

**THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES**

November 20, 2009

Subject: Restructuring/Refinancing of FIU Foundation, Inc. Loan Associated with Construction of the MARC Building

Proposed Board Action:

Adopt the following Resolution:

WHEREAS, in September, 1999, the FIU Foundation, Inc. (the "Foundation"), issued \$13,000,000 Miami-Dade County Educational Facilities Authority Revenue Bonds (FIU Foundation Project) Series 1999, to finance the construction of the MARC Building at the Modesto A. Maidique campus, pursuant to a Trust Indenture dated December 1, 1999 between the Foundation and SunTrust Bank, as trustee. The 1999 Bonds were issued as variable rate bonds secured by a letter of credit pursuant to a Letter of Credit Agreement between the Foundation and SunTrust Bank, N.A. ("SunTrust"); and

WHEREAS, in view of the extreme economic conditions affecting credit markets and the financial industry, the interest cost of variable rate bonds have increased and SunTrust, the bank that issued the Letter of Credit securing the 1999 Bonds, has experienced a diminished ability to remarket the bonds that remain outstanding, with a principal amount of approximately \$9,260,000.00; and

WHEREAS, as a result of the foregoing, SunTrust has determined that it is not in a position to renew the Letter of Credit when it expires on December 15, 2009;

WHEREAS, SunTrust has offered to amend the 1999 Trust Indenture to enable the Foundation to convert the 1999 Bonds from variable rate debt to a Bank Qualified, Tax Exempt Term Loan as outlined in the Commitment Letter attached hereto as Exhibit "G" (the "Commitment Letter"); and

WHEREAS, in an effort to identify the most competitive financing terms for the Foundation, the University administration is currently obtaining additional proposals from other banks; and

WHEREAS, interest savings would be realized if the Foundation either amends the Trust Indenture with SunTrust or completes a refinancing/refunding transaction with another bank through a conduit issuer that will permit the Foundation to treat the transaction as "Bank Qualified" and allow banks to offer the Foundation lower interest rates than otherwise available;

THEREFORE, BE IT RESOLVED that the Florida International University Board of Trustees (“the BOT”) approves the Commitment Letter with SunTrust and delegates to the Foundation the authority to either (1) execute the SunTrust Commitment Letter and any other loan documents related thereto; or (2) execute a transaction to refinance the 1999 Bonds with another bank that the University President and CFO determine is in the best interest of the Foundation and University, provided that, at a minimum, the selected bank meets or exceeds the overall financial terms specified in the SunTrust Commitment Letter; and

BE IT FURTHER RESOLVED that the BOT delegates to the Executive Director of the Foundation the authority to execute any such documents and/or take any such actions as shall be necessary to complete the transaction on terms and conditions that meet or exceed those set forth in Exhibit “G;” and

BE IT FURTHER RESOLVED that the BOT directs the University CFO to report to the Finance and Audit Committee on the progress of the transaction at its next regularly scheduled meeting.

Background Information:

Legal Authority:

This resolution is adopted pursuant to and in accordance with Section 1010.62(10) of the Florida Statutes, which provides state universities and direct-support organizations with the authority to amend financing documents relating to capital projects that existed prior to 2006, “to the extent that such amendment does not increase the financial obligation of the Board of Governors, a state university, or a direct-support organization.” In addition, the April 2006 Board of Governors Debt Management Policy Guidelines authorizes state universities and their direct-support organizations to enter into “refundings for debt service savings where final maturities are not extended.”

Exhibits/Supporting Documents:

- Information behind the Finance and Audit Committee tab

Facilitator/Presenter:

- Albert Maury, *Finance and Audit Committee Chair*