such information is not provided in a timely manner, Apple may suspend all sales to Campus Reseller or exercise any other remedies hereunder until such information is provided to Apple.

**8.10** Where no credit facility has been granted to Campus Reseller or where this has been withdrawn (in Apple's absolute discretion)



payment will be required in full in cleared funds prior to delivery (unless otherwise provided in this Agreement).

**8.11** Campus Reseller acknowledges that Apple may invoke any of the remedies to recover its Product sold, or sums due for such Product, as provided in the Uniform Commercial Code of Delaware. Campus Reseller further acknowledges that it is responsible for the costs, legal and otherwise, associated with the enforcement of security provided for credit.

**8.12** The price for Products purchased directly from Apple will be the price on the applicable Apple price lists on the date that Apple accepts the order for the Products. Prices include standard freight and insurance using an Apple-selected carrier. Campus Reseller will be invoiced upon shipment of Product. Apple reserves the right to change the Apple price lists and Campus Reseller's credit terms at any time.

**8.13** Campus Reseller acknowledges that Apple has set its prices and entered into this Agreement in reliance upon the provisions of this Agreement, particularly including (but not limited to) Sections 16 and 18.1 and that the provisions of this Agreement form an essential basis of the bargain between the parties. If Apple has reasonable grounds to believe it may have a claim on any basis against Campus Reseller or its affiliates or subsidiaries, Apple may also withhold an amount it deems reasonably necessary to cover the amount of the possible claim.

**8.14** The details of any discounts, rebates or other benefits that may be available to Campus Reseller in respect of Products and the relevant conditions or requirements which attach thereto will be set out in the applicable Ancillary Terms. Without prejudice to its right to terminate this Agreement for breach under Section 17, Apple may withdraw immediately any such discounts, rebates or other benefits and/or the participation in any program, in whole or in part, in the event of a breach by Campus Reseller of this Agreement or in the event of non-compliance with the relevant Ancillary Terms.

**8.15** Campus Reseller will provide Apple with a properly executed resale certificate and any other documentation requested by the taxing jurisdiction, (such taxing jurisdiction to be determined under applicable law), to substantiate any claim of exemption from taxes, duties, or imposts. For the avoidance of doubt, the taxing jurisdiction under applicable law is currently the state of destination for the shipped Product(s).

#### **9. Confidentiality**

**9.1** During the Term and for five (5) years thereafter, Campus Reseller will not use Apple Confidential Information except as required to achieve the objectives of this Agreement, or disclose such Apple Confidential Information except to employees or contractors who have a need to know. Campus Reseller will not make any disclosure or statement of Apple Confidential Information in connection with the Agreement or its subject matter without Apple's prior, specific written consent. Campus Reseller shall not make any public statement regarding any item of Apple Confidential Information, including but not limited to any matter of business between Apple and Campus Reseller or any third party. Campus Reseller may disclose Apple Confidential Information to the extent required by law, provided that it first makes reasonable efforts to give Apple notice of such requirement prior to any such disclosure and takes reasonable steps to obtain protective treatment of the Apple Confidential Information.

**9.2** Apple will not use Campus Reseller Confidential Information except as required to achieve the objectives of this Agreement, or disclose such Campus Reseller Confidential Information except to employees, agents or contractors who have a need to know or as required by law. Except as otherwise stated herein, Apple will not make any disclosure or statement of such information or its subject matter without the Campus Reseller's prior written consent or as required by law.

#### **10. Limited Warranty to Campus Reseller**

**10.1** Apple warrants that any Products purchased for resale to Customers pursuant to this Agreement will as of the date of shipment conform to their general descriptions on the Apple price list current as of the date Apple sold such Product to Campus Reseller. Campus Reseller's sole and exclusive remedy for any breach of this warranty will be a credit to Campus Reseller's account for the original amount of Campus Reseller's purchase price for such non-conforming Products after such Products are returned to Apple. THE FOREGOING CONSTITUTES CAMPUS RESELLER'S SOLE REMEDY AND APPLE'S SOLE AND EXCLUSIVE OBLIGATION FOR ALL WARRANTY CLAIMS.

**10.2** OTHER THAN AS STATED IN SECTION 10.1 ABOVE, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES WITH RESPECT TO APPLE PRODUCTS, SERVICES, APPLE MARKS, APPLE CONTENT, AND/OR APPLE'S PERFORMANCE UNDER THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE HEREBY EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY LAW. THIRD PARTY PRODUCTS ARE SOLD "AS-IS" WITH ALL FAULTS AND WITHOUT EXPRESS OR IMPLIED WARRANTIES BY APPLE. THIRD PARTY PRODUCTS MAY BE ACCOMPANIED BY THEIR MANUFACTURER'S STANDARD LIMITED WARRANTIES.

#### **11. Records, Inspections and Audits**

**11.1** Campus Reseller will maintain, for or at the applicable Campus Store Location its records, contracts and accounts relating to the sale of Apple Products for at least five (5) years including, without limitation, (i) the delivery of the Products to Campus Reseller, including the date of such deliveries and the serial numbers of Products delivered; and (ii) the sale of Products, including the identity of the Campus Reseller's Customers (to the extent permitted by law), the date of such sales to Customers and the serial numbers of the Products sold. During the Term and for five (5) years after its expiration or termination, Apple will have the right to inspect Campus Reseller's records, contracts and accounts relating to the sale of Apple Products. Campus Reseller will provide information regarding Campus Store Locations and any other information that Apple may reasonably request, including but not limited to, sales and inventory reports, in formats prescribed by Apple.





11.2 During the Term and for a period of five (5) years after expiration or termination of the Agreement, Apple will have the right to conduct an audit of Campus Store location and other related facilities at any time during the regular business hours for purposes of verifying Campus Reseller's compliance with the terms of this Agreement and Ancillary Terms. Upon Apple's reasonable request, made directly by Apple or by Apple's external auditors, Campus Reseller will promptly provide copies of any requested records, financial statements and documents. Campus Reseller will ensure that it maintains records related to the sale of Products such that Campus Reseller can fully comply with inspections and audits by Apple. Campus Reseller will cooperate and assist with all reasonable requests made by Apple regarding inspections and audits and will not attempt to limit their scope.

11.3 Apple has the right to restrict Campus Reseller's access to Apple Products or discontinue Campus Reseller's participation in special programs until Apple determines that Campus Reseller is cooperating with inspections and audits described herein, including requests for compliance under the Agreement, in Apple's sole discretion. A failure by the Campus Reseller to respond promptly to or cooperate with Apple's request to inspect or audit Campus Reseller's records, contracts and accounts relating to the sale of Apple Products (made directly by Apple or by Apple's external auditors) will be viewed as a material breach of this Agreement and grounds for immediate termination.

11.4 If Apple determines that Campus Reseller has failed to maintain such documentation or otherwise engaged in any fraudulent conduct with respect to this Agreement, Apple may withhold any payments otherwise due from Apple to Campus Reseller and may demand that Campus Reseller (i) repay to Apple all fees and other compensation fraudulently obtained by Campus Reseller, or obtained without proper substantiation, and (ii) pay to Apple the then-current price of any Products in respect of which Apple reimbursed Campus Reseller in relation to such fraudulent or unsubstantiated activities. If the fraudulent or unsubstantiated activities discovered during Apple's inspection or audit exceed, in the aggregate, five thousand dollars (\$5,000) in value during the period under review, Campus Reseller will reimburse Apple for its costs of conducting the inspection.

## 12. Proprietary Rights

### 12.1 Apple Marks

Campus Reseller's authorization to use Apple Marks are stated in the Trademark License Agreement which is attached to this Agreement and incorporated herein by this reference as Exhibit A. Any Campus Reseller violation of the Trademark License Agreement shall constitute a material breach of this Agreement and shall be grounds for immediate termination of this Agreement by Apple. This Agreement gives Campus Reseller no rights to any Apple Intellectual Property other than as expressly stated herein.

### 12.2 Software Rights

Campus Reseller will not separate any software or end-user license from any Product packaged by Apple or remove any terms of service that pertain to the services. Campus Reseller will not modify or remove any such end user license agreements or terms of service. Campus Reseller may distribute software incorporated in or packaged with any Product solely in connection with the authorized sale of such Product, but not otherwise, and will have no other rights with respect to such software. Campus Reseller will pass on to Customers, at the time of purchase, any and all end-user license agreements as originally received from Apple and/or as originally included with the Product, and any terms of service that pertain to the Services. Campus Reseller will not, and will not authorize any third parties to, disassemble, de-compile, reverse engineer, copy, modify, create derivative works of, or otherwise change any software, its form or coding. Software is licensed to Customers, not sold, under the terms of the applicable end user license agreements pertaining to such software.

### 12.3 Apple Proprietary Customer Information

Notwithstanding anything to the contrary herein, Campus Reseller acknowledges that: (i) Apple maintains Customer Information derived from sources other than Campus Reseller, including but not limited to Product registration and use of Apple's web sites; (ii) such Customer Information may be identical to information contained in any reports or sales data furnished by Campus Reseller or that Campus Reseller has developed, maintains, or collects; and (iii) Apple owns its Customer Information and all proprietary interests therein, whether or not Campus Reseller has derived or maintains identical information or has or asserts any rights therein. Campus Reseller hereby disclaims any right or interest whatsoever in Apple's Customer Information and agrees not to contest Apple's rights therein.

### 12.4 Apple Content

Apple may elect, in its sole and absolute discretion, to make certain Apple Content available to Campus Reseller pursuant to the applicable Ancillary Terms. To the extent, if any, that Apple elects to provide certain Apple Content to Campus Reseller then any and all such use of Apple Content by Campus Reseller is subject to Campus Reseller's compliance with the following license, the terms of the Agreement and Apple's applicable trademark, merchandising and marketing guidelines and policies that may be referenced in any of the Ancillary Terms. Subject to the terms of this Agreement, the eligibility requirements for access to certain Apple Content, and Ancillary Terms pertaining to certain Apple Content, Campus Reseller is granted a non-exclusive, revocable license solely during the Term, to use, reproduce, perform (as applicable) and display such Apple Content solely for the purpose of advertising and promoting Apple Products in accordance with the Agreement, but not otherwise, and provided that all such use is in full compliance at all times with Apple's then-current applicable Identity Guidelines. Campus Reseller understands that its access to all or any Apple Content may be at a charge to Campus Reseller and that Apple is under no obligation to furnish Apple Content or to do so on a gratis basis. Campus Reseller agrees to remove or substitute any or all Apple Content immediately and at Campus Reseller's sole cost and expense, if required to do so by Apple. In addition, upon any expiration or termination of the Agreement, Campus Reseller will be responsible for destruction and/or removal of Apple Content made available to Campus Reseller during the Term in accordance with Apple's applicable requirements pertaining to such Apple Content.

12.5 Campus Reseller agrees to use reasonable efforts to protect Apple's proprietary rights, including Apple Intellectual Property, and to co-operate without charge in Apple's efforts to protect its proprietary rights, including efforts to prevent the sale and distribution of Prohibited Products.

## 13. Business Ethics



**13.1** Campus Reseller has reviewed and understands Apple's policies with respect to ethical business conduct and agrees to fully comply with all such policies.

**13.2** Campus Reseller shall comply with all applicable laws and regulations enacted to combat bribery and corruption, including the United States Foreign Corrupt Practices Act ("FCPA"), the UK Bribery Act, the principles of the OECD Convention on Combating Bribery of Foreign Public Officials (the "OECD Convention") and any corresponding laws of all countries where business or services will be conducted or performed pursuant to this Agreement. Any amounts paid by Apple to Campus Reseller pursuant to the terms of this Agreement will be for the services actually rendered, or products sold, in accordance with the terms of this Agreement. Campus Reseller shall not, directly or indirectly through a third party pay, offer, promise to pay, or give anything of value (including any amounts paid or credited by Apple to Campus Reseller) to any person, including an employee or official of a government, government controlled enterprise or company or political party, with the reasonable knowledge that it will be used for the purpose of obtaining any improper benefit or to improperly influence any act or decision by such person or party for the purpose of obtaining, retaining, or directing business.

**13.3** Campus Reseller, to the extent permissible by law, shall notify Apple of any circumstance whereby, to the best of the Campus Reseller's knowledge, an owner, partner, officer, director or an employee of the Campus Reseller who is assigned to a current or prospective Apple customer account has been or will become, during the Term, an official or employee of a governmental entity or political party or a candidate for political office.

**13.4** Campus Reseller represents and warrants that all information provided to Apple in connection with Campus Reseller's selection and approval is complete and true. Campus Reseller further warrants that any information required or requested by Apple during the Term will be complete and true.

#### **14. Insurance**

Throughout the Term and for each Campus Store Location, Campus Reseller will secure commercial general liability insurance, including coverage for bodily injury, property damage, personal and advertising injury, premises liability, products and completed operations liability, and contractual liability. This policy will have limits of: (i) not less than one million dollars (\$1,000,000), per occurrence for bodily injury, property damage, and personal and advertising injury; and (ii) not less than a two million dollar (\$2,000,000) annual aggregate for all such occurrences. Apple shall be included as an additional insured pursuant to ISO Form 20 26, or its reasonable equivalent, on the foregoing coverage, but only to the extent of liabilities falling within Campus Reseller's indemnity obligations pursuant to Section 15.4 below. A Certificate of Insurance, or similar documentation of coverage, will be made available to Apple at its request.

#### **15. Indemnity**

**15.1** Provided that Campus Reseller promptly notifies Apple in writing, gives Apple sole control over the defense and all related settlement negotiations, and does not compromise or settle any claims then, subject to the terms of this paragraph and the exceptions and limitations set forth below, including but not limited to Section 16.3, 16.4 and 16.5, Apple will defend, hold harmless and indemnify Campus Reseller against a proceeding or action brought by a third party against Campus Reseller to the extent based on a claim that: (i) Apple Product sold by Campus Reseller in accordance with the Agreement that a Customer has paid to acquire infringes a U.S. patent, copyright, or trademark or misappropriates a U.S. trade secret; or (ii) a defective Apple Product purchased from Campus Reseller directly caused death, personal injury or tangible property damage.

**15.2** Notwithstanding the foregoing, Apple shall not be liable for or obligated to defend any claims or damages arising out of or related to: (i) change, alteration or Modification of any Apple Product, Apple Marks or Apple Content; (ii) combination of the Apple Product with any other equipment, data, documentation, items or products; (iii) use of any Apple Product in a manner or for a purpose for which it was not intended; (iv) failure to use an upgrade or replacement version of any Apple Product when such upgrade or replacement version is made available by Apple; (v) import or export of any Apple Product in violation of applicable export control requirements, regulations or laws; (vi) use or exportation of any Apple Product(s) into any countries identified on any U.S. Government embargoed countries list; (vii) use of any Apple Product in a manner or for a purpose not authorized under the applicable end user license agreement; (viii) use of any Apple Marks or Apple Content in a manner not expressly authorized in the Agreement; (ix) Campus Reseller's, its employees, agents, affiliates, subsidiaries or subcontractor's negligence, acts or omissions; or (x) Campus Reseller's violation of its obligations under Section 6.10 (Campus Reseller Representations, Warranties and Guarantees of Apple Product).

**15.3** In the event of any alleged, actual or potential claim arising under this Section, Apple may at its sole option (but shall not be obligated to): (i) procure for Campus Reseller the right to continue use or resale of the applicable Apple Product, (ii) replace or modify the applicable Apple Product, or (iii) If Apple determines, in its sole discretion, that neither of the foregoing options are commercially reasonable, then Apple may issue a pro-rata refund of the amount paid by Campus Reseller for the applicable infringing Apple Product, less depreciation on a straight line, three-year basis. THE FOREGOING CONSTITUTES CAMPUS RESELLER'S SOLE AND EXCLUSIVE REMEDY AND APPLE'S ENTIRE LIABILITY FOR ANY CLAIMS ARISING OUT OF THIS SECTION 15.

**15.4** Campus Reseller will defend, hold harmless and indemnify Apple, its employees and agents from and against any claim or threat of claim brought by a third party against Apple arising out of the acts and/or omissions of Campus Reseller, its employees, agents, affiliates, subsidiaries or contractors, including without limitation any alleged violation by Campus Reseller of its obligations under Section 6.1(iii) or 6.10 (Campus Reseller Representations, Warranties and Guarantees of Apple Product).

**15.5** A Party seeking indemnification under this Section shall cooperate with and provide reasonable assistance to the indemnifying Party in defending or settling any indemnified claim or proceeding. Neither Party will make public the existence or terms of any settlement.



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## **16. Limitation of Liability and Remedies**

**16.1** The maximum aggregate liability of either Party to the other (including any liability for the acts or omissions of either Party's employees, agents and sub-contractors) for any and all claims of any kind arising out of or in connection with the Agreement, whether in contract, warranty, tort (including negligence), misrepresentation, strict liability, statute, or otherwise, shall be limited to: the total amounts paid by Campus Reseller to Apple in the twelve (12) months immediately preceding the date the initial claim is made by a Party against the other or one hundred thousand dollars (\$100,000) or local equivalent value, whichever is greater; provided however, that in no event shall all recoveries by a Party in connection with the Agreement exceed three hundred thousand dollars (\$300,000) or local equivalent value.

**16.2** Notwithstanding anything to the contrary, the Parties agree that the limitations set forth in the preceding Section 16.1 shall not apply to: (i) valid claims under Section 15 of this Agreement with respect to U.S. patent infringement and/or with respect to defective Apple Products that directly cause death, personal injury or tangible personal property damage; (ii) any claims by Apple against Campus Reseller for violation of intellectual property rights, including claims under Section 12 of this Agreement; or (iii) the amount Campus Reseller owes to Apple and/or the amounts to which Apple may be entitled for Products ordered from Apple.

**16.3** IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, STATUTE OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY LOSS OF PROFIT OR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT LOSSES (INCLUDING LOSS OF DATA, INTERRUPTION IN USE, UNAVAILABILITY OF DATA, UNAVAILABILITY OR INTERRUPTION IN AVAILABILITY OF APPLE PRODUCTS, OR OTHER ECONOMIC ADVANTAGE) OR FOR PUNITIVE OR EXEMPLARY DAMAGES.

**16.4** The remedies set forth in this Agreement will be Campus Reseller's sole and exclusive remedies for any claim against Apple under or related to the Agreement. Campus Reseller hereby waives and relinquishes any other rights or claims under franchise, dealership, agency, or other statutes, or at common law that would or might arise out of Apple's termination of the Agreement, or any Program, Apple's refusal to accept Campus Reseller's order, Apple's refusal to renew or extend the Term, or any other cause arising out of or in connection with the Agreement.

**16.5** THE PARTIES AGREE THAT THE TERMS OF THE AGREEMENT, INCLUDING THOSE CONCERNING WARRANTIES, INDEMNITY AND LIMITATIONS OF LIABILITY, REPRESENT A FAIR ALLOCATION OF RISK BETWEEN THE PARTIES WITHOUT WHICH THEY WOULD NOT HAVE ENTERED INTO THIS AGREEMENT. LIABILITY FOR DAMAGES WILL BE LIMITED AND EXCLUDED, EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR IN THE AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

## **17. Term and Termination**

### **17.1 Term**

Campus Reseller acknowledges that it has no expectation that the Term of the Agreement will be renewed or otherwise extended by Apple. Campus Reseller understands and agrees that any re-authorization of Campus Reseller after the Term to resell Product is not automatic and shall be entirely within Apple's sole and absolute discretion.

### **17.2 Termination for Convenience**

This Agreement may be terminated by either Party at any time without cause (i.e., for any or no reason), on thirty (30) days' written notice to the other Party.

### **17.3 Termination for Cause**

Apple may immediately terminate this Agreement and any other existing agreement with Campus Reseller if: (i) Campus Reseller fails to fully perform any obligation under the Agreement or any Ancillary Terms; (ii) Campus Reseller commits a felony or engages in any unlawful or unfair business practice; (iii) there is a material change in or transfer of Campus Reseller's management, ownership, control or business operations, or Campus Reseller becomes affiliated, through common management, ownership, or control, with any person or entity that is unacceptable to Apple; (iv) Campus Reseller's actions expose or threaten to expose Apple to any liability, obligation, or violation of law; (v) Campus Reseller fails to maintain sufficient net worth and working capital to meet its obligations; (vi) Campus Reseller has a receiver or trustee appointed for its property, becomes insolvent or makes an assignment for the benefit of creditors; (vii) Campus Reseller closes its last Authorized Location; (viii) Campus Reseller fails to satisfy any of its obligations under the Ancillary Terms to a non-material degree and fails to cure such failure within thirty (30) days of being notified in writing of the requirement to do so.

### **17.4 Material Breach**

Without limiting the materiality of any other breach, Campus Reseller understands that its violation of Sections 7 (Export Obligations), 9 (Confidentiality), 11 (Records, Inspection & Audits), 12 (Proprietary Rights), and/or 13 (Business Ethics) shall constitute a material breach of this Agreement and grounds for immediate termination of the Agreement by Apple.

### **17.5 Effect of Notice of Termination**

If either Party gives notice of termination of the Agreement according to Section 17: (i) all unpaid invoices issued by Apple will be accelerated and become immediately due and payable on the effective date of termination; (ii) Apple may refuse all or part of Campus Reseller's orders received by Apple after the date of notice of termination; (iii) Campus Reseller will cease placing new orders for Products from Apple on the effective date of termination.

### **17.6 Effect of Expiration or Termination**

Upon expiration or termination of the Agreement: (i) Campus Reseller will immediately cease and desist from marketing or distributing Products and Services; (ii) Campus Reseller will immediately cease and desist use of any and all Apple Content, and the Apple Marks including any designation granted under this Agreement (e.g., "Apple Authorized Campus Reseller"); (iii) Apple will



cancel and be released from all obligations regarding all unshipped Product orders; (iv) Campus Reseller will no longer accrue any promotional allowances or other available funds; (v) Campus Reseller will immediately pay all amounts due and owing; (vi) Campus Reseller will return promptly to Apple all Apple property in Campus Reseller's possession, such as loaned equipment, all material provided to Campus Reseller by Apple, including material comprising or containing Apple Confidential Information; and (vii) Campus Reseller shall not be authorized to access ASW. Apple shall not be obligated to refund any amounts due Campus Reseller until forty five (45) days after Campus Reseller has complied fully with Sections 17.5 above.

#### **17.7 Survival**

All defined terms and the following Sections of this Agreement shall survive expiration or any termination of the Agreement: 7 (Export Compliance); 9 (Confidentiality); 11 (Records, Inspections and Audits); 15 (Indemnity); 16 (Limitation of Liability); 17.6 (Effect of Expiration or Termination); 17.7 (Survival); 18 (General Terms) and; any other Sections that by their nature would reasonably be expected to survive expiration or termination.

#### **17.8 Termination by Campus Reseller**

Campus Reseller may terminate this Agreement at any time if Apple fails to perform any material obligation or responsibility and such failure continues without being remedied for a period of thirty (30) days after written notice thereof.

### **18. General Terms**

#### **18.1 Governing Law**

If Campus Reseller is a public agency or institution, this Agreement will be governed by the laws of the state where Campus Reseller is located or if Campus Reseller is a federal government agency, this Agreement will be governed and interpreted in accordance with applicable federal law. If Campus Reseller is a private or corporate entity, this Agreement will be governed by the laws of the State of Delaware, without regard to its conflict of laws provisions, and in the event of any action between the parties, venue shall be in the State of California.

#### **18.2 Dispute Resolution**

A Party must escalate a dispute or controversy by providing written notice to the other. Both Parties agree to attempt to resolve any dispute or controversy in good faith.

Notwithstanding the foregoing sentence, after sixty (60) days from the complaining Party's written notice to the other Party of a dispute or controversy, either Party can seek to resolve the dispute or controversy by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of the arbitration shall be California. The number of arbitrators shall be one (1) for claims where the award sought is less than \$250,000 and three (3) for claims where the award sought is \$250,000 or greater.

Nothing in Section 18 shall prevent any Party from seeking provisional, interim or conservatory measures, including, but not limited to temporary restraining orders or preliminary injunctions or their equivalent, from any court of competent jurisdiction at any time. Any such request by a Party to a court for provisional, interim, or conservatory measures shall not be deemed incompatible with the agreement to arbitrate in Section 18.2 or a waiver of the right to arbitrate.

The prevailing party shall be entitled to recover its reasonable costs, including administrative fees and expenses, arbitrators' fees and expenses, and fees and expenses of legal representation, incurred in the arbitration proceedings.

Except as may be required by law, neither Party nor its representatives may disclose the existence, content, or results of any arbitration under Section 18.2 without the prior written consent of all Parties.

#### **18.3 Limitation of Claims**

Except for any outstanding amount due to Apple by Campus Reseller under the Agreement, the Parties' efforts to resolve any dispute or controversy pursuant to this Section shall not toll or extend the required period for commencing arbitration set forth in Section 18.2.

**ANY ARBITRATION ARISING OUT OF ANY DISPUTE OR CONTROVERSY BETWEEN THE PARTIES TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE (1) YEAR FROM THE EARLIER OF THE NOTICE OF TERMINATION UNDER SECTION 17 OR THE WRITTEN NOTICE OF THE DISPUTE OR CONTROVERSY UNDER SECTION 18.2. IF A LONGER PERIOD IS PROVIDED BY STATUTE, THE PARTIES HEREBY EXPRESSLY WAIVE IT.**

#### **18.4 Venue: Time to Bring Claims**

If the Parties are unable to resolve the dispute or controversy within sixty (60) days after commencing mandatory escalation in Section 18.2, either Party may commence litigation in the state or federal courts in Santa Clara County, California (but only such courts). Notwithstanding the foregoing, each Party shall have the right to seek urgent relief in order to protect any rights to confidentiality or intellectual property. The Parties hereby waive any applicable bond requirements for obtaining urgent relief and also waive any requirement to show that damages would be an inadequate remedy to obtain such relief. **ANY LITIGATION ARISING OUT OF ANY DISPUTE OR CONTROVERSY BETWEEN THE PARTIES TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE (1) YEAR FROM THE EARLIER OF: (i) NOTICE OF TERMINATION UNDER SECTION 17; (ii) A REQUEST FOR ARBITRATION UNDER SECTION 18.2; OR (iii) THE DATE THE ACTION ACCRUED. IF A LONGER PERIOD IS PROVIDED BY STATUTE, THE PARTIES HEREBY EXPRESSLY WAIVE IT.**

#### **18.5 Notice under the Agreement**

Notices under the Agreement may be given as follows:



18.5.1 Any notice under this Agreement, except for notices as contemplated below in Sections 18.5.2 and 18.5.3, must be in writing and will be deemed given upon the earlier of actual receipt or ten (10) days after being sent by first class mail, return receipt requested, to the address stated below for Apple and to the address designated in this Agreement by Campus Reseller for receipt of notices, or as may be provided by the Parties.

Apple Inc.  
U.S. Contracts Operations  
1 Infinite Loop, M/S 318-6 OPS  
Cupertino CA 95014

18.5.2 Either Party may give notice of its change of address for receipt of notices in any of the following manners: (a) in accordance with Section 18.5.1, (b) by email to the address provided by the Party, or (c) as otherwise authorized by Apple.

18.5.3 Notices of changes to the Ancillary Terms will be given by Apple by posting on ASW or sent by email and will be deemed given when posted on ASW or when sent by email to the address provided by Campus Reseller.

#### **18.6 Assignment or Material Change by Campus Reseller**

Without limiting Campus Reseller's obligations under Section 6 above, Campus Reseller will notify Apple promptly in writing if there is a change in the status of a Campus Store Location; or Campus Reseller acquires an ownership, managerial or controlling interest in a third party that sells or services Products. Campus Reseller may not assign this Agreement or any right or benefit hereunder in whole or part without Apple's prior written approval.

#### **18.7 Assignment by Apple**

Apple may assign this Agreement, in whole or in part, in Apple's sole and absolute discretion, to any affiliate of or successor in interest to Apple, without the consent of Campus Reseller.

#### **18.8 Variations & Amendments**

Without prejudice to any other provision of this Agreement, Apple shall be entitled in its absolute discretion to make variations and amendments as follows: (i) variations and amendments to the Agreement may be made upon thirty (30) days' written notice from Apple Sales Contract Management to Campus Reseller, which notice may be given by email; (ii) variations and amendments to the Ancillary Terms may be made by Apple without notice to Campus Reseller, and such variations or amendments will be immediately binding on Campus Reseller upon Apple's posting of any varied or amended version(s) on ASW or otherwise communicating such varied or amended version(s) in writing. Variations and amendments to the Agreement that are mutually executed shall take immediate effect. No other variation or amendment shall be binding unless made in writing and signed by an authorized representative of each Party.

#### **18.9 Entire Agreement**

Apple and Campus Reseller acknowledge that the Agreement supersedes and extinguishes all previous agreements and representations (whether oral or written), between or on behalf of the Parties with respect to its subject matter. The Agreement contains all of Apple's and Campus Reseller's agreements, warranties, understandings, conditions, covenants, promises and representations with respect to its subject matter. Apple and Campus Reseller acknowledge and agree that they have not relied on any other agreements, warranties, understandings, conditions, covenants, promises or representations in entering into this Agreement. Neither Apple nor Campus Reseller will be liable for any agreements, warranties, understandings, conditions, covenants, promises or representations not expressly stated or referenced in this Agreement. Apple is deemed to have refused any provisions in purchase orders, invoices or other documents or statements from Campus Reseller that purport to alter or have the effect of altering any provision of the Agreement and such refused provisions will be unenforceable.

#### **18.10 No Reliance**

Apple and Campus Reseller each acknowledge and agree that, in entering into the Agreement, they have not relied on and will not be liable for any agreements, warranties, understandings, conditions, covenants, representations or promises other than those expressly stated or referenced in the Agreement. The parties acknowledge and understand that all terms of the Agreement are enforceable as written, and that Apple and Campus Reseller intend to enforce and comply with all written terms of the Agreement. Campus Reseller hereby acknowledges and agrees that it will be bound by all the terms in the Agreement, notwithstanding any prior or subsequent agreement, warranty, understanding, condition, covenant, representation or promise suggesting otherwise.

#### **18.11 Relationship of Parties**

Campus Reseller acknowledges that Campus Reseller is an independent contractor, has no power or authority to bind Apple, and under this Agreement is contracting only to receive certain goods and services. Nothing in the Agreement creates any other relationship between Apple and Campus Reseller, including, but not limited to, partnership, joint venture, employer-employee, principal-agent or franchisor-franchisee. Campus Reseller acknowledges that it is not offering or selling Products under a marketing plan or system prescribed by Apple and that Campus Reseller sells Products at prices set solely by Campus Reseller. Campus Reseller shall confirm the status of its relationship to Apple and its lack of authority to act on Apple's behalf whenever necessary to avoid third party confusion.

#### **18.12 Severability**

If a court of competent jurisdiction holds that any provision of this Agreement is invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect, and this Agreement will be adjusted if possible so as to give maximum effect to the original intent and economic effect of the Parties.



#### 18.13 Waivers

A Party's waiver of any breach by the other Party or failure to enforce a remedy will not be considered a waiver of subsequent breaches of the same or of a different kind.

#### 18.14 Force Majeure

Neither Party will be liable for delay or failure to fulfill its obligations under this Agreement, other than payment obligations, to the extent such delay or failure is due to unforeseen circumstances or causes beyond the Party's reasonable control, including, but not limited to, acts of God, war, riot, embargoes, acts of civil or military authorities, acts of terrorism or sabotage, fire, flood, accident, strikes, inability to secure transportation, pandemic failure of communications networks, (a "Force Majeure"), provided such Party promptly notifies the other Party and uses reasonable efforts to correct such failure or delay in its performance. Campus Reseller may cancel any order delayed by more than thirty (30) days from the scheduled ship date due to a Force Majeure.

#### 18.15 Headings and Construction

Paragraph headings are for reference only and will not affect the meaning or interpretation of this Agreement. Wherever the singular is used, it includes the plural, and wherever the plural is used, it includes the singular.

#### 18.16 Signature Authorization and Electronic Signature

The person signing this Agreement certifies that he or she has authority to contractually bind Campus Reseller to the terms and conditions of this Agreement. The Parties agree that this Agreement or any related documents may be accepted by electronic signature which shall be accepted in lieu of a handwritten signature with full force and effect.

#### 18.17 Counterparts

This Agreement may be executed in one or more counterparts each of which when so executed shall be deemed to be an original and shall have the same force and effect as an original. Such counterparts together shall constitute one and the same instrument.

The duly authorized representatives of the Parties execute this Agreement as of the dates stated below.

Campus Reseller:

Apple Inc.

SIGNATURE:

PRINT NAME:

Robert Grillo

PRINT TITLE:

CIO & Vice President of IT

DATE:

7/8/16

SIGNATURE:

PRINT NAME:

PADDY WONG

PRINT TITLE:

MANAGER - SALES OPERATIONS

EFFECTIVE DATE:

6/13/16

By:

Wendi Appelbaum  
Assistant General Counsel

Date: 7-5-16



## EXHIBIT A: TRADEMARK LICENSE AGREEMENT

### 1. License to Use of Apple Marks

1.1 Apple grants Campus Reseller a non-exclusive, non-transferable, revocable, limited license to use the Apple Marks solely to promote and sell Products in the Territory provided that Campus Reseller complies with:

(i) the Campus Reseller Agreement;

(ii) this Trademark License Agreement (hereafter "License Agreement");

(iii) Apple's Guidelines for Using Apple Trademarks and Copyrights (available at

<http://www.apple.com/legal/trademark/guidelinesfor3rdparties.html>); which are incorporated herein by reference and may be amended from time to time without prior notice to Campus Reseller (hereafter "Trademark Guidelines"); and

(iv) the Apple Identity Guidelines for Channel Affiliates and Apple-Certified Individuals (available through the secure Apple Sales Web), which are incorporated herein by reference and may be amended from time to time without prior notice to Campus Reseller (hereafter "Identity Guidelines").

1.2 General Usage Guidelines. In addition to the specific guidelines articulated in the Trademark Guidelines and the Identity Guidelines, Campus Reseller agrees:

(i) Not to incorporate or integrate any Apple Mark, and not to incorporate or integrate any Apple Mark or any element of an Apple Mark, including, but not limited to, an Apple design, the detached leaf or bite elements of the Apple logo, into any mark of Campus Reseller or a third party;

(ii) Not to obfuscate or remove any Apple Mark or third party mark from any materials provided by Apple or to any packaging for the Products, and not to add any mark of Campus Reseller or a third party to any materials provided by Apple or any packaging for the Products;

(iii) Not to use or register, in whole or in part, any mark that is confusingly similar to or that dilutes any Apple Mark, as or as part of a company name, company logo, trade name, product name, service name, or domain name. If Campus Reseller has filed or obtained in any country any trademark application, trademark registration, or domain name registration that relates to any name or mark that, in the sole opinion of Apple, is similar, deceptive, or misleading with respect to any Apple Mark or any other mark, design or trade dress of Apple, Campus Reseller shall immediately abandon any such application, registration or domain name or, at Apple's sole discretion, assign it to Apple;

(iv) Not to imitate the trade dress, design, layout, or "look and feel" of Apple's products or services, including, but not limited to, Apple's retail stores, licensed retail sales programs, web sites, logos, typefaces, or product packaging; and

(v) Not to use the Apple Marks in any unauthorized manner that would imply Apple's affiliation with or endorsement, sponsorship, or support of Campus Reseller.

1.3 Compliance. Campus Reseller shall, within five business days after Apple's request, send to Apple representative samples of Campus Reseller's advertisements, brochures, web pages, and other marketing and promotional materials bearing any Apple Marks. If, upon review of such materials or otherwise, Apple determines in its sole discretion that Campus Reseller is in violation of the Campus Reseller Agreement, this License Agreement, the Trademark Guidelines, or the Identity Guidelines, then Campus Reseller shall promptly correct or cease its use of the Apple Marks as directed by Apple. Without limiting the foregoing, at Apple's request, Reseller shall promptly recall any copies of such materials and destroy them.

1.4 Conflicts. Should there be any conflict between this License Agreement and the Campus Reseller Agreement regarding any matter relating to the Apple Marks or any other mark of Campus Reseller or any third party, this License Agreement and the language contained therein shall control.

1.5 Termination. The term of this License Agreement shall be the same as the Term of the Agreement. Upon expiration or termination of the Campus Reseller Agreement, Campus Reseller will immediately cease all use of the Apple Marks, including, but not limited to, channel designations such as "Apple Campus Authorized Reseller" and associated channel signatures.

### 2. Protection of Apple Marks

2.1 Reservation and Protection of Rights. This License Agreement gives Campus Reseller no rights to any Apple Marks or other intellectual property except as expressly stated herein. Campus Reseller agrees that Apple owns all rights in the Apple Marks and each of them, and that any use thereof by Campus Reseller shall inure to the benefit of Apple. Campus Reseller shall not at any time, whether during or after the term of this License Agreement, take any action to challenge, contest, impair, disparage, invalidate, or that would tend to impair or invalidate any of Apple's rights in the Apple Marks or any applications or registrations therefore or any other Apple Intellectual Property. During and after the term of this License Agreement, Campus Reseller agrees to assist Apple, to the extent necessary, in the procurement and/or expansion of any protection of the Apple Marks, including trademark and domain name registrations, and Campus Reseller agrees to execute all documents deemed reasonably necessary to procure such protection in Apple's name.

2.2 Enforcement. Campus Reseller agrees to notify Apple if Campus Reseller becomes aware of:

(i) Any uses of, or any application or registration for a mark that conflicts with, dilutes, or is confusingly similar to any Apple Mark;

(ii) Any acts of infringement, dilution, or unfair competition involving any Apple Mark; or

(iii) Any allegations or claims whether or not made in a lawsuit, that the use of any Apple Mark by Apple or Campus Reseller infringes or otherwise violates the trademark or service mark or other rights of any other entity.

2.3 Apple may, but shall not be required to, take whatever action it, in its sole discretion, deems necessary or desirable to protect the validity and strength of the Apple Marks. Campus Reseller agrees to comply at its own expense with all reasonable requests from



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Apple for assistance in connection with any action with respect to the Apple Marks that Apple may choose to take. Campus Reseller shall not institute or settle any claims or litigation affecting any rights in and to the Apple Marks, or any other Apple Intellectual Property.





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**EXHIBIT B**  
**Sample Verification of Eligibility Form**

**DIRECTIONS:** Each campus must prepare its own Verification of Eligibility Form containing all of the information and certifications below. **The Verification of Eligibility Form may be incorporated into Campus Reseller's own customized order form or copied on Campus Reseller's letterhead.** Campus Reseller must ensure the eligibility of each purchaser and ensure that the purchaser has completed and signed Purchaser's Verification of Eligibility Form at the time of purchase.

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**VERIFICATION OF ELIGIBILITY FORM**

**I certify that I meet the eligibility requirements marked below: (Check one only)**

☐ I am a **student** who is enrolled in a course of study leading to a degree or certificate from Institution

☐ I am an **entering student** who has been accepted to the Campus Reseller's Institution and has responded by stating my intent to enroll in Campus Reseller's Institution.

☐ I am a **faculty member** of Campus Reseller's Institution.

☐ I am a **staff member** who directly furthers Institution's academic mission and I am not a temporary employee, employed as a contractor, or acting as a consultant on behalf of Institution.

**By signing below, I certify that:**

1. The Apple products I am purchasing through the above named Campus Reseller Agreement with Apple Inc. are for my own personal, educational and/or research use.

2. I am not purchasing the Apple products for the purpose of further resale.

[Institution should be named on this document]

**INDIVIDUAL'S CERTIFICATION**

**SIGNATURE:**

\_\_\_\_\_  
**PRINT NAME:**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**I.D. NUMBER**

**Description of Equipment Purchased:**

**Serial Number:**

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____




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**Online Authorization Amendment to the Apple Authorized Campus Reseller Agreement**

This Online Authorization Amendment ("Amendment") amends the Apple Authorized Campus Reseller Agreement ("Agreement") entered into by and between Apple Inc., a California corporation located at 1 Infinite Loop, Cupertino, CA 95014 ("Apple") and:

Institution Legal Name ("Campus Reseller"): The Florida International University Board of Trustees

DBA Name: Florida International University

Address: 11200 SW 8th Street

Miami, Florida 33199

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### **1. Background**

This Amendment authorizes Campus Reseller to offer, distribute and sell certain Apple Products through its Authorized Web Locations (as defined below) for delivery to Eligible Individual Purchasers in the United States. In addition to the Agreement, the following terms apply to the marketing and sales of Apple Products via Authorized Web Locations.

### **2. Interpretation**

Capitalized terms used and not defined in this Amendment shall have the meaning given to such terms in the Agreement.

In the event of any conflict between the terms of this Amendment and the Agreement, the terms of this Amendment will prevail.

The parties hereby agree to amend the Agreement as follows:

### **3. Definitions**

"Authorized App" means and is limited to Campus Reseller's iOS, Mac, or other mobile applications, localized for and directed to Eligible Individual Purchasers, on which Campus Reseller is authorized by Apple in writing to maintain an Electronic Catalog for the purpose of sale and shipment of products to Eligible Individual Purchasers for their use, subject to the terms of the Agreement and Amendment.

"Authorized Web Location" means and is limited to Campus Reseller's website and Authorized App, localized for and directed to Eligible Individual Purchasers, on which Campus Reseller is authorized by Apple to maintain an Electronic Catalog for the purpose of sale and shipment of Products to Eligible Individual Purchasers for their own use, subject to the terms of the Agreement and Amendment.

"Authorized Web Products" means Apple Products that Campus Reseller is authorized to resell and specifically set forth in the attached Authorized Web Product Exhibit.

"Effective Date" means the date upon which an authorized representative of Apple signs this Amendment.

"Electronic Catalog" means an online database that is accessible by consumers via a website or application and that features high quality color images of Products along with relevant information about Products and accessories, possible configurations or options, specifications, and all other related information necessary for an Eligible Individual Purchaser to make an informed decision about the purchase of the Products, in such a manner that is equivalent to the Eligible Individual Purchaser buying experience in a brick-and-mortar retail store directed to serving walk-in Eligible Individual Purchaser traffic.

"Pickup at Store" means providing Authorized Web Products from Campus Reseller for pick up at the Campus Reseller's physical retail location by Eligible Individual Purchasers who purchased the products through the Authorized Web Locations.

"Ship to EIP" means the shipment of Authorized Web Products from Campus Reseller directly to Eligible Individual Purchasers who purchased the products through the Authorized Web Locations.

"Web Sales" means and is limited to the offering and sale of Authorized Web Products by Campus Reseller, as featured in the Electronic Catalog, to Eligible Individual Purchasers via electronic or telephone orders placed through the Authorized Web Locations, along with the fulfillment of such orders by shipping to Eligible Individual Purchasers at a designated ship-to within the United States for their use and not for resale.

### **4. Appointment**

Apple appoints Campus Reseller as a limited and nonexclusive Apple Authorized Campus Store to conduct Web Sales of Authorized Web Products to Eligible Individual Purchasers for end use in the United States, from Authorized Web Locations, for so long as Campus Reseller continuously complies with and satisfies its obligations under this Amendment and the Agreement. For the avoidance of doubt, Campus Reseller may not engage third parties to market or solicit sales of Authorized Web Products unless expressly authorized by Apple in writing to do so.



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## **5. Scope of Authorization**

Campus Reseller will sell and ship Authorized Web Products featured in the Electronic Catalog to Eligible Individual Purchasers located only in the United States via the Authorized Web Locations, at prices determined solely by Campus Reseller. Campus Reseller is permitted to sell Authorized Web Products only to EIPs of Campus Reseller Institution and is responsible for ensuring that security measures are taken to prohibit unauthorized purchasers from purchasing Authorized Web Products from an Authorized Web Location. Apple may audit compliance with this provision at any time and failure to comply may result in termination of this Amendment. The attached Authorized Web Products Exhibit identifies the method of shipment allowed and any additional requirements unique for such Authorized Web Product. Except as expressly authorized in the Appointment, no other sales or distribution of Products or Services is authorized. Campus Reseller is expressly prohibited from promoting or selling Authorized Web Products through mobile applications or social media sites, unless otherwise expressly authorized by Apple and subject to Campus Reseller's compliance with applicable Apple policies and guidelines relating to such promotion and/or sales. Apple reserves the right to remove certain Apple Products from the Electronic Catalog and change the scope of Campus Reseller's authorization, at any time and without prior notice. If Campus Reseller fails to comply with the scope of authorization, Apple may immediately terminate this Amendment in accordance with the provisions of this Amendment.

## **6. Authorized Web Location Requirements**

All Authorized Web Locations must:

- (i) Require faculty and student ID authentication and password validation prior to purchase of any Authorized Web Products;
- (ii) Have a mechanism in place which prevents the fulfillment of an order that exceeds the EIP quantity limitations for an academic year as follows: Desktop: Three (3). Mac mini: Three (3). Notebook: Three (3). iPad Three (3). Display: Two (2);
- (iii) Clearly display the returns process and policy for Authorized Web Products on a page where it will be viewed by all EIPs prior to completing a purchase;
- (iv) Create a virtual "in store" experience with a searchable catalog, high-quality presentation of products and fast, easy navigation;
- (v) Include a "store-within-a-store" section where only Apple Products appear and that clearly differentiates Apple Products from other brands or vendors;
- (vi) Present a full range of prominently displayed Authorized Web Products, with full color photographs, detailed and accurate product descriptions, specifications, features, and benefits using assets provided by Apple, including the iPad Online Marketing Guidelines, the iPad Channel Asset Kit and the Apple Identity Guidelines (these items available for download on ASW);
- (vii) Provide extended product information such as detailed product specifications, Apple Product comparison charts, and product reviews; and
- (viii) Have a search function designed such that when Apple trademarks are used in keyword searches only Apple Products will appear in the search results.

## **7. Campus Reseller's Additional Obligations**

7.1 Campus Reseller must demonstrate and comply with the following obligations at all times:

- (a) Provide centralized management, with single points of contact for ordering, inventory, merchandising, advertising, returns, product service and repair, reporting and accounting;
- (b) Provide weekly Web Sales reporting separate from its brick and mortar reporting, in the formats as communicated by Apple;
- (c) Obtain Apple's prior written approval before releasing, placing, or distributing any advertisements or distributing marketing material that relates to Authorized Web Products, or includes an image of any Authorized Web Product. Campus Reseller agrees to submit all such communications and materials to Apple in time for review and approval;
- (d) Provide an annual sales and marketing plan for Campus Reseller's online business, that shall be subject to modification solely upon Apple's request, but not otherwise;
- (e) Ensure that Apple always has Campus Reseller's current email address;
- (f) Allow Eligible Individual Purchasers to order and complete the purchase transaction for Authorized Web Products from the Authorized Web Location seven days a week, twenty-four hours a day;
- (g) Maintain a product fulfillment infrastructure with back-end systems for order fulfillment via distribution center or virtual warehouse;
- (h) Maintain an electronic commerce infrastructure to satisfy Eligible Individual Purchasers support requirements including, but not limited to:
  - Ability to accept multiple payment methods;
  - Eligible Individual Purchasers notifications;
  - Order and shipment status;



- Proper sales tax calculation, collection and remittance;
- Product reservations (for product not in stock);
- Purchase order processing;
- Up-sell and cross-sell capability;
- Business-class data security and network security regarding Eligible Individual Purchasers payment and contact information;
- PCI compliance;
- FTC compliance policies and practices adopted as to Campus Reseller's electronic commerce activities;
- Help and support resources for Eligible Individual Purchasers about their orders; and
- A clearly stated returns protocol that is properly staffed to manage Eligible Individual Purchasers returns.

7.2 Without limitation and throughout the Term, Campus Reseller will, at its own expense: (i) ensure that the Authorized Web Locations, along with Campus Reseller's marketing, sales and refund policies and practices, are compliant with all laws and regulations pertaining to the advertising, sale, shipment and return of goods and services to consumers; (ii) ensure that it is fully compliant with all data protection and privacy laws pertaining to any and all Eligible Individual Purchasers information collected, processed or managed on or through the Authorized Web Locations, whether in connection with Eligible Individual Purchasers transactions and returns or otherwise; (iii) ensure that Eligible Individual Purchasers have the right to elect to opt-out with respect to any non-transactional communications of any kind from Campus Reseller or its partners or in connection with their activities on or through the Authorized Web Locations; (iv) ensure that no Authorized Web Locations solicits or collects any information from children age 13 or under in a manner which is not fully compliant with any and all applicable online child protection and privacy laws, including but not limited to requirements for parental consents where applicable; (v) ensure that any promotions running on any Authorized Web Locations are fully compliant with all applicable laws, including but not limited to those pertaining to advertising, email solicitations, and rebates; (vi) ensure that all aspects of Eligible Individual Purchasers transactions occurring on or through the Authorized Web Locations, including order placement, order acknowledgment, payment processing, shipments to Eligible Individual Purchasers returns are managed in a manner that complies with all laws; (vii) not promote or sell any Authorized Web Products on the Authorized Web Locations to the extent prohibited under applicable laws and regulations; and (viii) not promote or sell any Products on the Authorized Web Locations except as expressly authorized herein. Apple will not be liable for any security breach that results in the unauthorized disclosure of Eligible Individual Purchaser information such as identification numbers, passwords, or payment information. It is the sole responsibility of Campus Reseller to ensure that proper security measures are taken by Campus Reseller, its agents and employees to prevent the disclosure of Eligible Individual Purchaser information to any unauthorized third party. Apple will determine in its sole discretion whether Campus Reseller's noncompliance with any provision of the Agreement and Amendment will result in forfeiture or suspension of any available promotional allowances or funding from Apple.

7.3 Campus Reseller acknowledges that Apple has established policies with respect to online "marketplaces". Campus Reseller may not permit third parties to offer Products for sale through the Authorized Web Location unless expressly authorized by Apple in writing to do so. In addition, Campus Reseller may not offer Authorized Web Products for sale on marketplaces operated by third parties, unless expressly authorized by Apple in writing to do so.

7.4 Campus Reseller will assume full responsibility for and maintain compliance with all applicable laws and regulations regarding shipping and delivery practices for consumer online purchases. Campus Reseller agrees to ship product only to locations in the United States. Campus Reseller will provide Eligible Individual Purchasers with estimated shipping and delivery dates prior to the Eligible Individual Purchaser's confirmation of their order from Campus Reseller. Immediately upon the sale of Authorized Web Product to an Eligible Individual Purchaser, Campus Reseller will provide the Eligible Individual Purchaser with an online order acknowledgment identifying, at a minimum the Eligible Individual Purchaser's name, the ship-to address, itemized detail about the Products being purchased including quantity, per unit price, applicable sales tax on the order, environmental fees, recycling fees, shipping and handling charges, the total cost of the order and any other special terms. In addition, Campus Reseller will provide each Eligible Individual Purchaser with a shipping notification when their order has shipped to their designated ship-to address, along with tracking information that the Eligible Individual Purchaser may use to track the status of their shipment.

7.5 Campus Reseller will maintain online help pages at the Authorized Web Location which must include Eligible Individual Purchasers support telephone numbers, and online chat and/or email addresses, and Campus Reseller will make such information available to Eligible Individual Purchaser on their order acknowledgment and shipment notifications. Campus Reseller will promptly process all Eligible Individual Purchaser returns and do so in a manner that is in accordance with applicable law and Campus Reseller's own stated return policies. Campus Reseller will ensure that its stated return policies are available and visible to Eligible Individual Purchasers at the Authorized Web Locations and, preferably, prior to a Eligible Individual Purchaser's purchase of any Authorized Web Products. If Campus Reseller does not ordinarily include serial numbers on online order acknowledgments provided to Eligible Individual Purchasers, then Campus Reseller agrees that it will use commercially reasonable efforts to enable the inclusion of serial numbers on online order acknowledgments or shipping notifications provided to Eligible Individual Purchasers, if applicable system is updated at any time during the Term.

7.6 Campus Reseller must notify Apple at least thirty (30) days in advance of any of the following changes, subject to Apple's prior written approval: (i) changing the universal resource locator web (URL) of any Authorized Web Location or redirecting any Authorized Web Location to a web URL other than the one originally approved by Apple; (ii) closing or deactivating an Authorized Web Location; or (iii) adding a new Authorized Web Location.



7.7 Campus Reseller will comply with applicable Apple policies and marketing guidelines relating to Web Sales at all times, including but not limited to, any Apple digital asset kit(s) currently available on ASW.

**8. Product Distribution and Allocation**

Campus Reseller's Appointment is made at Apple's sole discretion and is made on a non-exclusive basis. Apple is free to establish new domain names, keyword searches and additional websites, web-based (whether electronic commerce or mobile commerce) stores and apps, without notice to Campus Reseller.

**9. Term and Termination**

9.1 The term of this Amendment will begin on the Effective Date and continue until the Agreement expires or is terminated.

9.2 This Amendment or any Authorized Web Location may be terminated by either Party at any time without cause (i.e., for any or no reason), on thirty (30) days' written notice to the other Party.

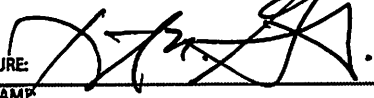
9.3 Apple may terminate this Amendment or any Authorized Web Location immediately without any period to remedy if (i) Campus Reseller fails to fully perform any obligation under the Agreement or this Amendment; or (ii) Campus Reseller closes down or deactivates all Authorized Web Locations.

**10. Variation**


Apple shall be entitled in its absolute discretion to make variations and amendments to this Amendment without notice to Campus Reseller, and such variations or amendments will be immediately binding on Campus Reseller upon Apple's posting of any varied or amended version(s) on ASW or otherwise communicating such varied or amended version(s) in writing.

The duly authorized representatives of the Parties execute this Amendment as of the dates stated below.

Campus Reseller

SIGNATURE:   
PRINT NAME: Robert Grillo  
PRINT TITLE: CIO & Vice President of IT  
DATE: 7/8/16

Apple Inc.

SIGNATURE:   
PRINT NAME: PADDY WONG  
PRINT TITLE: MANAGER  
EFFECTIVE DATE:  
DEPARTMENT: SALES OPERATIONS

By:   
Wendi Appelbaum  
Assistant General Counsel

Date: 5-16-16



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**Authorized Web Products Exhibit**  
**Mac, iPad, iPod, Apple TV, Beats**

Campus Reseller is only authorized to conduct Web Sales of the following Authorized Web Products or Authorized Web Product sub-classes or SKUs, if expressly identified below, through Authorized Web Locations listed below. Campus Reseller's authorization hereunder is limited to the Authorized Web Products described or listed by sub-class or SKU below, and does not automatically include any future versions or releases of such products, sub-classes or SKUs, unless Web Sales are expressly authorized by Apple in writing.

**Authorized Web Products**

**Pickup at Store:**

Mac and Mac Accessories  
AppleCare Protection Plan for Mac  
iPad and iPad Accessories\*\*  
AppleCare+ for iPad  
iPod and iPod Accessories  
AppleCare+ for iPod  
Apple TV and Apple TV Accessories  
AppleCare Protection Plan for Apple TV  
Beats Products

**Ship to EIP:**

Mac and Mac Accessories  
AppleCare Protection Plan for Mac  
iPad and iPad Accessories\*\*  
AppleCare+ for iPad  
iPod and iPod Accessories  
AppleCare+ for iPod  
Apple TV and Apple TV Accessories  
AppleCare Protection Plan for Apple TV  
Beats Products

\*\* iPad Authorized Web Products must be identified by description (e.g. iPad 2, iPad 3), sub-class or SKU and are limited to such identified products, sub-classes or SKUs.

## **18.001 Procurement Regulation**

### **(1) Authority of the Institutions.**

Each university Board of Trustees shall adopt regulations establishing basic criteria related to procurement, including procedures and practices to be used in acquiring commodities and contractual services, as follows:

- (a) Removing any contractor from the University's competitive vendor list that fails to fulfill any of its duties specified in a contract with the University(s) and to reinstate any such contractor when satisfied that further instances of default will not occur.
- (b) Planning and coordinating purchases in volume and negotiating and executing agreements and contracts for commodities and contractual services under which the University may make purchases.
- (c) Evaluating, approving, and utilizing contracts that are entered into after a public and open competitive solicitation by any State of Florida agency or department, the Federal Government, other states, political subdivisions, cooperatives or consortia, or any independent college or university for the procurement of commodities and contractual services, when it is determined to be cost-effective and in the best interest of the University, to make purchases under contracts let by such other entities. Universities shall review existing consortia and cooperative contracts to identify potential savings and, if there is the potential for savings, enter into new consortia and cooperative contracts to achieve the savings, with the goal of achieving a five-percent savings on existing contract prices.
- (d) Awarding contracts for commodities and contractual services to multiple suppliers, if it is determined to be in the best interest of the University. Such awards may be on a university, regional or State University System-wide basis and the contracts may be for multiple years.
- (e) Rejecting or canceling any or all competitive solicitations when determined to be in the best interest of the University.
- (f) Barring any vendor from doing business with the University for demonstrated cause, including previous unsatisfactory performance.
- (g) Prohibiting University employees and University direct support organization employees participating on a procurement selection committee for commodities or services from soliciting donations from responding vendors during the selection process, except for donations or other benefits expressly stated in the procurement document.
- (h) Permitting the extension(s) of a contract, entered into as a result of a competitive solicitation, for up to twelve (12) months or until completion of the competitive solicitation and award or protest, whichever is longer.
- (i) Permitting the renewal(s) of a contract, entered into as a result of a competitive solicitation, for a period that may not exceed 5 years or twice the term of the original contract, whichever is longer. This provision is not intended to apply

retroactively; existing contracts entered into prior to January 1, 2017, including any specified renewal period(s) may continue in accordance with the existing contract terms.

(2) Competitive Solicitation Threshold.

Each university Board of Trustees shall establish a competitive solicitation threshold not greater than \$75,000 (the "Competitive Solicitation Threshold") for the purchase of commodities or contractual services.

- (a) When only one response is received to the competitive solicitation for commodities or contractual services that exceed the Competitive Solicitation Threshold, the University may review the solicitation responses to determine if a second call for a competitive solicitation is in the best interest of the University. If it is determined that a second call would not serve a useful purpose, the University may proceed with the acquisition.
- (b) The purchase of commodities and contractual services shall not be divided to avoid the requirement of competitive solicitation.

(3) Preferences for Florida-Based Vendors.

- (a) Preferences for Personal Property. When a University awards a contract to purchase personal property, other than printing, by competitive solicitation pursuant to paragraph (2) of this regulation, a preference shall be provided to vendors with a principal place of business in Florida (such vendors hereinafter referred to as "Resident Vendors") as follows:
  - 1. If the responsible and responsive vendor that submits the lowest bid, the most advantageous proposal, or the best value reply is one whose principal place of business is outside of Florida and is in a state or political subdivision thereof that grants a preference for the same purchase to a vendor in such state or political subdivision, as applicable, then the University shall grant the same preference to the responsible and responsive Resident Vendor with the lowest bid received pursuant to an Invitation to Bid, the most advantageous proposal received pursuant to a Request for Proposals, or the best value reply received pursuant to an Invitation to Negotiate.
  - 2. With respect to Invitations to Bid, if the lowest responsible and responsive bid is from a vendor whose principal place of business is in a state that does not grant a preference for the purchase to a vendor in such state, then the University shall grant a preference in the amount of five percent (5%) to the lowest responsible and responsive Resident Vendor.
  - 3. For vendors whose principal place of business is outside of Florida, such vendors must, at the time of submitting its bid, proposal or reply, provide a written opinion from a licensed attorney in its state specifying: (a) the preferences(s) granted by the state or political subdivision, as applicable, under the laws of that state to vendors whose principal place of business is in that state or political subdivision; and (b) how the preference is calculated. The



failure to submit the written opinion may be waived as non-material if all vendors responding to the solicitation have principal places of business outside of Florida.

4. The vendor's principal place of business, as represented by the vendor in its bid or reply, may be relied upon by the University without further inquiry. If the University determines that a vendor has misrepresented its principal place of business, the vendor's bid, proposal or reply shall be rejected.
  5. For the purpose of paragraph (3)(a), "personal property" shall be defined as goods and commodities, but not real estate, intellectual property or services.
- (b) Preferences for Printing. When a University purchases printed materials by competitive solicitation pursuant to paragraph (2) of this regulation, a preference shall be provided Resident Vendors as follows:
1. If the lowest responsible and responsive bid received pursuant to an Invitation to Bid is from a vendor whose principal place of business is outside of Florida, then the University shall grant a preference to the lowest responsible and responsive Resident Vendor in the amount of five percent (5%) if the University has determined that the printing can be performed by the Resident Vendors at a level of quality comparable to that obtainable from the vendor submitting the lowest bid whose principal place of business is outside of Florida.
  2. For purposes of subparagraph 3(b)(1), the level of quality shall be determined by whether a vendor satisfies the minimum specification requirements as set forth in the Invitation to Bid.
- (c) Method of Calculating Five Percent Preference.
1. If the competitive solicitation is an Invitation to Bid, then an amount equal to five percent (5%) of the total base bid and any alternates shall be deducted from the base bid and alternates, as applicable, of the lowest responsible and responsive Resident Vendor's bid.
- (d) Determining a Vendor's Principal Place of Business. A vendor's "principal place of business" is determined as follows:
1. If the vendor is an individual or a sole proprietorship, then its "principal place of business" is in the state where the vendor's primary residence is located.
  2. If the vendor is a business organization, then its "principal place of business" is in the state where the majority of the vendor's executive officers direct the management of the vendor's business affairs.
- (e) Federally Funded Projects. Purchases made to perform specific obligations under federally funded projects shall not be subject to this preference requirement to the extent the application of a preference is not allowed under applicable federal law or regulation.

(4) Exceptional Purchases.

Each university is authorized to make exceptional purchases of commodities or contractual services as follows:

- (a) Purchase of Products with Recycled Content. Each University may establish a program to encourage the purchase and use of products and materials with recycled content and postconsumer recovered material.
- (b) Purchase of Private Attorney Services. Written approval from the Attorney General is not required for private attorney services acquired by the University.
- (c) Purchase of Insurance. Each University shall have the authority to purchase insurance as deemed necessary and appropriate for the operation and educational mission of the University.
- (d) Purchase of Printing. However, if a University determines that it is in the best interests of the University to purchase printed materials through a competitive solicitation process, the preference provision in paragraph (3)(b) shall apply.

(5) Purchases from Contractors Convicted of Public Entity Crimes.

A University shall not accept a competitive solicitation from or purchase commodities or contractual services from a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for a period of 36 months from the date of being added to the convicted vendor list.

(6) Competitive Solicitation Exceptions.

The following types of purchasing actions, and commodities and contractual services purchases are not subject to the competitive solicitation process:

- (a) Emergency Purchases. When a university president or his/her designee determines, in writing, that the delay due to the competitive solicitation process is an immediate danger to the public health or safety or the welfare of the University, including University tangible and/or intangible assets; or would otherwise cause significant injury or harm not in the best interest of the University, the University may proceed with the procurement of commodities or contractual services without a competitive solicitation.
- (b) Sole Source Purchases. Commodities or contractual services available from a single source may be exempted from the competitive solicitation process.
- (c) Purchases from Contracts and Negotiated Annual Price Agreements established by the State of Florida, other governmental entities, other Universities in the State University System, or other independent colleges and universities are not subject to further competitive solicitation.
- (d) The following listed commodities and services are not subject to competitive solicitation:
  - 1. Artistic services;
  - 2. Academic reviews;
  - 3. Lectures;
  - 4. Auditing services;
  - 5. Legal services, including attorney, paralegal, expert witness, appraisal, arbitrator or mediator services;

6. Health services involving examination, diagnosis, treatment, prevention, medical consultation or administration. Prescriptive assistive devices for medical, developmental or vocational rehabilitation including, but not limited to prosthetics, orthotics, wheelchairs and other related equipment and supplies, provided they are purchased on the basis of an established fee schedule or by a method that ensures the best price, taking into consideration the needs of the client;
7. Services provided to persons with mental or physical disabilities by not-for-profit corporations organized under the provisions of s. 501(c)(3) of the Internal Revenue Code or services governed by the provisions of the Office of Management and Budget Circular A-122;
8. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Children and Family Services. This exception will be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed;
9. Family placement services;
10. Training and education services;
11. Advertising, except for media placement services;
12. Services or commodities provided by governmental agencies, another University in the State University System, direct support organizations of the university, political subdivisions or other independent colleges and universities;
13. Programs, conferences, workshops, continuing education events or other university programs that are offered to the general public for which fees are collected to pay all expenses associated with the event or program;
14. Purchases from firms or individuals that are prescribed by state or federal law, or specified by a granting agency;
15. Regulated utilities and government franchised services;
16. Regulated public communications, except long distance telecommunication services or facilities;
17. Purchases from an Annual Certification List developed by each University;
18. Purchases for resale;
19. Accounting Services;
20. Contracts or services provided by not-for-profit support and affiliate organizations of the University, direct support organizations, health support organizations and faculty practice plans;
21. Implementation/programming/training services available from owner of copyrighted software or its contracted vendor; or
22. Purchases of materials, supplies, equipment, or services for instructional or sponsored research purposes when a director of sponsored research or designee certifies that, in a particular instance, it is necessary for the efficient

or expeditious prosecution of a research project in accordance with sponsored research procedures or to attain the instructional objective.

(7) Vendors Excluded from Competition.

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, Invitations to Bid, Request for Proposals and/or Invitations to Negotiate shall be excluded from competing for such procurements.

(8) Standard of Conduct.

It shall be a breach of ethical standards for any employee of a University to accept, solicit, or agree to accept a gratuity of any kind, form or type in connection with any contract for commodities or services. It shall also be a breach of ethical standards for any potential contractor to offer an employee of a University a gratuity of any kind, form or type to influence the development of a contract or potential contract for commodities or services.

Authority: Section 7(d) Art. IX, Fla. Const.; History: New 3-27-08, Amended 3-28-13, 11-3-16.

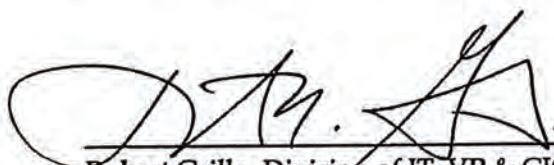
**Funding Certification Form**

This form is required by the FIU Board of Trustees ("BOT") and/or a committee of the BOT as a condition for approval of items, containing a funding component, that come for approval before the Board and/or a BOT committee pursuant to the Delegations of Authority from the BOT to the University President or otherwise.

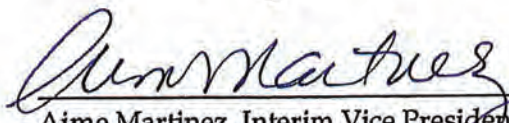
Item name/description: Blanket purchase order with D&H to procure Apple goods and services for Personal and Institutional usage.

Funding Source(s): 331/ Auxiliary Enterprises

This is to certify that the above item has been reviewed and approved, and to the best of our professional judgment and knowledge, the type of funding for the item is authorized by state law and Board of Governors Regulations, and the Trustees may reasonably and in good faith rely on this certification.

  
Robert Grillo, Division of IT, VP & CIO

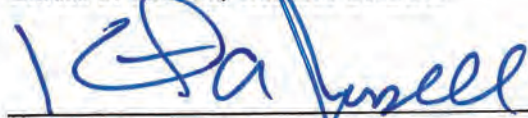
5/9/2023  
Date

  
Aime Martinez, Interim Vice President and Chief  
Financial Officer

5/19/2023  
Date

DocuSigned by:  
  
7E5CBEEF9E1654F6  
Carlos B. Castillo, General Counsel

5/31/2023  
Date

  
Kenneth A. Jessell, President

5-31-2023  
Date



## **Bid #2021-05 Catalog Percentage Discount-Equipment and Supplies**

- 3.9 The bid award will be made based on funds availability and will be at the sole discretion of the St. Johns County School Board.

### **4.0 CONTRACT/RENEWAL**

- 4.1 The term of this contract shall be from July 1, 2021 to June 30, 2023.
- 4.2 All terms and conditions of this bid, any addenda, and negotiated terms are incorporated into the contract by reference as set forth herein.

### **5.0 BID INQUIRIES/NOTICES**

- 5.1 Any questions and inquiries concerning the Bid must be submitted via email to Patrick Snodgrass of the SJCSO Purchasing Department no later than January 27, 2021 @ 12:00 PM to:


Patrick Snodgrass  
Director of Purchasing  
[patrick.snodgrass@stjohns.k12.fl.us](mailto:patrick.snodgrass@stjohns.k12.fl.us)

Questions and inquiries received after the said date will not be considered. Questions and inquiries must reference the Bid number.

- 5.2 Those interpretations or responses to all questions and inquiries which may affect the eventual outcome of this solicitation will be posted to the DemandStar website [www.demandstar.com](http://www.demandstar.com) for all prospective Bidders to view no later than 5:00 PM, January 28, 2021.

Only the interpretation or response given by the SJCSO Purchasing Department representative, in writing, shall be binding and prospective Bidders are advised that no other source is authorized to give information concerning, or to explain or interpret the Invitation to Bid. All such interpretations and supplemental instructions will be in the form of written Addenda to the Invitation to Bid.

- 5.3 Copies of addendum will also be made available for inspection at SJCSO's Purchasing Department where bid documents will be kept on file.
- 5.4 No Addendum will be issued later than January 28, 2021, except an addendum withdrawing the Invitation to Bid or one which includes postponement of the date for receipt of bids or one containing the questions and answers.
- 5.5 School board members, and school board personnel (except the Purchasing Department representative referenced above) are *not to be contacted* prior to the School Board's decision to approve or reject the final recommendation presented to it by the Superintendent. At the discretion of SJCSO, failure to comply with this requirement will be grounds for disqualification.

<b>St. Johns County School District</b> Sebastian Administrative Annex Purchasing Department 3015 Lewis Speedway, Building 5 St. Augustine, FL 32084		<b>INVITATION TO BID (ITB)</b> <b>REQUIRED RESPONSE FORM</b>  BID NO.: 2021-05 RELEASE DATE: January 13, 2021																				
F.O.B. Destination: <b>District Wide</b>		CONTACT: Patrick Snodgrass Director of Purchasing (904) 547-8941 patrick.snodgrass@stjohns.k12.fl.us																				
BID DUE DATE AND TIME: February 11, 2021 @ 1:30 pm BID OPENING DATE AND TIME: February 11, 2021 @ 2:00 pm																						
SUBMIT BID TO: Sebastian Administrative Annex Purchasing Department 3015 Lewis Speedway, Building 5 St. Augustine, FL 32084		BID OPENING LOCATION: Sebastian Administrative Annex Purchasing Department 3015 Lewis Speedway, Building 5 St. Augustine, FL 32084																				
REQUIRED SUBMITTALS CHECKLIST - Each submittal checked below is <b>required</b> for Bid to be considered. <table border="0"><tr><td><input type="checkbox"/> Literature</td><td><input type="checkbox"/> Specifications</td><td><input type="checkbox"/> Catalogs</td><td><input type="checkbox"/> Product Samples: See Special Conditions</td></tr><tr><td><input checked="" type="checkbox"/> Debarment Form</td><td colspan="3"><input type="checkbox"/> Manufacturer's Certificate of Warranty</td></tr><tr><td><input checked="" type="checkbox"/> Drug-Free Workplace Certification</td><td colspan="3"><input type="checkbox"/> List of References</td></tr><tr><td><input checked="" type="checkbox"/> Certificate of Insurance: See Special Conditions</td><td colspan="3"></td></tr><tr><td colspan="4"><input checked="" type="checkbox"/> Additional submittals specific to this ITB may also be required - See Special Conditions for details</td></tr></table>			<input type="checkbox"/> Literature	<input type="checkbox"/> Specifications	<input type="checkbox"/> Catalogs	<input type="checkbox"/> Product Samples: See Special Conditions	<input checked="" type="checkbox"/> Debarment Form	<input type="checkbox"/> Manufacturer's Certificate of Warranty			<input checked="" type="checkbox"/> Drug-Free Workplace Certification	<input type="checkbox"/> List of References			<input checked="" type="checkbox"/> Certificate of Insurance: See Special Conditions				<input checked="" type="checkbox"/> Additional submittals specific to this ITB may also be required - See Special Conditions for details			
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<input checked="" type="checkbox"/> Debarment Form	<input type="checkbox"/> Manufacturer's Certificate of Warranty																					
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<input checked="" type="checkbox"/> Certificate of Insurance: See Special Conditions																						
<input checked="" type="checkbox"/> Additional submittals specific to this ITB may also be required - See Special Conditions for details																						
BIDDER MUST FILL IN THE INFORMATION LISTED BELOW AND SIGN WHERE INDICATED FOR BID TO BE CONSIDERED.																						
Company Name: <u>Smiley's Audio-Visual, Inc</u>																						
Address: <u>PO Box 6925</u>																						
City, State: <u>Jacksonville, FL</u> Zip: <u>32207</u> FEIN: <u>59-2300277</u>																						
Signature of Owner or Authorized Officer/Agent: <u>Cathy Smiley</u> Telephone: <u>800-282-3497</u>																						
Typed Name of Above: <u>Cathy Smiley, Pres.</u> FAX: <u>863-667-3186</u>																						
Email: <u>cathy@smileysaudiovisual.com</u>																						
<p>By my signature, I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, business entity or person submitting an offer for the same materials, supplies, equipment, or services (s), and is in all respects fair and without collusion or fraud. I further agree to abide by all conditions of this invitation and certify that I am authorized by the offeror to sign this response. In submitting an offer to the School Board of St. Johns County, I, as the Bidder, offer and agree that if the offer is accepted, the offeror will convey, sell, assign, or transfer to the School Board of St. Johns County all right, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodity(s) or service(s) purchased or acquired by the School Board. At the School Board's discretion, such assignment shall be made and become effective at the time the School Board of St. Johns County tenders final payment to the vendor.</p> <p>Alternate authorized signature = <u>James Nathan Smiley</u> Operations Manager</p>																						

Original

sh 863-667-1998

## Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

original

### Instructions for Certification:

1. The prospective lower tier participant certifies, by submission of this proposal that neither it nor its principals are:

- (a) presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;
- (b) have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in performing a public (federal, state or local) transaction or contract under a public transaction; or for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
- (c) are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of the offenses enumerated in this certification; or
- (d) have not within a three-year period preceding this application had one or more public transaction (federal, state or local) terminated for cause or default.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name of Firm	Smiley Audio-Visual, Inc.	PR/Award Number and/or Project Name	2021-05
Printed Name	Cathy Smiley	Title of Authorized Representative	PRESIDENT
Signature	Cathy Smiley	Date	2/8/2021

Alternate Authorized Signature



Page 7

James Nathan Smiley  
Operations Manager



## DRUG FREE WORKPLACE CERTIFICATION FORM

In accordance with 287.087, Florida Statutes, preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, which are equal with respect to price, quality, and service, are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program *shall be given preference* in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the action that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

  
(Vendor's Signature)

 , Operations Manager

**BIDDER'S STATEMENT OF PRINCIPAL PLACE OF BUSINESS**

(Must be completed &amp; submitted with each competitive solicitation)

Bid number and description:

2021-05

Catalog Percentage Discount - Equip + Supplies

Identify the state in which the Vendor has its principal place of business:

FLORIDA

Instructions: IF your principal place of business above is located within the State of Florida, the Vendor must sign below and submit this form with your bid response, no further action is required.

However, if your principal place of business is outside of the State of Florida, the following must be completed by an attorney and returned with your bid response. FAILURE TO COMPLY SHALL BE CONSIDERED TO BE NON-RESPONSIVE TO THE TERMS OF THE SOLICITATION.

**OPINION OF OUT -OF-STATE BIDDER'S ATTORNEY ON BIDDING PREFERENCES**

(To be completed by the Attorney for an Out-of-State Vendor)

**NOTICE:** Section 287.084(2), Florida Statute, provides that "a vendor whose principal place of business is outside this state must accompany any written bid, proposal, or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state (or political subdivision thereof) to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts." See also: Section 287.084(1), Florida Statutes.

**LEGAL OPINION ABOUT STATE BIDDING PREFERENCES**

(Please Select One)

\_\_\_\_ The Vendor's principal place of business is in the State of \_\_\_\_\_ and it is my legal opinion that the laws of that state do not grant a preference in the letting of any or all public contracts to business entities whose principal places of business are in that state.

\_\_\_\_ The Vendor's principal place of business is in the State of \_\_\_\_\_ and it is my legal opinion that the laws of that state grant the following preference(s) in the letting of any or all public contracts to business entities whose principal places of business are in that state: (Please describe applicable preference(s) and identify applicable preference(s) and identify applicable state law(s)):

**LEGAL OPINION ABOUT POLITICAL SUBDIVISION BIDDING PREFERENCES**

(Please Select One)

\_\_\_\_ The Vendor's principal place of business is in the political subdivision of \_\_\_\_\_ and it is my legal opinion that the laws of that political subdivision do not grant a preference in the letting of any or all public contracts to business entities whose principal places of business are in that political subdivision.

\_\_\_\_ The Vendor's principal place of business is in the political subdivision of \_\_\_\_\_ and the laws of that political subdivision grant the following preference(s) in the letting of any or all public contracts to business entities whose principal places of business are in that political subdivision: (Please describe applicable preference(s) and identify applicable authority granting the preference(s)):

Signature of out-of-state Vendor's attorney: \_\_\_\_\_

Attorney's printed name: \_\_\_\_\_

Address of out-of-state Vendor's attorney: \_\_\_\_\_

Phone number/e-mail of out-of-state Vendor's attorney: \_\_\_\_\_

Attorney's states of bar admission: \_\_\_\_\_

Vendor's Signature: \_\_\_\_\_

Vendor's Printed Name: \_\_\_\_\_

original

Cathy Smiley  
President  
Operations Manager

## **EDGAR CERTIFICATIONS**

All purchases involving the expenditure of federal funds must be compliant with the Education Department General Administrative Guidelines ("EDGAR"). The following certifications and provisions are required and apply when the St. Johns County School Board ("School Board") expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the District shall contain the procurement provisions of Appendix II to Part 200, as applicable.

### **REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS APPENDIX II to C.F.R. PART 200**

**(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.**

Pursuant to Federal Rule (A) above, when School Board expends federal funds, School Board reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

**(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.**

Pursuant to Federal Rule (B) above, for all contracts involving Federal funds in excess of \$10,000, School Board reserves the right to terminate the contract (i) for convenience, and/or (ii) for cause by issuing a certified notice to the vendor.

**(C) Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when School Board expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

**(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when School Board expends federal funds during the term of an award for all contracts and subgrants for construction or repair, Vendor will be in compliance with all applicable Davis-Bacon Act provisions.

**(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29

**EDGAR CERTIFICATIONS (continued)**

CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when federal funds are expended by School Board, Vendor certifies that Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award resulting from this procurement process.

**(F) Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by School Board, Vendor certifies that Vendor will be in compliance with all applicable provisions of Federal Rule (F) during the term of an award resulting from this procurement process.

**(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387),** as amended Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to Federal Rule (G) above, when federal funds are expended by School Board, Vendor certifies that Vendor will be in compliance with all applicable provisions of Federal Rule (G) during the term of an award resulting from this procurement process.

**(H) Energy Policy and Conservation Act (42 U.S.C. 6201).** Vendor agrees to comply with the mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

Pursuant to Federal Rule (H) above, when federal funds are expended by School Board, Vendor certifies that Vendor will be in compliance with all applicable provisions of Federal Rule (H) during the term of an award resulting from this procurement process.

**(I) Debarment and Suspension (Executive Orders 12549 and 12689)—**A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (I) above, when federal funds are expended by School Board, Vendor certifies that during the term of an award resulting from this procurement process, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

**(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—**Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

## EDGAR CERTIFICATIONS (continued)

Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (J) above, Vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The Vendor further certifies that: (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. (3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

## RECORDS RETENTION

Records Retention (2 C.F.R. § 200.333): Financial records, supporting documents, statistical records and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or passthrough entity in the case of a subrecipient.

## RECOVERED MATERIALS

Recovered Materials (2 CFR §200.322): Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Firm's Name:

Signature of Authorized Representative:

Print Name of Authorized Representative:

Authorized Alternate Signature

James Nathan Smiley, Operations Manager



**St. Johns County School District  
E-Verify Requirements**

*original*

- A. Pursuant to Section 448.095, Florida Statutes, Contractor shall register with and use the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all employees hired during the term of this Agreement and must, upon request, provide evidence of compliance with this provision.
- B. Subcontractors
1. Contractor shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees they may hire during the term of this Agreement.
  2. Subcontractors shall provide Contractor with an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as stated in Section 448.095, Florida Statutes.
  3. Contractor shall provide a copy of such affidavit to the School Board upon receipt and shall maintain a copy for the duration of the Agreement.
- C. Failure to comply with this provision is a material breach of the Agreement, and School Board may choose to terminate the Agreement at its sole discretion. Contractor may be liable for all costs associated with School Board securing the same services, inclusive, but not limited to, higher costs for the same services.
- D. It is the responsibility of the vendor/contractor to insure compliance with E-verify requirements (as applicable). To enroll in E-Verify, employers should visit the E-Verify website (<http://www.uscis.gov/e-verify>) and follow the instructions. The employer must retain the I-9 Forms for inspection. By affixing your signature below you hereby affirm that you will comply with E-Verify requirements.

Federal Employer Identification Number (FEIN): 59-2300277

Name of Firm: Smiley's Audio-Visual Inc

Address: Po Box 6925 Lakeland, FL 33807

Signature of Authorized Representative: Cathy Smiley

Print Name of Authorized Representative: Cathy Smiley, PRES.

Authorized Alternate Signature [Signature]

James Nathan Smiley, Operations Manager





# CERTIFICATE OF LIABILITY INSURANCE

SMILE-1

OP ID: KL

DATE (MM/DD/YYYY)

02/09/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Lanier Upshaw Incorporated 570 Polaris Parkway Suite 500 Westerville, OH 43082 Lanier Upshaw House	<b>800-234-3831</b>	<b>CONTACT NAME:</b> Lanier Upshaw House <b>PHONE (A/C, No, Ext):</b> 800-234-3831 <b>FAX (A/C, No):</b> 614-796-7758 <b>E-MAIL ADDRESS:</b>
<b>INSURED</b> Smiley's Audio-Visual, Inc JCS Group of Central Florida PO Box 6925 Lakeland, FL 33807		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Westfield Insurance Company <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>
		<b>NAIC #</b> 24112

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		CWP3112455	10/03/2020	10/03/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 150,000 MED EXP (Any one person) \$ 1,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> <input type="checkbox"/> Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A			PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: St John's County Schools for Bid# 2021-05

**CERTIFICATE HOLDER****CANCELLATION**

STJST-2

St Johns County School  
District, Sebastian Admin  
Annex, Purchasing Department  
3015 Lewis Speedway Bldg 5  
St Augustine, FL 32084

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Karen Lehnhart

Attachment A

INDICATE THE CATALOG(S) SUBMITTED BY CHECKING THE CATEGORY(S)

- ☐ ART EQUIPMENT & SUPPLIES
- ☐ ATHLETIC/PE EQUIPMENT & SUPPLIES
- ☒ AUDIO VISUAL EQUIPMENT & SUPPLIES
- ☐ AUTOMOTIVE/BUS EQUIPMENT & SUPPLIES
- ☐ BUILDING MAINTENANCE MATERIALS & SUPPLIES
- ☐ CAFETERIA EQUIPMENT & SUPPLIES
- ☐ EDUCATIONAL MATERIALS, EQUIPMENT & SUPPLIES
- ☐ ELECTRICAL EQUIPMENT & SUPPLIES
- ☐ FITNESS EQUIPMENT & ACCESSORIES
- ☐ INDUSTRIAL ART EQUIPMENT & SUPPLIES
- ☐ MEDICAL EQUIPMENT & SUPPLIES
- ☐ MUSIC INSTRUMENTS, EQUIPMENT & SUPPLIES
- ☐ OFFICE EQUIPMENT & SUPPLIES
- ☐ PLUMBING EQUIPMENT & SUPPLIES
- ☐ SCHOOL SUPPLIES
- ☐ SCIENCE/LABORATORY EQUIPMENT & SUPPLIES
- ☒ TECHNOLOGY EQUIPMENT & SUPPLIES

*original*

Company Name:

*Smiley's Audio-Visual, Inc*



Original Pg 1 of 1

Percentage discounts should apply to all items contained in the vendor's catalog or on the vendor's web site. Exceptions should be noted in the space provided on this form. If bidding discounts for more than five (5) catalogs, duplicate this page and complete.

VENDOR NAME:	SMILEY'S AUDIO-VISUAL, INC.	
VENDOR QUOTE NUMBER (if applicable):	BID# 2021-05	
WEBSITE:	www.smileysaudiovisual.com	
CATALOG NAME:	SMILEY'S CATALOG 16	% DISCOUNT: 10% minimum
CATALOG NAME:	Coverpg enclosed with	% DISCOUNT:
CATALOG NAME:	Manufacturer listing	% DISCOUNT:
CATALOG NAME:	rev 01012021	% DISCOUNT:
CATALOG NAME:		% DISCOUNT:
DISCOUNT EXCEPTIONS: (Enumerate)	See separate spreadsheet enclosed with bid for 87 items, including discounts for accessories and manufacturer website referenced	
GENERAL FREIGHT TERMS	<input checked="" type="checkbox"/> Free, Prepaid & Included \$ 25.00 minimum DOCK DELIVERY INCLUDED	<input type="checkbox"/> Prepaid & Added to Invoice We bill % of total order. Add % to each order. We bill actual amount.
OTHER EXCEPTIONS:	Freight charges are included for dock delivery. Liftgate service + inside delivery are optional + separate charges. Prices do not include installation	
E-PROCUREMENT APPLICATION (PunchOut) (check box)	Yes:	MIGHT BE AVAILABLE <input checked="" type="checkbox"/> No: IN THE NEAR FUTURE
CONTACT PERSON:	Cathy Smiley OR Carol Williams	
PHONE NUMBER:	800-282-3497 OR 863-667-1998	
FAX NUMBER:	863-667-3186	
E-MAIL ADDRESS:	cathy@smileysaudiovisual.com / carol@smileysaudiovisual.com	
COMMENTS:	WE ARE A CERTIFIED WOMAN OWNED BUSINESS	
INSURANCE:	Failure to comply with the insurance requirements listed in section 9.0 of the bid may invalidate any response and/or award. Insurance ACOB forms being revised	
VENDOR PAYMENT:	Failure to comply with the vendor payment requirements listed in section 10.0 of the bid may invalidate any response and/or award. VISA/MC accepted	
<b>Vendor Acknowledgement and Approval</b> I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies, equipment or service, and in all respects fair without collusion or fraud. The following information, including an authorized representative signature, is required to be submitted with your bid in order to be considered for evaluation and award. The person signing below acknowledges and agrees with all proposed information as submitted and has the authorization of the said company to enter into a contractual agreement with St. Johns County School District for the purposes as proposed and described herein.		

Company Name: Smiley's Audio-Visual, Inc  
 Authorized Signature: Cathy Smiley, President

Print Name: Cathy Smiley  
 Date: 2/8/2021

*Original*



**Panasonic**



**ELMO**



**CALIFONE**



# Smiley's

audio visual inc.

SMILEY'S AUDIO-VISUAL, INC. 1-800-282-3497

info@smileysaudiovisual.com

BID# 2021-05

CATALOG 16 ( YELLOW) ENTITLED:

"SMILEY'S AUDIO VISUAL ,INC."

1% off entire catalog, with better discounts available for Various manufacturers. A separate discount has been made referencing the manufacturer website. Any exclusions have been noted

CATALOG 16

*"Personal, friendly service since 1980"*

P.O. Box 6925

Lakeland, FL 33807-6925

TEL 863-667-1998

FAX 863-667-3186

FL TOLL FREE 1-800-282-3497

Please Call for Your Special Pricing

info@smileysaudiovisual.com

www.smileysaudiovisual.com



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ST.JOHNS BID# 2021-05	Supplies and	Accessories	Website
<b>Manufacturer</b>	<b>Equipment</b>		
Smiley's Audio-Visual Catalog 16	1%	1%	<a href="https://smiley-saudiovisual.com">https://smiley-saudiovisual.com</a>
Amplivox	25%	2%	<a href="https://www.amplivox.com/">https://www.amplivox.com/</a>
Anchor Audio	20%	2%	<a href="https://www.anchoraudio.com/">https://www.anchoraudio.com/</a>
Audio Technica	18%	2%	<a href="https://www.audio-technica.com/world_map/">https://www.audio-technica.com/world_map/</a>
Aver Document Cameras	15%	2%	<a href="https://averusa.com/">https://averusa.com/</a>
Avermedia	7%	2%	<a href="https://www.avermedia.com/us/">https://www.avermedia.com/us/</a>
Avid headphones	15%	2%	<a href="https://www.avidproducts.com/">https://www.avidproducts.com/</a>
AV Pro Edge	20%	2%	<a href="https://www.avproedge.com/">https://www.avproedge.com/</a>
Balance Box/T. Regout	2%	2%	<a href="https://www.heightheadjustablemounts.com/home-en">https://www.heightheadjustablemounts.com/home-en</a>
BenQ Interactive flat panels	15%	2%	<a href="https://www.benq.com/en-us/business/itp/education.html">https://www.benq.com/en-us/business/itp/education.html</a>
BenQ projectors	13%	2%	<a href="https://www.benq.com/en-us/business/projector.html">https://www.benq.com/en-us/business/projector.html</a>
Blamp	30%	2%	<a href="https://www.blamp.com/">https://www.blamp.com/</a>
Boxlight Mimio	10%	2%	<a href="https://mimio.boxlight.com/">https://mimio.boxlight.com/</a>
Bretford Basics	25%	2%	<a href="https://www.bretford.com/">https://www.bretford.com/</a>
Califone	30%	2%	<a href="https://www.schoolspecialty.com/califone-dealer">https://www.schoolspecialty.com/califone-dealer</a>
Chief	25%	2%	<a href="https://www.legrandav.com/en/products/chief">https://www.legrandav.com/en/products/chief</a>
Crestron	30%	2%	<a href="https://www.crestron.com/">https://www.crestron.com/</a>
Crestron Lighting	25%	2%	<a href="https://www.crestron.com/">https://www.crestron.com/</a>
Creston UC	1%	2%	<a href="https://www.creston.com/">https://www.creston.com/</a>
Cyber Acoustics headphones	30%	2%	<a href="https://www.cyberacoustics.com/">https://www.cyberacoustics.com/</a>
Dalite manual screens	10%	2%	<a href="https://www.legrandav.com/products/da-lite">https://www.legrandav.com/products/da-lite</a>
Dalite electric screens	15%	2%	<a href="https://www.legrandav.com/products/da-lite">https://www.legrandav.com/products/da-lite</a>
Draper manual screens	10%	2%	<a href="https://www.draperinc.com/projectionscreens/">https://www.draperinc.com/projectionscreens/</a>
Draper electric screens	20%	2%	<a href="https://www.draperinc.com/projectionscreens/">https://www.draperinc.com/projectionscreens/</a>
Dukane projectors	25%	2%	<a href="http://dukanear.com/">http://dukanear.com/</a>
Elmo doc cameras, except OK-1	15%	2%	<a href="https://www.elmoussa.com/">https://www.elmoussa.com/</a>
Front Row	3%	2%	<a href="https://www.gofrontrow.com/">https://www.gofrontrow.com/</a>
Hamilton Buhl	25%	2%	<a href="https://www.hamiltonbuhl.com/">https://www.hamiltonbuhl.com/</a>
FSR	10%	2%	<a href="https://fsrinc.com/">https://fsrinc.com/</a>
Hovercam document cameras	10%	2%	<a href="https://www.hovercam.com/">https://www.hovercam.com/</a>
Hovercam mobile stands/carts	2%	2%	<a href="https://www.hovercam.com/">https://www.hovercam.com/</a>
Hovercam Pilot	1%	1%	<a href="https://www.hovercam.com/">https://www.hovercam.com/</a>
Huion	1%	1%	<a href="https://www.huion.us/">https://www.huion.us/</a>
JBL	7%	2%	<a href="https://www.jbl.com/">https://www.jbl.com/</a>
KSI	20%	2%	<a href="https://ksi.com/">https://ksi.com/</a>
Kaptivo/Lifesize	3%	2%	<a href="https://kaptivo.com/lifesize/">https://kaptivo.com/lifesize/</a>
Kramer	23%	2%	<a href="https://www.kramerav.com/us">https://www.kramerav.com/us</a>
LG	10%	2%	<a href="https://www.lg.com/us">https://www.lg.com/us</a>
Listen Tech	15%	2%	<a href="https://www.listentech.com/">https://www.listentech.com/</a>
Logitech	5%	2%	<a href="https://www.logitech.com/en-us">https://www.logitech.com/en-us</a>
Luxor	5%	2%	<a href="https://www.luxorfirm.com/">https://www.luxorfirm.com/</a>
Mediasite/Sonic Foundry	5%	2%	<a href="https://sonicfoundry.com/">https://sonicfoundry.com/</a>
Mersive	10%	2%	<a href="https://www.mersive.com/">https://www.mersive.com/</a>

Accessories are defined as remotes, carry cases, cords, cables,adapter, lamps , batteries,chargers, lenses, extended warranties, markers, etc

Supplies  
+  
Equip.

Accessories

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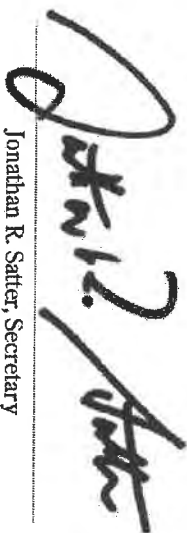
Middle Atlantic	20%	2%	<a href="https://www.legrandav.com/products/middle_atlantic_products">https://www.legrandav.com/products/middle_atlantic_products</a>
NEC Collaboration boards	25%	2%	<a href="https://www.necam.com/">https://www.necam.com/</a>
NEC Infinity boards	10%	2%	<a href="https://www.necam.com/">https://www.necam.com/</a>
NEC Projectors	11%	2%	<a href="https://www.necam.com/">https://www.necam.com/</a>
NEC Desktop displays	2%	2%	<a href="https://www.necam.com/">https://www.necam.com/</a>
Newline TRUTOUCH displays	47%	2%	<a href="https://newline-interactive.com/usa/">https://newline-interactive.com/usa/</a>
Newline nontouch displays	40%	2%	<a href="https://newline-interactive.com/usa/">https://newline-interactive.com/usa/</a>
Newline UC collaboration systems	28%	2%	<a href="https://newline-interactive.com/usa/">https://newline-interactive.com/usa/</a>
Newline bundles with logitech meetup	38%	2%	<a href="https://newline-interactive.com/usa/">https://newline-interactive.com/usa/</a>
Owl Labs	2%	2%	<a href="https://www.owllabs.com/">https://www.owllabs.com/</a>
Panasonic broadcast and professional video	12%	2%	<a href="https://na.panasonic.com/us/">https://na.panasonic.com/us/</a>
Panasonic commercial and professional displays	17%	2%	<a href="https://na.panasonic.com/us/">https://na.panasonic.com/us/</a>
Panasonic projectors	35%	2%	<a href="https://na.panasonic.com/us/">https://na.panasonic.com/us/</a>
Peerless mounts	20%	2%	<a href="https://www.peerless-av.com/">https://www.peerless-av.com/</a>
Peerless kiosks	5%	2%	<a href="https://www.peerless-av.com/">https://www.peerless-av.com/</a>
Peerless Digital signage	5%	2%	<a href="https://www.peerless-av.com/">https://www.peerless-av.com/</a>
Peerless emerging technologies and displays	5%	2%	<a href="https://www.peerless-av.com/">https://www.peerless-av.com/</a>
Planar LED monitors	2%	2%	<a href="https://www.planar.com/">https://www.planar.com/</a>
Planar touch monitors	5%	2%	<a href="https://www.planar.com/">https://www.planar.com/</a>
Planar desktop displays	2%	2%	<a href="https://www.planar.com/">https://www.planar.com/</a>
Planar touch displays	3%	2%	<a href="https://www.planar.com/">https://www.planar.com/</a>
Poly	2%	2%	<a href="https://www.poly.com/us/en">https://www.poly.com/us/en</a>
Pyle USA	2%	2%	<a href="https://pyleusa.com/">https://pyleusa.com/</a>
QSC	2%	2%	<a href="https://www.qsc.com/">https://www.qsc.com/</a>
Recordex document cameras	30%	2%	<a href="https://recordexusa.com/">https://recordexusa.com/</a>
Recordex interactive displays	20%	2%	<a href="https://recordexusa.com/">https://recordexusa.com/</a>
Revolabs microphones	20%	2%	<a href="https://uc.yamaha.com/products/microphone-systems/executive-hd-wireless-microphone-system/">https://uc.yamaha.com/products/microphone-systems/executive-hd-wireless-microphone-system/</a>
Samsung Professional LED TV Displays, video wall	19%	2%	<a href="https://www.samsung.com/us/">https://www.samsung.com/us/</a>
Sennheiser Pro Audio Wireless mics	25%	2%	<a href="https://en-us.sennheiser.com/">https://en-us.sennheiser.com/</a>
Sennheiser Pro Audio Wired mics	20%	2%	<a href="https://en-us.sennheiser.com/">https://en-us.sennheiser.com/</a>
Sennheiser Pro Audio headphones	5%	2%	<a href="https://en-us.sennheiser.com/">https://en-us.sennheiser.com/</a>
Sennheiser Pro Audio Team Connect	5%	2%	<a href="https://en-us.sennheiser.com/">https://en-us.sennheiser.com/</a>
Sharp Professional Displays	10%	2%	<a href="https://business.sharpusa.com">https://business.sharpusa.com</a>
Shure	25%	2%	<a href="https://www.shure.com/en-US">https://www.shure.com/en-US</a>
Sony projectors	21%	2%	<a href="https://pro.sony/ue-us/products/projectors/why-sony-laser-projectors">https://pro.sony/ue-us/products/projectors/why-sony-laser-projectors</a>
Sony LED commercial displays, LED prosumer TV	15%	2%	<a href="https://www.sony.com/all-electronics">https://www.sony.com/all-electronics</a>
Think Write headphones	30%	2%	<a href="https://thinkwrite.com/">https://thinkwrite.com/</a>
Vaddio cameras	17%	2%	<a href="https://www.legrandav.com/products/vaddio">https://www.legrandav.com/products/vaddio</a>
Vaddio camera mounts	25%	2%	<a href="https://www.legrandav.com/products/vaddio">https://www.legrandav.com/products/vaddio</a>
Vaddio camera controllers	22%	2%	<a href="https://www.legrandav.com/products/vaddio">https://www.legrandav.com/products/vaddio</a>
Vaddio camera systems	20%	2%	<a href="https://www.legrandav.com/products/vaddio">https://www.legrandav.com/products/vaddio</a>
Wolfvision document cameras	10%	2%	<a href="https://www.wolfvision.us/">https://www.wolfvision.us/</a>
Yamaha collaboration systems and speakerphones	2%	2%	<a href="https://uc.yamaha.com/">https://uc.yamaha.com/</a>
Yamaha Adecia	2%	2%	<a href="https://uc.yamaha.com/">https://uc.yamaha.com/</a>

# State of Florida

## Woman Business Certification

Smiley's Audio-Visual, Inc.

Is certified under the provisions of  
287 and 295.187, Florida Statutes, for a period from:  
09/17/2020 to 09/17/2022



Jonathan R. Satter, Secretary  
Florida Department of Management Services





rev.01012021

## MANUFACTURERS LISTING

INSTALLATION RATES \$160.00 per hour less 5% ~ SMILEY'S AV only installs what they sell !

AJA  
Almo  
Altinex  
Amplivox  
Anchor Audio  
Atlas Sound  
Audio Technica  
AV Pro Edge  
Aver document cameras  
Avermedia products  
AVID Headphones  
Azden Corporation  
Balance Box / T. Regout  
Balt  
Barco  
Belkin  
BenQ America Corp.  
Best Rite  
BiAmp  
Bogen Photo Corp.  
Boxlight / Mimio  
Bretford  
BTX Technologies  
Buhl Industries  
C2G Cables to Go  
Califone  
Canon  
Casio  
Chief Mfg.  
Comprehensive Video Group  
Contemporary Research  
Crestron Electronics  
Cyber Acoustics  
Da-Lite Screen Co., Inc.  
Draper  
Dry- Lam  
Dukane Corporation  
eBox / Balance Box -T.Regout  
Eiki International Inc.  
Eiko \* Wiko  
Elite Screens  
Elmo USA Corp  
Epson  
Ergotron  
Fender  
Front Row  
Gator  
Gefen  
H.Wilson Co.  
Hamilton Buhl Electronics  
Harman  
Hovercam  
Infocus  
Interlink Electronics  
JBL  
JVC  
Jelco, Inc.  
KSI  
Kaptivo  
Kensington

Kramer  
LG  
Legrand AV  
Listen Technologies  
Logitech  
Luxor  
Luxul  
Mediasite /Sonic Foundry  
Mersive Technologies  
Middle Atlantic  
Miller Furniture  
Mimio / Boxlight  
Monoprice  
MooreCo  
Nady Systems, Inc.  
NEC  
Newline Interactive  
Oklahoma Sound  
Optoma  
OwlLabs  
Panasonic  
Paso  
Peerless Industries  
Planar  
Pyle USA/ Sound Around Inc.  
Quartet  
RGB Spectrum  
Raxxess  
Recordex USA  
Revolabs  
SMK Link  
Samson  
Samsung  
Screen Innovations  
Sennheiser  
Sharp Aquos  
Sharp Electronics  
Shure  
Snap AV  
SonicShock  
Sony  
Sound Control Technologies  
Sound-Craft Systems, Inc.  
Spectrum  
Startech  
Stewart Filmscreen  
StreamVu, Inc.  
Toshiba  
Tripp Lite  
Vaddio  
Vanco  
VanderZyl Woodworking  
Vidifox  
Viewsonic  
Vizio  
Vutec  
Vivitek  
WePresent  
Wolfvision  
Xtreme Power Conversion





## ST. JOHNS COUNTY SCHOOL DISTRICT

Sebastian Administrative Annex

Purchasing Department

3015 Lewis Speedway, Building 5

St. Augustine, Florida 32084

Telephone (904) 547-8941 FAX (904) 547-8945

*Patrick Snodgrass, CPSM*

*Director of Purchasing*

January 28, 2021

TO ALL VENDORS:

The purpose of this letter is to serve as **ADDENDUM #1** to Bid #2021-05 Catalog Percentage Discount-Equipment and Supplies

The following is a list of questions that were asked along with the responses:

1. **Question:** Will this bid include shade structures and shelters, like a pavilion or gazebo? How about outdoor site furnishings, like benches and picnic tables.

**Answer:** No. Bid #2021-05 Catalog Percentage Discount-Equipment and Supplies does not include shade structures, shelters, or outdoor site furnishings.

2. **Question:** We received notification of your ITB for a Catalog Percentage Discount for Equipment and Supplies that is due on February 11<sup>th</sup>. We received a similar bid back in 2019, but never responded because we could not agree to holding a "ghost" card number on file for payments. We do not keep credit card numbers on file and cannot automatically charge a credit card (or P card). We accept Purchase Orders and we can receive payment from a P-card, but we just cannot keep that number on file. Does this mean that we can submit a bid offer and note those details, or will we still be rejected from Award of this ITB?

**Answer:** Submittals unable to meet the requirements of the bid will be deemed non-responsive. This bid requires all vendors to accept payments from SJCSO on a Visa credit card. St. Johns County School District will issue a unique "ghost" credit card number to each vendor. This information must be held on file for all future payments. The card has a zero balance until payments have been authorized by SJCSO.

3. **Question:** Can you please let me know if heavy duty lifts and shop equipment is one of the items you are interested in for this project?

I have attached a couple of pictures of our equipment for you to view.

**Answer:** As stated in Section 5.2, all questions and inquiries which may affect the eventual outcome of this solicitation will be posted to the DemandStar website [www.demandstar.com](http://www.demandstar.com) for all prospective Bidders to view no later than 5:00 PM, January 28, 2021.

See answer #2.

Thank you for your continued participation in the bid process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patrick Snodgrass".

Patrick Snodgrass  
Director of Purchasing





## ST. JOHNS COUNTY SCHOOL DISTRICT

**Sebastian Administrative Annex**

**Purchasing Department**

3015 Lewis Speedway, Building 5

St. Augustine, Florida 32084


Telephone (904) 547-8941 FAX (904) 547-8945

*Patrick Snodgrass, CPSM*

*Director of Purchasing*

### NOTICE OF INTENT

TO: All submitting vendors

FROM: Patrick Snodgrass, Director of Purchasing 

DATE: March 22, 2021

SUBJECT: Bid #2021-05 Catalog Percentage Discount-Equipment and Supplies

This letter serves as notification that a recommendation will be made to the St. Johns County School Board on April 13, 2021 to award this bid to multiple vendors per the attached list.

If you have any questions regarding the bidding procedures, please contact Patrick Snodgrass at (904) 547-8941.

We appreciate your interest in doing business with St. Johns County School District and we look forward to receiving your submittals on future projects.

“Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes.”

Smiley's Audio-Visual, Inc  
Cathy Smiley or Carol Williams  
800-282-3497 or 863-667-1998  
cathy@smileysaudiovisual.com  
carol@smileysaudiovisual.com

Vendor Summary

Vendor Name Vendor Contact Vendor Telephone Number Vendor Email	Catalog(s)	% Off Catalog	Freight Terms	Exceptions	Art	Athletic/PE	Audio Visual	Automotive/Bus	Building Maint	Cafeteria	Educational	Electrical	Fitness	Industrial Art	Medical	Music	Office	Plumbing	School Supplies	Science/Lab	Technology
Smiley's Audio-Visual, Inc Cathy Smiley or Carol Williams 800-282-3497 or 863-667-1998 cathy@smileysaudiovisual.com carol@smileysaudiovisual.com	BenQ Interactive Flat Panels	15% - Equipment 2% - Accessories	Free, Prepaid & Included. \$25 minimum. Dock delivery included.	Freight charges are included for dock delivery. Liftgate service and inside delivery are optional and separate charges. Prices do not include installation.			X														X
	BenQ Projectors	13% - Equipment 2% - Accessories					X														X
	Biamp	30% - Equipment 2% - Accessories					X														X
	Boxlight Mimio	10% - Equipment 2% - Accessories					X														X
	Bretford Basics	25% - Equipment 2% - Accessories					X														X
	Califone	30% - Equipment 2% - Accessories					X														X
	Chief	25% - Equipment 2% - Accessories					X														X
	Crestron	30% - Equipment 2% - Accessories					X														X
	Creston Lighting	25% - Equipment 2% - Accessories					X														X
	Creston UC	1% - Equipment 2% - Accessories					X														X
	Cyber Acoustics Headphones	30% - Equipment 2% - Accessories					X														X
	Dalite Manual Screens	10% - Equipment 2% - Accessories					X														X
	Dalite Electric Screens	15% - Equipment 2% - Accessories					X														X
	Draper Manual Screens	10% - Equipment 2% - Accessories					X														X
	Draper Electric Screens	20% - Equipment 2% - Accessories					X														X
	Dukane Projectors	25% - Equipment 2% - Accessories					X														X
	Elmo doc cameras, except OX-1	15% - Equipment 2% - Accessories					X														X
	Front Row	3% - Equipment 2% - Accessories					X														X
	Hamilton Buhl	25% - Equipment 2% - Accessories					X														X
	FSR	10% - Equipment 2% - Accessories					X														X
	Hovercam document cameras	10% - Equipment 2% - Accessories					X														X
	Hovercam mobile stands/carts	2%					X														X

Vendor Summary

Vendor Name Vendor Contact Vendor Telephone Number Vendor Email	Catalog(s)	% Off Catalog	Freight Terms	Exceptions	Art	Athletic/PE	Audio Visual	Automotive/Bus	Building Maint	Cafeteria	Educational	Electrical	Fitness	Industrial Art	Medical	Music	Office	Plumbing	School Supplies	Science/Lab	Technology
<a href="#">Smiley's Audio-Visual, Inc</a> <a href="#">Cathy Smiley or Carol Williams</a> 800-282-3497 or 863-667-1998 <a href="mailto:cathy@smileysaudiovisual.com">cathy@smileysaudiovisual.com</a> <a href="mailto:carol@smileysaudiovisual.com">carol@smileysaudiovisual.com</a>	Hovercam Pilot	1%	Free, Prepaid & Included. \$25 minimum. Dock delivery included.	Freight charges are included for dock delivery. Liftgate service and inside delivery are optional and separate charges. Prices do not include installation.			X														X
	Huion	1%					X														X
	JBL	7% - Equipment 2% - Accessories					X														X
	KSI	20% - Equipment 2% - Accessories					X														X
	Kaptivo/Lifesize	3% - Equipment 2% - Accessories					X														X
	Kramer	23% - Equipment 2% - Accessories					X														X
	LG	10% - Equipment 2% - Accessories					X														X
	Listen Tech	15% - Equipment 2% - Accessories					X														X
	Logitech	5% - Equipment 2% - Accessories					X														X
	Luxor	5% - Equipment 2% - Accessories					X														X
	Mediasite/Sonic Foundry	5% - Equipment 2% - Accessories					X														X
	Mersive	10% - Equipment 2% - Accessories					X														X
	Middle Atlantic	20% - Equipment 2% - Accessories					X														X
	NEC Collaboration boards	25% - Equipment 2% - Accessories					X														X
	NEC Infinity boards	10% - Equipment 2% - Accessories					X														X
	NEC Projectors	11% - Equipment 2% - Accessories					X														X
	NEC Desktop displays	2%					X														X
	Newline TRUTOUCH displays	47% - Equipment 2% - Accessories					X														X
	Newline nontouch displays	40% - Equipment 2% - Accessories					X														X
	Newline UC collaboration systems	28% - Equipment 2% - Accessories					X														X
	Newline bundles with logitech meetup	38% - Equipment 2% - Accessories					X														X
	Owl Labs	2%					X														X
	Panasonic broadcast and professional video	12% - Equipment 2% - Accessories					X														X
	Panasonic commercial and professional displays	17% - Equipment 2% - Accessories					X														X

Vendor Summary

Vendor Name Vendor Contact Vendor Telephone Number Vendor Email	Catalog(s)	% Off Catalog	Freight Terms	Exceptions	Art	Athletic/PE	Audio Visual	Automotive/Bus	Building Maint	Cafeteria	Educational	Electrical	Fitness	Industrial Art	Medical	Music	Office	Plumbing	School Supplies	Science/Lab	Technology
Smiley's Audio-Visual, Inc Cathy Smiley or Carol Williams 800-282-3497 or 863-667-1998 cathy@smileysaudiovisual.com carol@smileysaudiovisual.com	Panasonic projectors	35% - Equipment 2% - Accessories	Free, Prepaid & Included. \$25 minimum. Dock delivery included.	Freight charges are included for dock delivery. Liftgate service and inside delivery are optional and separate charges. Prices do not include installation.			X														X
	Peerless mounts	20% - Equipment 2% - Accessories					X														X
	Peerless kiosks	5% - Equipment 2% - Accessories					X														X
	Peerless Digital signage	5% - Equipment 2% - Accessories					X														X
	Peerless emerging technologies and displays	5% - Equipment 2% - Accessories					X														X
	Planar LED monitors	2% - Equipment 2% - Accessories					X														X
	Planar touch monitors	5% - Equipment 2% - Accessories					X														X
	Planar desktop displays	2% - Equipment 3% - Accessories					X														X
	Planar touch displays	2% - Equipment 2% - Accessories					X														X
	Poly	2% - Equipment 2% - Accessories					X														X
	Pyle USA	2% - Equipment 2% - Accessories					X														X
	QSC	2% - Equipment 2% - Accessories					X														X
	Recordex document cameras	30% - Equipment 2% - Accessories					X														X
	Recordex interactive displays	20% - Equipment 2% - Accessories					X														X
	Revolabs microphones	20% - Equipment 2% - Accessories					X														X
	Samsung Professional LED TV, Displays, video wall	19% - Equipment 2% - Accessories					X														X
	Sennheiser Pro Audio Wireless mics	25% - Equipment 2% - Accessories					X														X
	Sennheiser Pro Audio Wired mics	20% - Equipment 2% - Accessories					X														X
	Sennheiser Pro Audio headphones	5% - Equipment 2% - Accessories					X														X
	Sennheiser Pro Audio Team Connect	5% - Equipment 2% - Accessories					X														X
	Sharp Professional Displays	10% - Equipment 2% - Accessories					X														X
	Shure	25% - Equipment 2% - Accessories					X														X
	Sony projectors	21% - Equipment 2% - Accessories					X														X
	Sony LED commercial displays, LED prosumer TV	15% - Equipment 2% - Accessories					X														X
	Think Write headphones	2% - Equipment 2% - Accessories					X														X

[illegible]



## ST. JOHNS COUNTY SCHOOL DISTRICT

**Sebastian Administrative Annex**

**Purchasing Department**

3015 Lewis Speedway, Building 5

St. Augustine, Florida 32084

Telephone (904) 547-8941 FAX (904) 547-8945

*Patrick Snodgrass, CPSM*

*Director of Purchasing*

### NOTICE OF INTENT

TO: All submitting contractors

FROM: Patrick Snodgrass, Director of Purchasing

DATE: April 25, 2023

SUBJECT: ITB2023-11 Catalog Percentage Discount-Equipment and Supplies

This letter serves as notification that a recommendation will be made to the St. Johns County School Board on May 9, 2023 to award this bid to:

Smiley's Audio-Visual, Inc.

If you have any questions regarding the bidding procedures, please contact Patrick Snodgrass at (904) 547-8941.

We appreciate your interest in doing business with St. Johns County School District and we look forward to receiving your submittals on future projects.

“Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes.”



## ST. JOHNS COUNTY SCHOOL DISTRICT

Sebastian Administrative Annex

### Purchasing Department

3015 Lewis Speedway, Building 5

St. Augustine, Florida 32084

Telephone (904) 547-8941 FAX (904) 547-8945

*Patrick Snodgrass, CPSM  
Director of Purchasing*

May 2, 2023

Smiley's Audio Visual, Inc.  
Cathy Smiley  
PO box 6925  
Lakeland, FL 33807

Dear Vendor,

The recommendation to award Smiley's Audio Visual, Inc., as an approved vendor for ITB2023-11 Catalog Percentage Discount Equipment and Supplies will go before the Board at the May 2023 School Board meeting.

Please be reminded, non instructional contractors who are permitted access to school grounds when students are present and who are anticipated to have direct contact with students shall undergo background screening as required by section 1012.465, Florida Statutes and School Board Rule 7.142. Direct contact should be anticipated whenever the non instructional contractor will work in, or have access to, areas at the school where students are present, including but not limited to classrooms, corridors, bathrooms, cafeteria, gymnasium and locker rooms, media center, and playground facilities.

If you have not done so already, you are responsible for scheduling your staff for fingerprint screening and clearance *prior* to arriving on school grounds for work. Please refer to the vendor clearance process on the District's website at [www.stjohns.k12.fl.us](http://www.stjohns.k12.fl.us) under Vendors - Clearance Process.

We must also receive an insurance certificate listing St. Johns County School Board as certificate holder and as an additional insured. The certificate must show coverage equal to or greater than those contained in the bid document, section 9.0. You will not be permitted to perform any work under this bid until all requirements – Jessica Lunsford and insurance are met.

Sincerely,

Laura Bowden  
Purchasing Department





## Agenda Item Details

Meeting	May 09, 2023 - REGULAR SCHOOL BOARD MEETING
Category	Q. Finance - Consent
Subject	15. Request for Approval of ITB2023-11, Catalog Percentage Discount Equipment and Supplies
Type	Action (Consent)
Goals	GF-4 Maximize Resources

### Background Information:

This provides a wide range of products for schools and departments based on product availability and quality from multiple contractors. As a matter of information, the bid document states that the District reserves the right to use others to perform work, provide services or deliver the same products as described herein when it is to the economic benefit of the District and the right to separately bid any work, products, or services as described herein when it is to the economic benefit of the District.

### Educational Impact:

Provides a resource for schools and departments to obtain a variety of products, which best meet the needs of students and staff.

### Strategic Plan Impact:

Supports the District's mission statement by providing a variety of products, which best meet the needs of students and staff.

### Fiscal Impact:

Funding for purchases under this bid is included in the budget of schools and departments.

### Recommendation:

Approval of ITB2023-11, Catalog Percentage Discount Equipment and Supplies, to all contractors on the attached summary for the period of July 1, 2023 through June 30, 2026.

### Action Required:

Approval of the Superintendent's recommendation.

### Drafted, reviewed and submitted by:

Patrick Snodgrass, CPSM, Director of Purchasing  
Gretchen Saunders, Chief Financial Officer  
Michael Degutis, Chief of Staff

**Sincerely,**  
**Tim Forson**  
**Superintendent of Schools**

ITB2023-11 Catalog Percentage Discount-Equipment and Supplies May 2023.pdf (554 KB)

*Our adopted rules of Parliamentary Procedure, Robert's Rules, provide for a consent agenda listing several items for approval of the Board by a single motion. Most of the items listed under the consent agenda have gone through Board subcommittee review and recommendation. Documentation concerning these items has been provided to all Board members and the public in advance to assure an extensive and thorough review. Items may be removed from the consent agenda at the request of any board member.*

**§**

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Anuvision Technologies, Inc.  
Summer Vyne  
904-720-2182  
svyne@anuvisiontech.com

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## Vendor Summary

Vendor Name Vendor Contact Vendor Telephone Number Vendor Email	Catalog(s)	% Off Catalog	Freight Terms	Exceptions	Art	Audio/Visual	Auto/Bus	Bldg. Maint	Cafeteria	Educational	Electrical	Firefighting	Hospitality	HVAC	Industrial Art	Landscape	Medical	Office	Plumbing	School Supplies	Science/Lab	Technology	Welding
CDW Government LLC Matt Antonucci 813-804-5381 mattant@cdwg.com	Audio Visual Equipment & Supplies	16%	Free, Prepaid & Included. We bill actual amount.	Chromebooks exclude.																			
	Building Maintenance Materials	10%																					
	Cafeteria Materials	9%																					
	Educational Materials	7.5%																					
	Hospitality Materials	8%																					
	Office Materials	6%																					
	Technology Materials	4%																					
	School Materials	2.5%																					
Earlychildhood LLC dba Discount School Supply Alan Johnson 800-627-2829 bidsupport@excellence.com	Discount School Supply Catalog	3%	Prepaid & Added to Invoice. Bill % of total order.	Exclude promotional items and specialty items.	X					X								X		X	X		
Fisher Scientific Company LLC Krista Paolino 800-955-1177 fse.bids@thermofisher.com	Fisher Scientific Education 2023	33-35%	Free freight. exclude rush ship, inside and white glove.	Exclude non catalog, special orders, sale, life technologies, items that end with "ND" and some PPE items.																	X		
Flinn Scientific, Inc Sally Lovell 800-452-1261 businessdesk@flinnsci.com	Educational Materials	10%	Free, Prepaid & Included. Exclude truck items, live and hazardous material, inside and liftgate delivery, assembly and installation.	Exclude prefixed "TC", "PF", "LM", Bio-Rad, Vernier, Digital, Lab furniture.						X										X	X		
	School Materials	10%																					
	Science/Laboratory Materials	10%																					
Follett Content Solutions LLC Ashley Burns 888-511-5114 x 46379 aburns@folletlearning.com	Titlewave	3%	Free, Prepaid & Included.	Exclude any ala carte items not listed. ITB # must be included when requesting a quote.						X													
GL Group, Inc., dba Booksource Jennifer Held 800-444-0435 bids@booksource.com	2023 P-12 Classroom Library Collections	0-25%	Free shipping on orders \$150, otherwise \$9.99 flat fee.	Products with no published price are custom and/or available on website.						X										X			
GovConnection, Inc dba Connection - Public Sector Solutions Scott Little 800-986-2259 FL@Connection.com	<a href="http://www.connection.com/us">www.connection.com/us</a>	2%	Free, Prepaid & Included. Prepaid & Added to Invoice	Expedited, heavyweight, liftgate or inside delivery shipments will be charged at our discounted shipping rates. Installation, set- in-place, and removal of shipping debris are exclusive of hardware purchases. These services are provided by Connection via sku'd or Statement-of- Work-based pricing, from which percent off pricing would be honored.		X				X	X						X		X	X	X		
Gulf Ice Systems, Inc. David Harris 800-322-4853 x109 dharris@gulficesystems.com	Ice-O-Matic	63%	Free, Prepaid & Included.																				
	Everpure	55%																					
	Cornelius	55%																					

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## Vendor Summary

Vendor Name Vendor Contact Vendor Telephone Number Vendor Email	Catalog(s)	% Off Catalog	Freight Terms	Exceptions	Art	Audio/Visual	Auto/Bus	Bldg. Maint	Cafeteria	Educational	Electrical	Firefighting	Hospitality	HVAC	Industrial Art	Landscape	Medical	Office	Plumbing	School Supplies	Science/Lab	Technology	Welding
International Restaurant Distributors Joe Miller 407-886-6691 joseph@irdequipment.com	Structural Concepts	49%	Free, Paid & Included	None																			
	T&S Brass	34%																					
	Toastmaster	51%																					
	Traulsen	55%																					
	TRUE	66%																					
	Turbo Air	66%																					
	Unox	19%																					
	Varimixer	39%							X				X										
	Victory	62%																					
	Vollrath	50%																					
	Vulcan	57.5%																					
	Waring	49%																					
	Wells	45%																					
	Winston	44%																					
Kaplan Early Learning Tina Stanbery 800-334-2014 bids@kaplanco.com	Early Childhood Edition	12%	Free, Prepaid & Included. \$300 minimum per shipping location. Free shipping exclude Next Day Air, 2nd Day Air, and K Truck delivery services.	Exclude other sales offers, bids, quotes, coupons or discounts, cannot be used toward purchase of gift certificates, playground structures, parts, surfacing, curriculum, assessments & screening materials. "All About ECERS-R", "All About ITTERS-R", professional development, Tot Tree (#96616), Gaggle Buggy (#26792), LEGO products, laminators and accessories, sterilizers, and all PPE items. Exclusions are subject to change. Discount will be applied to orders of \$300 or more on current catalog pricing in effect at the time of order.																			
	Kaplan Elementary Edition	12%			X	X				X					X					X			
	Infants Toddlers and Twos Edition	12%																					
Lakeshore Learning Materials LLC Rafael Murro 800-421-5354 biddept@lakeshorelearning.com	Lakeshore Early Childhood Catalog	5%	Free, Prepaid & Included	Discount not applicable to sale items.	X	X				X							X			X	X	X	
	Lakeshore Elementary Catalog	5%																					
	Lakeshore Online Catalog	5%																					
Matthews Bus Alliance Glen Provenzano 800-330-1175 gprovenzano@matthewsbusesflorida.com	Freightliner	15%	None	None			X																
	Thomas Built Bus	15%																					



## Vendor Summary

Vendor Name Vendor Contact Vendor Telephone Number Vendor Email	Catalog(s)	% Off Catalog	Freight Terms	Exceptions	Art	Audio/Visual	Auto/Bus	Bldg. Maint	Cafeteria	Educational	Electrical	Firefighting	Hospitality	HVAC	Industrial Art	Landscape	Medical	Office	Plumbing	School Supplies	Science/Lab	Technology	Welding
MaxiAids Anthony Bernardini 800-522-6294 bids@maxiaids.com	MaxiAids	10%	\$10 minimum order. Shipping charges vary. Extra shipping charges apply for oversized items and non-continental US deliveries.	Exclude Perkins Braille's, APH Desktop Recorders, Scientific calculators, TASH & Ablenet products, Victor Readers, Computer software/hardware, OrCam products, other restrictions may apply.		X				X							X						
MFAC, LLC Jenn Lachapelle 800-556-7464 mfathletic@mfathletic.com	Everything Track & Field	10%	Free, Prepaid & Included. \$25 minimum.	Exclude sales, Pits, Hurdles, Pole Vault Poles, Crossbars, Timing Systems, Software, Cardio Equip, Weight Equip, In-ground Equip. Special shipping or truck shipment by common carrier. Other exclusions may apply.																X			
	Perform Better	10%																					
Midwest Motor Supply Co. dba Kimball Midwest Kirk Wascher 352-266-2831 kirk.wascher@kimballmidwest.com	Omnia Catalog	37%	Free, Prepaid & Included	None			X	X			X								X				X
Nasco Education LLC Michelle Au 800-558-9595 bids@nascoeducation.com	Science Education	15%	\$199 minimum. Hazardous material surcharge added. Truck logo items exclude from free shipping.	Exclude health science, healthcare simulation, ready or not tots, nutrition and replicas, hydroponics, aquaponics, furniture, kitchen aid, digital subscription, custom kits, economy student kits, ceramic equipment, art class curator kits, cyber org kits, cornell lab kits and KI KT KC NA or NZ prefix.	X																		
	Art Education	20%																					
	Math Education	15%								X										X	X		
	Family & Consumer Science	15%																					
	Elementary Essentials	15%																					
Presidio Networked Solutions LLC Ray Watkins 904-236-5503 rwwatkins@presidio.com	2N TELEKOMUMIKACE	5%	Free, Prepaid & Included, Prepaid & Added to Invoice	None	X																		
	2Ring	5%																					
	3Dconnexion	5%																					
	3M	5%																					
	7signal Solutions, Inc	5%																					
	A1 Teletronics	5%																					
	A10 Networks, Inc	5%																					
	Absolute Software Corporation	5%																					
	Acano	5%																					
	ACC Telecom	5%																					
	AccelTex Solutions	5%																					
	Accu-Tech	5%																					
	Acer Inc	5%																					
	Acevus	5%																					
	Acme Packet Inc	5%																					
	ACP-EP Memory	5%																					

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Presidio Networked Solutions LLC  
Ray Watkins  
904-236-5503  
rwatkins@presidio.com

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## Vendor Summary

Vendor Name Vendor Contact Vendor Telephone Number Vendor Email	Catalog(s)	% Off Catalog	Freight Terms	Exceptions	Art	Audio/Visual	Auto/Bus	Bldg. Maint	Cafeteria	Educational	Electrical	Firefighting	Hospitality	HVAC	Industrial Art	Landscape	Medical	Office	Plumbing	School Supplies	Science/Lab	Technology	Welding
VisionWorx LLC dba CCS Presentation Systems Jim Ernestes 904-998-7227 jernstes@ccssoutheast.com	Poly	10%	Free, Prepaid & In cluded.	None	X					X								X		X		X	
	Premier	10%																					
	Qomo	10%																					
	QSC	10%																					
	Quicktron	10%																					
	Rane	10%																					
	Raxxess	10%																					
	RDL	10%																					
	Real D-SD CrystalEyes Glasses	10%																					
	Recordex	7.5%																					
	RevoLabs	10%																					
	RFM Seating	10%																					
	RGB Spectrum	10%																					
	Roland AV	10%																					
	Sabine	10%																					
	Safco	10%																					
	Samsung Display Commercial	10%																					
	Sanyo	10%																					
	Screenbeam	3%																					
	Sennheiser	15%																					
	Sierra Video	10%																					
	Sharp-NEC	5%																					
	Shure	15%																					
	SMART	20%																					
	SMART Accessories	5%																					
	Sonic Foundry	5%																					
	Sony Professional Displays	5%																					
	Sony Projectors	25%																					
	Sony Projector Accessories	5%																					
	Sound Craft	10%																					
	Sound Tube	10%																					
	SP Controls	10%																					
	Spectrum	10%																					
	Tandberg	5%																					
	Tannoy	5%																					
	Tascam	10%																					
	Teach Logic	5%																					
	Teach Smart	5%																					
	TOA	5%																					
	Toshiba	5%																					
	Echo 360	5%																					
	Vaddio	15%																					
	View Sonic	13%																					
Vivitek	7.50%																						
Williams Sound	7.50%																						
Winsted	5%																						
Wolfvision	5%																						
Zoom	5%																						
EpiPhan	7.50%																						
Heckler	7.50%																						
Huddly	7.50%																						
Lumens	7.50%																						
MooreCo (Balt)	7.50%																						
Maxell	20%																						
VWR International, LLC Mark Tringalli 716-515-6014 mark.tringali@vwr.com	2023 Wards Science Catalog	20%	Free, Prepaid & Included. Exclude expedited, freight, live, temperature sensitive items. Hazardous surcharge charged \$27.50 fee per order location.	Exclude items with a list price ending in "9". Orders less than \$25 are subject to \$7 fee.					X											X	X		
	2023 Sargent Welch Catalog	35%																					

Forty-one (41) responses received. Advance Stores Company, Inc dba Advance Auto Parts and Cxtec, Inc., have been deemed non-responsive.

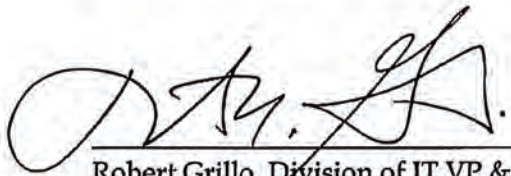
**Funding Certification Form**

This form is required by the FIU Board of Trustees ("BOT") and/or a committee of the BOT as a condition for approval of items, containing a funding component, that come for approval before the Board and/or a BOT committee pursuant to the Delegations of Authority from the BOT to the University President or otherwise.

Item name/description: Smileys Blanket Purchase Order to procure goods and services for Institutional usage.

Funding Source(s): 331/ Auxiliary Enterprises


This is to certify that the above item has been reviewed and approved, and to the best of our professional judgment and knowledge, the type of funding for the item is authorized by state law and Board of Governors Regulations, and the Trustees may reasonably and in good faith rely on this certification.

  
Robert Grillo, Division of IT VP & CIO

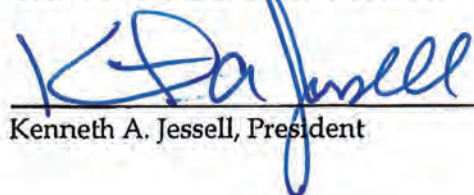
5/9/2023  
Date

  
Aime Martinez, Interim Vice President and Chief  
Financial Officer

5/19/2023  
Date

DocuSigned by:  
  
7E5CBEE0E1654E8  
Carlos B. Castillo, General Counsel

5/31/2023  
Date

  
Kenneth A. Jessell, President

5-31-2023  
Date

## **Participation Agreement**

**THIS PARTICIPATION AGREEMENT** (“Participation Agreement”) is made and entered into as of the date last set forth below (“Effective Date”) by and between The Florida International University Board of Trustees, with its principal address at 11200 SW 8th St., Miami, Florida 33199 (“Participant”) and Academic HealthPlans, Inc., a Texas corporation, with its principal address at 1452 Hughes Rd, Suite 350, Grapevine, TX 76051 (“Vendor”).

**WHEREAS**, the University of South Florida (“USF”) and Vendor are parties to an AGREEMENT FOR INSURANCE BROKERAGE & PLAN ADMINISTRATION SERVICES for Student Health Insurance Broker Services as awarded via USF ITN #2023-058-ITN-PRO dated February 28, 2023 (“Agreement”), under which other universities within the State University System of Florida may purchase products or services from Vendor upon execution of this Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Upon execution of this Participation Agreement by both Participant and Vendor, Participant may purchase products and services under the Agreement, subject to the terms and conditions of the Agreement.
2. Participant hereby acknowledges and agrees to be bound by the terms and conditions of the Agreement, which are specifically incorporated herein by reference. The parties agree that all obligations of Vendor under the Agreement, and all benefits provided therein by Vendor, shall inure to the benefit of Participant, and its respective trustees, officers, agents, employees, successors and assigns, pursuant to this Participation Agreement.
3. Participant agrees to designate Vendor as its Broker of Record for Student Health Insurance.
4. **Term.** This Participation Agreement will begin on July 1, 2023 and will be in effect for one year until June 30, 2024. The Participation Agreement may be renewed as provided in the Agreement as long as the Agreement is in effect.
5. **Payment.** Vendor shall submit bills for compensation for goods, services and/or expenses in detail sufficient for a pre-and post-audit; invoice requirements are available on Participant’s Office of the Controller’s Payment Services website. Participant shall make payment in accordance with FIU-2202 – Prompt Payment. If Participant does not issue payment within forty (40) days of receipt of a proper invoice, Participant may pay Vendor an interest penalty at the rate established pursuant to § 55.03(1), F.S., if the interest exceeds one dollar. Vendors experiencing payment problems may contact Accounts Payable at (305) 348-3889. Participant’s performance and obligation to pay is contingent upon the legislature’s annual appropriation; Participant will give notice to Vendor of the non-availability of funds when Participant has knowledge thereof. Participant will be responsible for paying only for any goods/services it receives; Vendor must refund any payment for goods/services that are unused upon the termination of the Agreement. Participant is a tax immune sovereign and exempt from the payment of sales, use or excise taxes. Vendor is responsible for and shall pay any taxes due under the Agreement. Participant may require Vendor to accept payments via Participant’s EFT/ACH payment process.
6. **Compliance with Public Records Law.** Participant is subject to applicable public records laws as provided by provisions of Florida Statutes Chapter 119, and Participant will respond to such public records request without any duty to give the Vendor prior notice. If Vendor is a “contractor” as defined under Section 119.0701, Florida Statutes, Vendor shall comply with all applicable public records laws. Specifically, Vendor shall: (1) keep and maintain public records required by Participant to perform the service; (2) upon request from Participant’s custodian of public records, provide Participant with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed



the cost provided under that section, or as otherwise provide by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if Vendor does not transfer the records to Participant; and (4) upon completion of the contract, transfer, at no cost, to Participant all public records in possession of Vendor or keep and maintain public records required by Participant to perform the services. If Vendor transfers all public records to Participant upon completion of the contract, Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Vendor keeps and maintains public records upon completion of the contract, Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Participant, upon request by Participant's public records custodian, in a format that is compatible with Participant's information technology systems. If Participant receives a request for public records, and Participant does not possess such records, Participant shall immediately notify Vendor of such request, and Participant must provide them to Participant or allow the records to be inspected or copied within a reasonable time. If Vendor does not comply with the request for records, Participant shall enforce the terms of the contract, and Vendor may be subject to civil action under Section 119.0701, Florida Statutes, and the penalties outlined under Section 119.10, Florida Statutes. Participant may unilaterally cancel the Agreement for Vendor's refusal to allow public access to all public records that were made or received in conjunction with the Agreement. This provision shall survive the expiration or earlier termination of the Agreement. **IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 348-1377, BY E-MAIL AT [recordsmanagement@fiu.edu](mailto:recordsmanagement@fiu.edu), OR BY MAIL at 11200 SW 8 ST., GL 460, MIAMI, FLORIDA 33199.**

7. **Notices.** Notices will be effective under this Participation Agreement when they are reduced to writing and delivered by next day delivery service, with proof of delivery, mailed certified or registered mail, return receipt requested, or via email with acknowledgment of receipt to the appropriate party at the address stated below. Notice will be deemed given on the date delivered or the date of attempted delivery if service is refused.

**Participant:**  
**Florida International University**  
Procurement Services  
11200 S.W. 8th Street, CSC 411  
Miami, Florida 33199  
Attn: Purchasing Director

With a copy to:  
**Florida International University**  
Office of the General Counsel  
11200 S.W. 8th Street, PC 511  
Miami, Florida 33199

8. **Venue.** Exclusive venue of any actions arising out of this Participation Agreement shall be in the courts in Miami-Dade County, Florida

**IN WITNESS WHEREOF**, the parties hereto have caused this Participation Agreement to be executed as of the Effective Date.

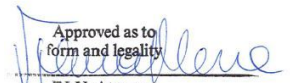
Participant:

Signature: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to  
form and legality  
  
F.I.U. Attorney

**DATE: 5-8-23**

Vendor:

Signature: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### Funding Certification Form

This form is required by the FIU Board of Trustees ("BOT") and/or a committee of the BOT as a condition for approval of items, containing a funding component, that come for approval before the Board and/or a BOT committee pursuant to the Delegations of Authority from the BOT to the University President or otherwise.

Item name/description: Approval for PUR-06870 Academic HealthPlans, Inc - Student health insurance

Funding Source(s):

Fund Code	Fund Code Description
210	General Revenue
331	Auxiliary
411	Athletics
441	Univ Wide Pooled Activity
651	Sponsored Research Miscellaneous
652	Sponsored Research Overhead
653-655	DOR Research
660-665	Sponsored Research

This is to certify that the above item has been reviewed and approved, and to the best of our professional judgment and knowledge, the type of funding for the item is authorized by state law and Board of Governors Regulations, and the Trustees may reasonably and in good faith rely on this certification.

DocuSigned by:

*Alexandra Mirabal*

D3ECE502ED84AE4

Alexandra Mirabal, Associate Vice President  
& Controller

5/10/2023

Date

*Aime Martinez*  
Aime Martinez, Interim Sr. Vice President and  
Chief Financial Officer

DocuSigned by:

*Carlos B. Castillo*

7E5C8EF9E1634F6...

Carlos B. Castillo, General Counsel

5/19/2023

Date

5/31/2023

Date

*Kenneth A. Jessell*  
Kenneth A. Jessell, President

5-31-2023

Date



**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**

June 15, 2023

**Subject: Approval of Contracts greater than or equal to \$1,000,000 and less than 3,000,000:**

- 1) *Renewal PUR-03390 with Air Planning, LLC*
- 2) *Independent Contractor Agreement with A21 Consulting, LLC.*

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**Proposed Committee Action:**

Pursuant to the Delegations of Authority from the Florida International University Board of Trustees to the University President, as reflected in the Resolution on the President's Powers and Duties approved by the Board of Trustees on March 4, 2019, (i) approve the University entering into the contracts as listed and described below and (ii) authorize the University President or his designee to execute, on behalf of the University, the aforementioned contracts and all of the documents, and take all actions, that may be necessary to effectuate the transactions contemplated in the respective contracts.

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**Background Information:**

**1. Contract PUR-03390. Supplier: Air Planning, LLC.** Air Planning will be contracted to organize and execute chartered air travel for the FIU football team for away games. FIU is scheduled to travel to Louisiana Tech University, University of Connecticut, New Mexico St. University, Sam Houston St. University, Middle Tennessee St. University, and University of Arkansas. This contract with Air Planning LLC is for air charter service for the FIU Football team for the 2023 football season.

Chartered air service is necessary for the FIU Football team due to many factors.

- a. The travel party for away games includes players, football coaches, direct football support staff, equipment staff, trainers, social media staff, radio broadcasting staff, academic staff, compliance staff, team doctors, athletic director, fundraising staff, law enforcement, and donors. On average, the travel party is 155 people. This is far too big of a group to consider commercial air travel.
- b. The amount of luggage/equipment that the football team travels with far exceeds what is possible on a commercial flight. Chartered air service gives FIU the flexibility to travel with the equipment needed while also loading and unloading in an efficient manner.
- c. The scheduling in college football is constantly changing. The team will depart from MIA the day before the game. Immediately after the game, the team will leave the away stadium and drive directly to our scheduled airport to fly back to MIA. This is necessary because only one (1) night in a hotel for away game travel is permissible for football teams according to the National Collegiate Athletic Association (NCAA).
- d. This contract will ensure that FIU meets (not exceeds) the standard of team travel for an FBS (NCAA Division I Football Bowl Subdivision, formerly known as Division I-A) football team.

Traveling via air charter service for an FBS football team is a necessity to be successful. The contract with Air Planning LLC allows FIU Football to travel within budget while allowing our team the to travel efficiently.

The University of Cincinnati did a competitive solicitation and FIU is piggybacking the RFQ T717-21L UC Athletics FB Air Charter Service.

- **Term:** one (1) year. The university will have the option to renew for four (4) additional, one (1) year terms. The University is currently on renewal two (2).
- **Cost:** Based on the previous two (2) years: 2021-2022 \$473,684 2022-2023 YTD \$618,602.68 and the anticipated spend for this vendor during the remaining contract term including renewals is anticipated to be for renewal two (2) \$550K, renewal 3, \$550K and renewal 4 \$550K. Totaling \$2.8M.
- **Benefits Include:** This contract meets the standard of team travel in the FBS and is comparable to the contracts/means of travel used by our direct competitors within Conference USA. This contract allows the FIU Football team to travel with the necessary efficiency and flexibility needed to operate a successful football program.
- **Funding source:** Fund 411 (1101040059 – Football)

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**Supporting Documentation:** Contract PUR-03390 – Renewal  
Funding Certification Form

**Facilitator/Presenter:** Aime Martinez

## **2. Independent Contractor Agreement and purchase orders issued pursuant to the Agreement (vendor: A21 Consulting LLC).**

The Agreement is to provide external sponsorship solicitation, fulfilment, and relationship management services for the various events organized by the Food Network South Beach Wine & Food Festival presented by Capital One (SOBEWFF®) for the 2024 – 2026 Festivals, to be held on February 22–25, 2024, February 20-23, 2025 and February 19-22, 2026 (the “Festivals”). The services are exempted under Florida Board of Governors (BOG) Regulation 18.001 (6)(d)(13). The total amount of expenses could not be outlined in the Agreement for the Festivals as reimbursement to A21 Consulting LLC is based on percentages of sponsorships secured.

**Term:** From execution of Agreement to April 30, 2026

**Cost:** Estimated \$500,000 per year for total contract value of \$1,600,000

**Funding source:** Ticket sales and sponsorship revenue (unrestricted auxiliary funds)

**Supporting Documentation:** Independent Contractor Agreement, Vendor: A21  
Consulting LLC  
Funding Certification Form

**Facilitator/Presenter:** Aime Martinez

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**SECOND RENEWAL AND AMENDMENT AGREEMENT**

**THIS SECOND RENEWAL AND AMENDMENT AGREEMENT** (the “The Second Renewal”) is made and entered into on the last date signed below (the “Effective Date”), by and between **THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES (“FIU”)** and **AIR PLANNING, LLC**, a Massachusetts limited liability company, whose principal address is 2 Main Street, Salem, NH 030709, whose authorized to do business in the State of Florida (the “Contractor”).

**RECITALS**

**WHEREAS**, FIU and the Contractor entered into that certain Piggyback Agreement dated July 1, 2021, pursuant to the Master Agreement for Charter Agent for Aircraft and Transportation Charter Services by and between Contractor and the University of Cincinnati dated July 1, 2020; as renewed by that certain First Renewal Agreement dated July 27, 2022 (collectively, the “Agreement”); and

**WHEREAS**, FIU and the Contractor desire to renew the Agreement for an additional one (1) year term and amend the terms as indicated below.

**NOW, THEREFORE**, for and in consideration of the mutual promises and agreements made herein and intending to be legally bound hereby, the parties hereto agree as follows:

1. **Recitals**. The above recitals are true and correct and incorporated herein.
2. **Renewal Term**. The Agreement is hereby extended for an additional one (1) year term, commencing on July 1, 2023, and ending on June 30, 2024 (the “Renewal Term”).
3. **Deliverables for Renewal Term**. During this Renewal Term, subject to the terms and conditions set forth in the Agreement, Contractor agrees to perform and provide to FIU the deliverables described Exhibit “A” and Exhibit “B” attached hereto and made a part hereof to this Renewal and Amendment.
4. **Insurance**. The Contractor shall continue to furnish FIU with certificates of insurance for the duration of this Renewal. The Contractor’s certificates on the applicable policies (including but not limited to general liability and automobile liability policies) shall indicate an endorsement which names The Florida International Board of Trustees, Florida International University, the State of Florida, the Florida Board of Governors, and their respective trustees, directors, officers, employees and agents as additional insureds on such policies. Additionally, the Contractor’s policies shall carry an endorsement to provide thirty (30) days prior written notice to FIU in the event of cancellation or reduction in coverage or amount. In the event the Contractor’s insurance carrier refuses to provide an endorsement to provide thirty (30) days prior written notice to FIU, then the Contractor will be required to provide thirty (30) days prior written notice to FIU in the event of a cancellation or reduction in the coverage or amount and secure any new insurance as required to comply with this Renewal and the Agreement to

- ensure continuous coverage. If the Contractor fails to secure and maintain insurance policies complying with the provisions of this Contract, FIU may terminate this Renewal and the Agreement.
5. **Capitalized Terms.** All capitalized terms used herein but not expressly defined herein shall have the meaning ascribed thereto in the Agreement.
  6. **Ratification.** Except as modified hereby, all of the terms, covenants and conditions of the Agreement shall remain in full force and effect and are hereby ratified and affirmed.
  7. **Compliance with Laws.** In the performance of this Contract, Contractor shall, at its own expense, at all times during the Renewal Term, comply with all applicable federal, state, and local laws, rules, regulations, and ordinances and all other governmental requirements. Contractor acknowledges and agrees that Contractor has and will at all times during the Renewal Term maintain all governmental permits, licenses, consents, and approvals necessary to perform its obligations under this Contract.
  8. **Compliance with Public Records Law.** FIU is subject to applicable public records laws as provided by provisions of Florida Statutes Chapter 119, and FIU will respond to such public records request without any duty to give the Contractor prior notice. If Contractor is a “contractor” as defined under Section 119.0701, Florida Statutes, Contractor shall comply with all applicable public records laws. Specifically, Contractor shall: (1) keep and maintain public records required by FIU to perform the service; (2) Upon request from FIU’s custodian of public records, provide FIU with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided under that section, or as otherwise provide by law; (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if Contractor does not transfer the records to FIU; and (4) upon completion of the contract, transfer, at no cost, to FIU all public records in possession of Contractor or keep and maintain public records required by FIU to perform the Service. If Contractor transfers all public records to FIU upon completion of the contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to FIU, upon request by FIU’s public records custodian, in a format that is compatible with FIU’s information technology systems. If FIU receives a request for public records, and FIU does not possess such records, FIU shall immediately notify Contractor of such request, and Contractor must provide them to FIU or allow the records to be inspected or copied within a reasonable time. If Contractor does not comply with the request for records, FIU shall enforce the terms of the contract, and Contractor may be subject to civil action under Section 119.0701, Florida Statutes, and the penalties outlined under Section 119.10, Florida Statutes. FIU may unilaterally cancel the Agreement for Contractor’s refusal to allow public access to all public records that were made or received in conjunction with the Agreement. This provision shall survive the expiration or earlier

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termination of the Agreement. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 348-1377, BY EMAIL AT [recordsmanagement@fiu.edu](mailto:recordsmanagement@fiu.edu), OR BY MAIL at 11200 SW 8 ST., GL 460, MIAMI, FLORIDA 33199.**

9. **E-Verify:** All terms defined in §448.095, Fla. Stat., are adopted and incorporated into this provision. Pursuant to §448.095, Fla. Stat., Contractor certifies that it is registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Agreement. If Contractor enters into a contract with a subcontractor to perform work or provide services pursuant to this Agreement, Contractor shall likewise require the subcontractor to comply with the requirements of §448.095, Fla. Stat., and the subcontractor shall provide to Contractor an affidavit stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. Contractor shall maintain a copy of such affidavit for the duration of the Agreement. FIU may terminate this Agreement immediately upon notice to Contractor for any violation of this provision.
10. **No counterparts; facsimile signatures allowed.** This Renewal may not be executed in counterparts. This Renewal, along with any and all Exhibits, may be executed and delivered by facsimile signature by any of the parties to the other parties; to the extent permissible under Florida law, a facsimiles signature shall have the same legal force and effect as an original signature and the receiving party may rely on the receipt of such document so executed and delivered by facsimile signature as if the original had been received.

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THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have affixed their signatures, effective on the Effective Date.

**FOR THE CONTRACTOR:**

**AIR PLANNING LLC**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FOR FIU:**

**THE FLORIDA INTERNATIONAL  
UNIVERSITY BOARD OF TRUSTEES**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to  
form and legality  
\_\_\_\_\_  
F.I.U. Attorney

DATE: 5-11-23



Schedule A #FLO082523JM REVISION 1

## AIR CHARTER AGREEMENT SCHEDULE A

This Schedule A document is governed by the terms and conditions of Air Charter Agreement #1FLO04072023 (Agreement) executed between the Charterer and Agent and will have the same force and effect as if set forth in the Agreement. In the event of any conflicts between the terms and conditions of this Schedule A document and the Agreement, the terms and conditions of this Schedule A document shall prevail. ~~Failure to sign and return this Schedule A document by 4/13/2023 may at the option of Agent result in this Schedule A document being rendered void.~~



**Charterer: Florida International University**

**Agent: Air Planning, LLC**

### Itinerary:

Routing	Date	Local Time	Operation Type	Fuel Stop
MIA to MLU	8/25/2023	2:00 PM	Ramp arrival and departure	No
MLU to MIA	8/26/2023	TBD	Ramp arrival and departure	No
MIA to BDL	9/15/2023	2:00 PM	Ramp arrival and departure	No
BDL to MIA	9/16/2023	TBD	Ramp arrival and departure	No
MIA to ELP	10/3/2023	1:00 PM	Ramp arrival and departure	No
ELP to MIA	10/4/2023	TBD	Ramp arrival and departure	No
MIA to IAH	10/17/2023	2:00 PM	Ramp arrival and departure	No
IAH to MIA	10/18/2023	TBD	Ramp arrival and departure	No
MIA to BNA	11/10/2023	2:00 PM	Ramp arrival and departure	No
BNA to MIA	11/11/2023	TBD	Ramp arrival and departure	No
MIA to XNA	11/17/2023	2:00 PM	Ramp arrival and departure	No
XNA to MIA	11/18/2023	TBD	Ramp arrival and departure	No

### Flight Information:

**Air Carrier:** Allegiant Air

**Aircraft:** A320

**Seats:** 177

**Maximum Passengers:** 170

**Fuel Base:** \$4.00 per gallon

**De-ice:** Not Included

**Estimated Payload:** 42,000 pounds

**Catering:** None

### Airport List:

Code	Name	Location
BDL	Bradley International	Windsor Locks, Connecticut
BNA	Nashville International	Nashville, Tennessee
ELP	El Paso International Airport	El Paso, Texas
IAH	George Bush Intercontinental	Houston, Texas
MIA	Miami International Airport	Miami, Florida
MLU	Monroe Regional Airport	Monroe, Louisiana
XNA	Northwest Arkansas Regional	Fayetteville

### Type of Charter:

Single entity (see Agreement for Charter Type Definition)

### Charter Price and Payment Information:

**Agreed to by**  
**Air Planning, LLC (Agent)**  
2 Main Street  
Salem NH 03079

**Agreed to by Charterer**  
**Florida International University**  
Campus Support Complex Room CSC 414  
Miami, Florida 33199

Signature

Signature

Name, Title

Name, Title

Date

Date





**Total Charter Amount:**  
\$542,673.00 USD

**Payment Schedule: \$10,000.**

~~\$135,668.25~~ USD due upon signing

~~\$407,004.75~~ USD due on or before 5/27/2023

**\$532,673.**  
**6/19/**



**Remarks AND/OR Additional Terms and Conditions:**

Charterer acknowledges and agrees that Agent will not enter into any contract(s) with an Air Carrier(s) or arrange any flights on their behalf until Charterer has made the required payments.

Agreed to by  
Air Planning, LLC (Agent)  
2 Main Street  
Salem NH 03079

Agreed to by Charterer  
Florida International University  
Campus Support Complex Room CSC 414  
Miami, Florida 33199

Signature

Signature

Name, Title

Name, Title

Date

Date

Approved as to  
form and legality  
F.I.U. Attorney

DATE:



## AIR CHARTER AGREEMENT #1FLO04072023 REVISION 1

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### Air Charter Agreement

This Revised agreement (Agreement) dated as of 04/07/2023 (the "Effective Date") replaces the previously issued #1FLO01202023 and any prior revisions and is by and between Air Planning, LLC (Agent), a Massachusetts corporation with offices at The Air Planning Building, Two Main Street, Salem, NH 03079, and Florida International University with offices at Campus Support Complex Miami, Florida 33199 (Charterer), or if acting in an agency capacity, as agent for Charterer(s) identified in the Schedule "A" document. ~~Failure to sign and return this agreement by 4/7/2023 may, at the option of Agent result in this agreement being rendered void.~~ At the option of Agent, this Agreement is not binding until countersigned by both parties. This Agreement is to appoint Agent as the authorized agent of Charterer and as such is authorized to enter into agreements and act on behalf of the Charterer for the charter flights identified in Schedule "A" documents. Supplemental terms and conditions shall be memorialized in Schedule "B" documents when required. This Agreement, the Schedule "A", and the Schedule "B" documents shall be collectively referred to herein as the Documents.

### Fuel Stops

A fuel stop may be required if unusual, unanticipated flight conditions prevail during flight or at the Air Carrier's sole discretion a fuel stop is necessary for the safe operation of a flight. This is in addition to any fuel stops identified in the Schedule A document(s). Additional charges may apply in the event of an unscheduled fuel stop(s).

### Catering

If catering is included, it will be described in the Schedule A document(s). Additional catering and/or alcoholic beverages are not available onboard unless arranged in advance and are subject to availability. Some brands and/or sizes may not be available. Aircrews cannot accept cash for purchases. Service may be reduced or limited due to flight conditions, length of flight or other factors. The quantity of beverages available, including alcohol, are standard quantities that air carries would load for a scheduled service flight and may run out on a charter flight, including open bar service. Passengers are prohibited from drinking to excess and are required to drink responsibly. Removing alcoholic beverages from the aircraft is prohibited on all flights. Removing catering or other food items is prohibited on international flights. Catering may be restricted due to the limited availability of space for storage, preparation, and waste. The Charterer may not bring aboard catering, bulk food items, or beverages (including alcohol) without prior permission from Agent and Air Carrier. If approved, additional screening, transport, delivery, and other charges may apply. The aircrew may not be able to distribute these items or remove the associated waste. All vendors associated with Charterer's catering and beverages must be approved in advance by Agent and Air Carrier.

### Wi-Fi

Wi-Fi may be available for purchase, advance booking and payment is required. There is no guarantee of reliability or availability of Wi-Fi services on any flight.

### Price Inclusions

The Total Charter Amount identified in the Schedule A document(s) includes Federal Excise Tax (FET) on the direct/indirect air carrier cost. FET does not apply to service fees. Segment fees and Passenger Facility Charges (PFC) are included as applicable. For international charter flights the price includes all international taxes and per passenger fees unless stated otherwise in the Schedule A document(s). These amounts exclude tourist cards, or any other charges or fees incurred by passengers and not customarily paid by Air Carrier.

### Price Exclusions

The Total Charter Amount identified in the Schedule A document(s) excludes; changes to itinerary, catering, fuel surcharges, unscheduled overnights, trip interruption expenses, de-icing and/or hangar charges due to inclement weather, ground transportation, flight-phone charges, use of Wi-Fi internet (if available), additional flight time costs associated with ATC delays, weather diversions, or other reasons beyond the control of the Air Carrier(s), Auxiliary Power Unit and/or other equipment charges incurred due to passenger delays, costs associated with after-hours airport operations, and parking fees. Charterer's requests for a particular airport Fixed Base Operator (FBO), which is normally selected by airline for reasons including operational support, facility cost, availability, and cost of fuel, may increase cost. Charterer is responsible for any damage to the aircraft caused by the passengers. Aircraft and aircrew are scheduled based on the agreed-upon departure times. In the event of a delay caused by late arriving passengers or any other passenger action or inaction, departure wait time charges may apply. In the event aircrew duty time is exceeded causing additional delays, overnights or cancelled flights, cancellation and/or other charges will apply. Due to other commitments and aircrew duty restrictions, there is no guarantee that the aircrew is able to delay a flight departure. In the event any flight(s) identified in the Itinerary section of the Schedule A document(s) is/are altered, regardless of reason, and would cause the aircrew to exceed duty limits, Charterer shall be responsible for additional aircrew rest fees and aircraft use fees. Duty time limitations may also require the next segment(s) of the charter to be cancelled; in which case, Charterer shall hold Agent and Air Carrier harmless and shall indemnify Agent and Air Carrier against any and all losses. Advance approval is required to exceed the number of passengers stated in the Schedule A document(s) and additional charges will apply.



## AIR CHARTER AGREEMENT #1FLO04072023 REVISION 1

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### Aircraft Substitutions

Neither Air Planning, LLC nor Air Carrier(s) will be responsible for any additional cost of replacement aircraft in excess of the amount stated in the Schedule A document(s) should a substitute aircraft be required as a result of mechanical failure or other event. If a flight does not reach its destination due to weather or diversions of any nature including mechanical failure, charges will apply to any destination reached and the return flight of the aircraft and aircrew (with or without passengers) to the Air Carrier's home base. Substitute transportation will be at additional cost.

### Pets and Smoking/Vaping Prohibitions

The carriage of pets is prohibited unless Charterer has an approved pet container(s) and obtains advance approval in writing from Agent. Smoking/vaping is strictly prohibited. Charterer is responsible for any damage to the aircraft caused by the passengers and/or pets, excepting normal wear and tear.

### Timely Payments

Charterer unconditionally guarantees payment via wire transfer (unless Agent authorizes another form of payment) on or before the due date(s) of all charges. Charterer acknowledges and agrees that Agent will not enter into any contract(s) with an Air Carrier(s) or arrange any flights on their behalf until Charterer has made the required payments. Failure to make timely payments in accordance with payment due date(s) will entitle Agent and/or the Air Carrier to cancel charter flights without notice. Any funds past due will bear interest at the rate of 1.5% per month (or the maximum amount allowed by applicable law) or part thereof, until paid. Charterer shall be liable for attorney fees and other costs of collection. Flights may be cancelled for nonpayment, in which case cancellation charges will apply.

### Cancellation

All fees for services are subject to the cancellation policy upon signing or receipt of funds. If charter flights are cancelled by Charterer, including any cancellations due or related to COVID-19, the following cancellation charges will apply:

#### Cancellation Date

More than 90 days from the first departure  
90-61 days from first departure  
60 days or less from first departure

#### Cancellation Charge

25% of the Total Charter Amount  
50% of the Total Charter Amount  
100% of the Total Charter Amount

### Charter Type Definitions

Please note other charter types may apply including Mixed Charters (Single Entity/Pro Rata combination). If after reading the charter type definitions you are unsure of the charter type, please contact the Department of Transportation (DOT).

#### Single Entity: Charter Flight Arranged and Paid for by the Charterer

Charterer hereby confirms and warrants that the cost of the charter flight(s) is/are being paid in total by Charterer. The passengers will not contribute directly or indirectly to the charter flight(s) cost. Charterer agrees to provide documentation in support of single entity status if required by the Air Carrier, Agent, or other authority. See DOT regulations 14CFR Part 212 for more information.

#### Pro-Rata (Affinity): Charter Flight Arranged by an Organization on Behalf of its Membership

DOT prohibits the advertising or sales of seats on Pro-Rata charter flights to the general public. Passengers must be members of a specific group and the charter arranged by an organization on behalf of its members. Only members meeting specific criteria may participate in the charter. Members must have at least six months of membership to participate. In some cases, family members of specific group members may also be eligible to participate. Six-month membership is not required for bona fide employees or students of a single commercial, industrial or government organization provided they have not become members for the purpose of travel. No solicitation, sales or participation may take place beyond the bona fide members. The charter price must be prorated among the passengers except children under 12 may be offered discounted or free transportation. All printed materials shall contain the following notice in boldface, 10-point, or larger type: "Some of the Federal rules that protect against tour changes and loss of passengers' money in publicly sold charters do not apply to this charter flight." Charterer must confirm that all passengers are eligible for transportation under section 14CFR 212.5 of the DOT regulations or other appropriate sections as may apply. All passengers, carry-on and checked baggage along with any equipment must be security screened as mandated by the Transportation Security Administration (TSA).

#### Public: Charter Flight(s) Sold to the General Public

The sale and advertising of seat(s) to the general public are not permitted until a public charter prospectus has been filed and approved by the DOT. Charterer assumes any and all liability for filing a public charter prospectus and the compliance with applicable DOT regulations concerning the operation of public charters. Charterer assumes any and all liability for any fines imposed by the DOT due to failure to follow and adhere to DOT regulations regarding the operation of public



## AIR CHARTER AGREEMENT #1FLO04072023 REVISION 1

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charter flights. More information can be found in the Code of Federal Regulations Title 14 Part 380. All passengers, carry-on, and checked baggage along with any equipment must be security screened as mandated by the TSA.

Passenger funds may not be used for any payments due pursuant to the Schedule A document(s), nor should any funds be collected for the public charter flight(s) described in the Schedule A document(s) until the DOT has approved the public charter flight(s) by the issuance of a Public Charter (PC) Number and Waiver Number (the latter if required). Charterer certifies and warrants that none of the payments made prior to obtaining DOT approval for the public charter flight(s) are derived from passenger/general public funds.

### Execution by Third Parties

If the Documents are executed on behalf of the Charterer by a third-party agent (TPA) that is not an employee of the Charterer, the TPA represents and warrants to Agent and the Air Carrier that; i) it is duly authorized to execute and deliver the Documents for and on behalf of the Charterer; ii) the TPA is duly authorized to deliver and receive for and on behalf of the Charterer any and all notices and communications regarding the Documents and the charter flight(s) described in the Schedule A document(s); iii) the TPA has received confirmation in writing from the Charterer that the type of charter stated in the "Type of Charter" section of the Schedule A document(s) conforms to the "Charter Type Definitions" section of this Agreement; iv) the TPA has furnished Charterer with the information contained in the "Charter Type Definitions" section in writing. The TPA agrees to indemnify, defend, and hold harmless Agent, Air Carrier, and Charterer from and against any loss, cost, or expense (including reasonable attorney fees) paid or incurred by Agent, Air Carrier, or Charterer arising from or relating to any act or omission of Agent, Air Carrier, or Charterer, relating to the subject matter of the Documents if the act or omission is a result of an instruction or request of the TPA. Further, and in addition to any other remedy which may be available to Agent, if any representation by the TPA shall be deemed at any time to be inaccurate, the TPA (and any person signing on behalf of the TPA) shall be personally responsible for the fulfillment of all of the Charterer's obligations hereunder. If the TPA is acting on behalf of one or more agents that are acting on behalf of the Charterer, the TPA will ensure the full compliance with this section by the other agents.

### Agent For Charterer

It is understood that Agent is acting as the agent for Charterer and as such is not responsible for any delays (mechanical or otherwise), cancellations, substitutions, damages, losses or other causes of action experienced by the Charterer from alleged failures on behalf of Air Carrier(s) or Air Carrier(s)' agents, or for situations beyond the control of Agent. Agent is not a direct or indirect air Carrier and does not own or operate any aircraft.

### Operational Control

All flights are operated by FAR Part 135 or 121 air carriers or foreign equivalent, who shall maintain full operational control of charter flights at all times. Agent is acting as the agent for Charterer in the capacity of an air charter broker. Exclusive from Air Carrier(s) substitutions, Agent reserves the right to substitute aircraft and/or Air Carrier(s) as necessary with Charterer's consent. Failure of Charterer to provide consent may result in extended delays or flight cancellations. Price and availability are subject to change until the Documents are fully executed.

### Aircraft Markings and Configuration

Some aircraft may have interior or exterior logos or markings that cannot be covered, removed, or altered. Many aircraft have unique configurations, especially aircraft with first or business class seating. In the event an aircraft substitution is required due to an unforeseen event such as a mechanical malfunction, there is no guarantee that the substitute aircraft will be configured in a similar or comparable configuration to the originally contracted aircraft.

### Approvals and Consents

Flights are contingent on the timely receipt by Air Carrier(s) of any consents and/or approvals of domestic or foreign governments, and/or other cognizant authorities including but not limited to airport management, ground handling service providers, customs, immigration, or other entities as required. Departure and arrival aircraft and passenger handling will be determined by the appropriate airport authorities and the Air Carrier. Ramp or terminal operations are not guaranteed. Ramp operations will require Charterer to provide motor coach transportation for all passengers and baggage transportation to and from the aircraft. Flights are also contingent on the timely granting of all landing rights and any other rights and permissions required to operate the flights. Charterer will provide information that Air Carrier(s) requests as necessary for obtaining applicable approvals. Air Carrier(s) and Agent assume no liability in the event that any approvals or permissions are denied, withdrawn, or modified at any time prior to flight that result in cancellations, airport substitutions, changes of terminal and/or gates, check-in locations, boarding locations, or changes to departure or arrival times. The captain shall at all times maintain control of the aircraft and their decisions are final. Charterer agrees to comply with all Air Carrier aircrew instructions.



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### **Indemnification** **Solely to the extent and limitations (including caps on recovery amounts) set forth in Sec.**

Charterer agrees to indemnify and hold Agent free and harmless from, and to defend Agent against any and all claims, actions, and demands asserted against Agent, including any legal fees and expenses incurred in the defense of such claims, actions, demands, arising out of act(s) or omission(s) of Charterer or Air Carrier(s), their agents, officers, employees, or flight participants.

### **Passenger Documentation, Secure Flight and APIS**

REAL ID compliant identification is required for all travel beginning on or after the date that REAL ID is required by law. Charterer is responsible for providing Advanced Passenger Information Service (APIS) information 120 hours (5 days) prior to the departure of international flights both departing and arriving to or from the United States. This information includes passenger name, date of birth, gender, citizenship, travel document type, and travel document number (if applicable). International flights will not be operated without completed APIS information. Domestic manifests are due a minimum of 72 hours (3 days) prior to flight departure. Manifests must include all passengers' full names including middle name or initial (as it appears on their government-issued ID), birth date and gender. Manifests must be submitted electronically in the format specified by Agent. Due to security requirements, name changes or additions may not be accepted within 24 hours of departure. Only passengers whose name and information are on the manifest will be permitted to board the aircraft. Additional documentation may be required for passengers under the age of eighteen (18) not accompanied by both legal parents. Failure to provide such documentation when required will be considered a flight cancellation and the appropriate fees will be charged. If a passenger under the age of 18 is not accompanied on the flight by both parents/guardians, the charterer may be required to provide evidence that the parent/guardian traveling with the minor has sole custody or show evidence that the other parent/guardian has consented to the travel. Charterer is solely responsible for the accuracy of APIS and manifest information, as well appropriate passenger travel documentation required for travel as described in the Itinerary section of the Schedule A document(s). Each passenger shall be solely responsible for the cost and the obtaining of all necessary travel documents (including, but not limited to passports, visas, tourist cards, and/or immunization certificates) and any other documents required for complying with the laws of each country from, through, or to which they are traveling. Agent assumes no liability for passengers that do not have the appropriate documentation for travel, or any passenger failure to meet the travel requirements or documentation related to COVID-19. Charterer is responsible for providing all information required by the TSA's Secure Flight program. Any fines, penalties, or other resultant costs of any kind imposed due to inaccurate or missing information are the responsibility of the Charterer. If a charter flight is a one-way international flight, Charterer confirms that return transportation has been arranged for the passengers. Neither Air Carrier nor Agent shall have any responsibility for the accommodations, flight arrangements, or any other costs associated with the repatriation of passengers resulting from one-way flights.

### **Fuel Price Surcharge and De-icing Charges**

In recognition of the possibility of continuing increases in the price of fuel required to furnish the charter flights contemplated in the Schedule A document(s), Charterer agrees that a fuel price surcharge may apply on both live (passenger carrying) and ferry (aircraft positioning) legs. To the extent aircraft fuel prices (including into-plane fees and fuel taxes) for a charter flight operated pursuant to the Schedule A document(s) are greater than the Fuel Base stated therein, Charterer shall pay Agent for the amount of such increase. Failure to pay fuel surcharges may at the option of Agent result in cancellation of flights. Applicable cancellation charges will apply. There is not a specific time period for which a fuel surcharge may be billed after the contracted flights are completed. Charterer or Charterer's agent unconditionally guarantees and shall pay any fuel surcharge within three (3) business days of receipt of invoice, or prior to departure if departure is less than (3) days. Unless otherwise specifically referenced in the Schedule A document(s), de-icing and/or anti-icing is not included, and the payment thereof is the responsibility of the Charterer. Payment of any de-ice and/or anti-icing charges is guaranteed by Charterer within ten (10) days of invoice date.

### **Baggage Transportation**

Skycap service/porter service is not included. Agent can arrange for these services, subject to availability, and at Charterer's request. Additional charges will apply. Charterer or individual passengers are responsible for bringing all baggage required to be checked to the designated check-in counter(s), or other area as instructed by Agent. Charterer or individual passengers are responsible for collection of checked baggage at the designated carousel or other area as instructed by Agent. Air Carrier will not be liable for baggage damage prior to or after the baggage is in the possession of the Air Carrier or its service providers unless damage is caused by Air Carrier or its service providers while in their custody and control.

### **Passenger Count and Payload**

Charterer may not exceed the passenger count stated in the Schedule A document(s) without prior approval and if approved additional charges will apply. The estimated maximum aircraft payload (Payload) is stated in pounds (or other unit of measurement) as "Estimated Payload" in the Schedule A document(s). Payload is inclusive of passenger weights, carry-on luggage, personal checked baggage, and all additional equipment and cargo. Passengers are allowed one checked bag and one carry-on bag. Actual passenger weights may reduce baggage allowance. Aircraft may exceed cubic capacity (bulk out) before reaching Payload capacity. Charterer warrants that Payload will remain within the maximum limitations specified by Air Carrier(s) for each flight. Payload carrying capacity may be reduced by factors including but not limited to airport runway usable length, restrictions, weather





## AIR CHARTER AGREEMENT #1FLO04072023 REVISION 1

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conditions, or other factors beyond the control of Agent or Air Carrier(s). Charterer is solely responsible for arranging the transportation of Payload that cannot be accommodated on the contracted aircraft. In the event of substitution of aircraft for any reason, Charterer shall have no right to more passenger seats, baggage space or cargo space of any kind, and shall not utilize any increase in Payload carrying capacity. Charterer shall be solely responsible for transport of passengers, baggage, and cargo in excess of the Payload stated in the Schedule A document(s), regardless of whether or not Air Carrier(s) or any substituted Air Carrier(s) transported the Payload on a previous flight.

### Departure Times

Departure dates and times are not guaranteed and are subject to Air Carrier availability. Dates and/or times are subject to change for reasons including but not limited to airport and slot approvals and the availability of aircraft and passenger services. Departure times initially designated as "TBD" or "TBA" in any Schedule A document that are subsequently requested by Charterer are subject to Air Carrier and other required approvals and are not guaranteed. Requests for departure time changes are subject to Air Carrier approval and are not guaranteed. Departure time change requests for athletic team travel may be restricted to only circumstances whereby there is a change to the start time of the athletic event for which the Charterer is travelling to. Direct loads, direct offloads or terminal operations are not guaranteed under any circumstances and are subject to approval of entities including but not limited to the Air Carrier(s), TSA or its applicable foreign equivalent, airport authorities, security screening companies, and ground handling service providers. Approval may be rescinded at any time. In the event that necessary screening cannot be arranged, the flight segment shall be operated out of an airport where TSA or applicable foreign equivalent screening is available. The Charterer unconditionally guarantees the payment of any additional fees associated with screening passengers within three (3) business days of receipt of invoice, or prior to departure if departure is within three (3) days by Charterer or Charterer's authorized agent. Charterer shall be responsible for any airline demurrage charges. Roundtrip charters that operate on the same day are contingent on adequate crew duty time and / or adequate air crew rest in between flights and / or the utilization of supplemental air crew. A delay in the outbound departure time may cause a delay in the return departure time. Roundtrip transportation may not be possible on the same day.

### Travel Taxes

Taxes are based on current data available at the time of initial pricing proposal. Tax charges are subject to change without notice and are the responsibility of the Charterer. Charterer unconditionally guarantees payment of any tax charge or passenger fee increases within three (3) business days of receipt of invoice, or prior to departure if departure is within three (3) days by Charterer or Charterer's authorized agent.

### Price Increases

The Total Charter Amount stated in the Schedule A document(s) may be increased in the event of the following; Increased block or flight time or other costs resulting from any changes in the flight schedule requested by Charterer and subsequently approved by Air Carrier, or any acts of Charterer or any acts or circumstances of any of the passengers, including the health condition of a passenger or the failure of a passenger to comply with the applicable Air Carrier's passenger terms of carriage and/or contract of carriage; Additional cost to increase the Air Carrier's insurance coverage(s) if requested by Charterer and approved by the Air Carrier in its sole and absolute discretion; Wi-Fi if used (if available).

### Checked Baggage

Checked baggage contents are for the convenience and normal wear of the passengers and must not contain any items that are prohibited by the TSA, foreign equivalent, or Air Carrier(s). Visit [www.tsa.gov](http://www.tsa.gov) for more information regarding prohibited items. Neither Agent or Air Carrier(s) will assume any liability for items unsuitable as checked baggage including but not limited to, musical instruments (including but not limited to guitars, drums), electronics (including but not limited to computers, tablets, phones, batteries, mobile devices), ornamental items (including but not limited to antiques, clocks), artistic items (including but not limited to paintings, sculptures), photographic equipment (including but not limited to cameras or lenses), sporting/recreational equipment (including but not limited to skis, golf clubs, bicycles), paper (including but not limited to decorations, manuscripts), perishables (including but not limited to fruits, plants, chemicals, medicines), items made of or bottled in glass (including but not limited to crystal, perfumes, liquor), jewelry, currency or any item of value.

If Charterer requests and Air Carrier(s) agrees to carry such items, carriage will be at the sole risk of Charterer, and Charterer shall indemnify Air Carrier(s) for any such damages arising from the carriage of such items. These items must be adequately packaged in an original factory sealed carton, cardboard mailing tube/container, or case designed for shipping or packed with internal protective material. A release may be required before acceptance of such items for carriage. Soft pack suitcases or bags constructed of cloth, canvas, or plastic or combinations thereof are also considered fragile, and Agent shall have no liability with respect to the damage of such items. Agent is not responsible for any claims arising from lost or damaged valuables, and it is strongly recommended that if any valuables are checked as baggage, Charterer and/or the passengers should insure these items.



## AIR CHARTER AGREEMENT #1FLO04072023 REVISION 1

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Lithium batteries can catch fire if damaged or if battery terminals are short-circuited. Devices containing lithium metal batteries or lithium-ion batteries, including – but not limited to – smartphones, tablets, cameras, and laptops, should be kept in carry-on baggage. If these devices are packed in checked baggage, they should be turned completely off, protected from accidental activation, and packed so they are protected from damage. Spare (uninstalled) lithium metal batteries and lithium-ion batteries, electronic cigarettes and vaping devices are prohibited in checked baggage. They must be carried with the passenger in carry-on baggage. If carry-on baggage is checked at the gate or planeside, spare lithium batteries, electronic cigarettes, and vaping devices must be removed from the baggage and kept with the passenger in the aircraft cabin. Even in carry-on baggage, these items should be protected from damage, accidental activation, and short circuits. Battery terminals should be protected by manufacturer's packaging or covered with tape and placed in separate bags to prevent short circuits. Damaged, defective, or recalled lithium batteries must not be carried in carry-on or checked baggage if they are likely to be a safety concern by overheating or catching on fire.

### Confidentiality

The parties hereto acknowledge and agree that the Documents, including the pricing and cost provisions therein, are secret and highly confidential. Accordingly, Charterer agrees that it will not reveal or disclose any of the terms of the Documents to any party without the prior written consent of Agent, except as otherwise required by law or except to the extent necessary to enforce any of the terms or conditions of the Documents.

### Governing Law **Intentionally**

~~The Documents are governed by the laws of the Commonwealth of Massachusetts. Any disputes will be settled in Massachusetts. In the event Agent or Charterer commences legal action to enforce any provision of the Documents, Agent shall be entitled to recover from Charterer, in addition to damages, the attorney's fees and any expenses incurred by Agent as a result of such action.~~



### Entire Agreement

The Documents constitute the entire understanding and agreement between Agent and Charterer. No communications, representations, understandings, or commitments, oral or otherwise, either prior to or subsequent to the execution of the Documents by Charterer shall apply. The Documents may only be amended in writing with the consent of both parties.

### Notification of Material Changes or Modifications

Each party will be deemed to represent to the other that they have not made any material change to the Documents from the draft(s) originally provided. In the event either party makes a change to any draft or final document version, the modifying party shall expressly enumerate such changes to the other party's attention in writing (e.g., by "red-lining" the document or by a comment memo or email). Modifications are not binding unless the non-modifying party accepts the change in writing either by written notification of acceptance or by initialing the modification on the document.

### Insurance

DOT regulations require Agent to disclose the presence or absence of non-owned aircraft insurance. Agent maintains the following non-owned aircraft insurance; for single limit bodily injury and property damage, liability including passengers is limited to \$25,000,000 each occurrence; for physical damage, liability is limited to \$1,000,000 each occurrence subject to a deductible of \$2,500 each loss; for personal injury, liability is limited to \$25,000,000 each occurrence and in the annual aggregate; for medical expense liability is limited to \$25,000 each person and \$1,000,000 each occurrence. Naming of additionally insured parties to the aforementioned insurance policy is prohibited.

### Charterer Contact Person

The Charterer shall designate and make available a contact person on a twenty-four (24) hour basis which shall act as Charterer's authorized charter representative to coordinate matters of operational concern or other event including but not limited to weather delays, passenger delays, aircraft mechanical issues, and aircrew delays. Charterer shall provide cell phone number and email address of its designated contact person. In the event the contact person shall fail to respond within thirty (30) minutes, it is understood that the Air Carrier and/or Agent shall proceed to make any decisions necessary.

### Emergency Data

The Charterer is responsible for soliciting emergency contact information from each passenger. The Charterer will hold Air Carrier and Agent harmless from any fines or penalties for failure to comply with this section.

### Travel Risks

Some destinations expose passengers to heightened risks to safety and security, including crime, violence, and terrorism, and to certain health/disease risks. Information regarding some of those risks can be obtained at <http://www.state.gov>, <http://cia.gov> and <http://cdc.gov>. Charterer will inform its passengers of such risks as applicable.



## AIR CHARTER AGREEMENT #1FLO04072023 REVISION 1

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### Flight Diversions

Air Carrier(s) may make flight route diversions and interim stops due to events of Force Majeure or for fuel, supplies or repairs or other reasons deemed necessary or appropriate by the Air Carrier(s) or the aircrew and to take whatever actions the Air Carrier(s) or the aircrew deems necessary or appropriate for the safety and protection of passengers, aircrew, or the aircraft. Such actions will include but are not limited to those resulting from sickness, illness, or health condition of a passenger or from any behavior or acts or inaction of a passenger or non-compliance by a passenger with aircrew instructions any provisions of the Air Carrier's terms of carriage. The actual out-of-pocket costs incurred by the Air Carrier(s) resulting from such diversions or additional or interim stops due to sickness, illness, or health condition of a passenger or from such behavior, acts or non-compliance by a passenger will be paid by Charterer.

### Consequential Damages Expressly Excluded

Notwithstanding anything to the contrary herein, neither Agent or any Air Carrier shall be liable or responsible for any consequential damages (including, but not limited to, lost profits, business interruption, or punitive damages), which may be realized by the other party or any of its affiliates, their respective directors, employees, and agents, or any passenger on any flight operated pursuant to the terms of this Agreement.

### Montreal Convention and Contract of Carriage

Air Carrier liability to each passenger on international flights is limited by the rules and limitations established by the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Montreal, Canada on May 28, 1999 (herein called the "Montreal Convention"), which rules and limitations shall, to the extent such Montreal Convention is applicable, apply to the charter flight(s) identified in Schedule A document(s). With respect to passengers on an international journey to, from, or with an agreed stopping place in the United States of America, the Montreal Convention and special contracts of carriage provide that the liability of the Air Carrier, in the event of death of or personal injury to the passenger, is limited, in most cases, to proven damages not to exceed 113,100 Special Drawing Rights per passenger and that this liability, up to such limit, shall not depend on negligence on the part of the Air Carrier. Information on the current value of a Special Drawing Right is available at [www.imf.org](http://www.imf.org). Charterer agrees to abide by the terms and conditions of Air Carrier's Contract of Carriage. Charterer will make available to passengers the Air Carrier's Contract of Carriage, liability limits, and other information that the Air Carrier requires to be furnished to passengers. This information can usually be found on the Air Carrier's website.

### Authority and Severability

Each individual who executes the Documents on behalf of a party represents that he or she is duly authorized to act on behalf of that party and is operating within the scope of his or her authority. In the event any section, clause, paragraph, or provision of the Documents is determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable, it shall not affect or invalidate any other section, clause, paragraph, or provision of the Documents, all of which shall remain in full force and effect.

### Section Headings and Execution

Section titles of the Documents are inserted for convenience only, and in no way define, limit, or describe the scope or intent of the Documents and are not considered to be a part of the Documents. The Documents may be executed in two or more counterparts, each of which shall be deemed the original, but all of which together constitute one and the same instrument.

#### Agreed to by Agent

Air Planning, LLC  
2 Main Street  
Salem NH 03079

#### Agreed to by Charterer

Florida International University  
Campus Support Complex  
Miami Florida 33199

Signature

Signature

Name, Title

Name, Title

Date

Page 230 of 287

Date

Approved as to  
form and legality  
F.I.U. Attorney

DATE:



## ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement") is entered into as of last date signed, 2023 (the "Effective Date") by and between The Florida International University Board of Trustees ("FIU"), and Air Planning, LLC (the "Company").

### RECITALS:

WHEREAS, the parties have negotiated the execution and delivery of an Agreement, whereby FIU has agreed to charter aircraft(s) to be provided by the Company (the "Agreement");

WHEREAS, in order to secure and guarantee availability of the aircrafts, FIU has agreed to pay \$ **five hundred forty-two thousand six hundred seventy-three dollars 00/100 cents (\$542,673.00)** (the "Payment") to the Company in accordance with the payment schedule set forth in the Agreement; such Payment representing the full amount due and payable pursuant to the Agreement;

WHEREAS, Payment shall be held in escrow by the Company and the payments shall be released from escrow to Air Carrier in accordance with the requirements of 14 C.F.R. §212.8;

WHEREAS, the Company has agreed to hold the Payment in escrow under such conditions; and

THEREFORE, the parties hereby agree as follows:

1. Payment. FIU agrees to deliver and deposit with the Company the Payment in accordance with the payment schedule set forth in the Agreement, specifically:
  - **Ten thousand dollars (\$10,000.00)** due upon signing the Agreement;
  - **Five hundred thirty two thousand, six hundred seventy three dollars (\$532,673.00)** due on or before June 19th, 2023;

The Payment shall be held in escrow by the Company and portions of such escrowed funds for Air Carrier's completed flights shall be released from escrow to Air Carrier in accordance with the requirements of 14 C.F.R. §212.8.

2. Escrow Account. The following are the details of the Company's escrow account (the "Escrow Account"):

Beneficiary: Escrow account Air Planning, LLC  
Account #: 1000068591  
Bank: First Merchants Bank  
3991 Hamilton Court  
Farmington, MI 48334  
Routing # 072414310

3. Counterparts. This Escrow Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

Air Planning, LLC

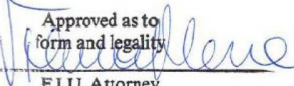
THE FLORIDA INTERNATIONAL  
UNIVERSITY BOARD OF TRUSTEES

By: \_\_\_\_\_

Name:  
Title:

By: \_\_\_\_\_

Name:  
Title:

Approved as to  
form and legality  
  
F.I.U. Attorney

**DATE:**

### Funding Certification Form

This form is required by the FIU Board of Trustees ("BOT") and/or a committee of the BOT as a condition for approval of items, containing a funding component, that come for approval before the Board and/or a BOT committee pursuant to the Delegations of Authority from the BOT to the University President or otherwise.

Item name/description: Approval to renew contract PUR-03390 AIR PLANNING LLC - Air Charter Services for Athletics Teams.

Funding Source(s):

Fund Code	Fund Code Description
<b>411</b>	<b>Athletics</b>

This is to certify that the above item has been reviewed and approved, and to the best of our professional judgment and knowledge, the type of funding for the item is authorized by state law and Board of Governors Regulations, and the Trustees may reasonably and in good faith rely on this certification.

DocuSigned by:

*Alexandra Mirabal*

03ECE502E0B4AE4

Alexandra Mirabal, Associate Vice President  
& Controller

5/10/2023

Date

*Aime Martinez*

Aime Martinez, Interim Sr. Vice President and  
Chief Financial Officer

5/19/2023

Date

DocuSigned by:

*Carlos B. Castillo*

7E5CB9F9E1654F6...

Carlos B. Castillo, General Counsel

5/31/2023

Date

*Kenneth A. Jessell*

Kenneth A. Jessell, President

5-31-2023

Date



**A21 CONSULTING, LLC**  
**INDEPENDENT CONTRACTOR AGREEMENT – General**

**Contractor:** A21 CONSULTING, LLC also known throughout this Agreement as “A21” (exactly as written on payee’s W-9)  
**Address:** 5999 Biscayne Boulevard, Miami, FL 33137

This **Independent Contractor Agreement** (the “Agreement”) is entered into by and between Contractor and **The Florida International University Board of Trustees**, a charitable governmental unit qualifying for Federal tax exemption pursuant to Internal Revenue Code (“I.R.C.”) section 115(1) (“FIU”) as administrator and co-producer of the **Food Network South Beach Wine & Food Festival presented by Capital One** (collectively, the “Festival”).

**WHEREAS**, Contractor has offered to provide the Services (defined below) with respect to the 2024 - 2026 Festivals, to be held on February 22–25, 2024, February 20-23, 2025 and February 19-22, 2026, respectively; and

**WHEREAS**, the parties hereto desire to reduce the terms of their agreement to writing.

**NOW THEREFORE**, for and in consideration of the mutual covenants contained herein, the parties hereby do mutually agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.
2. **Services.** Contractor agrees to perform and provide to the Festival the services described in the document attached hereto as **Exhibit A** (the “Services”), hereby incorporated into the Agreement by this reference.
3. **Key Personnel.** Contractor’s individuals designated as key personnel for the purposes of this Agreement are **Brett Friedman and Darrin Cohen** (“Key Personnel”). Contractor shall not substitute Key Personnel assigned to the performance of the Services without prior written approval by the Festival. Festival Key Personnel shall be defined as Lee Brian Schrager, Ashley Shapiro, and Alyson Schulman.
4. **Term.** The Agreement shall be effective as of the Effective Date (defined below) and shall continue unless otherwise terminated or provided pursuant to the terms hereof, through April 30, 2026 (the “Term”).
5. **Fee for Services.** As full compensation for the Services to be provided by Contractor hereunder, the Festival agrees to pay Contractor a total fee of the agreed upon amounts below (the “Fee”), subject to the terms of paragraph 7 (Payment Terms) below.
  - (a) Revenue.
    - a. Twenty percent (20%) of the sponsorship revenue (in the form of cash) received by FIU from all A21 Sponsors (as further defined in Exhibit A) secured after April 30, 2023 and managed by A21.
    - b. Fifteen percent (15%) of the sponsorship revenue (in the form of cash) received by FIU from all A21 Sponsors that are in executed agreements as of April 30, 2023. For avoidance of doubt, these sponsors are BMW, Goya Foods, Publix and Anheuser Busch.
    - c. Ten percent (10%) of the wholesale value of sponsorship revenue consisting of in-kind products or services that are budget-cost-relieving and approved of by the Festival in advance received by FIU from all A21 Sponsors secured and managed by A21.

The parties agree that Contractor is entitled to the Fee for in-kind products or services (as provided in Section 5(a)(iii) of the Agreement) only if Contractor additionally submits detailed records regarding such in-kind products

- or services, such as, for example, a bill of lading, a delivery slip or other evidence of shipment so long as the documentation displays quantities, unit prices and price extensions, or any other reasonable documentation from sponsor which confirms the value of the donated items that were shipped to the Festival, as requested by the Festival.
- d. Ten percent (10%) of the total sponsorship revenue (in the form of cash and budget-cost-relieving in-kind) for those Festival sponsors not solicited by A21 but for whom FIU and Festival management assign to A21 for fulfillment management of sponsor's executed contract. Budget-cost-relieving in-kind shall be defined as items that directly relieve a line item in the operating budget.
  - e. Fifteen percent (15%) of the exhibitor revenue received by FIU from all A21 Exhibitors secured and managed by A21.
  - f. Fifteen percent (15%) of the cash sponsorship revenue received by FIU from all A21 Sponsors secured and managed by A21 for Festival Special Projects
- (b) **Ticket Sales.** Commissions will be paid on select and solicited ticket purchases by A21 Confirmed Partners. Festival must approve any ticket package in advance of being offered to any Prospects (as defined in Exhibit A). Such restrictions may include, but not be limited to the following:
- a. Any solicited ticket purchases shall be commissioned at ten percent (10%) of ticket value.
  - b. Any solicited ticket purchases in bulk, defined as a quantity greater than fifty (50) and at events that are deemed by the Festival to be slow-moving or hard to sell, shall be commissioned at fifteen percent (15%) of ticket value. Discounted ticket purchases in this category shall be commissioned at ten percent (10%) of ticket value.
  - c. Any solicited ticket purchase that includes a premium, A21 will be commissioned at twenty percent (20%) of the premium fee received by FIU above the ticket price.
  - d. Any seated events or dinner buyouts must have a premium fee included and must be pre-approved of in advance by the Festival before being confirmed.
  - e. Any standard ticket orders submitted to the Festival by a confirmed sponsor are excluded from any commission.
- (c) **Retainer.** In addition to the performance-based fees outlined above, FIU shall also pay A21 a monthly sales retainer fee of two thousand eight hundred eighty-seven dollars and fifty cents (\$2,887.50) on the 15th day of each month over the 36-month period (beginning in May 2023 and ending April 30, 2026) for a total retainer fee of one hundred three thousand nine hundred and fifty dollars (\$103,950.00).
- (d) **Ticket Credit.** A21 will be provided with a seven hundred and fifty dollar (\$750.00) ticket credit for events that are listed on the committee ticket order form. A21 will be provided with a ten percent (10%) discount on orders for events that are not included on the committee ticket order form. Once tickets are purchased by A21, there shall be no returns made without exception.
- (e) **Credentials.** A21 will be provided with one (1) All Access credential per Festival-approved staff member. Additionally, A21 will receive three (3) Festival Guest credentials for Brett Friedman, Darrin Cohen and Maribel Chaluja to use at their discretion. Finally, A21 will be provided with a mutually agreed upon number of "back pocket" credentials to be used to conduct tours for potential sponsors.
- (f) **Hotel Accommodations.** Festival shall provide A21 staff with five (5) double occupancy staff rooms for three (3) nights each in a Festival-selected hotel. Best efforts shall be made to provide these accommodations in the Festival Host Hotel, Loews Miami Beach.

**6. Reimbursement.** From time to time, the Festival may direct or require Contractor to undertake certain expenses not contemplated within the Fee set forth above. In such circumstances, the Festival shall reimburse Contractor for all business expenses pre-approved in writing by the Festival and actually paid or incurred by Contractor in the course of performing the

Services. Contractor shall account for and submit reasonable supporting documentation (along with proof of the pre-approval) to the Festival in relation to any expense reimbursement hereunder and shall be reimbursed in accordance with the terms of this Agreement, specifically including paragraph 7 (Payment Terms).

**7. Payment Terms.** Contractor agrees to submit invoices made out to "Florida International University" in accordance with Minimum Invoice Requirements as posted on FIU's [website](#), in detail sufficient for a proper pre-and post-audit and a Statement of Account showing billings to and payments from the Festival during the Term, resulting in an ending balance. Upon receipt of a proper invoice, the Festival will make payment in accordance with FIU Regulation FIU-2202, entitled "Prompt Payment." If the Festival does not issue payment within forty (40) days of receipt of the proper invoice, the Festival may pay to Contractor an interest penalty at the rate established pursuant to §55.03(1) Fla. Stat. if the interest exceeds one dollar (\$1.00). Contractor is responsible for any taxes due under this Agreement. Contractors experiencing payment problems may contact the Ombudsman at (305) 627-1266.

Commission payments to A21 shall be payable within forty (40) days of receipt of the sponsorship revenue by FIU (or receipt of appropriate documentation as to the wholesale value of any cost-relieving in-kind contributions for which A21 is entitled to receive a commission), along with receipt of an invoice from A21.

**8. Termination.** This Agreement may be terminated for any reason by either party at any time, upon ten (10) days written notice to the other party, however Contractor shall only be permitted to terminate provided such notice is received by the Festival prior to **Friday, December 8, 2023**. Notwithstanding anything else contained herein, this Agreement may immediately be terminated by either party for Cause. For purposes of this Agreement, "Cause" is defined as a material failure to perform the Services as specified herein or failure to adhere to any material terms of this Agreement. If this Agreement is terminated, the Festival shall only be liable for payment of goods received and services rendered and accepted by the Festival prior to the date of termination.

**9. Event Changes; Force Majeure.** The parties agree that if the Festival or any of its event(s) is postponed or canceled by the Festival due to public health and/or safety concerns or if either party is delayed, or is unable to fulfill or perform any of the terms or obligations under this Agreement due to force majeure events, as defined herein ("Force Majeure Events"), neither party shall be liable or responsible to the other, nor be deemed to have defaulted under or breached this Agreement for any such delays, suspensions, damages, or failure to fulfill or perform any of the terms or obligations under this Agreement. Force Majeure Events shall mean any circumstance or event beyond the reasonable control of the party unable to perform and which could not have been prevented or avoided by the exercise of due diligence, prudence, or the adoption of reasonable precautions, such as, including but not limited to: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) any federal, state or local government law, order, or regulation, order of any court or jurisdiction, (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; and (i) public health emergencies, including, but not limited to, as a result of epidemics and pandemics; and (j) other events beyond the reasonable control of the party impacted by the Force Majeure Event. The party affected by the events outlined in this Section (the "Impacted Party") shall give a written notice of such Force Majeure Event to the other party. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured after Force Majeure Event or other event outlined herein has ended or cannot be cured for a period of thirty (30) days following written notice given by it under this Section, either party may thereafter terminate this Agreement upon written notice to the other party. If this Agreement is terminated by the Festival or the Services are cancelled by the Festival pursuant to this provision, the Festival shall reimburse Contractor for all pre-approved out of pocket expenses actually incurred by Contractor in preparation for performing the Services, if any.

**10. Compliance with Laws.** Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and/or authority over it. Contractor acknowledges and agrees that Contractor has and will at all times during the Term maintain all applicable governmental permits, licenses, consents, and approvals necessary to perform its obligations under this Agreement.

**11. Ownership of Work Product.** All right, title and interest in and to any invention, work product, idea or creation conceived, developed or produced during the performance of services under this Agreement (including but not limited to creative,



copy, scripts, story boards, writing, copyrights, trademarks, art, music, software and documentation, business systems or ideas, and research projects) shall be property of the Festival whether created individually by the Contractor or jointly with the Festival.

**12. Festival's Right to Inspect.** The work contemplated herein must meet the Festival's standards and approval and shall be subject to the Festival's general right of inspection to secure the satisfactory completion thereof.

**13. Insurance.** Contractor shall provide and keep in full force and effect during the term of Contract, at the Contractor's own cost and expense, the following insurance policies for the joint benefit of the Contractor and the Festival: (i) Commercial General Liability which includes coverage for bodily injury, property damage, personal injury, and contractual liability in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. (ii) Workers Compensation – Coverage shall be maintained in an amount equal to or greater than the statutory limits required by the laws of the State of Florida. If applicable to the type of service being provided; (iii) Liquor Liability in the minimum amount of \$1,000,000 per occurrence. Contractor shall deliver to the Festival true and correct certificates of such insurance upon the Festival's request. The certificates shall indicate that the Commercial General Liability policy carries an endorsement (no more restrictive than CG 20 10) 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, as additional insureds***. The Contractor may carry, at his own expense, such additional insurance, as Contractor deems necessary. All insurance coverages shall be written through a reputable and responsible company licensed to do business in the State of Florida and acceptable to the Festival. The Contractor's policy shall be primary and any insurance carried by the Festival shall be noncontributing with respect thereto. The Certificate of Insurance shall contain a statement that the policies will not be modified or canceled without thirty (30) days advance written notice to the Festival.

Contractor shall do nothing that will adversely affect the Festival, in any way, including increasing risks, insurance premiums or liability. In addition to the insurance required to be obtained and maintained by the Contractor, if the Contractor assigns any portion of the duties under the Contract 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 Contract. The Festival reserves the right to terminate this Agreement if Contractor fails to supply and/or maintain the required coverage. Contractor's procuring of the required insurance shall not relieve the Contractor of any obligation or liability assumed under the Contract, including specifically the indemnity obligations. The Festival recommends that the Contractor obtain and maintain a policy of business interruption insurance. The Contractor shall assist and cooperate in every manner possible in connection with the adjustment of all claims arising out of Contractor's operations within the scope provided for under the Contract, and shall cooperate in all litigated claims and demands, arising from said operations, which its insurance carrier or carriers are requested to respond.

**14. Relationship of the Parties.** Contractor's relationship to the Festival shall be and at all times shall remain that of an independent contractor. The parties hereby agree and stipulate that no language or provision in this Agreement or course of conduct between the parties will be interpreted, construed, or given the effect of creating any relationship other than that of independent contractor. In accordance with Contractor's status as an independent contractor, Contractor will not be entitled to benefit from or participate in any of the Festival's employment benefits, insurance programs, fringe benefits, worker's compensation insurance, retirement plans, or any other employee benefit plan. Contractor shall be solely responsible for reporting or paying any employment taxes, income taxes, or other similar obligations as may be required by the U.S. Internal Revenue Service or any other similar state, local or federal agency. Contractor warrants and represents that it is not on the convicted vendor list (see Fla. Stat., 287.133(2)(a)).

**15. Prohibitions.** Unless expressly and specifically authorized in writing by the Festival in advance, Contractor shall be prohibited from engaging in any of the following:

- (a) Incurring any debt or obligation on behalf of the Festival;
- (b) Entering into any contract, arrangement, or transaction which binds the Festival to any extent or creates any obligation on the Festival; and/or
- (c) Utilizing the Festival's name, credit, reputation, goodwill, resources, and/or assets for any purpose without prior and explicit written approval of the Festival.

**16. Indemnification.** Contractor and its officers, employees and agents, jointly and severally agree to release, indemnify, defend and hold harmless the Festival, FIU, the FIU Board of Trustees, the Florida Board of Governors, the State of Florida and their respective trustees, officers, employees and agents of and from any and all liability, fines, royalties, fees, taxes, suits, claims, demands and actions, costs, attorney's fees and expenses of any kind or nature whatsoever for any loss of life, personal, bodily

or economic injury or damage or loss to property which may be sustained by reason of, based upon, or in any way arising out of the negligent performance of the Services or any other obligations of Contractor set forth in this Agreement, and from and against any orders, judgments or decrees which may be entered pursuant thereto arising from Contractor's negligence or willful misconduct. This obligation shall survive the termination of this Agreement.

**17. Confidentiality & Non-Compete.** Contractor agrees that, during the term of this Agreement and thereafter, it shall not, directly or indirectly, disclose to anyone outside of the Festival any trade secrets, proprietary information of the Festival, or other data or information not generally known outside of the Festival, whether prepared or developed by or for the Festival or received by the Festival from any outside source, including but not limited to any existing and prospective sponsor files or information, customer lists, marketing/media plans, event/site layout and design plans, invoices and vendor contracts. Contractor shall not directly contract with or invoice any existing client, sponsor or vendor of the Festival for any Festival-related services without express written permission and full disclosure by and to the Festival.

**18. Loss/Theft.** Contractor is solely responsible for the security of all goods, property, equipment, materials, product or any other items that it or its contractors, agents, or other representatives bring to the Festival. The Festival shall have no obligation or liability whatsoever for any loss, misplacement or theft of Contractor's property.

**19. Intellectual Property.** If applicable, Contractor represents and warrants that any intellectual property furnished by Contractor to the Festival will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other proprietary right of any third party. Contractor will, at its sole expense, defend any suit brought against the Festival and will indemnify the Festival pursuant to the terms of this Agreement against an award of damages and costs made against the Festival by settlement or final judgment of a court that is based on a claim that Contractor's product(s) and/or service(s), as applicable, infringe the intellectual property right of a third party. The Festival will provide reasonable cooperation in the defense of the suit at Contractor's expense. These defense and indemnity obligations shall survive the expiration or earlier termination of the Agreement.

**20. Notices.** Any notices to be made under this Agreement shall be in writing and sufficient if mailed or e-mailed to the address indicated below. Notice shall be effective upon receipt.

Florida International University  
c/o South Beach Wine & Food Festival HQ  
2105 N. Miami Avenue, Miami, FL 33127  
Attn: Ashley Shapiro, Associate Director, South Beach Wine & Food Festival®  
Phone: 305-627-1617; E-mail: ashapiro@fiu.edu

**A21 CONSULTING, LLC**  
5999 Biscayne Boulevard  
Miami, FL 33137  
Attn: Brett Friedman, CEO  
Phone: 305-582-4424; E-mail: brett@teama21.com

**21. E-Verify.** All terms defined in §448.095, Fla. Stat., are adopted and incorporated into this provision. Pursuant to §448.095, Fla. Stat., Contractor certifies that it is registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Agreement. If Contractor enters into a contract with a subcontractor to perform work or provide services pursuant to this Agreement, Contractor shall likewise require the subcontractor to comply with the requirements of §448.095, Fla. Stat., and the subcontractor shall provide to Contractor an affidavit stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. Contractor shall maintain a copy of such affidavit for the duration of the Agreement. The Festival may terminate this Agreement immediately upon notice to Contractor for any violation of this provision.

**22. Miscellaneous.**

(a) Public Records. The Festival is subject to applicable public records laws as provided by Chapter 119 of the Florida Statutes, and the Festival will respond to such public records requests as required by the law. This provision shall survive the expiration or earlier termination of this Agreement.

(b) General. Nothing in the Agreement shall be construed as a waiver of sovereign immunity beyond that provided in § 768.28, Florida Statutes. Each party hereby assumes any and all risk of personal injury and property damage attributable to the

Contractor: A21 CONSULTING, LLC



negligent acts or omissions of that party and the officers, employees, and agents thereof. Contractor also assumes such risk with respect to the willful or negligent acts or omissions of Contractor's subcontractors or persons otherwise acting or engaged to act at the instance of Contractor in furtherance of Contractor fulfilling Contractor's obligations under the Agreement.

(c) Conflicts of Interest. Contractor represents that Contractor is not an employee of FIU or the State of Florida. Additionally, Contractor represents that no member of Contractor's immediate family are employees of FIU or the Festival.

(d) No Third Party Rights. This Agreement does not and is not intended to confer any rights or remedies to any party other than the parties to this Agreement. Contractor acknowledges that no branding or benefits relating to the Festival shall be made available to any entity other than Contractor, except upon the Festival's advance written approval.

(e) Travel. If applicable, and the Festival is specifically responsible for reimbursing Contractor for travel expenses, such expenses shall only be paid to the extent permitted by Florida Statutes §112.061 and FIU Policy 1110.060 – "Travel: University Travel Expense," and then only when substantiated by receipts and submitted on the proper forms.

(f) Subcontracting. Contractor retains the right to subcontract specific tasks to outside parties. Should Contractor elect to subcontract specific tasks, subcontractors will be subject to the same contractual terms as Contractor and Contractor will be fully responsible for the quality of all work products.

(g) Drafting. No provision of this Agreement shall be interpreted for or against any party on the basis that such party was the draftsman of such provision, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

(h) Binding Effect/Amendments/Assignment/Waiver. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns and may be amended only by written amendments duly executed by the parties hereto. This Agreement may not be assigned (whether by operation of law or otherwise) by any party to any person without the prior written consent of the other party. The waiver by either party of a breach of a violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach thereof.

(i) Severability. In the event that any provision contained in this Agreement or the application thereto to any circumstance 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.

(j) Governing Law. This Agreement shall be construed, interpreted, enforced and governed by and under the laws of State of Florida. Exclusive jurisdiction and venue of any actions arising out of, or relating to or in any way connected with this Agreement shall be in Miami-Dade County, Florida.

(k) No Counterparts/Facsimile Signatures. This Agreement may not be executed in counterparts. The parties hereby acknowledge and agree that this Agreement may be signed electronically and that such electronic signatures shall be deemed an original for all purposes. The parties represent and warrant that any person signing this Agreement electronically or causing this Agreement to be signed electronically has the authority to do so and that such electronic signature shall be sufficient to bind the respective party under this Agreement. This Agreement shall be considered signed when a party's signature is delivered by facsimile or e-mail transmission of a ".pdf" format data file via DocuSign. Such signature via DocuSign shall be treated in all respects as having the same force and effect as an original signature.

(l) Authority. Contractor represents and warrants that the Agreement has been duly authorized, executed and delivered by and on behalf of the Contractor and constitutes the valid, binding and enforceable agreement in accordance with the terms hereof. If the Agreement is signed by the Contractor's representative or agent, such representative or agent represents and warrants that: (1) it is duly authorized to act for and on behalf of the Contractor, (2) that it is authorized to enter into the Agreement, and (3) that it shall be jointly and severally liable for any breach of the Agreement.

(m) Entire Agreement. This Agreement, along with any and all exhibits and appendices attached hereto, sets forth the entire understanding between the parties and supersedes all prior agreements, arrangements, and communications, whether oral or written, with respect to the subject matter hereof. No other agreements, representations, warranties or other matters,

Contractor: A21 CONSULTING, LLC

whether written or oral, shall be deemed to bind the parties hereto with respect to the subject matter hereof. Contractor acknowledges that it is entering into this Agreement solely on the basis of the agreements and representations contained herein.

**IN WITNESS WHEREOF, the parties have signed this Independent Contractor Agreement as of the last date below written (the "Effective Date").**

**AGREED:**

**A21 CONSULTING, LLC**

\_\_\_\_\_  
Brett Friedman  
CEO

Date: \_\_\_\_\_

**AGREED:**

**The Florida International University Board of Trustees**

\_\_\_\_\_  
David H. Snider  
Assistant Vice President, Business and Finance

Date: \_\_\_\_\_

**\*Reviewed & Approved by the FIU  
Office of the General Counsel\***

## Exhibit A Services

I. A21 will be known as “Official External Sponsorship Agency of the South Beach Wine & Food Festival®.” As the Official External Sponsorship Agency, A21 will be promoted and listed on the Festival's official website as the Festival's external sponsor agency of record, along with contact information for A21's Key Personnel. A21 personnel will refer to themselves as employees of A21, Official External Sponsorship Agency of the Festival.

II. A21 agrees to perform the following Services:

- a. A21 shall serve as the official external sponsorship agency for the Festival for the Term of this Agreement.
- b. Festival and FIU shall refer, at its discretion, all relevant, independent prospective corporate leads to A21 and A21 will solicit specific prospective sponsors as requested by FIU and Festival Key Personnel. Prospective leads/sponsors may be referred to herein as “**Prospects**.” The Festival retains the right to explore prospective leads with Festival Key Personnel at its sole discretion.
- c. A21 will also solicit prospective sponsors (on its own) for the Festival, subject to FIU's prior written approval of such sponsors.
- d. Unless otherwise specified by the Festival, Southern Glaziers Wine & Spirits (“SGWS”) suppliers and sponsors that come through existing partners (i.e., Food Network, Wine Spectator, etc.) and directly contacted by Lee Brian Schrager (at his discretion), will continue to be managed by Festival staff directly. If any confirmed corporate sponsor of the Festival expresses an interest, in writing or verbally, of working directly with Festival staff and not A21; then, that sponsor will have the right to work with Festival staff directly.
- e. A21 will manage the fulfillment of the sponsors solicited and negotiated by A21 on behalf of the Festival and FIU. A21 agrees to communicate and secure the cooperation of all A21 Sponsors to meet all Festival-established and contracted deadlines for information, materials, payments and other deliverables of all aspects of activation of A21 Sponsor relationships.
- f. Upon request of Festival Key Personnel, A21 will assist FIU in servicing and maintaining FIU's relationship with pre-existing sponsors for the Festivals.
- g. A21 shall actively promote and develop new relationships and opportunities for the Festival and FIU.

III. A21 will be responsible for pitching renewals for all A21-managed prospects from the 2023 Festival and securing commitments for the 2024-2026 Festivals. A21 will also be responsible for pitching new prospects (including those identified by A21 as well as those referred to A21 by the Festival) and securing sponsorship sales for the 2024- 2026 Festivals. A21 will take point on negotiating deal points, including fee pricing, for all A21-managed prospects from the 2023 Festival as well as all potential new sponsors (collectively, the “A21 Prospects”) for the Festival within the guidelines and approvals procedure established by the Festival's Key Personnel. **All deal points shall be subject to the approval of the Festival Key Personnel.**

IV. The following procedures shall apply to all A21 Prospects:

- a. A21 will establish sales calls with renewable and new prospects and shall extend invitations to and include the Festival Key Personnel on all calls and live in-person meetings. A21 shall provide appropriate advance notice of all calls and meetings to permit the participation of Festival Key Personnel.
- b. A21 will draft formal written proposals outlining Festival benefits and commitments, customized to each individual sponsor's interests. **Before formally submitting proposals to any potential prospect, A21 shall submit all proposals to designated Festival Key Personnel for review and approval, and Festival personnel shall respond with requests for changes and/or approval within 48 business hours.** It is agreed that opportunities are extended on a first-come first-served basis, and that the Festival shall be under no obligation to honor a proposed deal if another competing sponsor is willing to commit to the same deal points and the Festival, in its discretion, determines that it is in its best interests to proceed with any one sponsor over another. Festival shall have final approval as to all sponsorship-related decisions.

c. Once Prospects confirm participation, Festival Key Personnel will be responsible for negotiating formal contracts between Prospect and FIU to execution, and A21 agrees to participate and review contract drafts during the process of negotiation. A21 Key Personnel shall provide feedback for all draft contracts within 48 hours of receipt of draft from Festival Key Personnel. A21 will assist in securing Prospects' signatures on final contract in a timely fashion. When a contract has been finalized, that Prospect shall then be considered an "**A21 Sponsor**" or "**A21 Exhibitor**," as appropriate, as well as, collectively, a "**Confirmed Partner**."

V. A21 agrees that the Festival shall have no obligation whatsoever to extend any benefits to any A21 Prospects until a fully executed contract for the Festival is in place.

VI. A21 agrees that no third-party entity may be leveraged to underwrite A21 Prospect's sponsorship fees or to share in any of A21 Prospect's benefits without the prior written consent of Festival.

VII. A21 agrees to regularly meet with and engage in regular conference calls with Festival Key Personnel to discuss and review strategic direction and status updates of all A21 Prospects and secured A21 Sponsors for the Festival. If requested by FIU, A21 shall meet with designated individuals at Festival headquarters from time-to-time. A21 shall submit bi-weekly tracking grids to Festival Key Personnel of the status of all pitches to A21 Prospects. This tracking grid shall include all pertinent information relating to the A21 Prospect including but not limited to status, contact info, dollars pitched, level of participation, key activation elements and proposed inclusion at Festival events. A21 shall submit the first of these grids beginning on **August 1, 2023** and every two weeks thereafter during the sales season for each Festival.

VIII. A21 agrees to work closely with any other appropriate Festival personnel or third party or agency engaged by FIU to assist with the 2024 to 2026 Festivals, including, without limitation, Event Managers, Exhibitor Coordinators, Public Relations Consultants, Media Managers, Logistics suppliers, Inventory Managers or any and all such personnel involved in the coordination and management of any Festival deliverables.

IX. A21 will work closely with A21 Sponsors to encourage A21 Sponsors to use their own corporate resources to actively promote their participation with the Festival (such as direct consumer promotions), and to track and monitor to the best of A21's ability the amount of media impressions generated for the Festival through A21 Sponsor corporate media resources, for reporting to the relevant Festival personnel.

X. A21 agrees to use all resources at its disposal to assist A21 Sponsors in securing outside vendors that will provide quality services at competitive pricing for Sponsors' various activation needs, giving first preference to FIU/Festival Preferred Vendors for catering, décor, hotel/travel services and rentals. A21 shall use professional courtesy when recommending their own Preferred Vendor agency by not undercutting pricing in order to persuade clients away from using the Festival's other Preferred Vendors. Specifically, A21 shall not engage in behavior that adversely impacts FIU/Festival Preferred Vendors, interferes in any way with the other's business or personal activities, or business relationships now or in the future. Moreover, A21 shall not disparage the FIU/Festival Preferred Vendor or any business activities undertaken by FIU/Festival Preferred Vendor.

XI. A21 agrees to be available on-site and/or have representative personnel, upon request of A21 Sponsors and/or Festival Key Personnel, at every Festival event where A21 Sponsors will be activating, from set-up, load-in, event, and break-down/load out phases, to monitor and ensure a successful and high-quality activation of A21 Sponsor experiences.

XII. A21 will document the A21 Sponsors' activation throughout the Festival days.

XIII. A21 will make all reasonable efforts to coordinate and work with FIU staff to assist and ensure that sponsorship wrap-up packages and official Festival photographs for A21 Sponsors are created and disseminated with superior quality and in a timely fashion, within thirty (30) days of the wrap up of the event.

XIV. A21 shall make all reasonable efforts to organize, schedule, and participate in a formal thank-you wrap up call with A21 Sponsors within forty-five (45) days of the completion of the Festival. Festival Key Personnel must be invited to and included on all A21 recap calls without exception. FIU shall withhold final payment to Contractor pending timely submission of final recaps in a form and content acceptable to the Festival.

Contractor: A21 CONSULTING, LLC

XV. A21 will make all reasonable efforts to perform any other duties as may be requested by the Festival Key Personnel, and/or perform any other work, as directed by Festival staff, that may be ancillary or necessary to completion of the Services hereunder.

XVI. All A21 personnel working on the Festival shall comply at all times with Festival Rules and Regulations.

XVII. Any and all references that A21 makes regarding the Festival shall include the Festival's title and presenting sponsors, as well as the Festival's beneficiary – FIU's Chaplin School of Hospitality & Tourism Management, as provided and approved by the Festival's Key Personnel.



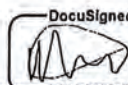
### Funding Certification Form

This form is required by the FIU Board of Trustees ("BOT") and/or a committee of the BOT as a condition for approval of items, containing a funding component, that come for approval before the Board and/or a BOT committee pursuant to the Delegations of Authority from the BOT to the University President or otherwise.

Item name/description: Approval of Independent Contractor Agreement , vendor A21 Consulting LLC

Funding Source(s): Ticket sales and sponsorship revenue (unrestricted auxiliary funds).

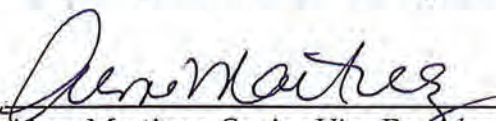
This is to certify that the above item has been reviewed and approved, and to the best of our professional judgment and knowledge, the type of funding for the item is authorized by state law and Board of Governors Regulations, and the Trustees may reasonably and in good faith rely on this certification.

DocuSigned by:  


Michael Cheng, Dean for the Chaplin School of Hospitality and Tourism Management

5/30/2023

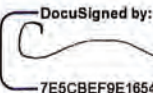
Date



Aime Martinez, Senior Vice President and Interim Chief Financial Officer

5/30/23

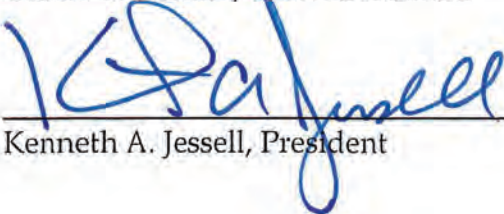
Date

DocuSigned by:  


Carlos B. Castillo, General Counsel

5/31/2023

Date



Kenneth A. Jessell, President

5-31-2023

Date

**Florida International University**  
**Financial Summary Overview <sup>1</sup>**  
**FY 2022-23**

(\$ in millions)

**Revenue / Receipts**

**University**

	Year To Date March 2023			
	Budget	Current Year Actual	Variance	
			\$	%
Educational and General (net) <sup>2</sup>	\$ 429.7	\$ 438.8	\$ 9.1	2%
University	386.4	395.4	9.0	2%
College of Medicine	43.3	43.4	0.1	0%
FIU Self-Insurance Program	0.4	0.4	0.0	5%
Auxiliary Enterprises	213.4	204.9	(8.5)	-4%
Intercollegiate Athletics	19.1	20.1	1.0	5%
Activities and Service	15.5	15.5	-	0%
Technology Fee	8.9	8.7	(0.2)	-2%
Board Approved Fees	0.3	0.4	0.1	30%
Contracts and Grants	172.9	177.0	4.1	2%
Student Financial Aid	201.9	202.7	0.8	0%
Concessions	0.4	0.7	0.3	75%

**Direct Support Organizations**

FIU Athletic Finance Corp.	2.1	3.8	1.7	81%
FIU Foundation Inc.	32.2	31.6	(0.6)	-2%
Contributions for University Support	31.2	30.5	(0.7)	-2%
Contributions and Operating Revenues	1.0	1.1	0.1	10%
FIU Health Care Network	2.2	2.7	0.5	23%
FIU Research Foundation	-	0.1	0.1	0%

Interfund Adjustments <sup>3</sup>	(12.6)	(13.1)	(0.5)	4%
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<b>Total Operating Revenues</b>	<b>\$ 1,086.4</b>	<b>\$ 1,094.3</b>	<b>\$ 7.9</b>	<b>1%</b>
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University: Treasury (net) & Contracts & Grants	9.4	10.5	1.1	12%
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DSO's: FIU Foundation Inc. & AFC	18.1	20.4	2.3	13%
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<b>Total Investment Revenues</b>	<b>\$ 27.5</b>	<b>\$ 30.9</b>	<b>\$ 3.4</b>	<b>12%</b>
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<b>Total Revenues / Receipts</b>	<b>\$ 1,113.9</b>	<b>\$ 1,125.2</b>	<b>\$ 11.3</b>	<b>1%</b>
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**Expenses**

**University**

Educational and General (net)	\$ 449.3	\$ 415.3	\$ 34.0	8%
University	411.7	383.8	27.9	7%
College of Medicine	37.6	31.5	6.1	16%
FIU Self-Insurance Program	0.2	0.2	-	0%
Auxiliary Enterprises	188.0	180.1	7.9	4%
Intercollegiate Athletics	23.6	24.0	(0.4)	-2%
Activities and Service	15.5	12.7	2.8	18%
Technology Fee	11.5	10.7	0.8	7%
Board Approved Fees	0.1	0.2	(0.1)	-100%
Contracts and Grants	162.3	172.5	(10.2)	-6%
Student Financial Aid	213.5	201.3	12.2	6%
Concessions	0.7	0.5	0.2	29%

**Direct Support Organizations**

FIU Athletic Finance Corp.	2.1	2.3	(0.2)	-10%
FIU Foundation Inc.	40.1	36.2	3.9	10%
University Program Support	30.0	28.6	1.4	5%
Operating Expenses	10.1	7.6	2.5	25%
FIU Health Care Network	2.0	2.2	(0.2)	-10%
FIU Research Foundation	-	0.0	(0.0)	0%
-	-	-	-	0%

Interfund Adjustments <sup>3</sup>	(12.6)	(13.1)	0.5	-4%
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<b>Total Expenses</b>	<b>1,096.3</b>	<b>1,045.1</b>	<b>51.2</b>	<b>5%</b>
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Principal Payment of Debt <sup>4</sup>	-	-	-	0%
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<b>Change in Net Assets (incl. Investments)</b>	<b>\$ 17.6</b>	<b>\$ 80.1</b>	<b>\$ 62.5</b>	<b>356%</b>
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**Page 245 of 287**

<b>Change in Net Assets (excl. Investments)</b>	<b>(9.9)</b>	<b>\$ 49.2</b>	<b>\$ 59.1</b>	<b>-595%</b>
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**Florida International University**  
**Financial Summary Overview**<sup>1</sup>  
**FY 2022-23 as of March 2023**

**Financial Highlights:**

**Real**      **Timing**

**Operations - By Fund and Direct Support Organization**

**Educational and General Variance: Revenues \$9.1M, Expenses \$34.0M**

**I. University (ex-College of Medicine) Variance: Revenues \$9.0M, Expenses 27.9M**

**Operating Revenues**

State Appropriations:

Amendments for distributions for Nursing Education (LINE Fund), \$2.0M, and Programs of Strategic Emphasis waiver for Fall 2022, \$2.0M, offset by lower risk management insurance premiums, (\$0.7M); earlier than anticipated distributions of Educational Enhancement Funds (Lottery), \$10.4M	3.3	10.4
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Tuition:

Undergraduate base: student credit hour enrollment is 360 FTE or 1.5% below target; associated tuition revenues are below plan mainly due to lower than anticipated student credit hour enrollment in transfer students	(2.9)	(0.4)
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FIU Fully Online: higher net tuition revenues mainly due to lower than planned enrollment, 105 FTE or 2.4%	(0.2)	0.1
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Dual Enrolled: student credit hour enrollment is higher than target by 64 FTE or 5.2%; favorable revenue variance mainly due to unbudgeted revenues from in-state fee for on-campus dual enrolled students - tuition for off-campus, dual enrolled students is waived by statute	0.4	-
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Shorelight Enrollment (international students): 29.7% or 180 FTE higher than budgeted enrollment; net tuition revenue from progressed students is above plan	1.3	(0.0)
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Tuition differential: above target as lower student credit hour enrollment is offset by lower than anticipated prepaid contract exclusions	0.9	-
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Graduate and Professional: student credit hour enrollment below target by 0.7% or 30 FTE, mainly lower enrollment across Nursing and Law professional programs offset by higher enrollment in graduate programs. Higher tuition revenue reflects great than anticipated enrollment of non-resident students, \$0.6M, and change in recording out-of-state fees for non-resident fellows and graduate assistants (F.S. 1009.24 (5)(b)) which are now charged and waived vs. not charged, \$3.2M	3.8	-
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Other: Higher waivers of \$4.1M due to change in recording out-of-state fees for non-resident fellows and graduate assistants (F.S. 1009.24 (5)(b)) which are now charged and waived vs. not charged, (\$3.2M), Programs of Strategic Emphasis waivers for Fall 2022 which were not funded by the state, (\$0.6M), and higher national exchange waivers, (\$0.3M), in addition to lower incidental revenues and higher financial aid allocations, (\$0.5M); timing variance due to allocation of appropriation to cover Programs of Strategic Emphasis waiver for Spring 2023, (\$2.3M), and bad debt, (\$0.7M)	(4.6)	(3.1)
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**Total Revenues Variance**

<b>\$</b>	<b>2.0</b>	<b>\$</b>	<b>7.1</b>
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**Operating Expenses:**

The favorable expense variance of \$27.9M is comprised of real savings of \$22.1M and timing of \$5.8M.

Real savings of \$22.1M are mainly due to savings from vacant positions and personnel leave paid out of the fringe benefit pool, \$19.1M, lower risk management insurance premium, \$0.7M, and savings in other expenses across various departments, \$2.3M.

\$	22.1	\$	5.8
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The timing variance of \$5.8M is driven by delays in spending on plant operations and maintenance and minor projects, \$1.0M; timing of other in-unit operating expenses such as service contracts, library software and book purchases, materials and equipment, and hiring of temporary personnel, \$3.2M; and later than anticipated spending on placeholders such as Nursing Education (PIPELINE) appropriation, student scholarships, and operational support, \$1.6M.

**II. College of Medicine Variance: Revenues \$0.1M, Expenses \$6.1M**

Net tuition revenue is higher than target due to less waivers.	\$	0.1	\$	-
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The real favorable expense variance of \$4.6M is driven mainly by savings from vacant positions, \$5.3M, and other expenses, \$0.3M, offset by unbudgeted bonuses, (\$1.0M). The timing variance of \$1.5M is due to delays in payments for professional services, information technology licenses, subscriptions, teaching contracts, and other operating expenses, which will all be incurred by the end of the fiscal year.	\$	4.6	\$	1.5
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**Florida International University**  
**Financial Summary Overview**<sup>1</sup>  
**FY 2022-23 as of March 2023**

**Financial Highlights:**

**Real**      **Timing**

**FIU Self-Insurance Program Variance: Revenues \$0.0M, Expenses \$0.0M**

Revenues are \$55K lower than projections due to lower than anticipated premium costs — only sufficient funding needed to cover costs is provided.      \$      0.0      \$      -

Favorable operating expense variance of \$46K due to lower than anticipated program administration charges.      \$      0.0      \$      -

**Auxiliary Enterprises Variance: Revenues -\$8.5M, Expenses \$7.9M**

Revenues are below plan due to real, (\$2.4M), and timing, (\$6.1M), factors.

The unfavorable real variance, (\$2.4M) is due to lower enrollment in academic auxiliary programs, mainly College of Business, and less distance learning fees, recharge center revenues, and academic overhead revenues, (\$8.0M); lower management fee and program revenues from the American University of Antigua (AUA) as the transition of the program from the FIU HealthCare Network to the university occurred in the second quarter instead of the first quarter as planned offset by higher revenues, (\$0.8M); lower parking access fee and student health fee revenues due to lower student enrollment, (\$0.2M); offset by higher clinical patient revenue originally budgeted under the FIU HealthCare Network, \$1.2M; greater than anticipated revenues for the South Beach Wine and Food Festival, \$1.8M; transfer of funds related to the Management and Advanced Research Center (MARC) building reserve, and greater revenues from food services and retail operations, \$1.3M; increased revenues from conferences and fees in Housing and Residential Life, \$1.0M; higher than anticipated rebates, \$0.7M; and additional revenues across various auxiliaries, \$0.6M.      \$      (2.4)      \$      (6.1)

The unfavorable timing variance, (\$6.1M), is mainly due to delays in billings by the PantherTECH computer store, (\$4.1M); delays in auxiliary funded construction projects resulting in lower construction services reimbursement fee revenue, (\$2.5M); offset by housing revenues for the summer semester received earlier than anticipated, \$0.3M; and higher revenues in several other auxiliaries, \$0.2M.

Expenditures are below budget primarily due to real savings of \$7.9M.

The real expense savings of \$7.9M are due to vacant positions across all auxiliaries, \$6.9M, less academic auxiliary expenses associated with lower enrollment, \$1.3M, offset by unplanned repairs and maintenance in Housing and Residential Life, (\$0.2M), and other higher expenses across several other auxiliaries, (\$0.1M).      \$      7.9      \$      -

**Intercollegiate Athletics Variance: Revenues \$1.0M, Expenses -\$0.4M**

The revenue variance of \$1.0M is mainly due to earlier than anticipated receipt of Title IX and other funds, \$0.9M. The real variance of \$0.1M is from a football coach buyout, prior year insurance payment, and additional game guarantees, \$0.3M, offset by lower athletic fee revenues due to lower student enrollment, (\$0.1M).      \$      0.1      \$      0.9

Expenditures are higher than budget mainly due to real higher expenses, (\$0.2M), and timing, (\$0.2M). Real, higher expenses are due to higher athletics uniform expenses, professional services, and materials and equipment purchases, (\$0.5M), offset by savings in salaries and benefits due to changes in the football staff, \$0.3M. The timing variance is due to earlier than planned repairs and maintenance, game, and rental expenses, (\$0.3M), offset by delays in hiring on temporary positions, \$0.1M.      \$      (0.2)      \$      (0.2)

**Student Activity and Service Variance: Revenues \$0.0M, Expenses \$2.8M**

Operating revenues are on target as higher revenue from the Student Orientation Program, \$0.1M, is offset by lower Student Activity and Service Fee revenues from lower student credit hour enrollment, (\$0.1M).      \$      0.0      \$      (0.0)

Expenses are below target primarily due to savings mainly in student centers and buildings, the Student Government Association, and student groups and clubs; savings are driven by vacant positions and less temporary personnel, \$2.0M, and other expenses, \$0.6M, and delays in spending of other expenses, \$0.2M.      \$      2.6      \$      0.2

**Florida International University**  
**Financial Summary Overview**<sup>1</sup>  
**FY 2022-23 as of March 2023**

**Financial Highlights:**

**Real**      **Timing**

**Technology Fee: Revenues -\$0.2M, Expenses \$0.8M**

Technology fee revenues are slightly below target due to lower student credit hour enrollment. \$ (0.2) \$ -

Expenses are below target due to delays in projects which are being caused by nationwide delays in shipping of equipment. \$ - \$ 0.8

**Board Approved Fees: Revenues \$0.1M, Expenses -\$0.1M**

Revenues are above plan by \$88K or 30%, due to earlier than planned recognition of revenue under the new minimum eligibility threshold of seventy credit hours to be assessed the Bar Test Prep Fee. \$ - \$ 0.1

Expenses are \$54K or 44% higher than budget due to payments to the third-party test prep vendors related to the prior fiscal year. The fund has sufficient beginning net position, \$91K, to cover these expenses. \$ (0.1) \$ -

**Contracts and Grants Variance: Revenues \$4.1M, Expenses -\$10.2M**

**Sponsored Research:**

The favorable variance in revenues of \$5.1M is due to higher than planned revenue across all sources of sponsored projects, mainly state grants, \$3.8M, and timing of revenue allocations from sponsored research administration to sponsored projects, \$6.4M, offset by timing variances of (\$5.1M) associated with the Higher Education Emergency Relief Fund (HEERF) reimbursements which were projected at \$22.4M through the third quarter. \$ 3.8 \$ 1.3

Expenditures are above budget by \$8.8M mainly due to higher than expected commitments against Facilities and Administrative (F&A) returns spent by the colleges, units, centers, and researchers, (\$14.3M); higher expenses across sponsored projects, mainly federal grants, (\$10.5M), and HEERF HVAC project expenses budgeted as expenses but incurred as transfers out to construction, \$21.2M; offset by timing of HEERF expenses, \$5.1M. \$ (3.7) \$ (5.1)

**External Contracts:**

Revenues are under plan by \$1.0M. The timing variance, (\$4.2M), is primarily due to delays in receiving DSO reimbursements due to timing of expenses and pending revenues for incidental contracts. The real variance, \$3.2M, is from prior year balances of the American University of Antigua international program which is transitioning to the university from the FIU HealthCare Network, \$3.0M, and DSO reimbursements relating to prior year expenses, \$0.2M. \$ 3.2 \$ (4.2)

Expenses are above budget by \$1.4M, of which \$0.9M are related to the Herbert Wertheim College of Medicine clinical contracts, \$0.3M from Nursing undergraduate and Humanities Health programs, and \$0.2M of earlier than anticipated expenses that will be reimbursed by the DSO. \$ (1.4) \$ -

**Student Financial Aid Variance: Revenues \$0.8M, Expenses \$12.2M**

Student Financial Aid revenue is above target by \$0.8M or 0%. A timing variance of \$1.3M is due to earlier than anticipated revenue disbursements from the state for Bright Futures awards, \$2.1M, offset by later than anticipated receipt of certain donor-related awards, (\$0.8M). The remaining real variance of (\$0.6M) is due to less than anticipated Pell grant awards due to less eligible students, (\$2.3M); incorrect budgeting of MacKenzie Scott scholarship, (\$1.6M); and less institutional aid, (\$0.3M); offset by reimbursement for prior year expenditures for Bright Futures awards, \$1.2M, and Higher Education Emergency Relief Funds (HEERF), \$0.4M; higher donor-related scholarships, \$1.5M; higher allocation of Florida Student Assistance Grant (FSAG), \$0.4M; and unbudgeted reimbursements from the state for the Dual Enrollment Scholarship Program F.S. 1009.30, \$0.1M. \$ (0.6) \$ 1.3

**Florida International University**  
**Financial Summary Overview**<sup>1</sup>  
**FY 2022-23 as of March 2023**

**Financial Highlights:**

**Real**      **Timing**

Student Financial Aid expenses are below target \$12.2M or 6%. The real variance of \$8.8M is due to less than anticipated Pell Grant awards, \$4.9M, Bright Futures awards, \$2.6M, and institutional aid, \$1.6M, driven by lower enrollment; incorrect budgeting for the MacKenzie Scott scholarship, \$1.6M, offset by higher donor-related scholarships, (\$1.5M); higher allocation of Florida Student Assistance Grant, (\$0.3M); and unbudgeted expenditures for the Dual Enrollment Scholarship Program which are reimbursed by the state F.S. 1009.30, (\$0.1M). This is offset by a timing variance of \$3.4M driven by \$3.1M of institutional aid; \$1.2M of certain donor related scholarships; and \$0.5M of administrative expenses; offset by earlier than anticipated disbursement of Federal Work Study, (\$0.8M), Florida Student Assistance Grant (FSAG), (\$0.4M), and other sources of student financial aid, (\$0.2M).

\$      8.8    \$      3.4

The positive change in net position of \$2.6M is \$12.6M above target and is mainly due to timing of reimbursements received for Bright Futures scholarships and Pell awards and timing of institutional aid disbursements.

**Concessions Variance: Revenues \$0.3M, Expenses \$0.2M**

Operating revenues are \$352K or 104% above target and are comprised of a favorable timing variance of \$241K and a favorable real variance of \$112K. The timing variance, \$241K, is due to earlier than anticipated receipt of Pepsi sponsorship. The real variance of \$112K is due to greater than anticipated Pepsi sponsorship, \$59K, and higher than anticipated snack vending and laundry commissions, \$53K.

\$      0.1    \$      0.2

The favorable variance against budget of \$154K is mainly due to timing delays of expenses related to several university events, \$99K, offset by earlier than anticipated housing student-related events funded by Housing laundry commissions, (\$20K). The real variance of \$75K represents savings from university events which will not occur.

\$      0.1    \$      0.1

**FIU Athletic Finance Corp. Variance: Revenues \$1.7M, Expenses -\$0.2M**

Operating revenues are above plan by \$1.7M or 81% due to earlier than anticipated support from the Foundation Inc., game guarantees, and pledged revenues from the university (athletics fee revenue and Pepsi sponsorship), \$1.5M, along with \$0.2M of higher than anticipated sponsorship from Pepsi.

\$      0.2    \$      1.5

Operating expenses are higher then target mainly due to higher expenses associated with external events and home football games, (\$0.3M), offset by timing of the debt service interest payment, \$0.1M.

\$      (0.3)    \$      0.1

**FIU Foundation Inc. Variance: Revenues -\$0.6M, Expenses \$3.9M**

The unfavorable revenue variance is driven by the timing of cash contributions, mainly from building funds and several colleges, (\$9.5M). The real, favorable variance of \$8.9M is due to higher cash contributions from certain academic areas, \$8.9M.

\$      8.9    \$      (9.5)

The favorable expense variance of \$3.9M is due to timing mainly in Foundation operating expenses, \$2.1M, and later than anticipated capital project expenses in support of the university, \$1.8M. Real higher expenses of \$0.4M due to higher than anticipated transfer of the Management and Advanced Research Center (MARC) building cash reserves to the university, (\$0.4M), are offset by salary expense savings in Foundation operations, \$0.4M.

\$      -    \$      3.9

**FIU Health Care Network Variance: Revenues \$0.5M, Expenses -\$0.2M**

Operating revenues are \$0.5M higher than planned due to management fee and program revenue from American University of Antigua (AUA) program reported under the Herbert Wertheim College of Medicine (HWCOC), Office of International Affairs (OIA). The agreements which transition the OIA line of business from the FIU HealthCare Network to the university became effective in the second quarter of the fiscal year instead of the first quarter as initially planned. As such, the first quarter revenues for OIA are recorded under the FIU HealthCare Network instead of the university.

\$      0.5    \$      -

**Florida International University**  
**Financial Summary Overview**<sup>1</sup>  
**FY 2022-23 as of March 2023**

**Financial Highlights:**

**Real**      **Timing**

Expenses are \$0.2M higher than planned due to unbudgeted expenses from contracted services from AUA which are also due to the transition of the OIA line of business which moved to the university in the second quarter of the fiscal year instead of the first quarter as initially planned.      \$      (0.2)      \$      0.0

**FIU Research Foundation Variance: Revenues \$0.1M, Expenses \$0.0M**

Operating revenues are higher than planned due to revenues received earlier than expected.      \$      -      \$      0.1

Operating expenses are \$29K higher budget mainly due to unbudgeted event expenses, (\$20K), and earlier than budgeted payment of accounting service charges, (\$9K).      \$      (0.0)      \$      -

**Interfund Adjustments Variance: Revenues -\$0.5M, Expenses \$0.5M**

Earlier than planned receipt of Title IX funds by Intercollegiate Athletics.      \$      -      \$      (0.5)

Earlier than planned expenditure of Title IX funds for Intercollegiate Athletics.      \$      -      \$      0.5

**Net Investment Returns: \$3.4M**

University Treasury investments fiscal year-to-date returns are 2.1% with investment revenues of \$11.0M. Net investment revenues of \$9.7M — comprised of \$6.6M of realized investment earnings, \$4.4M of unrealized gains, and Treasury operating expenses of \$1.3M — are \$0.3M above plan. Additionally, investment income and unrealized gains in Contracts & Grants, related to a National Institutes of Health grant invested as an endowment with the Foundation are \$0.8M above target.

Foundation investments fiscal year-to-date returns are at 5.9% or \$20.3M, generating a favorable variance of \$2.3M. Investment returns for the full fiscal year were budgeted at 6.0%, or \$24.2M.

**Principal Payments of Debt: \$0.0M**

Principal payments of debt are on target.      \$      -      \$      -

**Notes:**

<sup>1</sup> The financials presented above reflect the state budgeting methodology which differs from full accrual financial statements. The following have the most significant impact:

- *Depreciation of Assets:* For budgeting purposes equipment purchases are fully expensed in their acquisition year, therefore depreciation is not included in the budget.
- *Unrealized gains and losses:* The investment gains / losses are recognized as revenues in the budget however GASB accounting principles require that it be recorded as a non-operating revenue / expense.

<sup>2</sup> E&G revenues include State Funding and Tuition and are net of waivers, uncollectible amounts and 30% Financial Aid need-based amounts per Florida Board of Governors (BOG) regulation. Any differences between E&G Revenues and Expenses will be funded from prior year balances carried forward.

<sup>3</sup> Interfund transfers have been included resulting in higher revenues and expenses by fund allowing for an individual fund performance analysis. The interfund adjustments eliminate this double counting. However, interfund transactions such as tuition funded by scholarships and auxiliary services provided to other units have not been eliminated. Since revenues and expenses are equal, the interfund adjustments are the same for both.

<sup>4</sup> Principal payment of debt reflected above per Florida Board of Governors (BOG) requirement that debt service payments be shown on a cash basis.

**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
**June 15, 2023**

**Reports** (*For Information Only – no action required*)    Scott Carr, Athletic Director

**Fundraising Report**

<b>FIU Foundation, Inc.</b> <b>Unaudited Preliminary Recap</b> <b>Through the Period Ended March 31, 2023 (in millions)</b>			
	<b>Budget</b>	<b>Actual</b>	<b>Variance</b>
Revenues	\$1M	\$2.4M	\$1.4M

- Favorable variance YTD due to unbudgeted donations for Athletic Director Priority fund, due to fundraising efforts by the Athletics Director and Chief Development Officer.

**Athletics Finance Corporation**

<b>FIU Athletics Finance Corporation</b> <b>Unaudited Preliminary Recap</b> <b>Through the Period Ended March 31, 2023 (in thousands)</b>			
	<b>Budget</b>	<b>Actual</b>	<b>Variance</b>
Revenues	\$2.1M	\$3.8M	\$1.8M
Expenses	\$2.1M	\$2.3M	(\$200K)

- Favorable revenues due to sponsorship revenues, ticket sales, external rentals and contributions from Foundation to meet the 12.31.22 debt service.
- Higher expenses as a result of investment in maintenance and refresh of stadium, including stadium club upgrade. Also, expenses related to external rentals that drove revenues but also expenses.
- No foreseen issues with meeting the debt service covenant requirement for June 30, 2023.

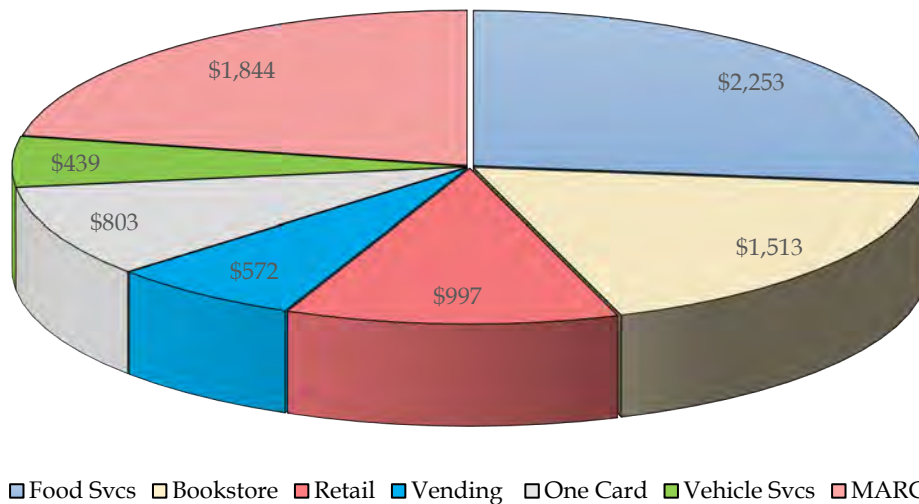


**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
**Business Services Report as of March 31, 2023**

## QUICK FACTS

OBS oversees 60 food and retail venues, beverage, and snack vending, FIU One Card program, fleet services, multi-use facilities, property management and advertising. Detailed information for all services, including hours of operation, may be found at [shop.fiu.edu](http://shop.fiu.edu) and on the FIU Mobile App under the “Places” link.

Operating Revenues by Business Segment \$8.4M  
through Mar.31, 2023 (in \$000s)



**Revenue:** Through the third quarter ended March 31, 2023, OBS managed sales operations of \$40M, representing \$8.4M in revenue and support to FIU.

## FOOD SERVICES

Food Services sales of \$20M generated \$2.3M in revenue and support to FIU. Commissions are ahead of plan by 32% and the prior year 31%.

### HIGHLIGHTS

#### Round-up/FIU Give Day

Our on-campus business partners, Chartwells and Barnes & Noble, participated in FIU's 305 Give Day donation campaign by asking customers at the point of sale if they wanted to round-up to support the Food Pantry.

#### Sustainability

Activities continue and Dining Services pushed forward with a series of initiatives to reduce single-use plastics in food service at FIU without raising the cost for the students. Dining Services now offers a dine-in option that serves meals on paper plates rather than in plastic or styrofoam to-go containers. This simple innovation reduces plastic waste considerably. Dining Services also continues to offer reusable trays in the residential dining hall as part of the GreenToGo program. Several businesses have replaced plastic straws to either paper or bagasse straws.



#### Food Truck Procedures

Dining Services created food truck standard operating procedures to assist with coordination and handling of requests from FIU departments. The process includes truck inspections, verification of licenses and other pertinent documentation to yield a pool of trucks that will be used on campus annually. Next steps will be to partner with FIU Central Reservations to integrate the process through that system.

*Office of Business Services*

11200 SW 8<sup>th</sup> Street \* DC 121 \* Miami, FL 33199 \* Tel: (305) 348-2187 \* Fax: (305) 348-2832 \* Web: [obs.fiu.edu](http://obs.fiu.edu)

**Cabana by Chef Jodhan** completed their one-year commitment to provide a Caribbean cuisine-style concept in partnership with Chartwells and FIU StartUp Food program. Through the experience Chef Jodhan learned a lot about the retail business and found that his passion truly lies in catering. At the end of Spring 2023 semester, Cabana will close its doors to the Caribbean tastes from Chef Jodhan and reopen in fall with an alternate concept and cuisine to maintain excitement and momentum about new dining offerings and brands to satisfy their appetites.

## Chartwells Spring PowerFul Event

Dining Services held a “PowerFul” event that was a great success thanks to over 600 patrons that came out to participate. PowerFul was created to celebrate the positive impact local heroes make on campus and in our community and to show our appreciation to our students, faculty and staff. There were many activities including snow cones, a farmers market, free food samples, interactions with mascots Lucky (from Lucky Charms) and Roary and more! It truly was an enjoyable event for all.



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## CONSTRUCTION UPDATE

### Summer 2023 Graham Center Kitchen Project

Beginning in May of 2023, the Office of Business Services, in partnership with FIU Facilities and Chartwells food service, will begin a complete renovation of the main kitchen in the Graham University Center(GC). The project will include mechanical, engineering and plumbing to facilitate new kitchen equipment, new dry and cold storage, and a new more efficient food production layout. The main kitchen in GC is the main food production site for Catering, the Faculty Club and 8<sup>th</sup> Street Campus Kitchen. The project will be completed prior to the start of the Fall 2023 semester. Total project budget is expected to be \$1.7M - \$1.9M and be funded by auxiliary dollars from the Office of Business Services fund balance.

## BOOKSTORE

Bookstore sales of \$15.4M generated revenue to FIU comprised of \$1.5M in commissions and support. Commissions are ahead of plan by 12% and behind the prior year by -11%.

Barnes & Noble and FIU continued to offer the First Day opt-out program, known as the FIU Panther Book Pack. This program is available to all undergraduate students and provides them the option to pay \$20 per credit hour for all their books and course materials. Participation rate for the spring was 57%, the highest since the launch of the program in the fall 2021 semester. More importantly, students were ready with their materials on the first day of class. Since the program's inception, students saved a total of \$10M (pending Spring 2023 savings total).

<u>Semester</u>	<u>Savings</u>	<u>Student Participation</u>
Fall 2021	\$3.3M	51.0%
Spring 2022	\$3.0M	50.0%
Fall 2022	\$3.7M	52.5%



For more information on the Panther Book Pack program visit <https://shop.fiu.edu/bookpack-2>.

## VENDING

Vending sales of \$804K generated commissions and support to FIU of \$572K. Year-to-date, vending commissions are ahead of plan by 17% and ahead of prior year by 23%. There are over 130 machines across Modesto A. Maidique (MMC), Biscayne Bay Campus (BBC), and the Engineering Center (EC).

### **Pepsi Co.**

Across MMC, BBC, and EC, vending sales of \$421K generated \$140K of commissions which are behind plan (-7%) and ahead of prior year (5%). Annual case volume contractual thresholds were met this year (in March 2023) resulting in receipt of 100% of the \$750K annual pouring rights sponsorship to the University.

### **Right Choice**

Snack vending sales of \$383K generated commissions of \$132K, exceeding plan by 60% and ahead of prior year by 52%. Solicitation for snack vending services was released in the fourth quarter of this fiscal year, proposals were evaluated, negotiations with a shortlist took place and a contract was awarded to Bettoli Vending. Final contract is currently under review for final approval and execution.

This new contract is for a guaranteed approximate \$1.2 million over a five-year term. It includes one hundred percent (100%) new snack vending machines and innovative hot and cold meals, snacks and desserts, to be transitioned in summer 2023.

## RETAIL OPERATIONS and PROPERTY MANAGMENT

OBS manages 18 internal and external retail operations across MMC and BBC. Retail operations generated sales of \$1.2M resulting in commissions of \$89K and rental income of \$868K. Commissions are ahead of plan by 88% and ahead of prior year by 11%. Rental income is ahead of plan by 1% and behind prior year by -2%. OBS continues exploring opportunities for expansion in PG-6 and other campus areas.

The Management and Advanced Research Center (MARC) planned capital projects are underway to improve the existing second and third floor restrooms as well as sealing and painting of the exterior. Through the third quarter ended March 31, 2023, \$1.2M of rental and other income was generated from the MARC building. OBS also received a cash transfer for the remainder of the MARC building reserves once the FIU Foundation completed their reconciliation of pending building expenses totaling \$679K during the second quarter of this fiscal year.

## VEHICLE SERVICES

### **FIU Vehicle Services**

Rafael Alvarez joined FIU as Fleet Manager in January 2023. He will oversee FIU's contract with First Vehicle Services as well as all aspects of our vehicle services program. This includes oversight of routine vehicle and equipment maintenance as well as fuel consumption and utilization, implementation of preventative maintenance strategies to maximize the life of the fleet, purchase of new vehicles for the fleet, and review of all billing in relation to fleet.

The FIU fleet was among the 100 Best Public Fleets Honorable Mentions for 2023 by the National Association of Fleet Administrators organization.

A contract renewal, with an expiration date in 2030, was executed with First Vehicle Services for the maintenance and repair of all FIU fleet.

Future fleet projects will focus on digitizing and automating the trip log process for all vehicles as well as the fuel management and utilization oversight process.

## FIU ONECARD and RETAIL BANKING

### **FIU One Card**

The FIU One Card office maintained successful operations throughout the Spring 2023 semester. Teams from the One Card office alongside the Office of Orientation & Family Programs are preparing for an enhanced orientation experience by implementing the use of mobile reader technology and reporting for check in, check out and distribution of One Cards. The FIU One Card office expects to distribute over 500 One Cards per in-person orientation session throughout the upcoming months.

Through Q3, FIU One Card revenues are \$803K with total revenues being ahead of plan by 13% and prior year by 13%. Revenue growth is being driven by a one-time signing bonus from Wells Fargo of \$150K. Student ID fees are behind plan by -6% and behind prior year by -2% mainly driven by declines in enrollments Y-o-Y (year over year).

## shopFIU MARKETING

### **shopFIU NEXT Study**

This spring marks the launch of the first wave of the shopFIU NEXT Study. The objective of the study is to understand what campus consumers want to see next at FIU as it relates to retail,

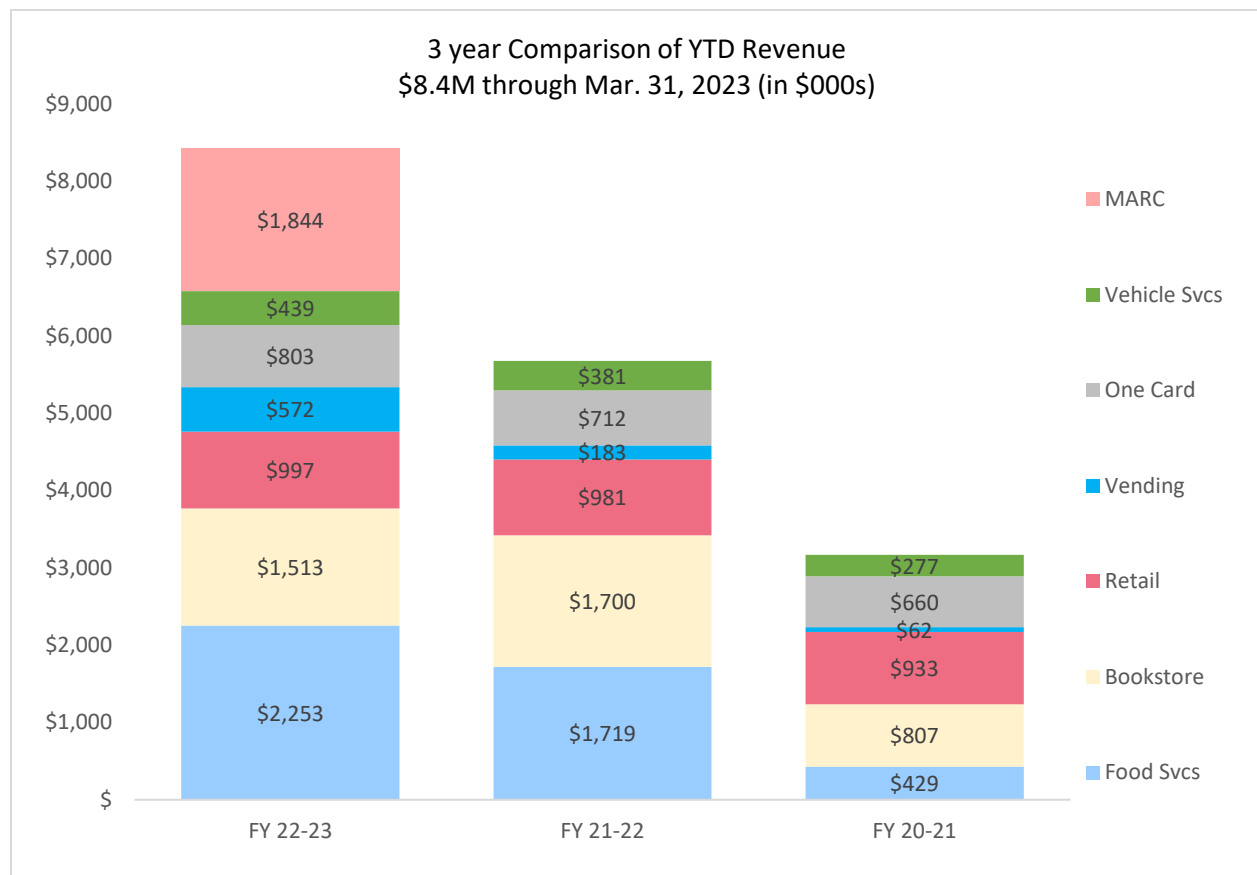
dining, services, or experiences. An email survey was sent to all students, faculty, and staff in March. Insights derived from the study will help inform new opportunities to grow our shopFIU offerings to meet the needs of the ever-evolving campus consumer.

### Orientation 2023/2024

The shopFIU Marketing team has been working diligently on strategies to further enhance engagement with the orientation program. Given recent shifts in orientation programming execution, the team is exploring strategies to broaden reach across mediums and select audiences such as parents, transfer students, Panther Camp facilitators and peer advisors. Further, metrics-based initiatives are currently being planned to ensure efficiencies are met and the marketing is targeted.

### 3-YEAR COMPARISON OF YEAR-TO-DATE FIU REVENUE

Through the third quarter ended March 31, 2023, \$40M in sales generated revenue and support to FIU of \$8.4M.



#### Office of Business Services

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\*MARC building was donated to FIU from FIU Foundation on June 30, 2022. Fiscal year 2022-23 is the first year of licensing revenue reflected in Business Services Auxiliary.

\*FY 20 – 22 impacted heavily by COVID-19 pandemic.



**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
**June 15, 2023**

**EMERGENCY MANAGEMENT STATUS REPORT AS OF MAY 11, 2023**

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**Report** *(For Information Only – no action required)*

**Training and Exercises**

An in-person table top exercise for senior level administration and staff was held on April 19, 2023 in the Emergency Operations Center. The exercise focused on a chemical fire at FIU. Miami-Dade Fire Rescue Department was part of the exercise and conducted their own simultaneous exercise in the media room of the Emergency Operations Center.



**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
**June 15, 2023**

**FACILITIES AND CONSTRUCTION UPDATE AS OF MAY 31, 2023**

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**Report** *(For Information Only – no action required)*

**Projects Completed**

- None during this reporting period.

**Projects under Construction**

- **School of International and Public Affairs (SIPA) Phase II (BT-887)** - \$43.1M project consisting of \$12,701,439 PECO funding, \$15,000,000 private donation, \$5,534,299 FIU Online contribution, \$2M portion of Ferré gift, \$2,298,561 E&G CF, \$250,000 SIPA contribution, and \$1,794,371 in E-Sport contributions (current shortfall after all project contingency is applied: \$3.5M estimated project cost to complete build-out of shelled areas, to be raised with additional private donations.) This shortfall has been updated to current construction pricing as of May 2023. A/E – Harvard Jolly; CM – Thornton Construction. The project includes classrooms, conference facilities, offices, language and technology labs, negotiation and mediation facilities, experimental teaching space for SIPA, and offices, student technical support spaces, and E-SPORT Gaming for FIU Online. The final program was approved July 24, 2018, for an 84,858 gsf building, encompassing 48,445 gsf of built-out space (57%), including 14,563 gsf for FIU Online, leaving 36,413 gsf of shell space (43%) for future build-out when an additional \$4.95M in private funding was raised. \$1,651,752 in project contingency funding has been applied to build out the fifth floor, leaving only 18,207 gsf of shelled space (22%) and an estimated project budget shortfall of \$3.5M to build out the remaining shelled spaces. Building interior finishes and furniture installation are complete and occupant move-in will be re-scheduled after additional fire alarm devices are added to the offices and the Temporary Certificate of Occupancy is issued. Exterior hardscape and landscape installation will finish on May 31, 2023. Electrical and fire alarm infrastructure rework due to design omissions is required to install electrical submeters and additional fire alarm horn devices, pushing building substantial completion to July 31, 2023. FIU is approving this change order to mitigate further damages and deliver the project. This approval is not a waiver of any rights under



contracts or under law, and FIU continues to reserve all rights with respect to all parties. Delivery date: July 31, 2023 for the building with limited media equipment operability. Full media capability by June 2024.

- **International Center for Tropical Botany (ICTB) (BT-914) at The Kampong** - \$6.76M project consisting of \$5.96M in private donations and \$800K in CASE Auxiliary funds. CASE Auxiliary Funds fronted \$1.8M in donations including the \$1.0M Millard gift (which is now complete). A/E - MC Harry; CM - Thornton Construction. The project constructed a new 16,553 gsf facility on a site immediately adjacent to the National Tropical Botanical Garden (NTBG) property in Coconut Grove housing educational, lab, and office spaces. The project was delayed for four (4) years as FIU negotiated with the City of Miami and neighbors on the terms of the warrant application and restrictive covenant agreement. One of the concerns with a four (4) year delay is the cost increase to the project. The final GMP from Thornton was incorporated into the contract via amendment on January 22, 2021 for \$5,490,354, approximately \$800K over the original \$4,769,084 construction budget established in April 2017. The current shortfall is an additional \$840,152 pending resolution of all change orders and contract close-out. All work is complete and the Certificate of Occupancy was issued on May 2, 2023.
- **Engineering Building (Phase I) (BT-919)** - \$73,880,772 project consisting of \$38,907,641 in PECO funding, \$14.8M in unrestricted Treasury Auxiliary funds, \$6.7M in auxiliary and sponsored research, \$4.3M in E&G Carryforward, and \$9.2M in unrestricted Auxiliary Treasury bridge funding, with another \$15M earmarked for future build-out. A/E - Perkins+Will; CM - DPR Construction. The project is interdisciplinary focused on the nexus of engineering, academic health sciences, computer science and robotics. It will construct a new 120,695 gsf engineering building at MMC with classrooms, teaching labs, study space, research labs, offices, and computer and instructional media spaces. The building will have 40% shell space intended to be built-out with private fundraising and sponsored research grant funding. The advanced schematic design submittal was submitted on January 21, 2022. DPR submitted the advanced schematic design cost projection on April 2, 2022 with a projected construction cost of \$51,598,590, which was \$5.5M over the \$46,088,376 construction budget. On June 16, 2022, the BOT approved an additional contribution of \$4.3M in E&G Carryforward to the project budget. The remaining \$1.2M shortfall was addressed through reductions in project contingency and furniture and equipment budget line items. Amendment 1 to the CM agreement was executed on June 20, 2022 allowing DPR to start construction with initial site work before July 1, 2022, and established the GMP at \$51,598,590 for the project. Amendment 2 was executed on September 2, 2022 with Notice-to-Proceed issued September 7, 2022 to allow DPR to execute subcontracts and begin procurement of long-lead materials such as glazing, concrete, masonry, and steel. As a result of continued construction market cost escalation, DPR submitted a final GMP on



November 16, 2022 for \$62,592,300, \$10,993,710 over the construction budget. Following extensive negotiations and BOT approval of the budget increase, Amendment 3 was executed on March 22, 2023 incorporating the final GMP amount of \$59,937,800 and includes sitework, building envelope, program space build-out, and mechanical, electrical, and plumbing (MEP) infrastructure for program spaces as designed. MEP mechanical and electrical room infrastructure for shelled space and the CEC server room are not included and will be added back into the project as cost savings are realized. Site utilities infrastructure installation is progressing along with shell construction. Fifth floor concrete deck pours started May 17, 2023. Lead times for electrical equipment have pushed the scheduled completion date to August 2024. Building completion and occupancy: August 2024.

- **Trish and Dan Bell Chapel (BT-927) / East Loop Road Realignment (BT-929) -** \$28.5M combined project budget consisting of \$18.6M in private funds dedicated to the chapel, including an additional \$7M commitment from Trish & Dan Bell. \$2,922,800 in private funds for the chapel have been received to date. FIU Foundation has backed the remaining private funding balance. For the roadway realignment, \$3.44M in unrestricted Treasury Auxiliary Fund balances and \$3.0M in CITF funds have been received to date. FIU is also allocating \$3,519,655 in FY22-23 Deferred Maintenance funding toward the expansion of the chilled water loop. A/E - Gurri Matute; CM - Moss & Associates. The project will build a multi-faith chapel on MMC at S.W. 14th Street, northwest of the Ronald W. Reagan Presidential House. The chapel will accommodate the plurality of faiths and perspectives at FIU and serve as a multi-faith gathering place for worship, contemplation, spiritual strengthening, and mutual understanding. Initial program requirements are for a 12,659 gsf chapel to hold up to 250 people and include meeting space for students and leaders in FIU's multi-faith community as well as those teaching spiritual/religious subjects. The road portion of the combined project will realign part of the loop road to enhance traffic flow and improve turning radii for large vehicles servicing the Graham Center. This project will create a larger available site area east of the Graham Center Ballrooms for expansion of the Graham Center as well as bus and VIP pick up and drop off access during Graham Center events. A CM agreement amendment accepting the \$8,347,736 cost for the road at 50% CDs was executed on December 9, 2022 with a not-to-exceed total project budget of \$24,626,924. Work on the south portion of the road commenced on November 16, 2022 with closure of the East Loop Road and is expected to last six months. During winter break, the road to the service areas of GC and SASC was reconfigured and a first lift of asphalt was applied to maintain service access to both buildings throughout construction. Underground utilities installation and lake infill work is scheduled to finish in July 2023 when work on the East Loop Road will shift to north of the lake. 100% construction documents for an 18,282 gsf chapel were received on May 5, 2023 and are under review with a GMP from Moss expected by the end of June 2023. Current estimates project the construction budget deficit to be \$3.5M with accepted value-engineering to date. Monthly progress meetings with the

Bells continue, providing the project team with valuable guidance and immediate, actionable feedback. Delivery date: July 2024.

- **Riccardo Silva Stadium Kitchen (FM 19-0139)** - \$2,255,073 project consisting of Office of Business Service (OBS) Auxiliary funding. A/E – DP3 Architects; CM – Stobs Construction. The project constructed a new commercial kitchen (1,912 sf) at MMC on the south side of the Riccardo Silva Football Stadium. Building is a combination of Omni Block and CMU for the walls with steel joist and metal decking as roofing. Construction of the building is complete along with installation of the kitchen equipment. Components of the electrical panel arrived May 15, 2023 and final inspection and occupancy are expected by June 1, 2023. Delivery date for building: June 2023.

### **Projects in Design**

- **University City Prosperity Project (UCPP) (BT-904)** - \$14.9M TIGER Grant project budget; multiple funding sources. A/E – BCC Engineering; Builder – TBD. All work necessary to close the open water and sewer permits is complete, including bacteriological testing of the water line. DERM certification of the sanitary line was received on October 17, 2022. WASD has received the Department of Health certification and asbestos test report and has inspected the work on the water line. Permit close-out is now pending only submission of the conveyance package close-out documents by MCM. BCC was released to start design of the new bridge on April 7, 2021 and the 60% design submittal was received on March 7, 2022. The 60% design submittal cost estimate was submitted on April 29, 2022 for \$16.4M, roughly \$4.6M over the 30% design estimate primarily due to material cost escalation in the current construction market. FDOT anticipates the project will be \$7M - \$8M over its construction budget. FIU contributed an additional \$1M in funding and FDOT will contribute the remainder with available federal funding. Additional sources of funding have been identified to complete the plazas, landscaping, and SW 109<sup>th</sup> Avenue improvements. The 100% design submittal with a construction cost estimate of \$17.6M was submitted on December 20, 2022 reflecting a scope of work to construct the bridge, plazas, landscaping, and SW 109<sup>th</sup> Ave. improvements. FDOT submitted the final design package to Tallahassee on May 22, 2023 and anticipates putting it out to bid by July 26, 2023. Award to the Builder is scheduled for November 2023 with construction of the new bridge projected to start in April 2024 and finish in April 2026.
- **College of Arts, Sciences & Education (CASE) Renovation (BT-931)** - \$7.15M PECO funded project budget (FY21-22 and FY22-23 Section 152 American Rescue Plan Act (ARPA) funding). A/E – Rodriguez Architects, Inc.; CM – Thornton Construction. The 30-year-old 61,783 square foot Computing, Arts, Science and Education (CASE) building consists of seven (7) classrooms, seven (7) teaching labs, sixty-one (61) research labs and one hundred forty-four (144) offices. Recent assessment reports

indicate that repair and replacement of deteriorated building enclosure components, windows, doors, and louvers are critically needed. Replacement of the deteriorating central air conditioning system is crucial for a healthy indoor environment and to control energy costs. Replacement of the building's emergency generator system is required so that telecommunications equipment housed in the CASE building and feeding the nearby University Police and Emergency Operation Center can be maintained during and after a hurricane. 50% construction documents from Rodriguez Architects were received August 29, 2022. 100% construction documents were received October 14, 2022 and after several pricing iterations, a final GMP from the CM was received on May 10, 2023 for \$7,751,306 for a total project cost of \$9,735,462 and a funding shortfall of \$2,585,462. The project shortfall will be submitted as a request for E&G Carry Forward (CF) funding in the FY23-24 Fixed Capital Outlay (FCO) Plan. Delivery date: TBD pending resolution of funding shortfall.

- **Primera Casa Hardening Project (FM 18-0351)** - \$3,618,929 project consisting of a \$2,714,197 FEMA Hazard Mitigation Grant (HMGP) award and \$904,732 FIU Board of Trustees Carryforward Reserve funding as cost share. A/E - Salz Michelson Architects; CM - Stobs Brothers Construction. The project will replace 17,350 SF of windows and 200 SF of doors and louvers at PC with current code-compliant, impact resistant assemblies. The project will also harden the existing roof by replacing 2,450 linear feet (LF) of edge nailers and flashing, 2,689 SF of roofing, doors, and skylights on four (4) stairwell roof enclosures, and replace 2,800 LF of lightning protection on the roof parapet. Existing rooftop HVAC equipment will also be reinforced with new tie-down cables. The architect submitted 100% construction documents on July 27, 2022. The initial GMP was received on August 18, 2022 for \$3,428,400 with much of the HVAC scope broken-out as alternate bid items in an attempt to reduce cost. The current GMP, including all of the approved scope of work, was received on September 30, 2022 for \$3,804,150. The grant and scope of work were established several years before construction cost increases hit the market requiring an increase to the budget and schedule extension. The new proposed project budget is \$4,541,676 which reflects current material costs and a 5% contingency for future cost escalation during the project. A formal request for a \$922,747 budget increase and 12-month schedule extension to September 30, 2024 was submitted to FDEM on October 4, 2022 and is under review. Per the FDEM agreement, the project must achieve final completion when the period of performance ends September 30, 2023. On April 5, 2023 FDEM approved a schedule extension to February 28, 2024, the last day of the declared disaster performance period. Additional schedule extensions will require approval from FEMA. However, FDEM has still not responded to the request for budget increase of \$922,747. Based on the eventual response, this increase may require support from E&G CF funding with a potential scenario of a request for \$922,747 from E&G CF. Delivery date: February 28, 2024.

## Projects in Planning Stage

- **Alumni Center** –The Greek House I building (formerly the Phi Gamma Delta fraternity house) is being explored as a possible location for the Alumni Center program.
- **CasaCuba (BT-925)** - \$34.3M project (increasing to \$48.8M after including the \$14.5M required maintenance endowment) based on private donations, and other philanthropic sources. To date \$7,453,096 has been raised in cash including a \$750K National Endowment for the Humanities grant, and a \$2M Knight Foundation grant (\$1.2M received to date). Pledges total another \$7,675,717. A/E –TBD. CM – Thornton Construction. The approved building program which is now under revision consists of a 57,876 gsf facility at the SW 16<sup>th</sup> Street entrance to MMC, including 40,400 gsf of auditorium and exhibition space; 5,500 gsf of classrooms; and 12,000 gsf of office, computer, and campus support space. The project will create a dynamic center hosting open lectures, academic conferences, digital exhibits and research presentations, engaging museums, historical societies, and other academic and cultural institutions through meaningful partnerships. CasaCuba will help preserve and showcase FIU’s wealth of Cuba-related intellectual and cultural resources for the benefit of the community, with a special emphasis on sharing and expanding its notable Cuba Collections. FIU and the architect, Rene Gonzalez and Associates, executed a termination agreement on March 3, 2023 after failing to agree on a path forward to complete the design development phase. FIU leadership in consultation with the Board of Trustees has made the decision to begin negotiations with the second-ranked firm from the original A/E solicitation, HKS Architects. The original program and budget have been revised by the interim-director and submitted to the CasaCuba Board for approval. Assuming successful negotiation and contracting with HKS, the first task will be to review and validate the CasaCuba program.
- **Graham Center Expansion (BT-921)** - \$35.9M CITF funded project. A/E – TBD; CM – TBD. The project initially envisioned a 69,400 gsf expansion, increasing the current ballroom footprint and adding breakout rooms, green rooms, lounges, and storage space. The highlight was to be a new and larger grand ballroom facility to meet current and projected needs. To date, \$23,900,295 in CITF funding has been received, including the entire FY20-21 CITF funding allocation of \$7,002,807, \$500K of the FY21-22 CITF, and \$96,099 in FY22-23 CITF. The coronavirus pandemic, however, triggered a reconsideration of the program and a reassessment of the most effective use of CITF funds. Delivery date: TBD. *(No change from previous report).*
- **Wolfsonian-FIU Expansion (BT-940)** - \$20.0M project budget depending on scope. \$17.49M raised to date: \$10.0M Miami Dade County Building Better General Obligation Bond, \$5.0M City of Miami Beach Arts and Cultural General Obligation

Bond; \$750K Knight Foundation Grant, \$600K Institute of Museum and Library Services and National Endowment for the Humanities Grant; \$600K in matching funds, and \$538K in cash and pledges from individual donors. A/E – TBD; CM – TBD. The project envisions interior renovations and a 25,000 to 36,000 net square foot expansion of the historic Wolfsonian-FIU building at 1001 Washington Avenue, Miami Beach. The project will deliver new galleries, classrooms, and other public program spaces to increase the number of collections on exhibit and increase opportunities to host and present more K-12, higher education, and lifelong learning programs. A secondary use of the program spaces for event rentals will yield revenues to support operating costs and mission-related activities. A draft program was submitted on April 7, 2023 and is under review. Delivery date: TBD.

- **Engineering Building (Phase II) (BT-938)** – \$69,500,000 project consisting of \$33,500,000 in FY22-23 PECO funding (FY22-23 Section 197 ARPA Funding), \$15,150,000 in anticipated FY23-24 PECO funding, and \$20,850,000 private funding to be raised. A/E – TBD; CM – TBD. This second phase will complete the interdisciplinary program of BT-919 Engineering Phase I focused on the nexus of engineering, academic health sciences, computer science and robotics. It will construct a 93,691 gsf engineering building at MMC that includes classrooms, teaching labs, study space, research labs, offices, and computer and instructional media spaces. Since the A/E advertisement contained both project phases, FIU can proceed with design using the Phase I architect, Perkins + Will, or elect to advertise again for a new firm. This decision is pending. Funding for the project was received through the Coronavirus State Fiscal Recovery Funds (SFRF) program, has federal requirements, and must be under contract to obligate the funding no later than December 31, 2024 with all funding expensed no later than December 31, 2026.
- **Student Health Center Expansion (BT-932)** – \$12,000,000 student health fee funded project. The project will remodel existing space within the MMC Student Health Center and expand the facility by 10,808 gsf to accommodate the growing need for clinical, counselling, and advocacy direct services to students through purposeful, multi-use space for all student wellness areas to utilize. The appointed program committee has prepared an outline program for approval by the president to authorize selection of an A/E firm. Detailed programming will be completed by the selected firm in conjunction with the program committee for final sign off and approval by the president to begin design. A/E – TBD; CM – TBD.

*Encls: New Minor Projects established 2/1/2023 – 4/30/2023  
New Project Change Orders established 2/1/2022 – 4/30/2023*



## FM New Minor Projects over \$500,000 established 2/1/2023 through 4/30/2023 ( a )

Purpose: Information to BOT

	FM#	Project	Requester	Date Established	A/E	Construction	Total Budget	Funding Source
1	171015	BBC WUC 244 Ballrooms Renovation	Student Affairs	4/6/2018 ( b )	SGM Engineering	Stobs Bros Construction	\$ 1,460,915.24	Auxiliary
2	211103	GC 1st Floor Terrazzo Flooring Replacement	Student Affairs	1/31/22 ( c )	VIA Design Studio	Turner Construction	\$ 3,203,532.15	Auxiliary
3	220425	Lakeview South Interior Refresh	Housing	3/22/2022 ( d )	MC Harry	Turner Construction	\$ 4,293,922.50	Auxiliary
4	180350	Wolfsonian Bldg Envelope Repairs	FMD	12/11/2018 ( e )	VIA Design Studio	Stobs Bros Construction	\$ 2,641,028.54	PECO & Auxiliary
							<b>\$ 11,599,398.43</b>	

( a ) "Established" is defined as funded or contracted for design and/or construction during the reporting period.

( b ) Budget was increased \$1,036,715.24 to fund construction 3/21/2023.



## FM Change Orders over \$50K 2/1/2023 through 4/30/23 ( a )

Purpose: Information to BOT

	BT/FM#	Project	Vendor	Contract No.	Original Contract Amount ( b )	Current Contract Amount ( b )	CO#	Date Approved	Change Order Amount	Description	Funding Source
1	220119	OE HVAC Distribution & Controls Upgrade	Johnson Controls Inc.	512	\$ 3,321,671.00	\$ 3,451,171.00	3	2/21/2023	\$ 129,500.00	Correct unforeseen conditions. The existing electrical panels do not have space for required circuits.	HEERF
2	200318	OU Cold Spray Lab	Alleguez Architecture	222592	\$ 94,556.00	\$ 150,069.00	1	3/2/2023	\$ 55,513.00	Increase in project scope and increase to construction cost.	Auxiliary
3	220216	BBC AC2 HVAC Controls & AHU	Carrier Corp.	516	\$ 2,885,485.00	\$ 3,240,502.00	1	3/7/2023	\$ 355,017.00	Original equipment was not approved due to efficiency factors. New Carrier 39L Units approved, but require added features that have to be field-installed to save factory lead times.	HEERF
4	220122	BBC HM HVAC Distribution & Controls Upgrade	Carrier Corp.	505	\$ 817,200.00	\$ 1,208,180.00	1	3/7/2023	\$ 390,980.00	Provide electrical power as required for functioning of the HVAC system. 400A feeder is required.	HEERF
5	220606	CP Office Wing HVAC Distribution & Controls Upgrade	Johnson Controls Inc.	518	\$ 309,035.00	\$ 379,017.00	3	3/22/2023	\$ 69,982.00	Perform high voltage work for VAV retrofit at the 2nd & 3rd Floors. New VAV's require additional power and dedicated circuits.	HEERF
6	191018	CP Pneumatic to DDC HVAC Controls Conversion	Stobs Bros Construction	469	\$ 3,675,192.90	\$ 3,993,598.56	9	3/29/2023	\$ 318,405.66	Correct unforeseen conditions. Light fixtures in classrooms were not properly supported & additional ceiling demolition was required based on VAV actual locations.	E&G CF
7	180350	Wolfsonian Bldg Envelope Repairs	Stobs Bros Construction	438	\$ 1,641,321.40	\$ 2,119,971.69	3	3/30/2023	\$ 478,650.29	Correct unforeseen structural damages at the 3rd, 4th & 5th Floors.	PECO/Auxiliary
8	171116	Wertheim Conservatory Greenhouse Repairs	Stobs Bros Construction	471	\$ 732,276.96	\$ 1,059,538.81	3	4/21/2023	\$ 327,261.85	Provide additional structural modifications as per drawings provided by Architect.	E&G CF
9	220904	ENG1 Pet-Cyclotron Installation	Perkins & Will	526	\$ 221,113.00	\$ 395,026.91	1	4/3/2023	\$ 173,913.91	Equipment location change from Parking Garage 5 Room 134 to the Ground Floor of the new Engineering Building 1 Chemistry lab.	Grant
									<b>\$ 2,299,223.71</b>		

( a ) Change orders over \$50,000 on minor projects and change orders over 5% of authorized budget for major projects.

( b ) Values reflect contract amounts, not full project cost.





**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
**JUNE 15, 2023**

**SAFETY AND ENVIRONMENTAL COMPLIANCE REPORT AS OF MAY 9, 2023**

**Report** *(For Information Only – no action required)*

**Item #1 Industrial Waste (IW5) Inspection**

**Agency:** Miami-Dade Regulatory and Economics Resources (RER)

On February 17, 2023, Miami-Dade RER performed an inspection of the Industrial Waste (IW5) Permits for Biscayne Bay Campus. The following locations were inspected – Marine Science Building (MSB) Hazardous Waste Central Accumulation Area, Central Utilities Two (CU2), Motor Pool, Grounds (S04), and the Aquatic Center.

**Findings:** Final report is still pending from RER. Minor verbal recommendations were noted during the inspection and have been addressed by Facilities Management.



**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
June 15, 2023

**TREASURY REPORT** (For quarter ending March 31, 2023)

**Report** (For Information Only – no action required)

**OVERVIEW**

The University’s total liquidity position of \$527.9 million was 2.9 times the University’s debt position of \$180.5 million at the end of FY 2023 3Q. Including direct support organization (“DSO”) debt, the liquidity to total debt ratio was 2.6 times. These results are flat compared to the end of FY 2022 3Q, where the liquidity to University debt and the liquidity to total debt ratios were 2.9 times and 2.6 times, respectively.

**LIQUIDITY**

**Real Days Payable**

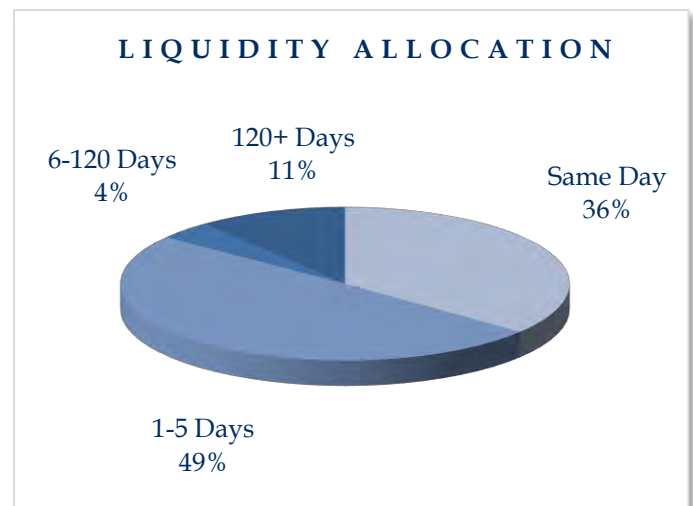
At the end of FY 2023 3Q, \$450.6 million, or 85.4 percent, of the liquidity position was accessible within 5 business days (see *Liquidity Allocation* chart for detail). At the end of FYTD 2023 3Q, the University had 83 real days payable<sup>1</sup> (“RDP”) versus 83 RDP at the end of FYTD 2022 3Q.

**Sources**

The University started the fiscal year with \$237.1 million in cash balances<sup>2</sup>. Total FYTD 2023 3Q inflows (state and operational) were \$1,064.9 million as compared to \$1,063.6 million for FYTD 2022 3Q. On average, \$5.4 million flowed into the University each business day in FYTD 2023 3Q and \$5.4 million in FYTD 2022 3Q.

**Uses**

FYTD 2023 3Q, the University used \$1,068.0 million as compared to \$1,060.0 million in the same period last fiscal year. The FYTD 2023 3Q velocity cash outflow was \$5.4 million per day and \$5.4 million in FYTD 2022 3Q. The University ended FY 2023 3Q with \$234.0 million in cash balances.



<sup>1</sup> Real Days Payable represents the available balance of liquid funds divided by the average cash outflows of the University. The calculation uses the available balance in the University’s bank accounts plus the market value of investments that are accessible within five business days as its balance of liquid funds.

<sup>2</sup> Cash includes Working Capital Pool assets and cash balances in the concentration bank account.

## Stress Tests/Performance Simulations

The University Office of the Treasurer (“Treasury”) analyzes the effect of negative market performance on its liquidity position through both value-at-risk (VAR) analysis and Monte Carlo simulation analyses.

VAR analysis, completed quarterly, estimates the maximum potential loss during a specific time at a given level of confidence. VAR uses the historical behavior of each asset class over various time horizons (five years, ten years, full history). Our VAR analysis predicts that there is a five percent probability that the portfolio (as of the FYTD 2023 3Q ending balance) could have unrealized losses of up to \$5.7 million and one percent probability of up to \$18.5 million of unrealized losses within a twelve-month period.

The University conducts monthly performance simulations of the portfolio under various market scenarios. At the end of FY 2023 3Q, a 100 bps rise in the 10 year Treasury Bond rate would result in a \$3.3 million (0.6 percent) unrealized gain. Liquidity, as measured by 5-day accessibility, would drop to 78.3 percent, or \$418.5 million, of the total current available cash and investment balances. RDP would fall to 77 days based on current fiscal year outflows.

A 25 percent decline in the equity markets would result in a -\$11.6 million (-2.3 percent) unrealized loss. Liquidity, as measured by 5-days accessibility, would decrease slightly to \$447.7 million or 88.7 percent of the total current available cash and investment balances. RDP would be 82 days based on fiscal year outflows in this stress scenario.

A scenario similar to the 2013 Federal Reserve “Taper Tantrum” would result in a -\$8.5 million (-1.7 percent) unrealized loss. Liquidity, as measured by 5-day accessibility would drop to \$387.7 million or 75.9 percent of the total current available balances. RDP would drop to 71 days.

## Forecast and Budget

Actual balances at the end of FY 2023 3Q were -5.8 percent lower than the rolling forecast, 3.4 percent higher than the budget, and 0.1 percent higher than prior year. For the next quarter, the University should experience a decrease in the cash and investment balances lasting through the end of the fourth quarter of FY 2023.

## INVESTMENTS

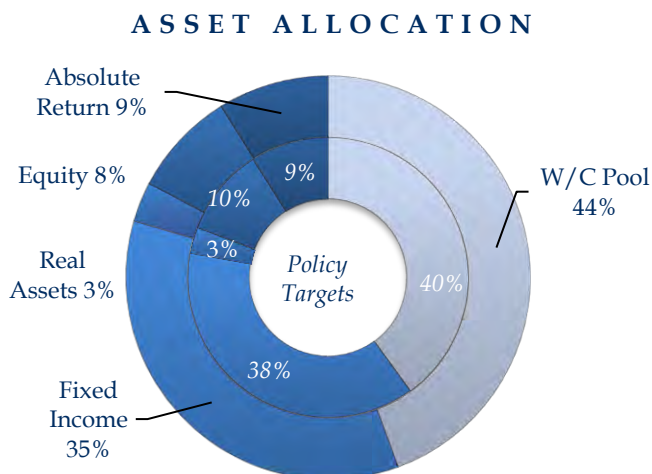
### Composition

Asset allocations at the end of FY 2023 3Q remained within policy guidelines (See *Asset Allocation* chart for quarter end detail).

At the end of FY 2023 3Q, the market value of the University’s operating funds portfolio and cash was \$527.9 million. This balance reflects an increase of \$49.3 million or 10.3 percent, from the previous quarter. The increase reflects the quarter-to-quarter seasonal increase in net cash flows and quarterly investment returns. The total portfolio market value was \$0.7 million higher than the market value at the end of FY 2022 3Q.

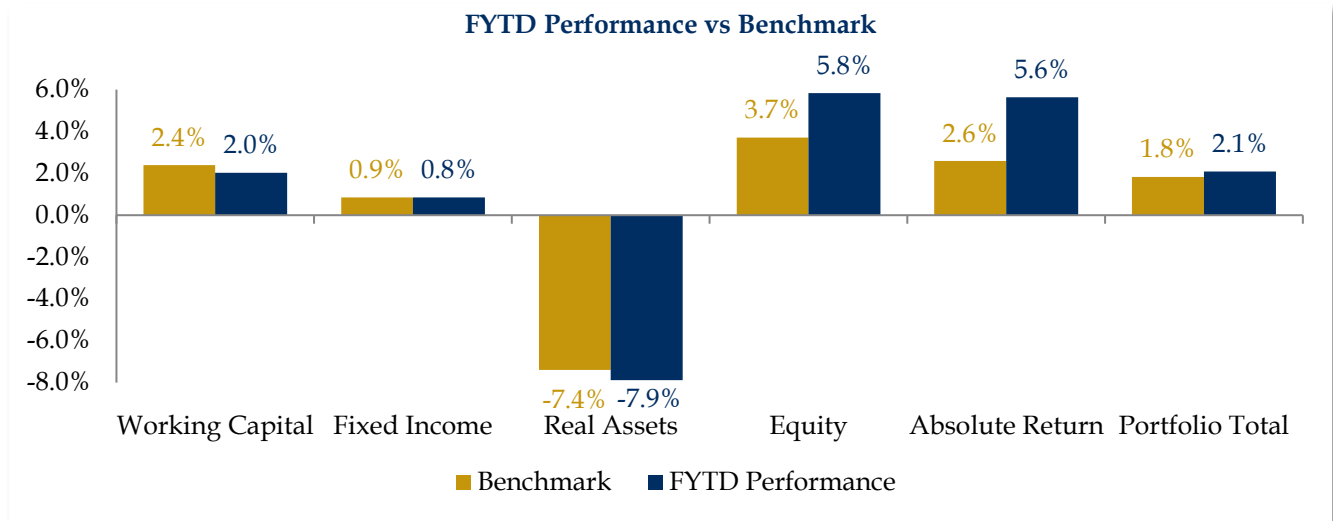
### Performance

FIU’s operating portfolio continues to outperform the State Treasury investment pool (“SPIA”), returning 3.8 percent since inception versus the SPIA’s 2.4 percent for the same period. At the end of FY 2023 3Q, the portfolio returned 2.1 percent. This compares favorably to a -.3 percent return at the end of



FY 2022 3Q. The Strategic Capital and Reserve Pools returned 1.8 percent while the Working Capital Pool gained 2.0 percent. Returns from the SPIA totaled 1.3 percent at the end of FY 2023 3Q (see *FY Performance vs. Benchmarks* chart for additional performance detail by asset class).

The overall Portfolio was above its benchmark due to performance in the Equity and Absolute Return asset classes. Equities outperformance was due to Small Cap equities and Private Markets. The absolute Return outperformance was mostly due to its Long/Short Strategies.



## DEBT

### Total Outstanding

The University and DSOs ended FY 2023 3Q with \$201.6 million in outstanding debt versus \$210.6 million at the end of FY 2022 3Q. The lower year over year outstanding debt was due to continued debt service payments. The weighted average interest rate for the University and DSO issuances was 3.8 percent versus 3.7 percent in the same period in the prior year.

### Bond Refunding

The University refunded the 2013A (PG6) bonds at a true interest cost of 3.58 percent and a present value interest savings of \$3.3 million in April 2023. The University and the Athletics Finance Corporation (AFC) has refunded/modified all other eligible outstanding bond series. The refunding/modification are projected to save the University and AFC \$32.2 million in interest expense over the term of the issuances. As of March 31, 2023, \$8.3 million of interest savings have been realized from the refunding and modification activities. The University and AFC are expected to save \$1.8 million in interest expense in Fiscal Year 2023 and \$8.5 million over the next 5 years.

### Rating Agencies

Moody's, S&P and Fitch affirmed the ratings on both the University's Housing and Parking Systems' bonds in March with a stable outlook. Fitch's outlook for the Parking System's bonds was upwardly revised from "stable" to "positive". The revised outlook indicates a possible ratings upgrade over the next couple of years.

Period Ending March 31, 2023

(000's)

**OVERVIEW**

Liquidity/University Debt	2.92
Liquidity/Total Debt	2.62

**Liquidity Position**

Cash + W/C Pool	\$	234,018
Strategic + Reserve Pools		293,892
<b>Total</b>	<b>\$</b>	<b>527,910</b>

**Debt Position**

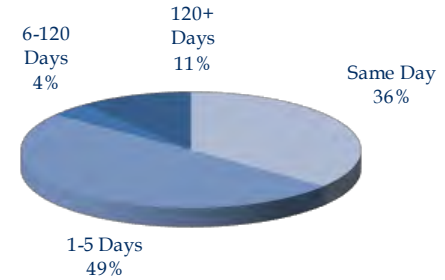
University Debt	\$	180,505
DSO Debt		21,090
<b>Total</b>	<b>\$</b>	<b>201,595</b>

**LIQUIDITY**
**Availability**

Same Day	\$	188,860
1-5 Days		261,750
6-120 Days		20,825
120+ Days		56,476
<b>Total</b>	<b>\$</b>	<b>527,910</b>

**Real Days Payable (<5 Days)**

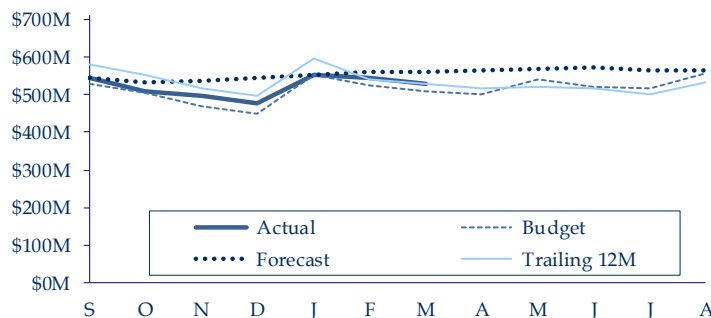
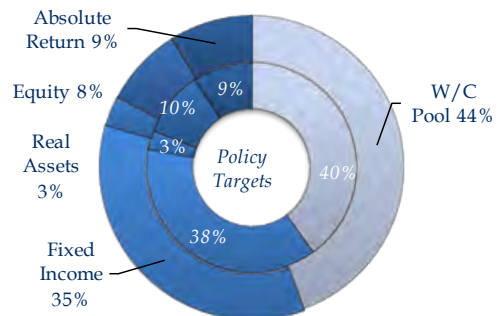
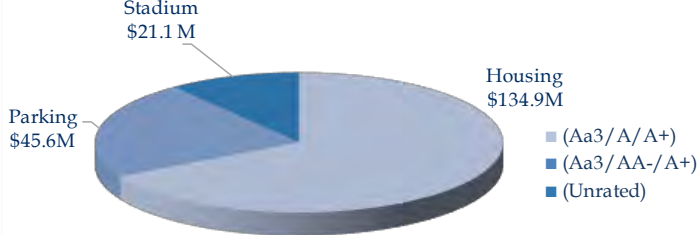
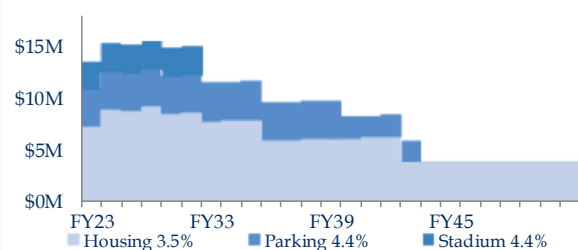
MTD Outflows	90
QTD Outflows	77
YTD Outflows	83

**LIQUIDITY ALLOCATION**

**LIQUIDITY SOURCES AND USES**

Sources	MTD	QTD	YTD
Opening W/C Pool Balance	\$ 201,797	\$ 141,111	\$ 152,009
Opening Cash Balance	\$ 54,190	\$ 50,709	85,049
From State	45,504	114,609	334,291
From Operations	47,987	301,058	730,651
<b>Uses</b>			
To Payroll	(58,044)	(173,510)	(564,908)
To Operations	(47,455)	(117,103)	(314,591)
To Students	(9,961)	(82,855)	(188,483)
<b>Cash + W/C Pool</b>	<b>234,018</b>	<b>234,018</b>	<b>234,018</b>

**INVESTMENTS**

Cash + W/C Pool	Balance	FYTD	Last1Y
W/C Pool	\$ 179,694	1.9%	2.0%
Cash	54,324	1.7%	1.7%
<b>Strategic + Reserve Pools</b>			
Fixed Income	185,849	0.8%	-4.9%
Real Assets	16,889	-7.9%	-12.7%
Equity	44,493	5.8%	-7.0%
Absolute Return	46,662	5.6%	2.4%
<b>Total Portfolio</b>	<b>\$ 527,910</b>	<b>2.1%</b>	<b>-1.6%</b>

**CASH + INVESTMENTS FORECAST**

**ASSET ALLOCATION**

**DEBT**
**OUTSTANDING DEBT**

**ANNUAL DEBT SERVICE**


Period Ending March 31, 2022

(Million's)

<u>OPERATING FUNDS</u>	<u>MARKET VALUE<sup>1</sup></u>	<u>BOOK VALUE</u>	<u>INCOME EARNED<sup>2</sup></u>
<u>Working Capital<sup>3</sup></u>	\$234.0M	\$237.0M	\$4.6M
Fixed Income	\$185.8M	\$189.5M	\$2.7M
Equity	\$44.5M	\$32.4M	\$0.3M
Real Assets	\$16.9M	\$18.7M	\$0.0M
Absolute Return	\$46.7M	\$30.2M	\$0.0M
<u>Total Strategic/Reserve</u>	<u>\$293.9M</u>	<u>\$270.8M</u>	<u>\$3.0M</u>
<u>Total Operating Funds</u>	<u>\$527.9M</u>	<u>\$507.9M</u>	<u>\$7.6M</u>

<sup>1</sup> Includes Dividend/Interest Receivable

<sup>2</sup> Investment Income Earnings - Dividends and Interest

<sup>3</sup> Includes Bank Cash



**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
June 15, 2023

**Subject: Quarterly report of the purchasing transactions greater than or equal to \$500,000 and less than \$1,000,000 from January 13, 2023 through May 8, 2023.**

**Report** *(for informational purposes only – no Committee action is needed)*

Purchase Order No.	Competitive Solicitation Number or Exemption	Competitive Solicitation Title or Agreement Type	Vendor	Department / PO Description	Current Expiration Date	PO Amount FY 23 (YTD)
0000245064	Exception under BOG Regulation 18.001(6)(d)(11) - Advertising, except for media placement services.	PO # 0000245064	GOOGLE LLC	FIU Online Web Based Courses / Blanket PO for digital advertising on Google for FIU's online graduate and undergraduate programs.	6/30/2023	985,000.00
0000244040	Approved by BOT on June 2022	Piggyback Agreement No. US-OMA-1375238	ORACLE AMERICA INC	IT Panthersoft / Oracle Support Services Order #6593102	8/31/2025	927,000.67
0000256184	Sponsored Projects (Direct) POs are exempt from prior BOT approval and just need to be reported after the fact once PO is equal to or greater than \$500,000.	PTE/Prime Award No. A21-0220-S002	STATE OF FLORIDA	Institute of Environment/ Multi line PO for Subaward No 000565 The Great(er) Amberjack Count Greater Amberjack ( <i>Seriola dumerili</i> ) Abundance, Distribution, and Movement in U.S. Waters in the South Atlantic and Gulf of Mexico PTE/Prime Award No. A21-0220-S002 Amendment #1	7/31/2023	919,643.00

Purchase Order No.	Competitive Solicitation Number or Exemption	Competitive Solicitation Title or Agreement Type	Vendor	Department / PO Description	Current Expiration Date	PO Amount FY 23 (YTD)
0000257289	Owner Direct Purchase of reinforcing steel material Per FIU-2201, Purchasing Commodities to be incorporated into any public work (as that term is defined in Rule 12A-1.094, F.A.C.) which are procured by the University in accordance with the requirements of the University's direct purchase program are not subject to any further competitive solicitation.	Engineering Building Project BT 919 Contract #453	ELECTRICAL SUPPLIES INC	Facilities Construction / CONS - ODP of switchgear material for the Engineering Building Project. BT 919	6/13/2023	853,598.00
0000246060	ITN-2019-00009	Integrated Branding, Marketing and Communication Services PUR # 02192	ONE SIXTY OVER NINETY FL LLC	Strat Comm Govt & Ext Affairs / 160over90 Year 5 Retainer	4/29/2023	797,400.00
0000242904	Sole Source Approved	PO # 0000242904	JEOL USA INC	Division of Finance and Admin/ Multiple lines PO for purchase of JEM-2100 Electron Microscope	N/A	778,362.00
0000238869	Sole Source Approved by BOT on March 2022	PO # 0000238869	EQUINIX INC	IT CIARA / Multiple PO lines for Colocation and Network/Exchange Services	12/31/2025	728,886.00



Purchase Order No.	Competitive Solicitation Number or Exemption	Competitive Solicitation Title or Agreement Type	Vendor	Department / PO Description	Current Expiration Date	PO Amount FY 23 (YTD)
0000253092	Exception under BOG Regulation 18.001(6)(d)(12) - Services or commodities provided by governmental agencies, another University in the State University System, direct support organizations of the university, political subdivisions or other independent colleges and universities.	PO # 0000253092	AGENCY FOR HEALTH CARE ADMINISTRATION	COM Clinical Affairs / Medicaid Payments Transfer Agreement - LIP 22-23	6/30/2023	599,250.00
0000255438	Sourcwell RFP #080819	Piggyback Agreement via Sourcwell contract 080819-IFA and DMS Contract #30161700-20-ACS "Flooring Materials, w/Related Supplies and Services	RESOURCE SOUTH FLORIDA INC	Housing Central / Multiple lines PO for Flooring Materials Supplies & Services	10/11/2023	552,734.49
0000244250	Exception under BOG Regulation 18.001(6)(d)(11) - Advertising, except for media placement services.	PO # 0000244250	LINKEDIN CORPORATION	COB Chapman Graduate School / Blanket Purchase Order for LinkedIn Ads for Chapman Graduate Programs for the period of 7/1/2022 - 6/30/2023	6/30/2023	550,999.00
0000245346	ITN-2021-00055	Marketing and Media Services PUR# 05117	Z ADVERTISING GROUP LLC	FIU Online Web Based Courses / Multiple line POs for Advertising services for FIU Online's graduate and undergraduate programs	5/31/2025	550,000.00



Purchase Order No.	Competitive Solicitation Number or Exemption	Competitive Solicitation Title or Agreement Type	Vendor	Department / PO Description	Current Expiration Date	PO Amount FY 23 (YTD)
0000244647	ITN45-004	Fleet Services PUR #03771	FIRST VEHICLE SERVICES INC	Business Services / BPO for First Vehicle Services FY 22-23. Jul-Sept	3/15/2031	550,000.00
0000241357	Eastern Virginia Medical School RFP # CONSULTANT22-101	Piggyback Agreement Eastern Virginia Medical School RFP CONSULTANT22-101 PUR # 05291	THE CHARTIS GROUP LLC	COM Deans Office/ Multiple lines PO for Consulting services for strategic options analysis for Clinical Affiliation agreement	12/23/2022	507,805.37
0000244206	ITN67-009	Small Trades II PUR-01593	EDD HELMS GROUP INC	Heating AC and Vent Energy Management / Blanket PO for Miscellaneous air conditioning and VFD Services and Repairs for both MMC & BBC thru 6/30/23.	9/9/2023	500,000.00



**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
June 15, 2023

**Subject:** Quarterly report of the purchasing transactions greater than \$1,000,000 from January 13, 2023 through May 8, 2023.

**Report** *(for informational purposes only – no Committee action is needed)*

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Purchase Order No.	Competitive Solicitation Number or Exemption	Competitive Solicitation Title or Agreement Type	Vendor	Department / PO Description	Current Expiration Date	PO Amount FY 23 (YTD)
0000256594	Exception under BOG Regulation 18.001(6)(d)(12) - Services or commodities provided by governmental agencies, another University in the State University System, direct support organizations of the university, political subdivisions or other independent colleges and universities.	PO # 0000256594	STATE BOARD OF ADMINISTRATION OF FLORIDA	Housing Central / Multiple Line POs for Dormitory Revenues and Revenue Refunding Bonds	6/1/2023	8,032,037.00
0000255343	Sponsored Research Purchase Exemption	PUR#06635 <sup>1</sup>	AEROLAB RESEARCH WIND TUNNEL INC	International Hurricane Center/To conduct the work related to the project Mid-scale RI-1 (M1-DP) National Full-Scale Testing Infrastructure for Community Hardening in Extreme Wind, Surge, and Wave Events (NICHE).	7/31/2023	2,355,681.75

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<sup>1</sup> Attached with the report is the detail of the contract.

Purchase Order No.	Competitive Solicitation Number or Exemption	Competitive Solicitation Title or Agreement Type	Vendor	Department / PO Description	Current Expiration Date	PO Amount FY 23 (YTD)
0000256634	Exception under BOG Regulation 18.001(6)(d)(12) - Services or commodities provided by governmental agencies, another University in the State University System, direct support organizations of the university, political subdivisions or other independent colleges and universities.	PO # 0000256634	STATE BOARD OF ADMINISTRATION OF FLORIDA	Parking and Transportation / Parking Facility Revenue Bonds, Series 2013A, Series 2019A, and Series 2023A	6/1/2023	2,163,712.53
0000244678	Approved by BOT on June 2022	Piggyback Agreement No. Mythics Region 4 (National IPA) Contract# R190801 PUR # 05237	MYTHICS INC	IT Panthersoft / Oracle PaaS and IaaS Universal Credits B88206 (Year1)	7/14/2025	1,200,450.00
0000244231	Exception under BOG Regulation 18.001(6)(d)(11) - Advertising, except for media placement services. Approved by BOT on September 2022	PO # 0000244231	META PLATFORMS INC	COB Chapman Graduate School / Blanket Purchase Order for Facebook and Instagram Ads for Chapman Graduate Programs for the period of 7/1/2022 - 6/30/2023	6/30/2023	1,078,900.00
0000244246	Exception under BOG Regulation 18.001(6)(d)(11) - Advertising, except for media placement services. Approved by BOT on September 2022	PO # 0000244246	GOOGLE LLC	COB Chapman Graduate School / Blanket Purchase Order for Google Ads for Chapman Graduate Programs for the period of 7/1/2022 - 6/30/2023	6/30/2023	1,034,510.00

## **Aerolab Agreement for NSF Cooperative Agreement with FIU - Mid-scale RI-1: National Full-Scale Testing Infrastructure for Community Hardening in Extreme Wind, Surge and Wave Events (NICHE)**

The project is a Cooperative Agreement funded by the NSF. Aerolab was part of the application to the NSF and has been approved by the NSF for their part of the overall project.<sup>1</sup> Timing is of essence because the NSF has approved the next phase of the project that involves Aerolab and the first deliverable is due March 17, 2023.

**Contract #PUR-06635** (supplier: **Aerolab Research Wind Tunnel Inc.**) Approval to enter into an agreement with Aerolab in relation to goods and services provided as part of an infrastructure project, Mid-scale RI-1: National Full-Scale Testing Infrastructure for Community Hardening in Extreme Wind, Surge and Wave Events (NICHE) funded by a \$12.8 million award from the National Science Foundation. The NSF funded FIU for the NICHE Cooperative Agreement at a current level of \$12.8M. The NICHE facility will be designed to physically simulate coupled climate-driven hazards at the scales required to faithfully reproduce vulnerabilities in the built environment. To aid in the design of the full-scale NICHE, the project will develop and implement an integrated design testbed (IDT), including construction of a prototype smaller-scale, physical design testbed (PDT), derived from a combination of field observations, computational modeling, and physical experimentation. The PDT will be constructed at FIU, with the potential for the wind-wave PDT component to be constructed at an alternate institution with an existing wave testing infrastructure. Aerolab was included in the proposal that was approved by the NSF. Aerolab was specifically approved by the NSF to advise and work with FIU to provide the **system design, analysis, delivery, site assembly, commission, calibration and validation of the testbed along with an upgrade of related facilities at UC San Diego and Oregon State who are partners in this project.**

- **Term**: Commences on March 16, 2023, through July 31, 2023 (but may be extended for the project period through January 31, 2026 contingent upon continued funding provided by the NSF.
- **Cost**: Based on funding support currently provided by the NSF, the contract amount is \$2,355,681.75. However, with successful progress on defined milestones, beginning in July 2023, NSF could provide additional funding over the next three years for the project which could include additional funding for Aerolab's involvement. With the additional funding, the total funding for Aerolab over the term of the project could be up to approximately \$6.1 million.

**Table 1: Key Aerolab Deliverables and Milestone Payment Chart (March 16, 2023 – July 31, 2023)**

Project Phase	Key Deliverables and Milestones	Date	Milestone Payment (%)	Milestone Payment (Amount)
Phase 1 - Physical Design Testbed	Design of Non-Synoptic Flow Control Hardware	3/31/2023	5	\$301,933.06
	Design of UCSD upgraded wind generation hardware	3/31/2023		
	Design of OSU wind generation hardware	3/31/2023		
	Design Development facility Drawings for WOPDT	3/17/2023	25.73	\$1,553,747.54
	WOPDT Final Design Review	6/10/2023		
	WOPDT Equipment Procurement & Fabrication - Part 1	6/10/2023		
	UCSD/OSU Equipment Procurement	5/26/2023	8.28	\$500,001.15
<b>TOTAL</b>				<b>\$2,355,681.75</b>

**Table 2. Remaining Project Deliverables to be completed once the project cooperative agreement terms and conditions are amended and a change is order executed.**

Project Phase	Key Deliverables and Milestones	Date	Milestone Payment (%)	Milestone Payment (Amount)
Phase 1 - Physical Design Testbed	WOPDT Equipment Procurement & Fabrication - Part 2	12/15/2023	32.15	\$1,941,429.59
	WOPDT Installation & Commissioning	5/31/2024	11.04	\$666,668.20
Phase 2 - Experiment Support	Experiment Effort/Analysis - Part 1	7/31/2024	3.5	\$211,353.14
	Experiment Effort/Analysis - Part 2	3/31/2025	4.3	\$259,662.43
Phase 3- Full-Scale NICHE Design Development	Early Cost Estimate	9/30/2023	3.5	\$211,353.14
	Initial Design Effort	7/1/2024		
	Final Design Report and Project Content Delivery	10/31/2025	6.5	\$392,512.98
<b>PROJECT TOTAL</b>				<b>\$3,682,979.49</b>



**THE FLORIDA INTERNATIONAL UNIVERSITY**  
**BOARD OF TRUSTEES**  
**Finance and Facilities Committee**  
**June 15, 2023**

**CASACUBA BUILDING UPDATE AS OF MAY 23, 2023**

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**FUNDRAISING FOR NEW CASACUBA FACILITY**

DONOR	PLEDGES	CASH RECEIVED	REMAINING PLEDGE BALANCE
National Endowment for the Humanities*	\$ 750,000	\$ 750,000	\$ -
Knight Foundation	\$ 2,000,000	\$ 1,200,000	\$ 800,000
Other Donors	\$ 11,310,813	\$ 5,488,696	\$ 5,822,117
Planned Gifts	\$ 1,068,000	\$ 14,400	\$ 1,053,600
<b>TOTAL</b>	<b>\$ 15,128,813</b>	<b>\$ 7,453,096</b>	<b>\$ 7,675,717</b>

*\*As a Federal agency award, this is a cost-reimbursement grant; the full amount has been obligated.*

**Highlights since last report:** Knight Foundation has pledged \$1.5 million gift to CasaCuba, which is not included in the amounts above. The agreement will be finalized once the new Executive Director is engaged. CasaCuba has also secured an additional gift of \$100,000 that is not reflected above.

**FACILITIES UPDATE**

- FIU and the architect, Rene Gonzales and Associates, executed a termination agreement on March 3, 2023 after failing to agree on a path forward to complete the design development phase.
- FIU leadership in consultation with the FIU Board of Trustees has made the decision to begin negotiations with the second-ranked firm from the original A/E solicitation, HKS Architects.
- The original program and budget have been revised by the interim-director and submitted to the CasaCuba Board for approval on May 19, 2023.
- Assuming successful negotiation and contracting with HKS, the first task will be to review and validate the CasaCuba program. A committee has been established to begin that process.

**FIU FOUNDATION, INC.**

**SUMMARY OF REVENUES AND EXPENSES  
& INVESTMENTS**

**March 31, 2023**

**FIU FOUNDATION, INC.**  
**Summary of Revenues and Expenses \***  
**For the 9-Month Period Ended March 31, 2023**  
*(In Thousands of Dollars)*

	Actuals				
	University (Donor Designated)	Foundation (Unrestricted)	Total	Budget	Fav (Unfav) Variance
<b>REVENUES:</b>					
Cash Contributions	\$ 30,538	\$ -	\$ 30,538	\$ 31,203	\$ (665)
Investment Returns, net of fees	15,115	5,192	20,307	18,156	2,152 [1]
Foundation Subsidiaries	-	180	180	157	24
Annual Revenues & Fees	-	871	871	844	28
<b>TOTAL REVENUES</b>	<b>45,654</b>	<b>6,244</b>	<b>51,897</b>	<b>50,358</b>	<b>1,539</b>
<b>EXPENSES:</b>					
Support to University:					
Scholarships & Programs	\$ 22,000	\$ -	\$ 22,000	\$ 21,992	(7)
Building Funds	5,010	-	5,010	6,757	1,747 [2]
Operational Support	-	919	919	1,027	108
MARC Building Transfer	-	680	680	250	(430)
Total Support to University	27,009	1,599	28,608	30,027	1,418
Operational:					
Foundation Subsidiaries	-	244	244	449	205
Administrative Operating Expenses	-	7,152	7,152	9,291	2,139 [3]
Other Expenses	-	174	174	311	137
Total Operational	-	7,570	7,570	10,051	2,481
<b>TOTAL EXPENSES</b>	<b>27,009</b>	<b>9,169</b>	<b>36,179</b>	<b>40,078</b>	<b>3,899</b>
<b>EXCESS REVENUES OVER EXPENSES</b>	<b>\$ 18,644</b>	<b>\$ (2,925)</b>	<b>\$ 15,719</b>	<b>\$ 10,281</b>	<b>\$ 5,438</b>

\*Summary of Revenues and Expenses reflects revenues on a cash basis and expenses on an accrual basis.

- [1] The favorable variance of \$2.2 million in investment returns is based on an actual return for the fiscal year to date of 5.9% versus a budgeted return fiscal year to date of 4.5% (yielding a 6.0% annual budgeted rate of return).
- [2] The favorable variance of \$1.7 million in building funds is a result of capital projects being delayed.
- [3] The favorable variance of \$2.1 million in Administrative Operating Expenses is a result of timing of professional services and donor event expenses.



**For Illustrative Purposes Only:** Although information has been obtained from sources believed to be reliable, JPMorgan Chase & Co. and its affiliates do not guarantee its accuracy or completeness and accept no liability for any direct or consequential losses arising from its use.

As of March 31, 2023 Asset Class	Market Value	Current Allocation (%)	Current Month	Calendar YTD	Fiscal YTD	Annualized S.I.	Inception Date
<b>Total Assets (Net of Fees)</b>	<b>\$404,744,605</b>	<b>-</b>	<b>2.0%</b>	<b>4.2%</b>	<b>5.6%</b>	<b>4.9%</b>	<b>6/30/2000</b>
<b>Main Investment Portfolio (Net of Fees)</b>	<b>\$382,985,372</b>	<b>100.0%</b>	<b>2.1%</b>	<b>4.4%</b>	<b>5.9%</b>	<b>5.2%</b>	<b>6/30/2000</b>
<b>Public &amp; Private Equity</b>	<b>\$301,583,186</b>	<b>78.7%</b>	<b>2.2%</b>	<b>5.0%</b>	<b>6.4%</b>	<b>5.4%</b>	<b>6/30/2000</b>
Public Equity	\$241,676,816	63.1%	2.9%	6.3%	8.8%	4.6%	6/30/2000
Private Equity	\$59,906,370	15.6%	-0.1%	-0.1%	-3.1%	11.4%	11/15/2005
<b>Real Assets</b>	<b>\$37,932,741</b>	<b>9.9%</b>	<b>2.2%</b>	<b>2.1%</b>	<b>5.5%</b>	<b>2.7%</b>	<b>1/31/2008</b>
<b>Hedge Funds &amp; Other Diversifying Investments</b>	<b>\$1,259,381</b>	<b>0.3%</b>	<b>0.0%</b>	<b>-0.2%</b>	<b>16.6%</b>	<b>5.2%</b>	<b>3/31/2002</b>
<b>High Quality Bonds and Cash</b>	<b>\$42,210,064</b>	<b>11.0%</b>	<b>2.1%</b>	<b>2.4%</b>	<b>0.1%</b>	<b>4.5%</b>	<b>6/30/2000</b>
<b>Total</b>							

\*Source: PCR as of April 7, 2023