

November 6, 2020

Senator Rick Girdler, Co-Chair
Representative Walker Thomas, Co-Chair
Capital Projects and Bond Oversight Committee
Legislative Research Commission
Capital Annex Building – Room 34
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Senator Girdler and Representative Walker and Members of the Capital Projects and Bond Oversight Committee:

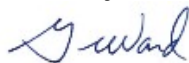
Pursuant to KRS §56.823 this is to report the renewal of a lease for the University of Kentucky that will exceed \$100,000 annually.

This lease between UK HealthCare, UK Physical Medicine and Rehabilitation and Encompass Health Rehabilitation Hospital of Cardinal Hill, LLC, (Cardinal Hill), for 6,379 square feet of administrative space at 2050 Versailles Road in Lexington. The base rent of the lease is \$18 per square foot plus amortized fit up expenses at a total annual cost not to exceed \$145,000, including utilities. The effective date of the lease is upon receipt of a certificate of occupancy with an expiration date of June 30, 2022.

The lease is for UK Physical Medicine and Rehabilitation personnel that provide care for patients who have severe neurological or musculoskeletal impairments. Utilizing a multidisciplinary team approach in all aspects of care, the goal is to restore each patient to their highest possible level of medical, psychological, social and vocational function. The University has provided these services for Cardinal Hill patients for several years. The University is expanding the scope of its collaboration with Cardinal Hill to provide more services and this leased space is best suited and necessary for the expansion of the University's services to patients of Cardinal Hill and the University. This space, which is in fairly close proximity to the University, will provide for current needs as well as room for growth.

If you should have additional questions regarding the lease, please contact me at 859.221.4122 or Elizabeth Baker at 859.257.6315.

Sincerely,



George Ward
Executive Director

c: Angie Martin Katherine Halloran Christine O'Brien Elizabeth Baker

1500 Bull Lea Rd., Room 106 | Lexington, KY 40511 | P: 859-257-8649 | www.uky.edu

Real Estate Services Division

Report to Capital Projects and Bond Oversight Committee

Lease with Annual Rental Exceeding \$100,000
(to be reported after lessor selection, but before lease execution)

Lease number: PR 8203**County:** Fayette**Lessee:** University of Kentucky, UK Physical Medicine and Rehabilitation**Lessor:** Encompass Health Rehabilitation Hospital of Cardinal Hill, LLC**Property location:** 2050 Versailles Road, Lexington, Ky.**Check one:** new lease ☐ renewal ☐ addendum ☒**Type of space:** Administrative**Total square feet being leased:** 6,379**Cost per square foot:** \$18.00 **Annual cost:** \$114,822 plus excess renovation rent, not to exceed \$145,000**Average square foot cost of state leased cost in county:** \$22.00**Includes utilities:** yes ☒ no ☐**Cancellation clause:** yes ☒ no ☐*If yes, explain terms:* 30 Days*if no, explain why not:* Click or tap here to enter text.**Effective date:** upon certificate of occupancy**Expiration date:** June 30, 2028

Justification for lease: The University of Kentucky Physical Medicine and Rehabilitation has collaborated with Cardinal Hill and operated and leased a smaller space at this location for the past twenty years. In collaboration with Cardinal Hill the University is expanding its services and will be providing more services at this location for Cardinal Hill and thus, requires more space to accommodate faculty, support staff, residents,

and students.

Statements as to whether the University of Kentucky complied with statutory requirements: (if not in compliance, explain why) The University is in compliance with statutory requirements.

Explanation of why the University of Kentucky chose this lessor over the competition: A smaller space has been leased by the University at this location for the past twenty years. The University and Cardinal Hill are expanding the scope of their collaboration which is in the best interests of the Commonwealth and the University of Kentucky.



Kentucky Council on Postsecondary Education

Andy Beshear
Governor

100 Airport Road, 2nd Floor
Frankfort, Kentucky 40601
Phone: 502-573-1555
<http://www.cpe.ky.gov>

Aaron Thompson, Ph.D.
President

Capital Projects and Bond Oversight Committee
Capitol Annex, Room 34
702 Capital Avenue
Frankfort, Kentucky 40601

DATE: November 13, 2020

RE: University of Louisville Interim Capital Projects

Dear Senator Girdler and Representative Thomas,

The Council on Postsecondary Education met on November 13, 2020, and per KRS 164.020 (11) approved the following interim capital projects at the request of University of Louisville officials:

J.B. Speed Renovation: This \$18,700,000 project will be funded with institutional/agency restricted funds and will address heating, ventilation, and air conditioning needs and other pressing asset preservation and renovation needs of this Engineering School facility.

Renovation Building 55A – Vivarium: This \$8,000,000 project will renovate the 8th and 9th floors of this facility to be used as a vivarium. The project will be funded with a federal National Institutes of Health grant and will further the research mission of the university.

If you have any questions or require additional information, please contact me at (502) 892-3039.

Sincerely,

Shaun McKiernan
Director, Budget and Finance

C: President Neeli Bendapudi, UofL
Rick Graycarek, UofL
Carla Wright, OSBD

September 28, 2020

Senator Rick Girdler
Representative Walker Thomas
Capital Projects and Bond Oversight Committee
Legislative Research Commission
Capital Annex Room 34
Frankfort, KY 40601

RE: Renovation & Expand J.B. Speed Building

Dear Senator Girdler and Representative Thomas:

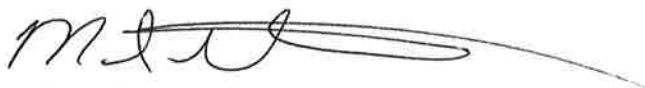
In accordance with provisions of KRS 45.760 (7), I am writing to request authorization to begin the renovation of the J.B. Speed Building. This project will be completed in phases as funds are identified. Funding has been identified for the upgrade of the HVAC system, which will be Phase 1. Third party engineering firm developed the project cost estimate based on the current market. The budget submitted in the 2020-2026 Capital Plan was \$18,700,000. Phase 1 of the project cost estimate is \$1,290,000

J.B. Speed School of Engineering has a systemic heating/cooling issues that can be resolved with an upgraded heating, ventilation and air conditioning (HVAC) system. Renovation of the basement-based HVAC system is an imperative first step to upgrading the facility for both comfort and efficiency measures.

The University of Louisville Board of Trustees approved the project on October 24, 2019. This project was submitted as part of the University of Louisville's Six-Year Capital Plan 2020-20206. This project will not use any current general funds or any funds appropriated for another purpose.

We appreciate your support, and if you have any questions, please contact Kim Noltemeyer at 852-5699.

Sincerely,



Mark Watkins
Chief Operating Officer
University of Louisville

cc: President Neeli Bendapudi
Dan Durbin, CFO
Shaun McKiernan
Carla Wright (OSBD)

TITLE: Interim Capital Project – UofL J.B. Speed Building Renovation

RECOMMENDATION: Staff recommends that the Finance Committee recommend for full Council approval of an \$18,700,000 agency fund interim project at the University of Louisville to renovate the J.B. Speed School of Engineering Building.

PRESENTERS: Shaun McKiernan, Director of Finance and Budget, CPE
Ryan Kaffenberger, Senior Associate for Budget & Finance, CPE

SUPPORTING INFORMATION

University of Louisville (UofL) officials request authorization for an interim capital project to renovate and upgrade the J.B. Speed School of Engineering building. This asset preservation project was approved by the UofL Board and was approved by the Council as part of the 2020-22 biennial budget recommendation. Council approval is needed since the project was not included in the enacted 2020-21 state budget.

Upon approval, work will begin on the building's heating and cooling system upgrades. Renovation of the basement-based HVAC system is the first step required to enhance the facility's comfort and energy efficiency.

This project was approved by UofL's Board of Trustees on October 24, 2019 as part of the institution's 2020-2026 Capital Plan as "Renovate and Expand JB Speed Bldg." Upgrading the building's HVAC system is Phase 1 of the total \$18,700,000 renovation and expansion project and is estimated to cost \$1,290,000. More information can be found in the attached documentation. Upgrades to other building mechanicals and improvements to other building systems will be completed prior to any aesthetic improvements.

House Bill 592 (2018) created a new provision in KRS 164A.575, which allows public postsecondary institutions to authorize capital projects not specifically listed in the state budget as long as the projects are funded with non-general fund appropriations, do not jeopardize funding for existing programs, and are reported by the institution to the Capital Projects and Bond Oversight Committee. The pertinent section of KRS 164A.575 is provided below:

- (15) Notwithstanding KRS 45.760, the governing board may authorize a capital construction project or a major item of equipment even though it is not specifically listed in any branch budget bill, subject to the following conditions and procedures:
- (a) The full cost shall be funded solely by non-general fund appropriations;
 - (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or re-allotted for expenditure on the project or major item of equipment. Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and
 - (c) The institution's president, or designee, shall submit the project or major item of equipment to the Capital Projects and Bond Oversight Committee for review as provided by KRS 45.800.

The approval process for a capital project that exceeds \$1,000,000 is as follows:

- The project must be approved by an institution's board of trustees or regents;
- The project must be submitted to the Council on Postsecondary Education for review and action;
- If approved by the Council, projects at KCTCS and KSU are submitted to the Secretary of the Finance and Administration Cabinet for review and action, and subsequently submitted by the Secretary to the Capital Projects and Bond Oversight Committee for review;
- If approved by the Council, projects at ECU, MoSU, MuSU, NKU, UK, UofL, and WKU are submitted by the requesting institution to the Capital Projects and Bond Oversight Committee for review, and a copy is provided to the Finance and Administration Cabinet as information; and
- Following review and action by the appropriate agencies, the project may be initiated by the requesting institution.

Because this project was not authorized in the enacted 2020-21 budget (HB 352), Council approval is now required to authorize this project. UofL will not be debt financing any portion of this project; therefore, provisions of KRS 45.763 do not apply.

NEXT STEPS

Following Council action, staff will notify the president of UofL, the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee of the Council's recommendation concerning this project.

September 28, 2020

Senator Rick Girdler
Representative Walker Thomas
Capital Projects and Bond Oversight Committee
Legislative Research Commission
Capital Annex Room 34
Frankfort, KY 40601

RE: Renovation Building 55A – 9th Floor into a Vivarium

Dear Senator Girdler and Representative Thomas:

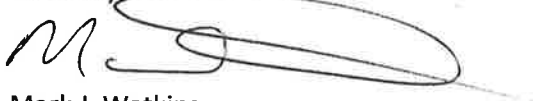
In accordance with provisions of KRS 45.760 (7), I am writing to request authorization to begin the renovation of the 8th and 9th floor of the University of Louisville Medical Tower-55A. Funding has been identified for the project, which is an NIH grant for \$8,000,000 awarded on September 19, 2020. Kentucky architectural firm developed the project cost estimate based on the current market. The budget expectation was \$8,000,000 in the 2020-2026 Six-Year Capital Plan.

This project will renovation the 9th floor of the building into a vivarium. The 8th floor renovation will house the mechanical support for the vivarium. The vivarium will aid in research, and continue the mission of the university to become a premier, nationally-recognized metropolitan research university.

The University of Louisville Board of Trustees approved the project on October 24, 2019. This project was submitted as part of the University of Louisville's Six-Year Capital Plan 2020-2026. NIH grant will fund the project. This project will not use any current general funds or any funds appropriated for another purpose.

We appreciate your support, and if you have any questions, please contact Kim Noltemeyer at 502-852-5699.

Sincerely,



Mark J. Watkins
Chief Operating Officer
University of Louisville

cc: President Neeli Bendapudi
Dan Durbin, CFO
Dr. Leslie Sherwood
Shaun McKiernan
Carla Wright (OSBD)

TITLE: Interim Capital Project – UofL Medical Tower-55A Vivarium

RECOMMENDATION: Staff recommends that the Finance Committee recommend for full Council approval an \$8,000,000 interim project at the University of Louisville to renovate the 8th and 9th floors of Medical Tower-55A. The project is federally-funded by a grant from the National Institutes of Health (NIH).

PRESENTERS: Shaun McKiernan, Director of Finance and Budget, CPE
Ryan Kaffenberger, Senior Associate for Budget & Finance, CPE

SUPPORTING INFORMATION

University of Louisville (UofL) officials request authorization for an interim capital project to renovate the 8th and 9th floors of Medical Tower-55A. This renovation will convert the 9th floor of the building into a vivarium. The renovation of the 8th floor will contain the mechanical support required for the vivarium. This project will support the institution's research and advance the mission of the university to become a premier, nationally-recognized metropolitan research university.

This project was approved by UofL's Board of Trustees on October 24, 2019 as part of the institution's 2020-2026 Capital Plan as "New - Renovate Bldg 55A - 9th floor into a vivarium". The project cost is expected to be \$8,000,000 and will be federally-funded by an NIH grant awarded on September 19, 2020. More information can be found in the attached documentation.

Kentucky Revised Statute 45.760 allows public postsecondary institutions to authorize capital projects not specifically listed in the state budget that are funded with federal or private funds provided they do not jeopardize funding for existing programs, do not reallocate moneys previously appropriated for another purpose and are submitted by the institution to the Capital Projects and Bond Oversight Committee for review. The pertinent section of KRS 45.760 is provided below:

(7) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, subject to the following conditions and procedures:

- (a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less;
- (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and
- (c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

The approval process for a capital project that exceeds \$1,000,000 is as follows:

- The project must be approved by an institution's board of trustees or regents;
- The project must be submitted to the Council on Postsecondary Education for review and action;
- If approved by the Council, projects at KCTCS and KSU are submitted to the Secretary of the Finance and Administration Cabinet for review and action, and subsequently submitted by the Secretary to the Capital Projects and Bond Oversight Committee for review;
- If approved by the Council, projects at ECU, MoSU, MuSU, NKU, UK, UofL, and WKU are submitted by the requesting institution to the Capital Projects and Bond Oversight Committee for review, and a copy is provided to the Finance and Administration Cabinet as information; and
- Following review and action by the appropriate agencies, the project may be initiated by the requesting institution.

Because this project was not authorized in the enacted 2020-21 budget (HB 352), Council approval is now required to authorize this project. UofL will not be debt financing any portion of this project; therefore, provisions of KRS 45.763 do not apply.

NEXT STEPS

Following Council action, staff will notify the president of UofL, the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee of the Council's recommendation concerning this project.

November 5, 2020

Senator Rick Girdler
Representative Walker Thomas
Capital Projects and Bond Oversight Committee
Legislative Research Commission
Capital Annex Room 34
Frankfort, KY 40601

RE: P3 Lease – Student Housing – Southeast of Belknap campus – Corner of Hahn Street and Floyd Street

Dear Senator Girdler and Representative Thomas,

In accordance with provisions of KRS 56.823, I am writing to report a new P3 housing master lease with 320 Eastern JV, LLC. Leased space is approximately 81,701 square feet for a total rent per year of \$1,223,724 for the first year with a 2% escalator annually. After construction of the resident housing, 128 beds will be provided for students and student athletes.

Funding for the lease will be provided by both general student tenant rent and UofL Athletics, and will not require the use of any current general funds or any funds appropriated for another purpose.

Please contact Kim Noltemeyer at 502-852-5699, if you have any questions regarding this lease.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark J. Watkins', with a long, sweeping horizontal line extending to the right.

Mark J. Watkins, M.S.M.
Chief Operating Officer

cc: President Neeli Bendapudi
Dan Durbin, CFO
Michael Mardis, Dean/Vice Provost
Vince Tyra, VP and AD
Carla Wright (OSBD)
Shaun McKiernan

UNIVERSITY OF LOUISVILLE
Office Lease
Report to the Capital Projects and Bond Oversight Committee

KRS 56.823(2)

a) The name of the agency that will occupy the premises.

- University of Louisville

b) The name of the lessor

- 320 Eastern JV, LLC

c) The terms of the lease

- Term: 40 years, with a Year 10 potential buy-out clause by U of L.
 - The project cost is estimated at \$23.5 million.
 - \$3.5 million in restricted donor funds identified for the project and committed in the first 10 years.
 - Note: Developer's investment financed over 40 years.
 - University will have the opportunity to buy the building at the end of the lease for \$1.00.
 - University has first right of refusal to purchase the building anytime during the term at a price not to exceed current FMV.
- Aggregate lease payments to the developer of \$1,223,724 (Year 1) with a 2% escalator annually.
 - Two bi-annual payments to developer in November and April.

d) The reason for the lease

- Housing for students and student athletes.
- Provide new housing: 128 beds – Athletes – 63 beds, general student population – 65 beds.
- Location of housing is in close proximity to athletics practice venues and fields and allows for strategic use of existing land
- Allows formation of Live/Learn Community to help support University Strategic Plan (and student success).

e) The copy of the writing required by KRS 56.803(17)

- The proposed new Southeast Corridor Residence Hall project will be a partnership amongst UofL Campus Housing, UofL Athletics, and a third-party developer.
- The student residency configuration will meet the NCAA requirement of no more than 50% of the beds being occupied by student-athletes.
- The residence hall will be managed by UofL Campus Housing and will include a full-time live-in Hall Director and three Resident Assistants (RAs).

f) A statement as to whether the University of Louisville complied with the requirement established in KRS 56.800 to 56.823 and KRS 43.050, 48.111. If the university has not complied with any requirement, the university shall explain why.

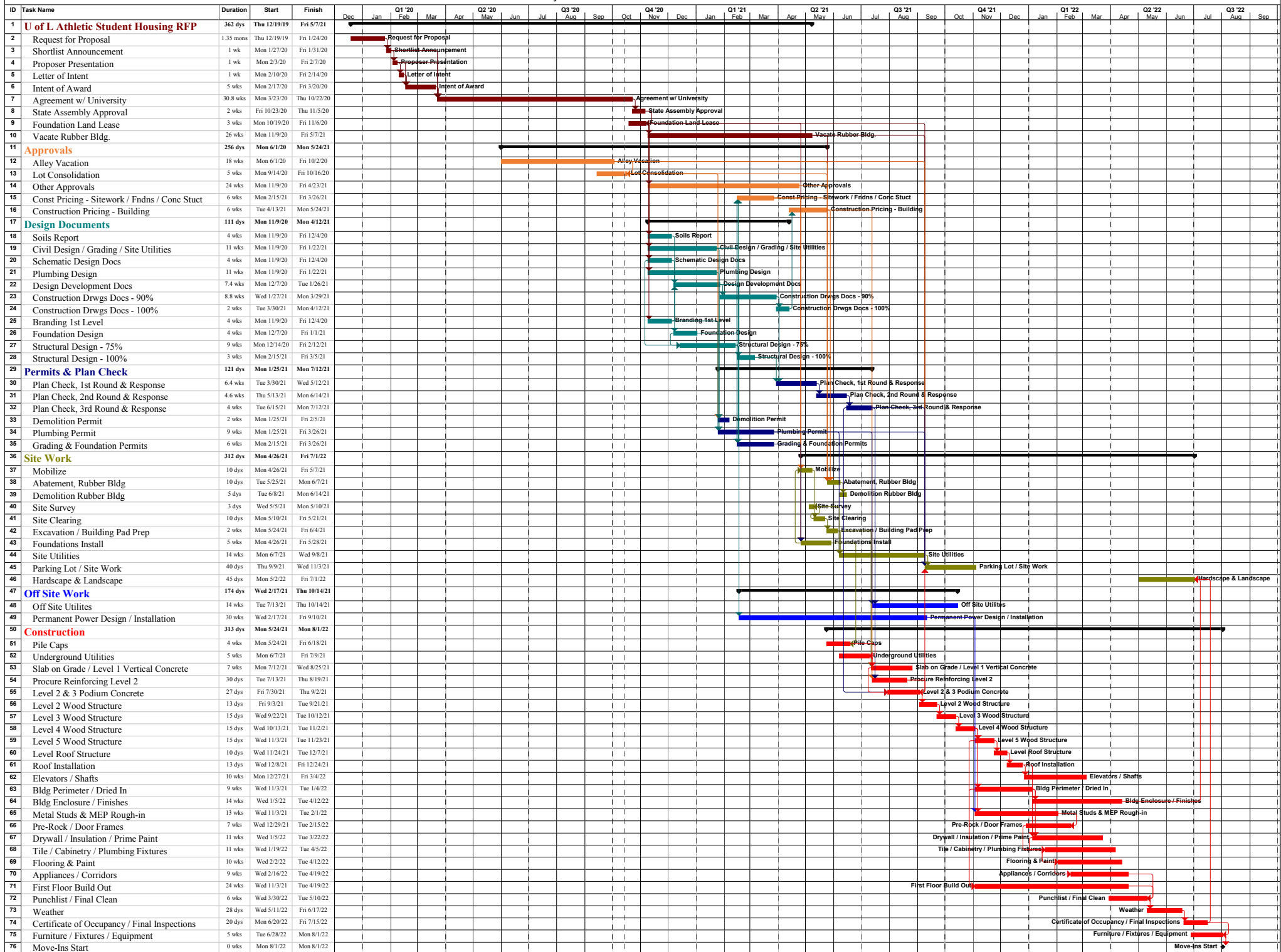
- There is no tangible increase in net costs to the University's operating budget. These lease costs are recovered from a combination of existing amounts being paid for student housing (to external and internal providers) along with a small degree of incremental occupancy. From a pricing perspective, the \$1,000 per month bed rate that will be charged in the new residence hall is in close alignment with the average of existing lease costs such as \$1,350 for beds in Minardi Hall; \$930 for beds in Bettie Johnson; and \$799 for beds in The Nine (external).
- The remaining 65 beds will be used for general student population to include five "non-revenue" beds for Residence Hall Advisors and a live-in Hall Director.

g) An explanation of why the University of Louisville chose his lessor over his competition

- Location of the housing facility is strategically located near the athletic practice venues and fields.

h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

- Lease Term and subject to all of the terms and conditions hereinafter set forth, that the entirety of a certain building (to comprise approximately 81,071 square feet), a parking lot (to comprise approximately 95,000 square feet), and related improvements to be constructed by Landlord upon the Land.
- Student rent rate:
 - 2-bedroom apartments are set at a market competitive rent that ranges from \$1,000 to \$1,187 per month.



RECOMMENDATION TO THE BOARD OF TRUSTEES
CONCERNING A MASTER LEASE AGREEMENT FOR STUDENT HOUSING

Board of Trustees – October 28, 2020

RECOMMENDATION:

The President recommends that the Board of Trustees approve the master lease transaction as described in the Project Summary attached to this Recommendation and that the Board of Trustees authorize her or her designee to execute the Master Lease Agreement in substantially the form as [attached](#), to lease a planned residence hall, parking lot, and related improvements for university students, with such modifications as the President may approve, consistent with the attached Project Summary.

Further, the President recommends that the Board of Trustees authorize the President or her designee to execute such other documents and instruments as are necessary and appropriate to the consummation of the transaction as described in the Project Summary.

BACKGROUND:

A project summary is [attached](#).

COMMITTEE ACTION:

Passed X

Did Not Pass

Other

 KJ Beam
Assistant Secretary

BOARD ACTION:

Passed X

Did Not Pass

Other

 KJ Beam
Assistant Secretary

Southeast Corridor Residence Hall:

Project Summary

The proposed new Southeast Corridor Residence Hall project will be a partnership amongst UofL Campus Housing, UofL Athletics, and a third-party developer consisting of Buffalo Construction and Larry Gough, who also developed Cardinal Towne. The developer will construct and manage a 128-bed facility. The residence hall is slated to open for the fall 2022 semester and will house a mixture of student-athletes and non-student athletes. The student residency configuration will meet the NCAA requirement of no more than 50% of the beds being occupied by student-athletes. The residence hall will be managed by UofL Campus Housing and will include a full-time live-in Hall Director and three Resident Assistants (RAs).

The project will reside in the Southeast Corridor of campus across the street from the Kueber Center. The proposed project site is owned by a combination of the UofL Foundation and University and will require a ground lease agreement. The Foundation's property is currently leased to a company that only requires a short notice to terminate the lease. The University property is currently used for campus parking.

This proposed residence hall will be home to student-athletes from the men's and women's basketball team and women's lacrosse team and will serve as a Living Learning Community (LLC) for sophomore and above Sport Administration majors. The residence hall will be first-class, as noted in the renderings, and very beneficial in the recruitment and retention of top-level students and student-athletes alike. The building will become a campus landmark that features an enclosed crosswalk spanning Floyd Street, linking the residence hall and the Kueber Center. The hall's distinctive look will have the added benefit of enhancing the beautification efforts for the Floyd Street area on campus.

The developer will finance the project while UofL Campus Housing will perform the primary housing management functions. UofL Athletics has committed \$3.5 million of donations toward the project cost to assist in reducing the bed rate on behalf of the students and student-athletes occupying the facility. UofL Athletics retains the naming rights for the residence hall in return for the \$3.5 million commitment. UofL Athletics will guarantee occupancy for 73 of the 128 beds, with a combination of 63 student-athletes (to stay within NCAA limits) and 10 team managers and graduate assistants.

In return for the construction of the facility, the developer will enter into a master lease agreement with the University, guaranteeing bi-annual payments in November and April for 40 years. There will be an internal Memorandum of Understanding (MOU) developed amongst the University departments as to their respective obligations going forward.

Highlights of plan

- Master Lease arrangement with private developer.
- Term: 40 years, with a Year 10 potential buy-out clause by U of L.
 - The project cost is estimated at \$23.5 million.
 - \$3.5 million in donor funds identified for the project and committed in the first 10 years.
 - Note: Developer's Investment financed over 40 years.
 - University will have opportunity to buy the building at the end of the lease for \$1.00.
 - University has first right of refusal to purchase the building anytime during the term at a price not to exceed current FMV.
- Aggregate lease payments to the developer of \$1,433,726 (Year 1) with a 2% escalator annually.
 - Two bi-annual payments to developer in November and April.
- The residence hall will be managed and operated by UofL Campus Housing and will include a full-time live-in Residence Hall Director and three student Resident Assistants (RAs).
- Annual ground lease payment of \$81,000 will be split effectively at 76/24 between the Foundation and the University and has a 2% annual increase attached.
- Total capacity: 128 beds.
- Licensed to students for 11.5 or 12 months. Residents who renew in the same spot get to stay the extra 2 weeks.
- Athletics - 63 beds plus 10 managers/others, or a guarantee of 73 total beds.
- There is no tangible increase to UofL Athletics' operating budget as they currently pay the following monthly rental rates: \$1,350 for beds in Minardi Hall; \$930 for beds in Bettie Johnson; and \$799 for beds in The Nine. These nearly average the \$1,000 per month bed rate that will be charged in the new residence hall.
- The remaining 55 beds will be used for general student population to include five "non-revenue" beds for Residence Hall Advisors and a live-in Hall Director.
- The budget for general students is based on 93% occupancy of the 50 "revenue" beds, or 47 beds, and UofL Athletics guarantees the remaining 73 beds at 100% occupancy.
- Student rent rate:
 - 2-bedroom apartments are set at a market competitive rent that ranges from \$1,000 to \$1,187 per month.
- University responsible for all costs of operating the facility from "walls in."
- Developer responsible for the shell of building and major mechanical systems to include HVAC, FFE, any applicable taxes, and exterior of the building.
- Project would also create 10-15 new student jobs.
- Our nationally recognized Sport Administration program is one of our top undergraduate programs for recruiting outside the state of Kentucky. This project will greatly enhance SPAD's ability to recruit top students.

- SPAD faculty, working in conjunction with Athletics and Housing, will develop a dynamic Living Learning Community in support of the University's strategic plan.
- This project will enhance our ability to recruit top student-athletes to the respective sports programs and support their ability to compete for conference and national championships.

Upon approval by the Board of Trustees, this project will be subject to approval by the Capital Projects and Bond Oversight Committee which is scheduled to meet next on November 19, 2020.

Special Note

- This new housing structure will be built on both University and Foundation property. UL Foundation has 76% and UofL is 24% of the overall property.

The university and foundation will jointly form the ground lease with IPA (Developer). UL Foundation will be point on its administration. This ground lease is a work in progress and UL Foundation leads its development.

**MASTER LEASE AGREEMENT
UNIVERSITY OF LOUISVILLE
STUDENT HOUSING**

THIS MASTER LEASE AGREEMENT (“Lease”) is made this _____ day of _____, 2020 (the “Effective Date”) by and between (i) UNIVERSITY OF LOUISVILLE, an agency of the Commonwealth of Kentucky, an educational institution of higher learning (“Tenant”), and (ii) **320 Eastern JV, LLC** (“Landlord”), a Kentucky limited liability company with a principal office address at 666 East Main Street, STE A-2, Centreville, MI 49032.

WITNESSETH:

WHEREAS, Landlord is the ground lessee of a certain parcel of real property in Louisville, Kentucky more particularly described on **Exhibit A-1** attached hereto and made a part hereof (the “**Land**”), pursuant to that certain Lease Agreement (the “**Ground Lease**”) dated _____ between Landlord, as tenant, and the University of Louisville Foundation, Inc., a Kentucky non-profit corporation (“**ULFI**”), and Tenant, as landlords; and

WHEREAS, pursuant to #RP-081-20 Master Agreement for Student Housing initially issued by Landlord, responded to by Tenant, and with respect to which Landlord issued an Intent to Negotiate on February 18, 2020 (collectively, “**RP-081-20**”), Landlord desires to construct a building and related improvements for lease to Tenant together with the entirety of the Land, and Tenant desires to lease the same from Landlord, subject to the terms and conditions of this Lease;

NOW, THEREFORE, in consideration of the foregoing premises, which are incorporated in this Lease as a part hereof, for the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the mutuality, receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1 - LEASED PREMISES

Section 1.01. Lease. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, for the Lease Term and subject to all of the terms and conditions hereinafter set forth, that the entirety of a certain building (to comprise approximately 81,071 square feet), a parking lot (to comprise approximately 95,000 square feet), and related improvements to be constructed by Landlord upon the Land. The Tenant shall have the right to name such building from time to time during the Term, and such building is to be known initially as the “Southeast Residence Hall Building” until renamed by Tenant, with the anticipated elevations, floor plans and site plan for such building and other improvements being more fully depicted and/or described on **Exhibit A-2** attached hereto and made a part hereof (collectively, the “**Project Specification Outline**”), and is to be completed by Landlord fully furnished with furniture, fixtures and equipment (collectively, the “**FF&E**”) as described on Exhibit A-2 and acquired by Tenant for the allowance provided in the agreed budget for the Project (collectively, the “**Building**”). The actual address of the Building shall be inserted (either in this Lease or by separate notice to Tenant) when assigned by the appropriate governmental entity. The Building, the Land and the other rights leased hereunder are sometimes referred to herein as the “**Leased Premises.**” This Lease supersedes and replaces in full any and all rights and obligations of the parties and any affiliates thereof under and with respect to #RP-081-20.

Section 1.02. Basic Lease Provisions. The following constitute the “**Basic Lease Provisions**” of this Lease:

- A. Building Name: The Southeast Residence Hall Building;
- B. Building Area: Approximately 81,071 gross square feet;
- C. Minimum Annual Rent: As specified in Section 3.01;
- D. Lease Term: As specified in Section 2.01;
- E. Completion Date: As defined in Section 2.02
Target Completion Date: July 15, 2022
Outside Completion Date: July 29, 2022;
- F. Right of First Refusal: As set forth in Section 18.03;
- G. Permitted Use: Residential housing and ancillary supporting uses, including, but not limited to, classrooms, two staff offices, storage, common areas and amenities, recreational rooms, meeting rooms, workout rooms, utility rooms and lobbies, parking areas and other amenities, and such other ancillary uses as are permitted to Tenant from time to time under Applicable Law (as hereafter defined), and for such other uses as shall be permitted under Applicable Law with the prior written consent of the Landlord, which consent will not be unreasonably withheld, conditioned or delayed.
- H. Effective Date: The last date upon which all of Landlord, Tenant and any and all governmental officials or entities have executed or otherwise approved this Lease in accordance with Applicable Law.
- I. Address for notices as follows:

Tenant: University of Louisville
Campus Housing
Attn: Director of Housing
Stevenson Hall, 523
Louisville, KY 40292

With a copy to: University of Louisville
Attn: Lease Administration
Miller Information Technology Center
2315 First Street Walk, Suite 14
Louisville, Kentucky 40208

Office of University Counsel
206 Grawemeyer Hall
Louisville, KY 40292

Landlord: Investment Property Advisors (IPA)
Attn: President Larry Gough
666 East Main Street, Suite A-2
Centreville, MI 49032

With a copy to: Frost Brown Todd LLC
400 West Market Street, Suite 3200
Louisville, Ky 40202-3363
Attn: Dale E. Ahearn

ARTICLE 2 - TERM AND POSSESSION

Section 2.01. Term. The term of this Lease (the “**Lease Term**”) shall commence on the Effective Date and continue through the date that is forty (40) years after the Completion Date (as defined in Paragraph I of Section 2.02). The Completion Date and the Expiration Date shall be confirmed by Tenant as provided in Section 2.03.

Section 2.02. Construction of Improvements and Possession.

A. Scope of Work; Plan Approvals.

(a) The scope of the work for the improvements constituting the Building shell and appurtenant site improvements to the Land and other work which shall be performed by Landlord is set forth in the Building Description attached hereto and made a part hereof as **Exhibit B-1** (the “**Shell Building Work**”). Landlord shall have its space planner prepare and submit space plans for the Leased Premises, including descriptions of the FF&E to be provided by Landlord therein, to Tenant for review and approval as set forth in the “**Project Schedule**” attached hereto and made a part hereof as **Exhibit B-2**.

(b) Landlord will prepare and submit to Tenant final plans and specifications and construction drawings for the Shell Building Work (collectively the “**Shell Building Plans**”) on or before the “**Shell Check Set Submission Date**” set forth in the Project Schedule. Tenant shall review and make comments on, or approve, the Shell Building Plans, and each additional iteration thereof (to be prepared at Landlord’s expense to correct inconsistencies thereof with the Project Specification Outline or the terms of this Lease, and to be prepared at Tenant’s expenses to address any change orders requested by Tenant) within five (5) business days after Landlord provides the same to Tenant for review, and provided that any such comments from Tenant do not materially increase the overall cost of the Shell Building Work, unless Tenant agrees therein to be responsible for such increased cost, or increase the time period required for the design or construction of the Work, unless Tenant agrees therein to a concomitant extension in the Target Completion Date, Landlord shall incorporate Tenant’s comments into the Shell Building Plans. Landlord shall at its expense promptly cause all changes to be made in the Shell Building Plans necessary to conform the same to the Project Specification Outline and the terms of this Lease promptly and shall submit the same to Tenant for review and approval, and such changes shall not result in an extension of the deadline for Landlord’s completion of the Shell Building Work or the Target Completion Date so long as Tenant reviews and approves all conforming changes made by Landlord to the Shell Building Plans within five (5) business days after receipt. If the Shell Building Plans have not been fully approved by the “**Shell Building Approval Date**” set forth in Project Schedule due to delays in Tenant’s review thereof, or due to change orders requested by Tenant or other Tenant Delays, then the deadline for Landlord’s completion of the Shell Building Work and the Target Completion Date shall be accordingly extended on a day for day basis. Any delay on the part of Tenant beyond

five (5) business days after receipt of Landlord's changes to the Shell Building Plans will extend the deadline for Landlord's completion of the Shell Building Work and the Target Completion Date on a day for day basis. Upon final approval by Tenant of the Shell Building Plans, a list thereof referencing the same shall be attached hereto as **Exhibit B-3**, and such Shell Building Plans shall be deemed to be incorporated as a part of this Lease. If the Shell Building Plans have not been finally approved by Tenant in writing on or before 5:00 PM (Louisville, Kentucky time) on February 28, 2021 (the "**Shell Building Plans Deadline**"), then Tenant may terminate this Lease upon written notice to Landlord, and the parties shall have no further liability or obligations hereunder, or under or with respect to RFP # RP-081-20, or Tenant may extend the Shell Building Plans Deadline for a period of thirty (30) days or such longer period as acceptable to Tenant to allow for the completion and approval thereof; provided, however, that if Tenant so elects to terminate this Lease and Tenant's failure to approve the Shell Building Plans was caused by a Tenant Delay other than an Tenant Excusable Delay, or such failure is a result of actions or inactions of the Tenant not taken in good faith, then Tenant will be obligated to reimburse Landlord for the actual out of pocket expenses incurred by Landlord and paid to third parties for architectural and design services related to the Project, up to a maximum amount of \$867,000 (collectively, the "**Project Design Expenses**").

(c) Landlord shall cause to be prepared and submitted to Tenant plans and specifications and construction drawings (collectively, the "**Tenant Improvement Plans**") consistent with the Project Specification Outline and the requirements of this Lease, and covering all work to be performed, and the FF&E to be provided by Landlord in addition to the Shell Building Work in constructing the improvements to the Leased Premises (the "**Tenant Improvement Work**"). The Tenant Improvement Work shall include, without limitation, all of the following as depicted on or consistent with the Project Specification Outline and to be more fully described in the Tenant Improvement Plans: (i) all necessary and appropriate heating, ventilation and air conditioning systems; (ii) comprehensive sprinkler systems and fire alarm systems throughout the Building and appropriate for residential dormitory and other uses permitted by this Lease and as otherwise required by Applicable Law (including, without limitation, the ADA, building codes and fire-safety standards); (iii) painted walls; (iv) carpeting, tile, wood laminate and other floor coverings; (v) lay-in and other ceilings; (vi) light fixtures; (vii) window treatments; (viii) Wi-Fi systems throughout the Building; and (ix) maglocks and/or proxcards other security and alarm systems that are consistent with University requirements.

(d) Landlord shall submit to Tenant the Tenant Improvement Plans prepared consistent with the Project Specification Outline and otherwise in compliance with this Lease on or before the "**Tenant Improvement Plans Submission Date**" set forth in the Project Schedule. Tenant shall review and make comments on, or approve, the Tenant Improvement Plans, and each additional iteration thereof (to be prepared at Landlord's expense to correct inconsistencies thereof with the Project Specification Outline or the terms of this Lease, and to be prepared at Tenant's expenses to address any change orders requested by Tenant) within five (5) business days after Landlord provides the same to Tenant for review. Landlord shall at its expense promptly cause all changes to be made in the Tenant Improvement Plans necessary to conform the same to the Project Specification Outline and the terms of this Lease promptly and shall submit the same to Tenant for review and approval, and such changes shall not result in an extension of the deadline for Landlord's completion of the Tenant Improvement Work or the Target Completion Date so long as Tenant reviews and approves all conforming changes made by Landlord to the Tenant Improvement Plans within five (5) business days after receipt. If the Tenant Improvement Plans have not been fully approved by the "**Tenant Improvement Plans Approval Date**" set forth in Project Schedule, due to delays in Tenant's review thereof, or due to change orders requested by Tenant or other Tenant Delays, then the deadline for Landlord's completion of the Tenant

Improvement Work and the Target Completion Date shall be accordingly extended on a day for day basis. Any delay on the part of Tenant beyond five (5) business days after receipt of Landlord's changes to the Tenant Improvement Plans or any delay in the progress of completion of the Work caused by change orders requested by Tenant which do not relate to conforming the Tenant Improvement Plans to the Project Specification Outline and the terms of this Lease will extend the deadline for Landlord's completion of the Tenant Improvement Work and the Target Completion Date on a day for day basis. Upon final approval by Tenant of the Tenant Improvement Plans, a list referencing the same shall be attached hereto as **Exhibit B-4**, and such Tenant Improvement Plans shall be deemed to be incorporated as a part of this Lease. If the Tenant Improvement Plans have not been finally approved by Tenant in writing on or before 5:00 PM (Louisville, Kentucky time) on April 15, 2021 (the "**TI Plans Deadline**"), then Tenant may terminate this Lease upon written notice to Landlord, and the parties shall have no further liability or obligations hereunder, or under or with respect to RFP # RP-081-20 or Tenant may extend the TI Plans Deadline for a period of thirty (30) days or such longer period as acceptable to Tenant to allow for the completion and approval thereof; provided, however, that if Tenant so elects to terminate this Lease and Tenant's failure to approve the Shell Building Plans was caused by a Tenant Delay other than an Tenant Excusable Delay, or such failure is a result of actions or inactions of the Tenant not taken in good faith, then Tenant will be obligated to reimburse Landlord for the Project Design Expenses then incurred by Landlord up to a maximum amount of \$1,335,000.

(e) The Shell Building Work and the Tenant Improvement Work are sometimes collectively referred to herein as the "**Work**", and the Shell Building Plans and the Tenant Improvement Plans are sometimes collectively referred to herein as the "**Plans and Specifications**". Landlord acknowledges and agrees that all Plans and Specifications shall be prepared in accordance with the terms and provisions of the General and Supplemental Design Information – Affiliated Housing, a copy of which is attached hereto and made a part hereof as **Exhibit B-5**.

(f) Landlord acknowledges and agrees with regard to the Work and the Building as follows, all as more fully described in the Project Specification Outline:

(i) The Building will be a five (5) story building with a total of sixty-seven (67) apartment units (each, a "**Unit**"), and which Units will comprise a total of 128 residential beds (each, a "**Bed**"), with all residency and other use of the Building and Premises to be determined by Tenant from time to time during the Lease Term, subject to compliance by Tenant with Applicable Law;

(ii) The Building structure will be a type-five wood structure consisting of 4 floors structural wood framing over one floor of concrete podium in an "L" shape, with the lobby on the corner of Floyd and Hahn Street, and Landlord will construct a pedestrian bridge to connect the 2nd floor of the Building to the Kueber Center in such location as shall be depicted on the Shell Building Plans to connect to the Kueber Center at a location to be designated by Tenant during the preparation of the Shell Building Plans (the "**Pedestrian Bridge**");

(iii) Each floor of the Building will contain approximately 1,500 square feet of common area space except for the first floor, which will contain approximately 8,867 square feet of common area space;

(iv) There will be one RA room per floor that will be located in the center of the residents over whom the RA is charged (which equates 1:41 is the ratio (123/3) RA to resident ratio);

(v) There will be one Staff Hall Director apartment in the Building, containing one bathroom, a living area, and a full kitchen with sink, dishwasher, range, washer/dryer unit, and refrigerator;

(vi) The Building will include a group kitchen area for a minimum of 15 people;

(vii) The Building will contain laundry facilities (one per apartment unit), a multi-purpose space for gaming/billiards/other entertainment, and a trash/recycling room (with no trash chutes);

(viii) All Units will be fully furnished by the Landlord with the FF&E;

(ix) A lounge will be provided on each of floors two, three, four, and five;

(x) The Units in the Building will contain a total of 128 beds;

(xi) The one bedroom Units will each comprise approximately 585 square feet, containing one bathroom, living area, a full kitchen with a sink, microwave, dishwasher, range, refrigerator, and contain laundry facilities (one per apartment);

(xii) The two bedroom Units will each comprise approximately 800 square feet, containing two full bathrooms, shared living area, and a full kitchen with a sink, microwave, dishwasher, range, refrigerator, and contain laundry facilities (one per apartment);

(xiii) Possession of the Building, including all Units and Support Space, will be delivered to Tenant by Landlord completed in accordance with the Plans and Specifications, in a clean condition, fully furnished with the requisite FF&E contemplated by this Lease in new and fully functional condition and with such certificate of occupancy having been issued in accordance with Applicable Law to allow full use and occupancy of the Building by Tenant and its subtenants as contemplated by this Lease; and

(xiv) The Tenant will order the furniture for the Building, and Landlord will reimburse Tenant, up to \$750,000 of such order will be mutually agreed upon by both parties.

B. Change Orders. Tenant shall have the right to request in writing that Landlord make changes from time to time in the Plans and Specifications, and Landlord shall not unreasonably refuse to do so. Any additional cost associated with said changes shall be paid in a lump sum by Tenant on the Completion Date (as defined in Paragraph K of this Section 2.02). The cost to Tenant resulting from a change order shall be quoted to Tenant by Landlord within five (5) business days (or less if commercially reasonable) after submission, and Tenant may then decide whether or not it desires to proceed with such change order.

C. Performance of Work. The Plans and Specifications shall be designed, and the Work shall be constructed by Landlord, in a good and workmanlike manner and in accordance and compliance with (i) any and all applicable local, state (incorporating by reference the Choice of Law provision in Section 17.02) and federal laws, ordinances, rules, regulations and building and life-safety codes (collectively, “**Applicable Law**”), (ii) industry standards and the Project Schedule, (iii) the Housing Standard and Design

requirements of Tenant's University Planning, Design and Construction division of the Office of Facilities Management, and (iv) terms of this Lease.

D. Permits; Approvals; Compliance with Applicable Law. Landlord shall apply for and obtain all permits, licenses and certificates (including zoning approvals) necessary for the construction of the Work and for the occupancy and use of the Leased Premises by Tenant in accordance with this Lease. Landlord shall be obligated to obtain a permanent certificate of occupancy as required in accordance with Applicable Law (a "**Certificate of Occupancy**"), regardless of whether a temporary certificate shall have first been issued and submit said documents to Tenant immediately upon issuance. Landlord represents that the Work shall, upon the Completion Date, be in compliance with Applicable Law, including, without limitation, the Americans with Disabilities Act, the standards set forth by the Kentucky Department of Housing, Buildings and Construction, the Division of Building Codes Enforcement, and the Kentucky Occupational Safety and Health Standards Board. Landlord shall not use materials in the performance of the Work that are considered hazardous by federal and state law or regulation as of the date the materials are installed or incorporated into the Work.

E. Progress Reports. Landlord shall meet with Tenant, with meetings to include Landlord's architect and general contractor unless otherwise agreed by Tenant, at least bi-weekly to provide detailed progress reports; provided that Tenant may require weekly meetings during any period of delay contemplated by Section 2.02.G below.

F. Insurance and Bonding during Construction. Prior to the commencement of construction of the Work and during the construction of the Work, Landlord shall obtain, pay for and keep in force, the insurance and any bonds required under Schedule 2.02 attached hereto, and shall comply with the requirements set forth in Schedule 2.02. Landlord agrees to place and maintain, at its expense, "all risk" or "special form" builder's risk or equivalent insurance to the full replacement value of all real and personal property that is intended to become part of the completed Work. Landlord shall deliver certificates of insurance to Tenant evidencing such coverages prior to commencing the Work and any certificates regarding renewals prior to the expiration of any such policies.

G. Correction of Delays. In the event that construction of the Work is more than thirty (30) days delayed for any reason other than due to a Tenant Delay or Force Majeure Event, Landlord shall promptly undertake, at its sole cost and expense, appropriate and commercially reasonable actions to bring construction back on schedule.

H. Costs of the Work. Except for costs attributable to change orders or to Tenant Delays, Landlord shall pay any and all hard and soft costs associated with the Work, including but not limited to, all design, architectural and permit fees, and any and all construction management fees.

I. Substantial Completion; Completion Date.

(a) The Work shall be deemed to be "substantially completed" at such time as (i) all the Shell Building Work and the Tenant Improvement Work described in the Plans and Specifications have been completed in substantial accordance with the Plans and Specifications, and have been accepted by Tenant subject only to minor punch list items (i.e., such unfinished items as shall not impair Tenant's ability to use the Leased Premises in the manner intended by this Lease) identified in writing to Landlord following a joint inspection of the Leased Premises ("**Punch List Items**"), and (ii) a certificate of occupancy has been issued in accordance with Applicable Law to allow full use and occupancy of the Building by Tenant and its subtenants as contemplated by this Lease.

(b) The date upon which Landlord shall have substantially completed the Work and delivered possession of the Leased Premises to Tenant as required by this Lease is herein called the “**Completion Date**”. All Punch List Items shall be completed by Landlord as soon as practicable but in no event shall Punch List Items be completed later than thirty (30) days after the Completion Date, unless otherwise agreed by Tenant in writing. Completion of Punch List Items must be confirmed with Tenant and Landlord concurrently. All findings of defects will be remedied within a business week unless another timeline is jointly determined by Tenant and Landlord.

J. Completion Date. The parties acknowledge and agree that the “Outside Completion Date” for all Work, together with issuance of all applicable certificates of occupancy required under Applicable Law, is the date set forth in Section 1.02.E, subject to extension for Tenant Delays and Landlord Excusable Delays.

K. Late Completion. If Landlord shall fail to have substantially completed the Work on or before the Target Completion Date, subject to extension for Tenant Delays and Landlord Excusable Delays (as such terms are defined in Paragraph O of this Section 2.02), then (a) the Minimum Annual Rent shall be abated from and after the Completion Date for the aggregate number of days that the Completion Date was delayed beyond the Target Completion Date, and (b) Landlord shall pay to Tenant on the Completion Date a late completion fee of \$100 per Bed/per day (including all Beds to be provided in the Building) for each day that the Completion Date was delayed beyond the Target Completion Date.

L. Termination for Late Completion. Subject to extension for Tenant Delays and Landlord Excusable Delays (which includes a Force Majeure Event as defined in Section 14.07), Tenant shall have the right to terminate this Lease upon thirty (30) days’ prior written notice to Landlord in the event that the Work is not substantially completed on or before six (6) months following the Outside Completion Date. Tenant's cancellation notice shall be effective thirty (30) days after receipt of such written notice by Landlord, provided that such cancellation shall be null and void if Landlord substantially completes the Work in accordance with the terms of this Lease prior to the expiration of such thirty (30) day period.

M. Warranties. Notwithstanding any provision of this Lease to the contrary, Landlord shall warrant for a period of one (1) year from the Completion Date or such longer period as shall be required by Applicable Law (the “**Warranty Period**”), against, with respect to the Work to be maintained by Tenant during the Term in accordance with the terms of this Lease, (a) defects in materials and workmanship, (b) failure of the Work to be completed substantially in accordance with the Plans and Specifications, and (c) the Leased Premises against latent defects. Landlord agrees that the Plans and Specifications shall provide for a “20-year” roof on the Building and that all Building systems and equipment and the FF&E will be as specified in the Project Specification Outline or as shall be agreed by the parties and set forth in the final agreed Plans and Specifications. This warranty obligation of Landlord includes all labor, materials and equipment for repairs and all losses and damages resulting from the breach of such warranty (the “**Landlord Warranty**”). On or before the expiration of the Warranty Period, Landlord shall assign to Tenant and shall thereafter assist Tenant in the enforcement for the benefit of Tenant, all other third-party warranties and guarantees relating to the Work and the Leased Premises for which Tenant is responsible to thereafter maintain pursuant to the terms of this Lease. If Landlord is aware of any extended warranty period offered by any manufacturer or contractor for any such warranties and guarantees to be assigned to Tenant, Landlord shall so inform Tenant at or prior to the time of such assignment, and Tenant may elect at its cost to procure any such warranty extensions so available. The failure of Landlord to honor the Landlord Warranty in any instance shall be a default by Landlord under this Lease, subject to a 10-day notice from Tenant and opportunity to cure by Landlord, and thereafter to Tenant’s right to cure as provided in this Lease.

N. Cooperation of the Parties. The parties agree to use commercially reasonable efforts to cooperate in good faith with each other so that the various tasks and obligations of the parties reflected in the Project Schedule or provided for in this Article 2 may be performed and completed within the time periods provided in the Project Schedule or this Article 2, as applicable, including, but not limited to, responding within reasonable time periods to requests of the other party taking into account the dates set forth in the Project Schedule to which such requests relate.

O. Excusable Delays. For purposes of this Lease:

(a) **“Tenant Delay”** shall mean the period of any delay incurred by Landlord in the performance of its obligations under this Article 2 or under the Project Schedule by the dates or within the time periods set forth herein or therein that is caused by Tenant, its agents, employees, consultants, separate contractors, or others performing any of Tenant’s obligations hereunder at the direction of Tenant, including, without limitation, delays resulting from (i) Tenant’s failure to meet any time deadlines specified herein or in the Project Schedule (other than by reason of a Landlord Delay), (ii) change orders requested by Tenant in writing, and (iii) any other act (other than acts required to be performed by Tenant under this Lease) or omission of Tenant;

(b) **“Landlord Delay”** shall mean the period of any delay incurred by Tenant in the performance of its obligations under this Article 2 or under the Project Schedule, or the period of delay due to other failure by Landlord to perform its obligations under this Lease, by the dates or within the time periods set forth herein or therein that is caused by Landlord, its agents, employees, subcontractors, consultants or others performing any of Landlord’s obligations hereunder, including, without limitation, delays resulting from (i) Landlord’s failure to meet any time deadlines specified herein or in the Project Schedule (other than by reason of a Tenant Delay), including Landlord’s failure to timely submit to Tenant for review and approval Plans and Specifications which are consistent with the Project Specification Outline and are otherwise in compliance with the terms of this Lease, and (ii) any other act (other than acts required to be performed by Landlord under this Lease) or omission of Landlord;

(c) **“Landlord Excusable Delay”** shall mean a Landlord Delay due to a Force Majeure Event as defined Section 14.07; and

(d) **“Tenant Excusable Delay”** shall mean a Tenant Delay due to a Force Majeure Event as defined in Section 14.07.

Except as otherwise expressly provided in this Lease and subject to the further provisions of this paragraph, the time for performance of any obligation of, or the making of any representation by, Landlord in this Article 2 or the Project Schedule shall be extended by any period of time attributable to a Landlord Excusable Delay, and the time for performance of any obligation of Tenant in this Article 2 or the Project Schedule shall be extended by any period of time attributable to a Tenant Excusable Delay. All claims for extensions of the dates by which either party shall be required to perform such obligations shall be made in writing by the party asserting the claim to the other party not more than ten (10) days after such party becomes aware of the occurrence of an Excusable Delay, and if such party shall fail to timely give such notice, the period of Excusable Delay shall be reduced one (1) day for each day beyond said ten (10) day period that such party fails to give such notice. In the case of a continuing uninterrupted delay for a particular reason only one (1) claim is necessary. Except as may be specifically provided in the Project Schedule or elsewhere in this Article 2, at any time either party requires the other party’s approval in connection with the Project Schedule or any plans, drawings or specifications, the other party shall respond to such party within five (5) business days (or three (3) business days if the need for such response is

urgent and such party indicates it needs a response in three (3) business days) of receipt of such request and if the other party does not, the other party's approval shall be deemed given. If either party responds to the requesting party with any material change to the scope or nature of the work, such change shall be considered a Tenant Delay or Landlord Delay, as the case may be even though the response was made within the time periods required hereunder.

P. Tenant's Representative. For purposes of this Article 2, Tenant has appointed its Director of Housing as Tenant's representative, who shall have full authority to render decisions, make requests and grant approvals on behalf of Tenant with respect to the Work. Landlord shall be entitled to rely on decisions, requests and directions (whether oral or written) made or given by Tenant's representative under this Article 2 as if the same were made by Tenant. Tenant shall have the right to appoint or replace a successor representative at any time upon written notice to Landlord.

Q. Landlord's Representative. For purposes of this Article 2, Landlord has appointed the Chief Executive Officer Landlord's representative who shall have full authority to render decisions, make requests and grant approvals on behalf of Landlord with respect to the Work. Tenant shall be entitled to rely on decisions, requests and directions (whether oral or written) made or given by Landlord's representative under this Article 2 as if the same were made by Landlord; provided, that Landlord's Representative acting in such capacity shall have no personal liability to Tenant. Landlord shall have the right to appoint or replace a successor representative at any time upon written notice to Tenant.

Section 2.03. Tenant's Acceptance of the Leased Premises. Upon delivery of possession of the Leased Premises along with a Certificate of Occupancy, Tenant shall execute a letter of understanding in the form attached hereto as Exhibit B-6 acknowledging (i) the Completion Date and Expiration Date of this Lease, and (ii) that Tenant has accepted the Leased Premises for occupancy, subject to matters covered by Landlord's warranties and Punch List Items. Such letters of understanding shall become a part of this Lease. Nothing in this Section 2.03 shall limit Landlord's warranties or repair obligations contained in this Lease.

Section 2.04. Surrender of the Leased Premises. Upon expiration of the Lease Term or the earlier termination of this Lease, Tenant shall promptly surrender the Leased Premises to Landlord, together with all alterations, improvements and other property as provided elsewhere herein, in good order, condition and repair, except for ordinary wear and tear and damage which Tenant is not obligated under the terms of this Lease to repair. Tenant shall remove its FF&E, trade fixtures, equipment and other personal property, and Tenant shall repair any damage caused by such removal, ordinary wear and tear excepted. Tenant shall not otherwise be required to remove wiring and/or cabling from the Building. Tenant's obligations under this Section 2.04 shall survive the expiration or earlier termination of this Lease.

ARTICLE 3 - RENT

Section 3.01. Minimum Rent. Minimum Annual Rent shall accrue on and after the Completion Date, and the amount thereof payable during the Lease Term shall be determined as set forth on Schedule 3.01 attached hereto and incorporated herein. Minimum Annual Rent shall be prorated for the calendar year during which the Completion Date occurs, and shall be subject to escalation as more fully described on Schedule 3.01. After the initial prorated payment thereof on the Completion Date, the Minimum Annual Rent shall be payable in advance in semi-annual installments on or before the fifteenth (15th) day of each November and April during the Lease Term, and Landlord shall deliver to Tenant an invoice for each such installment at least thirty (30) days in advance of the date the applicable installment is due.

Section 3.02. Operating and Other Landlord Expenses.

A. During the Lease Term, Landlord shall be solely responsible for all of the following costs and expenses: (i) all real estate taxes and assessments payable during the Lease Term, and all special assessments or service payments made in lieu thereof, levied against the Building and/or the Land (hereinafter called “**real estate taxes**”), all of which shall be paid by Landlord as the same shall become due and payable; (ii) all costs related to the performance of the Landlord Warranty; (iii) any and all depreciation allowances; (iv) all legal, auditing, consulting and professional fees, and other costs of Landlord, paid or incurred in connection with negotiations for and obtaining or consummation of financings, refinancings, sales, acquisitions, permits or approvals, zoning proceedings or actions, environmental permits or actions and development of the Leased Premises; (v) all interest and principal payments (and related late charges, fees or premiums) on any mortgage or other indebtedness of Landlord; (vi) the compensation of and costs of employment benefits for all management and other personnel of Landlord; (vii) all income and such other taxes imposed or measured by the income of Landlord with respect to the Leased Premises and otherwise; (viii) the cost and deductibles of all insurance policies required to be carried by Landlord pursuant to this Lease; (ix) all costs of a capital nature with regard to the Leased Premises, and the cost of maintenance and repairs with regard to the Leased Premises for which Landlord is responsible under this Lease; (x) all rent and other sums due from Landlord to ULFI under and pursuant to the Ground Lease as and when the same shall become due and payable; (xi) the cost of replacement of all lamps, bulbs, starters and ballasts in exterior and interior lighting, including all Building lighting, as required from time to time as a result of normal usage, and (xii) the Landlord Operating Expenses (as hereafter defined) with respect to the Leased Premises, not to include resident units.

B. For purposes of this Lease, “**Landlord Operating Expenses**” shall mean all costs and expenses incurred in insuring, maintaining, operating, and managing the Leased Premises which are otherwise not the responsibility of Tenant as elsewhere expressly provided in this Lease, and including by way of illustration and not limitation: (i) insurance premiums for policies as required to be maintained by Landlord with regard to the Leased Premises pursuant to this Lease; (ii) any tools and supplies used by Landlord with regard to the maintenance and repair of the Leased Premises as required by this Lease, including, without limitation, the Replacements; (iii) the maintenance costs with regard to the Leased Premises for which Landlord is responsible under this Lease; and (iv) license, permit and inspection fees.

ARTICLE 4 - OCCUPANCY AND USE

Section 4.01. Occupancy. Tenant shall have the right to use and occupy the Leased Premises for the purposes set forth in Section 1.02 Item G of the Basic Lease Provisions, and for such other uses as shall be permitted to Tenant under Applicable Law.

Section 4.02. Covenants of Tenant Regarding Use. In connection with its use of the Leased Premises, Tenant agrees to do the following:

A. Tenant shall use the Leased Premises in compliance with Applicable Law.

B. Landlord reserves the right to direct the positioning of all heavy equipment and fixtures which Tenant desires to place in the Leased Premises after the Completion Date so as to distribute properly the weight thereof. Tenant shall not place any equipment or fixtures within the Building, and Landlord shall have the right to require the removal of any equipment or furniture, which exceeds the weight limit for the Building as constructed in accordance with the Plans and Specifications. In no event will Tenant be allowed to place heavy equipment, fixtures, or other Tenant improvements in the Lease Premises if such equipment, fixtures, or improvements exceed the weight limits for which the Building has been designed pursuant to the Plans and Specifications. Provided that Tenant complies with the foregoing, in no event shall Tenant be responsible for the cost of any repairs, replacements or expenses associated with any equipment placed in accordance with Landlord’s instructions.

C. Tenant is hereby granted exclusive naming rights for the Building and for all interior areas of the Building, at no cost to the Tenant. Tenant shall at its expense be further entitled to (i) place such signage on the Land, the exterior of the Building and within the Building as Tenant may elect, subject to Applicable Law, and (ii) at any time remove, replace and/or reinstall any such signage, provided that Tenant shall repair any damage to the Leased Premises or the Building caused thereby, ordinary wear and tear excepted. Tenant's right to signage on the exterior of the Building shall be exclusive of any other signage on the exterior of the Building. Notwithstanding anything in this Lease to the contrary, Tenant shall have the right, at its option, to from time to time market the Leased Premises as either off-campus or on-campus housing, and may advertise the Leased Premises by such methods and manners, and in such locations, as determined by Tenant in its sole discretion.

Section 4.03. Landlord's Rights Regarding Use. Prior to the Completion Date, and as permitted by Applicable Law, Landlord may install signs on the Land which advertises that the Building is being constructed by Landlord on behalf of Tenant.

Section 4.04. Access to and Inspection of the Leased Premises. Upon at least five (5) business days' advance written notice (except in the case of an emergency when telephonic and email notice shall suffice) and subject in all events to the security procedures of Tenant and to Applicable Law, Landlord, its employees and agents, shall have the right to enter any part of the Leased Premises (other than individual Units, which may be entered only if necessary for safety or insurance inspection purposes and then in accordance with Tenant's procedures and when accompanied by Tenant's approved personnel) at reasonable times for the purposes of examining or inspecting the same while accompanied by a representative of Tenant.

ARTICLE 5 - UTILITIES AND OTHER BUILDING SERVICES

Section 5.01. Building Services and Utilities. From and after the Completion Date, Tenant shall be responsible at its sole expense for the following with regard to its use of the Leased Premises pursuant to this Lease:

A. Tenant shall be responsible for contracting for and payment of all costs of all electricity and potable water usage, natural gas, telephone, Wi-Fi, fiber optic and other communication systems, sanitary sewer and drainage charges, and all other utility services desired by Tenant and/or appropriate for the Leased Premises (collectively, the "**Utilities**"), and Landlord shall provide at its sole cost the appropriate infrastructure for all such Utilities as a part of the Work. The Tenant's cost of Utilities shall include that necessary for the ongoing provision of (i) all heating, ventilation and air-conditioning within the Building as desired by Tenant, (ii) hot and cold running water within the Building for lavatory, drinking and other purposes as desired by Tenant, and (iii) the provision of metered water service for the remainder of the Leased Premises, including for irrigation purposes.

B. Cleaning and janitorial service in the Building and with regard to the Leased Premises, and the washing of interior and exterior windows of the Building, at intervals desired by Tenant.

C. Mowing and maintenance of landscaping and irrigation systems, and the removal and/or mitigation of ice and snow accumulations on the Leased Premises.

D. The following costs and expenses: (i) alarm and gate/door access and monitoring services, including for intrusion and life safety; (ii) pest control; (iii) trash removal; (iv) carpet cleaning and repair due to damage caused by Tenant or its subtenants; (iv) repair, replacement and repainting, as necessary, of

drywall, interior finishes, plumbing and other interior fixtures and FF&E damaged by Tenant or its subtenants; and (v) repainting of interior finishes other than as necessitated due to Landlord's performance of its obligations under this Lease, including for maintenance, repair and replacement.

ARTICLE 6 - REPAIRS, MAINTENANCE, ALTERATIONS AND FIXTURES

Section 6.01. Landlord's Obligations for Repairs and Maintenance. Any provision of this Lease to the contrary notwithstanding, Landlord shall at its sole cost and expense during the entirety of the Lease Term (a) keep, maintain, repair and replace as necessary the structure, roof and shell of the Building and of the Pedestrian Bridge (and including all fixtures, exterior doors, Building shell plate glass and exterior windows), as necessary and appropriate to keep the same in a safe and first-class repair and condition, (b) keep, maintain, repair and replace all Building and Pedestrian Bridge equipment and systems, including all plumbing, heating, ventilating and air conditioning and similar equipment, as necessary and appropriate to keep the same in a safe and first-class repair and condition, and (c) be responsible for the Replacements (as hereafter defined). The Landlord's obligations with respect to the Pedestrian Bridge equipment shall be subject to Tenant and any other parties having ownership or control of the Pedestrian Bridge and any affiliated equipment providing Landlord with an easement or other access permit necessary to allow Landlord to complete such repairs and maintenance. The Landlord's obligations with respect to the heating, ventilating and air conditioning equipment shall be subject to the condition that the Tenant will have entered into annual maintenance agreements with licensed third party providers to complete all necessary and routine servicing of such equipment as specified by the respective manufacturers thereof such as cleaning and filter changes (but excluding repairs and replacements of components), and Landlord will have no obligation for the costs of replacement of such equipment if such proper maintenance was not provided for such equipment. With the exception of an emergency, Landlord shall provide not less than forty-eight (48) hours' written notice prior to entering the Leased Premises for the purpose of conducting the foregoing work and subject in all events to the security procedures of Tenant and to Applicable Law. After such notice Landlord, its employees and agents, shall have the right to enter the Leased Premises when accompanied by Tenant's approved personnel (other than individual Units, which may be entered only if necessary for safety or insurance inspection purposes and then in accordance with Tenant's procedures and when accompanied by Tenant's approved personnel). Any provision of this Lease to the contrary notwithstanding, Landlord shall not, and shall not permit any of its employees, agents or contractors to, enter into any individual Unit except when accompanied by Tenant's approved personnel and in accordance with Tenant's security procedures.

Section 6.02. Tenant's Obligations for Repairs and Maintenance. Except for the obligations of Landlord set forth in Section 6.01 and as otherwise may be expressly provided in this Lease, Tenant shall be obligated to make all appropriate and necessary repairs to the interior of the Building and to the interior of the Pedestrian Bridge (i.e. "studs-in") during the Lease Term, including as set forth in Section 5.01 above. Tenant shall promptly notify Landlord if Tenant becomes aware of any needed repair or maintenance for which Landlord is responsible.

Section 6.03. Alterations or Improvements. During the Lease Term Tenant may from time to time make, and may permit to be made, non-structural alterations, additions and/or improvements to the Leased Premises as it shall determine necessary or appropriate without Landlord's consent; provided, that Landlord's prior written consent, which consent shall not be unreasonably delayed, withheld or conditioned, shall be required for any alterations by Tenant of improvements for which Landlord is responsible to maintain, repair or replace pursuant to this Lease (collectively, "**Landlord Maintained Improvements**"). In the event that Tenant materially alters, adds to or makes other improvements to any Landlord Maintained Improvements without such prior approval by Landlord (excluding circumstances where the same are required for compliance with Applicable Law or in the instance of self-help or the pursuant of other remedies permitted to Tenant under this Lease), Landlord will not be responsible for repair or replacement

of any such alternations, additions, and/or improvements or for the related portions of the Landlord Maintained Improvements. Any such alternations, additions, and/or improvements to Landlord Maintained Improvements approved by Landlord shall, at the option of Landlord, remain with the Leased Premises upon the expiration or earlier termination of this Lease. If Tenant elects to make any such alterations, additions or improvements, Tenant shall secure all necessary permits and shall make the alterations and improvements in accordance with Applicable Law, including applicable building codes, in a good and workmanlike manner and quality equal to or better than the manner and quality of the Building at the time of the alterations or improvements. Tenant shall promptly repair any damage to the Leased Premises or the Building caused by any such alterations, additions or improvements, ordinary wear and tear excepted. Tenant has the option, but not the obligation, to remove any or all such alterations, additions or improvements to the Leased Premises prior to and/or at the expiration or earlier termination of this Lease; provided, that Tenant shall not remove any then-existing alterations, additions or improvements to the Landlord Maintained Improvements without the prior written consent of the Landlord.

Section 6.04. Trade Fixtures. Any interior or exterior signs, FF&E and/or trade fixtures installed on the Leased Premises, such as movable partitions, counters, shelving, mirrors and the like, are agreed to be the property of Tenant and may be removed by Tenant on the expiration or earlier termination of this Lease, provided that Tenant bears the cost of such removal, and repairs at its own expense any and all damage to the Leased Premises resulting from such removal, ordinary wear and tear excepted. If Tenant fails to remove any and all FF&E and trade fixtures from the Leased Premises on the expiration or earlier termination of this Lease, all of the same so remaining shall become the property of Landlord.

Section 6.05. Tenant's Property. Except as otherwise provided, upon completion and acceptance of the Leased Premises, all FF&E and other fixtures, furnishings, non-building systems equipment, inventory and other personal property at any time located at or on the Leased Premises (including but not limited to all kitchen appliances and equipment) shall be kept and maintained by Tenant at its sole risk, and Tenant shall bear all cost, loss and expense for any casualty or theft risk in connection with such fixtures, furnishings, non-buildings systems equipment, inventory and other personal property of Tenant, unless caused by the negligence or willful misconduct of Landlord or Landlord's employees, agents or contractors.

Section 6.06. Replacement Reserve Fund.

A. Landlord shall contemporaneously with each semi-annual payment of Minimum Annual Rent (each, a "**Rent Installment**") deposit into an account (the "**Replacement Reserve Account**") established by Landlord with or as approved by Landlord's institutional lender holding a first priority leasehold mortgage on the tenancy of Landlord under the Ground Lease for purposes of financing the construction and development of the Leased Premises (the "**Lender**"), an amount equal to \$24,300 (i.e. \$48,600 per Lease Year), or such greater amount as shall be required from time to time by the Lender, to be used for payment of the cost of replacements and related repairs to the Building and other portions of the Leased Premises which Landlord hereby agrees to make in a good and workmanlike manner (collectively, the "**Replacements**" and individually, as applicable, a "**Replacement**"), and which Replacements are more particularly described, and a schedule for making certain Replacements is set forth, on Schedule 6.06 attached hereto and made a part hereof as (the "**Replacements Schedule**"). Amounts so deposited in the Replacement Reserve Account shall be referred to as the "**Replacement Reserve Fund**."

B. Should Landlord fail to make any Replacements as necessary or appropriate under this Lease, including in accordance with the Replacements Schedule, and does not remedy such failure within ten (10) days after written notice from Tenant, then, in addition to such other remedies as Tenant may have under this Lease due to such breach of the terms of this Lease by Landlord, Tenant shall be entitled to cause such Replacements to be made in a good and workmanlike manner and in accordance with Applicable Law, and Landlord shall, within ten (10) business days after invoice therefor from Tenant, reimburse Tenant for

all such amounts expended thereby. Should Landlord fail to so reimburse Tenant, Landlord agrees that Tenant shall be entitled to request that the Lender so reimburse Tenant from the Replacement Reserve Fund.

ARTICLE 7 - FIRE OR OTHER CASUALTY

Section 7.01. Substantial Destruction.

A. If the Building is substantially destroyed or damaged (as determined by Tenant in its reasonable discretion) by fire or other casualty ("**Substantial Destruction**"), then Tenant may, at its option, terminate this Lease by giving written notice of such termination to Landlord within sixty (60) days after the date of such casualty; provided, that this Lease shall terminate upon a termination of the Ground Lease in accordance with the terms thereof following the occurrence of any Substantial Destruction. In such event of termination of this Lease, rent shall be apportioned to and shall cease as of the date of such casualty (the "**Casualty Date**").

B. If Tenant does not exercise its termination option within such 60-day period or otherwise earlier notifies Landlord that it will not so exercise its termination option, then Landlord shall promptly thereafter reconstruct and repair the Leased Premises in a good and workmanlike manner and in accordance with Applicable Law to substantially the same condition as existed upon the Completion Date, at Landlord's sole expense, including the expense of replacing FF&E destroyed or damaged in such casualty, and Tenant shall vacate the Building during the period of such reconstruction and repair. In the event of such reconstruction and repair, all rent and all other sums thereafter due hereunder shall be abated from the date of the casualty (the "**Casualty Date**") until such reconstruction and repair is substantially completed, and thereafter this Lease shall continue in full force and effect for the balance of the Lease Term. Landlord acknowledges that Minimum Annual Rent is to be prepaid on a semi-annual basis, and as a result Tenant shall receive a credit against the next payment of Minimum Annual Rent due for the amount of Minimum Annual Rent prepaid hereunder from the Casualty Date through the shorter of the end of the period for which such rental was prepaid or the date that the reconstruction and repair of the Leased Premises is substantially completed.

C. If Landlord has not commenced, in a substantial and meaningful way, such repairs and reconstruction (and thereafter diligently pursued) within ninety (90) days and/or mutually agreed upon of such damage or destruction, or if the Leased Premises are not restored substantially to the condition existing immediately prior to the occurrence of the damage or destruction within ten (10) months after Substantial Destruction (subject to a Force Majeure Event as defined in Section 14.07 for a maximum additional sixty (60) days), then, in either event, Tenant shall have the right, but not the obligation, to terminate this Lease by sending Landlord written notice within thirty (30) days after the expiration of such one hundred eighty (180) days.

Section 7.02. Partial Destruction. If the Leased Premises are damaged by fire or other casualty, but not subject to Substantial Destruction as provided in Section 8.01, then such damaged part of the Leased Premises shall be reconstructed and restored, at Landlord's expense to substantially the same condition as existed prior to the casualty; provided that, if Tenant has made any additional improvements pursuant to Section 6.03, Tenant shall reimburse Landlord for the cost of reconstructing the same. In such event rent and all other sums due under this Lease shall be abated in the proportion to the area of the Building and Leased Premises which Tenant determines that it is unable to use bears to the total area in the Leased Premises, from the date of the casualty until substantial completion of such reconstruction; and this Lease shall continue in full force and effect for the balance of the Lease Term. Landlord shall use reasonable diligence in completing such reconstruction repairs, but in the event Landlord fails to complete the same within a reasonable length of time given the nature and extent of required repairs (with a minimum period of one hundred twenty (120) days from the date of the casualty), Tenant may, at its option but without

obligation, terminate this Lease by giving Landlord written notice of such termination. All such repairs and/or restoration shall be done in a good and workmanlike manner and in accordance with Applicable Law. Notwithstanding the foregoing, upon election by Tenant Landlord will provide at its own cost a suitable and reasonable comparable living accommodation for displaced Unit occupants until the repair or restoration is completed; provided that with respect to such Units there shall be no reduction in rent payable under this Lease.

Section 7.03. Landlord's Casualty Insurance. Landlord shall during all periods of reconstruction and/or repair of the Leased Premises under this Article 7 carry a policy of Builder's Risk insurance policy in compliance with the standards set forth on Schedule 2.02 for the original completion of the Work.

ARTICLE 8 - INDEMNIFICATION AND LIABILITY

Section 8.01. Tenant's Responsibility. To the extent permitted by Applicable Law, Tenant shall indemnify Landlord and Landlord's agents, contractors, licensees, employees, directors, officers, partners, trustees and invitees (each a "**Landlord Indemnified Party**" and collectively, "**Landlord Indemnified Parties**"), harmless from and against any and all damages, claims, losses, demands, costs, expenses, obligations, liens, liabilities, actions and causes of action, threatened or actual, which the Landlord Indemnified Parties may suffer or incur arising out of or in connection with Tenant's or Tenant's employees' negligent use of the Leased Premises, any activity, work or things done, permitted or suffered by Tenant in the Leased Premises or the Building or done by Tenant, its employees or agents on the Leased Premises, or Tenant's employees' or agents' nonobservance or nonperformance of any Applicable Law, or any negligence of the Tenant's employees, agents, contractors or invitees; provided, however, Tenant's obligations hereunder shall not apply to any liability from which Tenant has been released as provided in this Lease, or any damage, claim, loss, demand, cost, expense, obligations, liens, liabilities, actions and causes of action, threatened or actual, arising out of the act or omission of any Landlord Indemnified Party in the face of a duty thereof. Tenant agrees to cooperate with the Landlord Indemnified Party in any defense, including, but not limited to, the providing of affidavits and testimony upon reasonable request of Landlord or the Landlord Indemnified Party.

Section 8.02. Tenant's Insurance.

A. In addition to any insurance coverage required by any other provisions of this Lease, to the extent permitted by Applicable Law, Tenant shall at all times during the Lease Term carry, at its own expense, one or more insurance policies of comprehensive public liability insurance insuring Landlord and Tenant against all liability arising out of the use, occupancy, and maintenance of the Leased Premises, with policy limits of no less than \$1,000,000 per occurrence/\$3,000,000 aggregate, with respect to injuries to, or death of, any persons on the Leased Premises, or occurrences of any property damage to third parties caused on the Leased Premises, whether or not caused by any of Tenant's employees, agents, representatives, guests or invitees.

B. To the extent permitted by Applicable Law, such insurance policy or policies shall protect Tenant and Landlord as their interests may appear, naming Landlord as an additional insured and shall provide that the same may not be cancelled, including in the event of non-payment, on less than thirty (30) days' prior written notice to Landlord. Tenant shall upon written request of Landlord furnish Landlord with Certificates of Insurance evidencing such coverage.

C. Notwithstanding the foregoing, Tenant may, at its option, satisfy any or all of its obligations to insure with (a) a so-called "blanket" policy or policies of insurance, or (b) an excess or umbrella liability policy or policies of insurance, now or hereafter carried and maintained by Tenant or covering Tenant as an agency of the Commonwealth of Kentucky; provided, however, that to the extent permitted by

Applicable Law, Landlord and the Lender, if any, shall be named as additional insureds thereunder as their respective interests may appear.

Section 8.03. Landlord's Insurance and Indemnification.

A. Landlord shall indemnify, save Tenant harmless and defend Tenant, Tenant's agents, contractors, licensees, employees, directors, officers, partners, trustees and invitees (each a "**Tenant Indemnified Party**") and collectively, the "**Tenant Indemnified Parties**") from and against any and all damages, claims, losses, demands, costs, expenses (including court costs and reasonable attorneys' fees and costs to and through trial and all levels of appeal), obligations, liens, liabilities, actions and causes of action, threatened or actual, which the Tenant Indemnified Parties may suffer or incur arising out of or in connection with Landlord's exercise of its rights under this Lease, Landlord's, its employee's, contractor's or agent's use of, or activity on, the Land, or Landlord's employee's or contractor's nonobservance or nonperformance of any Applicable Law, except to the extent such observance is Tenant's obligation, and excluding any of the same arising from any negligence of Tenant's employees, agents or contractors; provided, however, Landlord's indemnification, defense and hold harmless obligation shall not apply to any liability from which Landlord has been released as provided in Section 6.05, or any damage, claim, loss, demand, cost, expense, obligations, liens, liabilities, actions and causes of action, threatened or actual, arising out of the act or omission of a Tenant Indemnified Party. Landlord further agrees that in case of any claim, demand, action or cause of action, threatened or actual, against a Tenant Indemnified Party upon which Landlord indemnifies Tenant pursuant to the immediately preceding sentence, Landlord, upon notice from Tenant or such Tenant Indemnified Party, shall defend the Tenant Indemnified Party at Landlord's expense by counsel reasonably satisfactory to the Tenant Indemnified Party. In the event Landlord does not provide such a defense against any and all such claims, demands, actions or causes of action, threatened or actual, then Landlord will, in addition to the above, pay each Tenant Indemnified Party the reasonable attorney's fees, legal expenses and costs incurred by such Tenant Indemnified Party in providing or preparing such defense, and Landlord agrees to cooperate with the Tenant Indemnified Party in such defense, including, but not limited to, the providing of affidavits and testimony upon request of Tenant or the Tenant Indemnified Party.

B. During the Lease Term Landlord shall at its sole cost and expense (i) maintain in full force and effect all such insurance coverage as is required of Landlord from time to time under the Ground Lease, and (ii) keep the Leased Premises insured against loss or damage by fire and other perils, including, but not limited to, certified and non-certified acts of terrorism under the Terrorism Risk Insurance Act (TRIA), as amended, to the extent that TRIA coverage is available, with an All-Risk property insurance policy, including, but not limited to, extra expense, earth movement, building ordinance and increased cost of construction and boiler and machinery coverage, including pressure pipes, steam boiler and other pressure vessels and pipes in the Leased Premises, with a 100% full replacement cost endorsement. Landlord expressly acknowledges and agrees that such full replacement cost insurance coverage must include all changes or additions necessary to meet the then current building codes and other Applicable Laws. At the request of Tenant and at the sole cost and expense of Landlord, the replacement value of the Leased Premises for purposes of the coverage required under this Section 8.03 shall be determined in writing from time to time by an insurance appraiser acceptable to Tenant.

C. During the Lease Term Landlord shall, at its sole cost and expense, maintain public liability and property damage insurance with respect to the Building and the Leased Premises having a minimum limit of combined coverage of bodily injury and property damage of not less than \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate. Such insurance policy or policies shall protect Tenant and Landlord as their interests may appear, naming Tenant as an additional insured and shall provide that they may not be cancelled on less than thirty (30) days' prior written notice to Tenant.

D. Landlord shall upon written request by Tenant from time to time, provide Tenant with copies of certificates of insurance evidencing all required coverage under this Section 8.03.

ARTICLE 9 - EMINENT DOMAIN

If the whole of the Leased Premises, or if any substantial part of the Leased Premises (such that the remaining part of the Leased Premises would be inadequate for use by Tenant for the purpose for which the same were leased as determined by Tenant), shall be taken for public or quasi-public use by a governmental or other authority having the power of eminent domain or shall be conveyed to such authority in lieu of such taking, then Landlord shall have the option to terminate this Lease upon thirty (30) days written notice from Landlord to Tenant. In the event Landlord does not exercise such option, and if such taking or conveyance would cause the remaining part of the Leased Premises to be inadequate for use by Tenant for the purpose for which the same were leased as determined by Tenant in its discretion, then Tenant may, at its option, terminate this Lease as of the date Tenant is required to surrender possession of the Leased Premises by giving Landlord written notice of such termination. If a part of the Leased Premises shall be taken or conveyed but the remaining part is tenantable and adequate for Tenant's use as determined by Tenant in its discretion, then this Lease shall be terminated as to the part taken or conveyed as of the date Tenant surrenders possession; Landlord shall make such repairs, alterations and improvements as may be necessary to render the part not taken or conveyed tenantable within one hundred twenty (120) days after such taking; and the rent payable under this Lease shall be reduced in proportion to the part of the Leased Premises so taken or conveyed and temporarily reduced to the extent unusable during the reconstruction. All compensation awarded for such taking or conveyance of the Leased Premises shall be the property of Landlord, and Tenant shall have the right to recover from such authority, but not from Landlord, such compensation as may be awarded to Tenant for the loss of the leasehold estate of Tenant under this Lease as well as on account of moving, relocation and/or other allowed expenses.

ARTICLE 10 - LIENS

If, because of any act or omission of Tenant or any person claiming by, through, or under Tenant, any mechanic's lien or other lien shall be filed against the Leased Premises or the Building, Tenant shall, at its own expense, cause the same to be discharged of record, whether by satisfaction, bond or escrow, within thirty (30) days after the date Tenant receives written notice from Landlord of filing thereof, and shall also to the extent permitted by Applicable Law indemnify Landlord and hold it harmless from any and all claims, losses, damages, judgments, settlements, costs and expenses resulting therefrom or by reason thereof. Landlord may, but shall not be obligated to, pay the claim upon which such lien is based so as to have such lien released of record if Tenant does not cause the lien to be discharged in the manner required above; and, if Landlord does so, then Tenant shall pay to Landlord, upon demand, the amount of such claim, plus all other costs and expenses incurred in connection therewith.

ARTICLE 11 – TAX EXEMPTION

Tenant is tax-exempt and accordingly is not subject to any sales, gross income, rental, business occupation or similar taxes.

ARTICLE 12 - ASSIGNMENT AND SUBLETTING

A. Tenant shall not assign this Lease other than to another agency of the Commonwealth of Kentucky or to an Affiliate of Tenant authorized to lease and use the Leased Premises in accordance with this Lease. Tenant shall at all times be free to sublease and otherwise allow residency of all or any portion of the Building as Tenant may elect from time to time during the Lease Term, including to students of Tenant (including, but not limited to, regularly enrolled students, participants in continuing education

training and summer camps) and as otherwise may be determined by Tenant, without Landlord's prior written consent.

B. Landlord shall not have the right to assign this Lease or its rights hereunder without the prior written consent of Tenant; provided, however, the Landlord shall have the right to assign this Lease to the Lender as collateral security, subject to the Multi-Party Agreement and as may be agreed by the parties.

ARTICLE 13 – NOTICE OF INTERESTS IN LANDLORD; SUBORDINATION

Section 13.01. Transfer of Interests in Landlord. Landlord agrees to notify Tenant from time to time of all Persons owning, and upon any change or transfer of ownership involving, five percent (5%) or more of the total ownership interest in Landlord, or of the power to direct the conduct and management of Landlord's business affairs; provided, however, this will not apply to transfers of interests arising from the death of a Person owning an interest in Landlord, any transfer which occurs by operation of law, or any transfer to a trust or other affiliate of a Person owning an interest in Landlord, but Landlord will be required, at the request of Tenant, to certify the then present Persons owning five percent (5%) or more of the total ownership in Landlord from time to time during this Lease. Non-compliance with these continuing notice requirements shall be a default under this Lease which may result in termination of this Lease if not cured within any applicable grace or curative period.

Section 13.02. SNDA and Multi-Party Agreement. Provided Landlord delivers to Tenant an executed, recordable subordination, attornment and non-disturbance agreement from the holder of a mortgage encumbering the Leased Premises substantially in the form attached hereto as **Exhibit C** (an "SNDA"), Tenant agrees to also execute, acknowledge and deliver such SNDA and Landlord shall have the right to subordinate this Lease to the mortgage of any such holder which has executed such SNDA. The SNDA will require that all notices from Tenant to Landlord under Section 14.03 will be simultaneously sent to the mortgage holder who is a party to the SNDA at the address specified therein and that any cure of such defaults by such mortgage lender within the cure periods specified herein will be deemed a cure by Landlord within the terms of this Lease. Notwithstanding the foregoing, no default by Landlord under any such mortgage shall affect Tenant's rights hereunder so long as Tenant is not in default under this Lease. Tenant shall, in the event any proceedings are brought for the foreclosure of any such mortgage, attorn to the purchaser upon any such foreclosure and recognize such purchaser as the landlord under this Lease, provided that such successor in interest does not disturb Tenant's tenancy hereunder. The parties shall further as a condition precedent hereto, pursue the execution by all applicable parties of a Multi-Party Agreement substantially in the form of **Exhibit F** attached hereto and made a part hereof to accommodate a mutually acceptable Security Instrument as defined therein. If the parties are unable to obtain an executed Multi-Party Agreement in form and content acceptable to both Landlord and Tenant within ninety (90) days after the Effective Date of this Lease, either Landlord or Tenant will have the right to terminate this Lease by notifying the other party of such decision.

ARTICLE 14 - DEFAULTS AND REMEDIES

Section 14.01. Defaults by Tenant. The occurrence of any one or more of the following events after any applicable cure period shall be a default (the term "default" shall mean and include the expiration of any applicable cure period set forth in this Lease) under and breach of this Lease by Tenant:

A. Tenant shall fail to pay any Rent Installment within fifteen (15) business days after such payments are due and payable, provided Landlord has provided written notice of such failure to Tenant in writing and Tenant has not remedied such non-payment within thirty (30) business days thereafter.

B. Tenant shall fail to perform or observe any other term, condition, covenant or obligation required to be performed or observed by Tenant under this Lease for a period of thirty (30) days after written notice thereof from Landlord; provided, however, that if the term, condition, covenant or obligation to be performed by Tenant is of such nature that the same cannot reasonably be performed within such thirty-day period, Tenant shall fail to commence such performance within said thirty-day period and thereafter diligently undertake to complete the same.

Section 14.02. Remedies of Landlord. Upon the occurrence and continuation of any default set forth in Section 14.01 beyond applicable notice and cure periods, Landlord shall have the following rights and remedies to be exercised in accordance with and to the extent permitted by Applicable Law:

A. Landlord may re-enter the Leased Premises and cure any default of Tenant, in which event Tenant shall reimburse Landlord as additional rent for any reasonable costs and expenses which Landlord may incur to cure such default; provided, however, that Landlord shall not, and shall not permit any of its employees, agents or contractors to, enter into any individual Unit except when accompanied by Tenant's approved personnel and in accordance with Tenant's security procedures.

B. If Tenant fails to pay any Rent Installment within the time period set forth in Section 14.01A, including the cure period set forth therein, Tenant will be obligated to pay a late penalty for such default in an amount equal to five (5) percent of the amount of such Rent Installment. In addition, Landlord may seek damages resulting from any defaults under this Lease as may be available to Landlord at law, pursuant to and in accordance with an action in the courts of the Commonwealth of Kentucky pursued in conformance with Applicable Law; provided, that in no event shall Tenant be subject to consequential, exemplary and/or punitive damages.

C. Landlord may upon written notice to Tenant elect to terminate this Lease as of the date falling ninety (90) days after the date of such default, (but in no event before the later of the end of any academic year that has commenced as of the date of such written notice or the period for which Minimum Annual Rent has been prepaid), and thereupon pursue possession of the Leased Premises, together with such other damages, rights and remedies as may be available to Landlord at law or in equity, pursuant to and in accordance with an action in the courts of the Commonwealth of Kentucky pursued in conformance with Applicable Law; provided, that in no event shall Tenant be subject to consequential, exemplary and/or punitive damages.

D. Should such a default by Tenant occur after the commencement of an academic year, then Landlord may elect to terminate this Lease due to such default as of the date falling ninety (90) days after the expiration of the then-existing academic year and thereupon pursue possession of the Leased Premises as of such expiration; together with such other damages, rights and remedies as may be available to Landlord at law or in equity, pursuant to and in accordance with an action in the courts of the Commonwealth of Kentucky pursued in conformance with Applicable Law; provided, that in no event shall Tenant be subject to consequential, exemplary and/or punitive damages.

E. Notwithstanding the foregoing provisions of this Section 14.02, (a) all then existing subtenants and/or occupants of Units in the Leased Premises shall be entitled to remain in possession of the sublet or possessed portion of the Leased Premises, without interruption of Utilities or other Building services and with Tenant remaining in possession of and entitled to manage the Leased Premises, for the remainder of the term of each such sublease or applicable period (but not beyond the later of 90 days following the expiration of the academic year during which such default occurred or the period for which Minimum Annual Rent has been prepaid), and may only be dispossessed thereafter in accordance with the requirements of Applicable Law, and (b) Tenant shall be entitled to remain in possession of the Leased

Premises for a minimum period of ninety (90) days after the expiration of an academic year during which any such uncured default occurs in order to remove its personal property therefrom.

Section 14.03. Default by Landlord and Remedies of Tenant.

A. It shall be a default under and breach of this Lease by Landlord if (a) Landlord shall default in the performance of any of its obligations under the Ground Lease and shall fail to cure such default within any applicable grace or curative period, or (b) Landlord shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by Landlord under this Lease for a period of ten (10) days after notice thereof from Tenant.

B. If any such default is not cured by Landlord within said ten (10) day period (provided, however, that (a) if the default is of a nature that it involves an emergency where danger to life or property is imminent, within such shorter time period as may be reasonable under the circumstances, and (b) if no emergency exists, and the default is of such nature that the same cannot reasonably be cured within a ten (10) day period, such cure period shall be extended for a reasonable time if Landlord commences such performance within a ten (10) day period and thereafter diligently undertakes to complete the same), Tenant may, at its option, following written notice to Landlord, elect to (i) sue for injunctive relief and/or to recover damages (excluding, however, claims for exemplary, punitive and/or consequential damages) for any loss resulting from the breach, or (ii) cure the default, including any default under the Ground Lease, and offset against the rents next due and payable under this Lease the actual amounts, if any, advanced by Tenant to effect any such cure, or from Landlord's default, including interest at the Prime Rate plus two percent (2%), or (iii) terminate this Lease.

C. Notwithstanding the foregoing provisions of this Section 14.03, Landlord acknowledges and agrees that any termination of the Ground Lease shall result in a termination of this Lease. Further, any provision of this Lease to the contrary notwithstanding, the Lease Term shall be coterminous with the term of the Ground Lease.

Section 14.04. Limitation of Liability. Landlord acknowledges and agrees that Tenant's liability to Landlord is limited pursuant to KRS Chapter 45A and KRS Chapter 49, and as may be otherwise provided under Applicable Law.

Section 14.05. Non-Waiver of Defaults. The failure or delay by either party hereto to exercise or enforce at any time any of the rights or remedies or other provisions of this Lease shall not be construed to be a waiver thereof, nor affect the validity of any part of this Lease or the right of either party thereafter to exercise or enforce each and every such right or remedy or other provision. No waiver of any default and breach of the Lease shall be deemed to be a waiver of any other or further default and breach.

Section 14.06. Force Majeure. Notwithstanding any other provision contained in this Lease or elsewhere, Landlord or Tenant shall not be chargeable with, liable for, or responsible to the other for anything or in any amount for any failure to perform or delay caused by fire, earthquake, explosion, flood, hurricane, acts of God or the public enemy, action, restrictions, limitations, or interference of governmental authorities or agents, delays in the issuance of permits or granting of approvals due to the failure of the applicable governmental authority, or its agents, to respond, or its delay in responding, to proper submissions, applications or requests for action by Landlord or its agents, war, invasion, insurrection, rebellion, riots, strikes or lockouts, shortages of labor or materials or any other cause whether similar or dissimilar to the foregoing which is beyond the reasonable control of Landlord or Tenant (each a "**Force Majeure Event**"), and any such failure or delay due to said causes or any of them shall not be deemed a breach of or default in the performance of this Lease. Landlord agrees to use its good faith commercially reasonable efforts to

pursue the issuance of permits and governmental approvals, including efforts within Landlord's power to ameliorate the causes of delays in such issuance or approvals beyond time periods customary for such.

ARTICLE 15 - ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES

Section 15.01. Environmental Definitions.

A. **"Environmental Laws"** - All present or future federal, state and municipal laws, ordinances, rules and regulations applicable to the environmental and ecological condition of the Leased Premises, including the rules and regulations of the United States Environmental Protection Agency or of any other federal, state or municipal agency or governmental board or entity having jurisdiction over the Leased Premises.

B. **"Hazardous Substances"** - Those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances" "solid waste" or "infectious waste" under Environmental Laws.

Section 15.02. Compliance. Landlord shall deliver the Leased Premises free from any Hazardous Substances. Tenant shall comply with the Environmental Laws, including any notice issued by any governmental agency or board pursuant to the Environmental Laws, which shall impose any duty upon Tenant (but not Landlord) with respect to the use and occupancy of the Leased Premises whether such notice shall be served upon Landlord or Tenant; provided, however that Tenant shall have the right to contest the validity of any such notice but shall comply therewith pending the determination of such validity; provided that Tenant may seek a stay of any obligation to comply with such notice from any governmental agency or board at Tenant's sole cost and expense.

Section 15.03. Restrictions on Tenant. Tenant shall operate and maintain the Leased Premises in material compliance with all Environmental Laws which are applicable to Tenant, subject to Landlord's performance of its obligations of maintenance, repair and replacement as otherwise provided in this Lease. Tenant shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substances on, under or about the Leased Premises, or the transportation to or from the Leased Premises of any Hazardous Substances, except as necessary and appropriate for its Permitted Use in which case the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and good management practices prevailing in the industry.

Section 15.04. Notices, Affidavits, Etc. Tenant shall promptly notify Landlord of (i) any notice of violation received by Tenant of any Environmental Laws on, under or about the Leased Premises, or (ii) to the extent Tenant discovers or is made aware of the same, the presence or suspected presence of any Hazardous Substances on, under or about the Leased Premises, and shall promptly deliver to Landlord any notice received by Tenant relating to (i) and (ii) above from any source. Tenant shall provide all information in its possession, including executing affidavits, representations and the like reasonably requested by Landlord within five (5) days of Landlord's request therefor concerning Tenant's knowledge and belief regarding the presence of any Hazardous Substances on, under or about the Leased Premises to the extent permitted under Applicable Law.

Section 15.05. Landlord's Rights. After receipt of any notice from Tenant given pursuant to Section 16.04, Landlord shall thereafter have the right, but not the duty, upon at least ten (10) days' advance notice to inspect the Leased Premises and conduct tests thereon to determine whether or the extent to which there has been a violation of Environmental Laws by Tenant or whether there are Hazardous Substances on,

under or about the Leased Premises in violation of this Lease. In exercising its rights herein, Landlord shall use all reasonable efforts to minimize interference with Tenant's use of the Leased Premises.

Section 15.06. Tenant's Indemnification. Tenant shall to the extent permitted by Applicable Law, indemnify Landlord, and Landlord's officers, directors, shareholders, managers, members, employees and agents from any and all claims, losses, liabilities, costs, expenses and damages, costs of testing and remediation costs, incurred by Landlord in connection with any breach by Tenant of its obligations under this Article 15. The covenants and obligations under this Article 15 with respect to matters arising during the Lease Term shall survive the expiration or earlier termination of this Lease.

Section 15.07. Landlords' Indemnification. Landlord shall indemnify, defend and hold harmless Tenant, and Tenant's officers, directors, shareholders, employees, agents, tenants and invitees from and against any and all claims, losses, liabilities, costs, expenses and damages, including, without limitation, including court costs and reasonable attorneys' fees through any regulatory proceedings, trials and all levels of appeal, costs of testing or remediation costs, incurred by Tenant in connection with any violations of Environmental Laws or the presence of Hazardous Substance on the Land or in the Building existing prior to the date of this Lease or caused by Landlord, its contractors, subcontractors, construction manager, tenants, employees, invitees, licensees or agents. The indemnification under this Section 15.07 shall survive the expiration or earlier termination of this Lease.

ARTICLE 16 - NOTICE AND PLACE OF PAYMENT

Section 16.01. Notices. Any notice required or permitted to be given under this Lease or by law shall be deemed to have been given if it is written and delivered by nationally recognized overnight courier (such as UPS or FedEx), or mailed by Certified U.S. mail, postage prepaid, return receipt requested, to the party who is to receive such notice at the address specified in Section 1.02 Item I of the Basic Lease Provisions. When so mailed by certified mail, the notice shall be deemed to have been given as of the date it is received or rejected by the party to which it is sent, or if by overnight courier, one business day after deposit with such courier. The address specified in Section 1.02 Item I of the Basic Lease Provisions may be changed by giving written notice thereof to the other party.

Section 16.02. Place of Payment. All rent and other payments required to be made by Tenant to Landlord shall be made to Landlord by wire transfer over the Federal Reserve Wire System, pursuant to written wire instructions provided to Tenant at least ten (10) business days prior to the due date of any payment hereunder.

ARTICLE 17 - MISCELLANEOUS GENERAL PROVISIONS

Section 17.01. Tenant's Sole Use of Leased Premises; Ground Lease; Existing Encumbrances.

A. Tenant shall be entitled to sole use of the entire Leased Premises and Building in accordance with and subject to the terms of this Lease, including by way of illustration and not limitation, entrances and exits, hallways and stairwells, elevators, restrooms, sidewalks, landscaped areas, parking areas, and driveways. Tenant's use of the Leased Premises as permitted under this Lease shall be subject to the terms of (a) the Ground Lease, and (b) the easements, conditions, restrictions and stipulations of record and encumbering the Land as of the Effective Date as more fully described on Exhibit D attached hereto and made a part hereof (the "**Existing Encumbrances**").

B. Landlord represents and warrants to Tenant that: (i) the execution and delivery of this Lease, and the performance of Landlord's obligations hereunder, and the use of the Leased Premises by Tenant as contemplated by this Lease, are expressly authorized under and pursuant to the Ground Lease;

(ii) the Ground Lease cannot be terminated during the Lease Term for any reason, including, without limitation, due to non-payment by Landlord of any rents or other amounts due thereunder, without the prior written consent of Tenant; and (iii) none of the Ground Lease or any of the Existing Encumbrances will prohibit or materially and adversely affect the rights and estate granted to Tenant under this Lease. Within thirty (30) days after the Effective Date, Landlord shall cause each Landlord under the Ground Lease to execute and deliver to and in favor of Tenant a non-disturbance agreement confirming the accuracy of the foregoing representations and warranties of Landlord with regard to the subject Ground Lease to which it is a party.

C. Landlord covenants and agrees to fully and timely perform all of its obligations under the Ground Lease and the Existing Encumbrances during the Lease Term, and to indemnify and hold harmless Tenant with respect to any default thereunder which is not cured within any applicable grace or curative period.

Section 17.02. Choice of Law; Applicable Law. This Lease shall be governed by and construed pursuant to the laws of the Commonwealth of Kentucky, and any claims or actions shall be brought exclusively in state court in Franklin County, Kentucky. As used in this Lease, "Applicable Law" means applicable local, state and federal laws, statutes, codes, ordinances, rules, regulations, regulatory notices and any notices and orders of any and all governmental or quasigovernmental or regulatory authorities and other authorities and agencies having jurisdiction over Landlord, Tenant and the Leased Premises, as applicable, which are in effect from time to time. Tenant and Landlord each agrees to comply in all material respects with all Applicable Law, and each further agrees to promptly report to the other any citation or notice of non-compliance with respect to any such Applicable Law.

Section 17.03. Successors and Assigns. Except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and permitted assigns.

Section 17.04. Time. Time is of the essence of this Lease and each and all of its provisions.

Section 17.05. Defined Terms and Marginal Headings. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. If more than one person is named as Tenant, the obligations of such persons are joint and several. The marginal headings and titles to the articles, sections and paragraphs of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

Section 17.06. Prior Agreements. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose, including, without limitation, RFP # RP-081-20. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

Section 17.07. No Leasing Commissions. The parties hereby acknowledge and represent to the other that no broker or person is entitled to any leasing commission or compensation as a result of the negotiation or execution of this Lease. Only to the extent permitted by Applicable Law, each party shall indemnify the other party and hold it harmless from any and all liability for the breach of any such representation on its part and shall pay any compensation to any other broker or person who may be deemed or held to be entitled thereto.

Section 17.08. Severability of Invalid Provisions. If any provision of this Lease shall be held to be invalid, void or unenforceable in whole or in part, the same shall remain valid in all permitted contexts and the

remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

ARTICLE 18 - ADDITIONAL PROVISIONS

Section 18.01. Parking. Contemporaneously with the delivery of possession of the Leased Premises to Tenant, Landlord will further provide 84 spaces of completed off-street parking with 10 metered spaces in front of the Building, all as shall be depicted in the final Plans and Specifications.

Section 18.02. Early Termination Options. Pursuant to the terms of KRS 56.806(6), Tenant shall have the right to terminate this Lease at any time without cause upon thirty (30) days prior written notice to Tenant. In addition, Landlord acknowledges that Tenant is an institution of higher education whose budget is in large part tied to state and federal grants. In acknowledgement of the inability of Tenant to guarantee adequate appropriations for funding at the state or federal level, Landlord and Tenant hereby expressly agree that Tenant may, at its option, elect to either (i) negotiate with Landlord to negotiate the terms of this Lease so that Tenant may honor its obligations hereunder, or (ii) terminate this Lease upon thirty (30) days prior written notice; provided, however, that in the event this Lease is terminated pursuant to this Section 18.02, Landlord and Tenant acknowledge and agree that Tenant will be obligated to proceed in accordance with the terms more fully set forth in Schedule 18.02 attached hereto and incorporated herein.

Section 18.03. Right of First Refusal.

A. The parties acknowledge and agree that from and after the Warranty Period, and not before, Landlord shall have the right to offer for sale collectively, but not separately, the entire right, title and interest of Landlord in and to the Leased Premises and in and to the Ground Lease (collectively, the “**Landlord’s Interest**”), provided, that any such assignment of Landlord’s Interest shall be subject to the provisions of Article 12 of this Lease. Further, Landlord agrees that Tenant shall have a continuing right of first refusal to purchase the Landlord’s Interest during the Lease Term (the “**Right of First Refusal**”). If during the Lease Term Landlord receives a written offer to purchase the Landlord’s Interest (an “**Offer**”) from a third party unaffiliated with Landlord (a “**Third-party Purchaser**”), which Offer Landlord desires to accept, then Landlord shall notify Tenant in writing (the “**Notice**”) of the Offer and of the price and terms of the Offer (the “**Sale Terms**”), and including with the Notice a copy of the Offer conditionally accepted by Landlord subject to the Right of First Refusal of Tenant under this Lease.

B. Tenant shall have a reasonable period of time after receipt of Landlord’s Notice, but not to exceed thirty (30) business days (the “**Exercise Period**”), to notify Landlord whether Tenant elects to exercise its Right of First Refusal to purchase the Landlord’s Interest on the Sale Terms, except that the purchase price for the Landlord’s Interest to be paid by the Tenant (the “**Exercise Price**”) shall be the lesser of the price therefor set forth in the Offer or the fair market value of the Landlord’s Interest as of the date of the Offer (the “**Landlord’s Interest FMV**”) as determined by a retain a Kentucky licensed real estate appraiser experienced in the appraisal of student housing and/or multitenant properties proposed by Landlord and approved by Tenant (the “**Appraiser**”), with the cost of the Appraiser to be shared equally by Landlord and Tenant. In the event that the parties cannot agree upon the identity of the Appraiser prior to or within ten (10) days after the Exercise Notice, then the Appraiser shall be as appointed by the Kentucky State Treasurer or as appointed by other applicable authority as determined by Tenant. The Appraiser shall be instructed to determine the Landlord’s Interest FMV within sixty (60) days after the appointment thereof.

C. In the event Tenant fails to timely notify Landlord of its exercise of the Right of First Refusal within the Exercise Period, then Landlord shall be free to sell the entirety of the Landlord’s Interest to the Third-party Purchaser in accordance with the terms of the Offer, including the Sale Terms and within the period provided in the Offer, but subject to the Purchase Option (as hereafter defined), as applicable.

D. Within thirty (30) days of Tenant notifying Landlord of its exercise of the Right of First Refusal, or such additional time as may be agreed by Landlord and Tenant in writing, Landlord and Tenant shall enter into a purchase on the Sale Terms (other than the Exercise Price until the same is determined), and such other mutually agreed upon terms and conditions, if any. In the event the parties fail to execute such a purchase agreement as contemplated herein after Tenant's exercise of the Right of First Refusal, Tenant shall be entitled to enforce the provisions of this Section 18.03 in the manner of a purchase agreement for the Landlord's Interest for the Exercise Price and on the other applicable Sale Terms included in the Offer, except that in all events the closing date of the sale and purchase of the Landlord's Interest shall be on a date designated by Tenant and falling within one hundred eighty (180) days after its exercise of the Right of First Refusal, any provision of the Offer to the contrary notwithstanding.

E. If Tenant properly exercises the Right of First Refusal, Landlord shall have the right to sell the Landlord's Interest as part of a transaction that is intended to qualify as a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986, as amended. Tenant shall make reasonable efforts to cooperate with Landlord as the exchanging party, provided, however, that the date of closing shall not thereby be delayed, Tenant shall not be obligated to incur any additional expenses with regard to Landlord's exchange, and Landlord shall defend, indemnify and hold harmless Tenant against any and all losses, costs, expenses and liabilities which may arise out of such tax-deferred exchange. To facilitate such exchange, Landlord as the exchanging party shall have the right to assign its rights under any executed purchase agreement with Tenant to a qualified intermediary and Tenant will execute and deliver such normal and customary documents and instruments as required to effect such exchange to such intermediary.

Section 18.04. Conflict of Interest; Campaign Laws.

A. Landlord certifies by its signature hereinafter affixed that it is legally entitled to enter into contracts with the Tenant and the Commonwealth of Kentucky and that by holding and performing this Lease, will not be violating either any conflict of interest statute (KRS 45A.330 - 45A.340 or 45A.990) of the Executive Branch Code of Ethics, KRS Chapter 11 A, or any other applicable statute or principle by the performance of this Lease, or will it realize any unlawful benefit or gain directly or indirectly from it. Landlord further certifies that it has not knowingly violated any provision of the campaign finance law of the Commonwealth of Kentucky, and that by entering into this Lease it will not be in violation of the campaign finance laws of the Commonwealth of Kentucky.

B. By signing this Lease, Landlord certifies to the best of Landlord's actual knowledge, that, as of the Effective Date, neither Landlord nor any member of Landlord holds an interest of 10% or more in any business entity involved in the performance of this Lease that has contributed more than the amount specified in KRS 121.056(2) of the campaign of the gubernatorial candidate elected at the election last preceding the Effective Date. The undersigned further swears under the penalty of perjury that, as of the Effective Date, neither such person nor the entity which such person represents has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky, and that the award of this Lease to the Landlord which such person represents will not, to the best of such person's actual knowledge, violate any provisions of the campaign finance laws of the Commonwealth of Kentucky.

Section 18.05. Approval and Authority of Tenant.

A. When approved by the University of Louisville, Chief Operating Officer, this document constitutes a finding of fact that this lease of real property is fair and reasonable and is needed for use by the University of Louisville.

B. Tenant represents that all required consents, approvals, licenses and authorizations have been obtained and that Tenant has full authority to enter into this Lease and no consents or approvals from the Commonwealth of Kentucky or any other government authority, other than the approval contemplated by subpart A above and the Joinder of the Commonwealth of Kentucky manifested by the signatures on page 29, are required to be obtained.

Section 18.06. Anti-Kick Back. Landlord shall comply with the Copeland “Anti-Kick Back” Act (18 USC 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that each contractor, subcontractor or subgrantee is 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 is otherwise entitled.

Section 18.07. Eligibility to Participate in Governmental Programs Certification. Landlord certifies to Tenant that Landlord, and where applicable each subcontract vendor and any other person performing services for Landlord under this Lease: (i) is not now nor has ever been excluded, suspended, debarred or otherwise deemed ineligible to participate in governmental healthcare, procurement, or other programs; and (ii) is not now nor has ever been charged with or been convicted of a criminal offense related to the provision of government healthcare, procurement, or other programs. If Landlord, and where applicable any subcontract vendor or any other person performing services for Landlord under this Lease becomes ineligible for participation in such governmental programs in the future, Landlord will have a process in place such that such subcontract vendor(s) and any person performing services under this Lease for Landlord will promptly notify Landlord of such ineligibility. Landlord will notify the Tenant within seventy-two (72) hours of the Landlord becoming aware of the governmental ineligibility of any vendor, any subcontract vendor, or any person performing services under this Lease.

Section 18.08. Equipment Safety Requirements. All equipment installed in the Building or otherwise upon the Leased Premises must be in full compliance with all current safety standards as established by Federal, State, and Local governments, including, but not limited to, all current OSHA standards applicable to the manufacture, distribution, and use of said equipment. Furthermore, all such equipment, including the listing and labeling of the equipment, must meet the requirements stated in the current edition of the NFPA 70 National Electrical Code.

Section 18.09. Option to Purchase. Landlord hereby grants to Tenant the right and option to purchase the Landlord’s Interest (the “**Purchase Option**”) upon the tenth (10th) anniversary of the Commencement Date or the next Business Day following thereafter (the “**Purchase Option Closing Date**”), which Purchase Option shall survive any conveyance of the Landlord’s Interest by Landlord prior thereto. In the event that Tenant elects, in its sole and absolute discretion, to exercise the Purchase Option, Tenant shall notify Landlord no later than one hundred twenty (120) days in advance of the Purchase Option Closing Date.

Upon such exercise of the Purchase Option Tenant and Landlord shall thereupon commence to negotiate and thereafter execute a definitive bill of sale and assignment (the “**Bill of Sale and Assignment**”) which conveys to Tenant or its designee (the “**Acquiror**”) the entire right, title and interest of Landlord in and to the Landlord’s Interest in good faith no more than thirty (30) days following the Tenant’s exercise of the Purchase Option. After exercise of the Purchase Option, Landlord shall be required to convey and assign good and marketable title to the Landlord’s Interest to the Acquiror as of the Purchase Option Closing Date,

free and clear of all liens and encumbrances except for (i) the lien of ad valorem taxes and assessment not yet due and payable, (ii) governmental laws, rules and regulations, including zoning regulations, and (iii) easements, covenants, conditions and restrictions of record as of the Effective Date, and with the Leased Premises to be in the condition required to be maintained by Landlord under and pursuant to this Lease as of the date immediately prior to the Purchase Option Closing Date.

Upon the consummation of such conveyance and assignment of the Landlord's Interest this Lease shall thereupon terminate unless otherwise elected by Tenant and the Acquiror, if applicable. The purchase price to be paid by Tenant for the Landlord's Interest pursuant to the exercise of the Purchase Option shall be \$23,500,000, to be paid by Tenant or the Acquiror, as applicable, to Landlord by wire transfer of immediately available funds in Louisville Metro, Kentucky. In the event the parties fail to execute a Bill of Sale and Assignment as contemplated herein after Tenant's exercise of the Purchase Option, Tenant shall be entitled to enforce the provisions of this Section 18.09 in the manner of a purchase agreement for the Landlord's Interest on the terms contemplated therein.

[Signature Page Follows]

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

LANDLORD:

320 Eastern JV, LLC
A Kentucky Limited Liability Company.

By: _____
Larry Gough
Manager

Date: _____

TENANT:

UNIVERSITY OF LOUISVILLE
an agency of the Commonwealth of Kentucky and
educational institution of higher learning

By: _____
Mark Watkins
Chief Operating Officer

Date: _____

RECOMMENDED BY

CAMPUS HOUSING

Dr. Thomas Hardy
Director Campus Housing

RECOMMENDED BY

UNIVERSITY OF LOUISVILLE ATHLETICS

Jeff Spoelker
Associate Athletic Director

COMMONWEALTH OF KENTUCKY JOINDER

The Commonwealth of Kentucky's Government Contracts Review Committee, for the benefit of the University of Louisville (the "**University**"), hereby executes this Joinder to that certain Lease Agreement by and between the University, as Tenant, and 320 Eastern JV, LLC, as Landlord, as of the date hereof, for the sole purpose of agreeing to the terms and conditions set forth therein.

COMMONWEALTH OF KENTUCKY

By: _____

Name: _____

Title: _____

Date: _____

Approved as to form and legality:

Exhibit and Schedule List

Exhibits:

Exhibit A-1 – Description/Depiction of the Land
Exhibit A-2 – Project Specification Outline, Specification Sheet and FF&E Description
Exhibit B-1 – Shell Building Work – Description of Building
Exhibit B-2 – Project Schedule
Exhibit B-3 – Shell Building Plans
Exhibit B-4 – Tenant Improvement Plans
Exhibit B-5 – General and Supplemental Design Information – Affiliated Housing
Exhibit B-6 – Letter of Understanding Form
Exhibit C – SNDA Form
Exhibit D – List of Existing Encumbrances
Exhibit E – Multi-Party Agreement

Schedules:

Schedule 2.02 – Insurance Requirements
Schedule 3.01 – Rent Escalations
Schedule 6.06 – Replacements Schedule
Schedule 18.02 – Early Termination Fee

Exhibit A-1

Description/Depiction of the Land

Location: 320 Eastern Parkway, Louisville, KY 40209

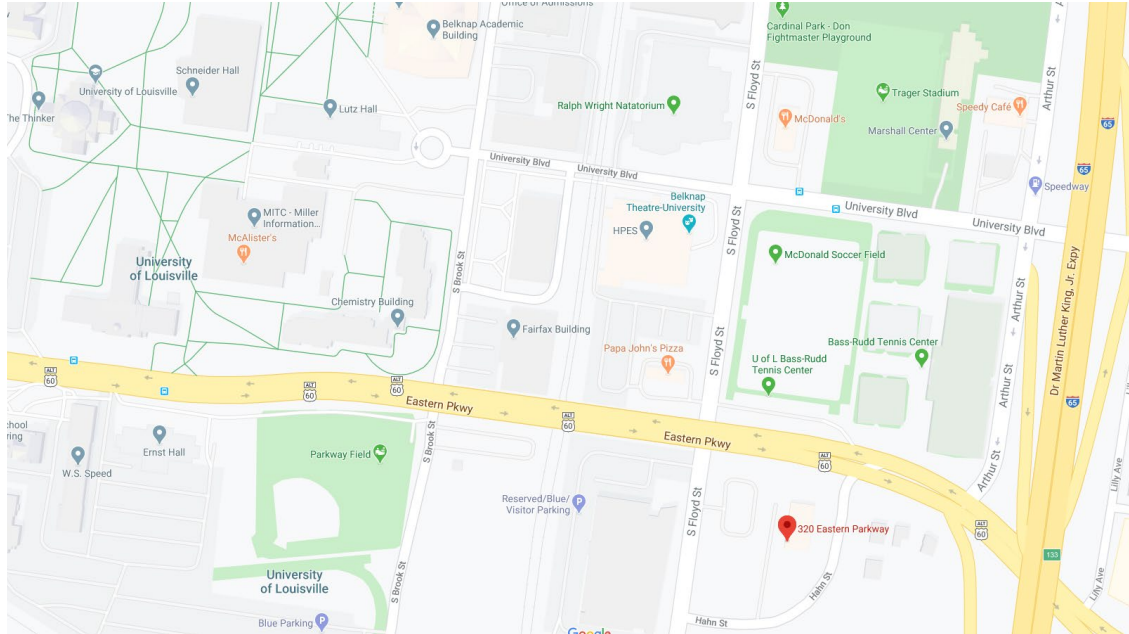


Exhibit A-2

Project Specification Outline, Specification Sheet and FF&E Description

Furniture, Fixtures, and Equipment Schedule		
Item		Allowance
Building Signage		\$50,000
Selected During Tenant Improvement Planning		
Apartment Units		\$250,000
Selected During Tenant Improvement Planning		
	Qty	
Bed and Mattress	128	
Desk	128	
Desk Chair	128	
Bed Side Table	128	
Coffee Table	67	
Couch	67	
Chair	61	
Television	67	
Counter Height Chairs (2x unit)	134	
Floor 1 - Main Lobby		\$200,000
Selected during Tenant Improvement Planning		
Floor 2 - Elevator Lobby, Hallways, Common Area		\$50,000
Selected during Tenant Improvement Planning		
Floor 3 - Elevator Lobby, Hallways, Common Area		\$50,000
Selected during Tenant Improvement Planning		
Floor 4 - Elevator Lobby, Hallways, Common Area		\$50,000
Selected during Tenant Improvement Planning		
Floor 5 - Elevator Lobby, Hallways, Common Area, Deck		\$75,000
Selected during Tenant Improvement Planning		
Total FFE Budget		\$725,000

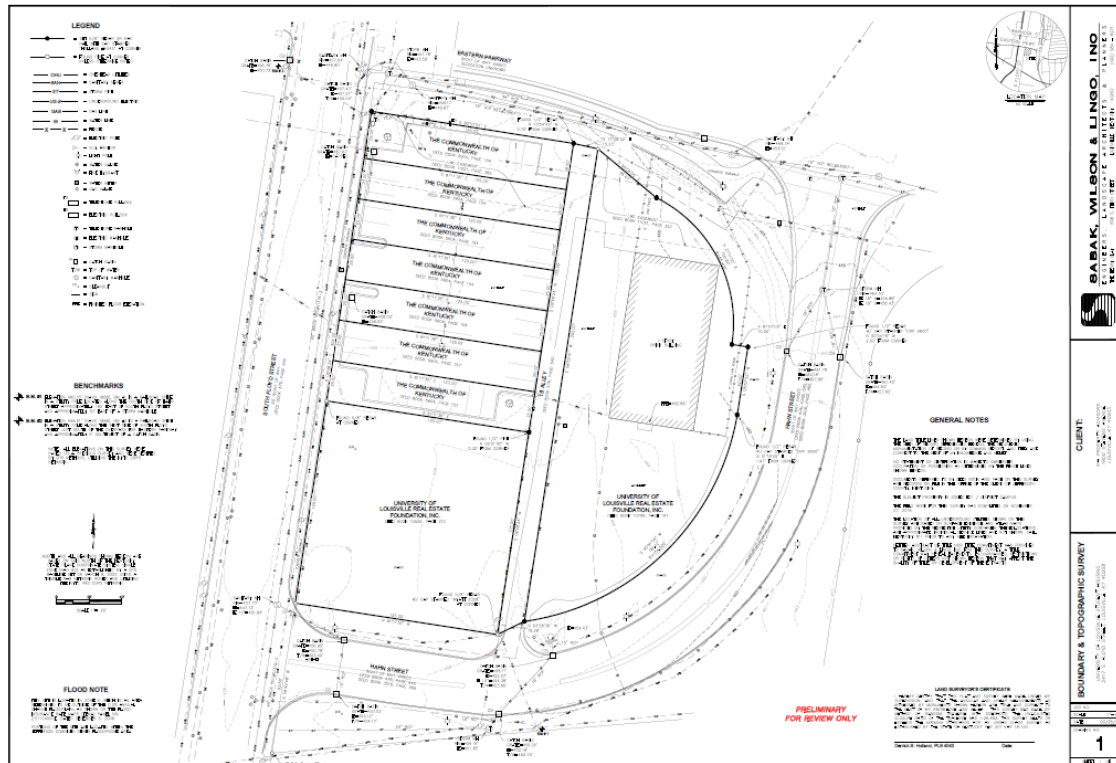
Specification Sheet

Building Structure	
Foundation System	Pile caps on auger cast or similar piles, with pile caps
1st Floor Concrete	CIP Slab on Grade, with concrete podium, Type I construction
Concrete Floors 2-roof	Wood Frame, Type V construction with vertical tie-down system and lateral bracing
Exterior Wall System	
Exterior Framing	Sheathing, Waterproofing, Tyvek, R-19 wall insulation
Façade	Modular Brick, Fiber siding (NICHIA Panels), punch windows-Vinyl windows, window wall (entry), Storefronts, Insulated glazing
Floor Coverings	
1st Floor Main Areas	Stained & Polished Concrete
1st Floor Restroom	Stained & Polished Concrete
1st Floor Storage/Utility Closets/Mechanical	Sealed Concrete
1st Floor Gym (if applicable)	Regupol Akustipro Mat Flooring with Underlayment
1st Floor Offices, Meeting Rooms	Carpet Tile
Units-A, B, RD, Guest (Bedroom)	LVP
Units-A, B, RD, Guest (Kitchen, Living, Bathroom)	LVP
Corridors Units (1st-5th Floors)	Carpet Tile
Common Areas (2nd-5th Floor)	Carpet Tile
Wall Finishes	
1st Floor Restroom	Tile, Painted Gypsum
Building Throughout	Painted Gypsum, VWC
Room Finishes	
Granite Countertops	Granite or Quartz solid surface counters
Kitchen Cabinets	Thermofoil cabinets with Island
Stainless Steel kitchen appliances	GE, Frigidaire or equivalent
Electronic Door hardware-unit, bedroom and entry	Saflok electronic keyfob controlled access
Lobby Finishes	
2nd Floor open lobby	Carpet Tile & painted gyp, glass rail overlooking lobby
Floors 3 to 5 study rooms	Carpet Tile & painted gyp
5th floor balcony	Carpet Tile & painted gyp inside, pedestal pavers-exterior, exterior 5' glass rail system
\$1,000,000 allowance	Improvements over polished floors, white warm shell
Pedway	
Allowance	\$500,000, Contingent upon relocation of overhead electric lines

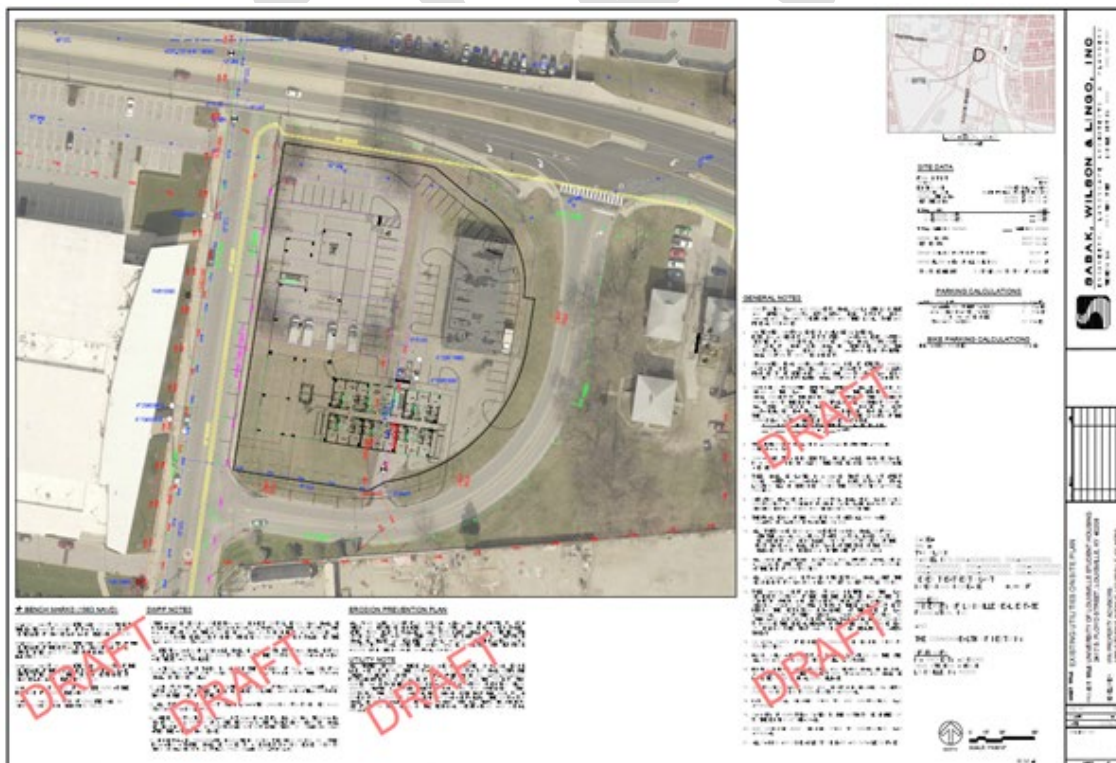
Specification Sheet (continued)

Ceilings	
Units-A, B, RD, Guest (Kitchen, Living, Bedrooms)	Painted Gypsum/ACT
Units-A, B, RD, Guest (Bathroom)	Painted Gypsum
1st Floor	Painted Gypsum/ACT/Exposed Concrete
Corridors (2nd-6th Floor)	Painted Gypsum/ACT
Common Areas (2nd-6th Floor)	Painted Gypsum/ACT
Utility Closets/Mechanical Room/Storage	Painted Gypsum/ACT
Roof System	
Insulation	Rigid Insulation (poly-iso)
Membrane	TPO, 20yr
Elevators	
Elevators	Hydraulic, 150 feet/minute
HVAC	
Units	undetermined at this time, several system types will be reviewed, VRF and VRV will not be considered
Common Areas	undetermined at this time, several system types will be reviewed, VRF and VRV will not be considered
Plumbing	
Water System	Central Hot Water System
Piping	PVC/PEX/Copper or per code, PEX usage to be restricted to be used inside apartments only
Drainage Piping	PVC or per code
Toilets with high capacity flush	white high capacity flush fixtures
Mincey Marble shower stalls with 3/8" frameless glass	Mincey Marble shower stalls with 3/8" frameless glass door
Sinks	bathroom - undermount ceramic, kitchen- Stainless
Fire Protection	
Alarm	Horns and strobes
Sprinkler System	Wet system
Electrical	
Wiring	Copper feeders, Copper branch
Access Control / Security	Fob access system, Security cameras at POE
Data / Internet	to be specified by low voltage provider in coordination with U of L, WAP in halls and Cat V to each bedroom and unit
LED light fixtures	Can style lights in apartment units and unit entries in hallway, decorative fixtures in lobbies, all lighting to be LED
Site Work	
Parking	Asphalt
Landscape	Sod, plants, trees

Preliminary Survey



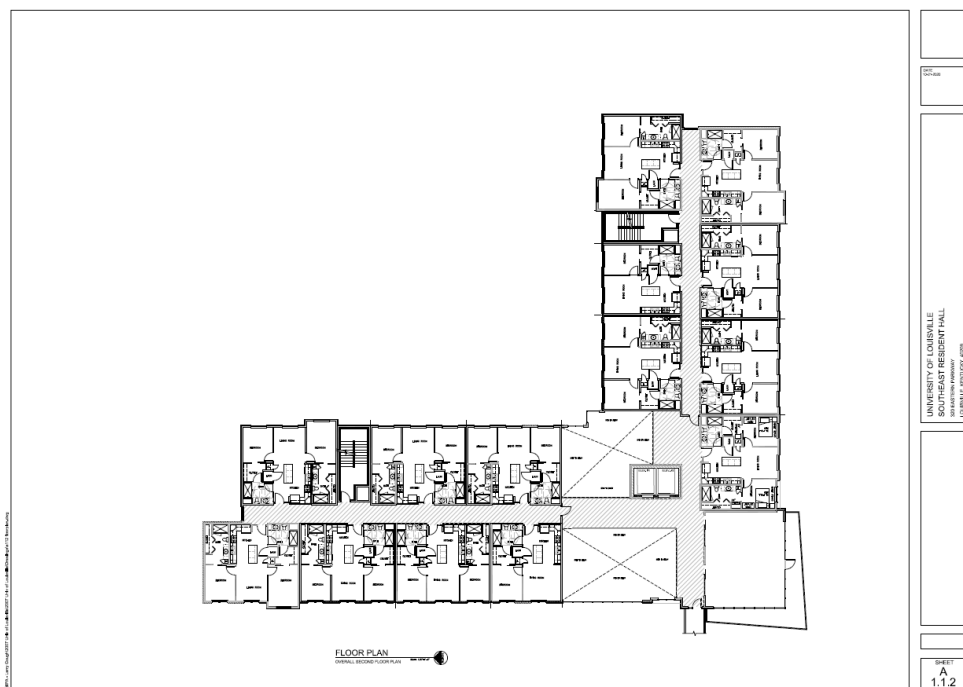
Student Housing Site Plan



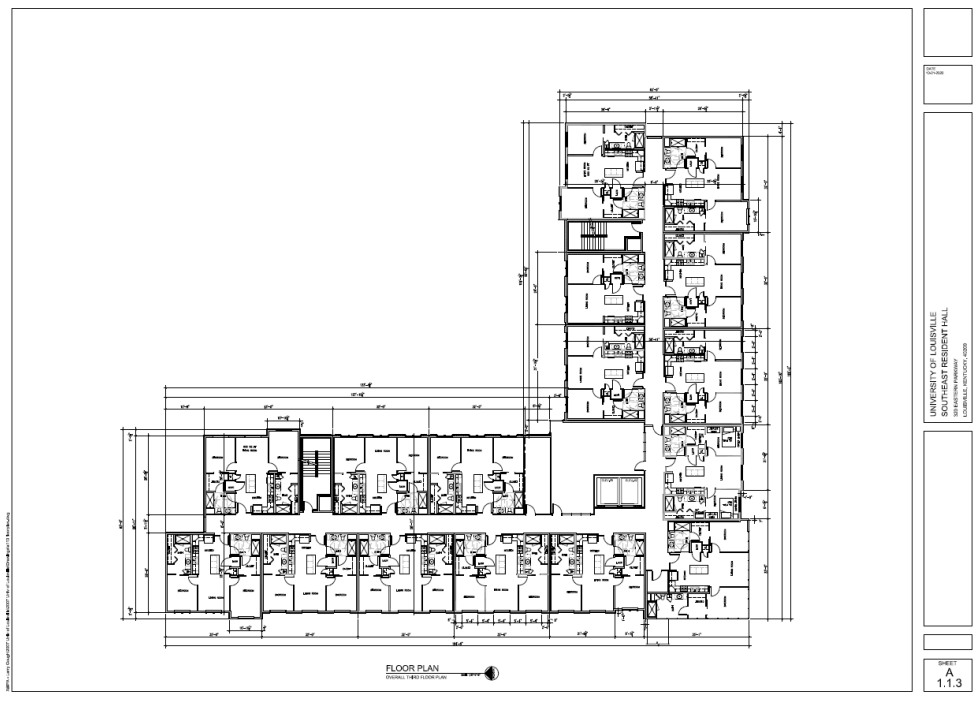
1st Floor



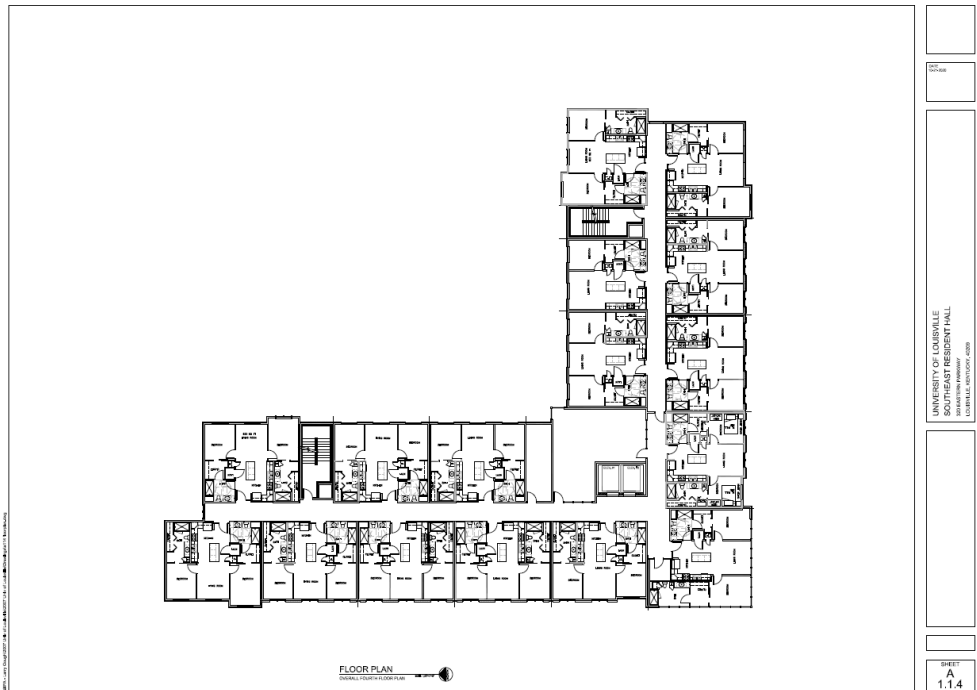
2nd Floor



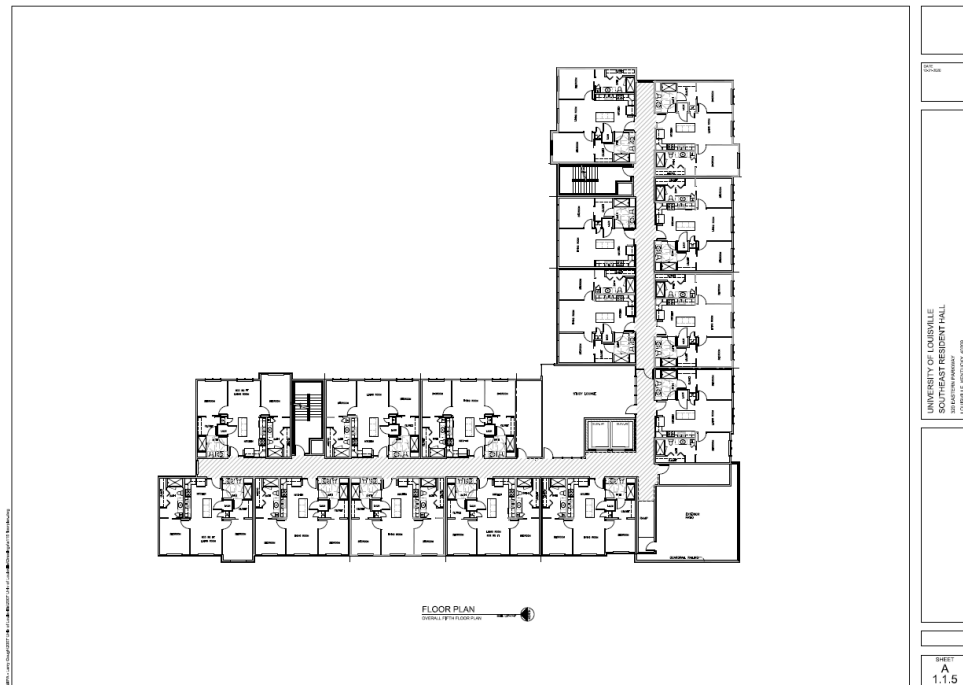
3rd Floor



4th Floor



5th Floor



Floyd Street & Hahn Street View



Floyd Street & Hahn Street View



Eastern Parkway & Hahn Street View



Exhibit B-1

Shell Building Work – Description of Building

Project Narrative

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The Shell Building Work will deliver a five-story 67-unit 128-bed apartment building (the “Building”) at the corner of Floyd and Hahn Street. The Building shall have a direct walkway between the apartment building and the Kueber Center basketball practice facility. It shall be customized for University of Louisville housing standards with 12,450 square feet of programmable space.

The Building’s structure shall consist of an auger cast pile foundation supporting podium-style construction with four floors of structural wood framing over one floor of cast-in-place concrete and first floor slab-on-grade. Wood-framing will be vertically tied down and laterally braced to ensure a strong connection to the concrete podium.

Exhibit B-2

Project Schedule

Southeast Residence Hall
University of Louisville

<u>Contract Item</u>	<u>Date</u>	<u>Deliverable</u>
<u>Shell Building Plans Exhibit B-3</u>		
Shell Check Set Submission	Thursday, December 10, 2020	Construction Schematics
Shell Building Approval	Thursday, December 31, 2020	Design Development
Shell Building Plans Deadline	Sunday, February 28, 2021	Construction Documents 50%
<u>Tenant Improvement Plans Exhibit B-4</u>		
Tenant Improvement Plans Submission	Thursday, December 10, 2020	Construction Schematics
Tenant Improvement Plans Approval	Thursday, December 31, 2020	Design Development
Tenant Improvement Plans Deadline	Thursday, April 15, 2021	Construction Documents 100%
Completion Date	Friday, July 15, 2022	Occupancy Approval
Outside Completion Date	Friday, July 29, 2022	

Project Schedule Detail

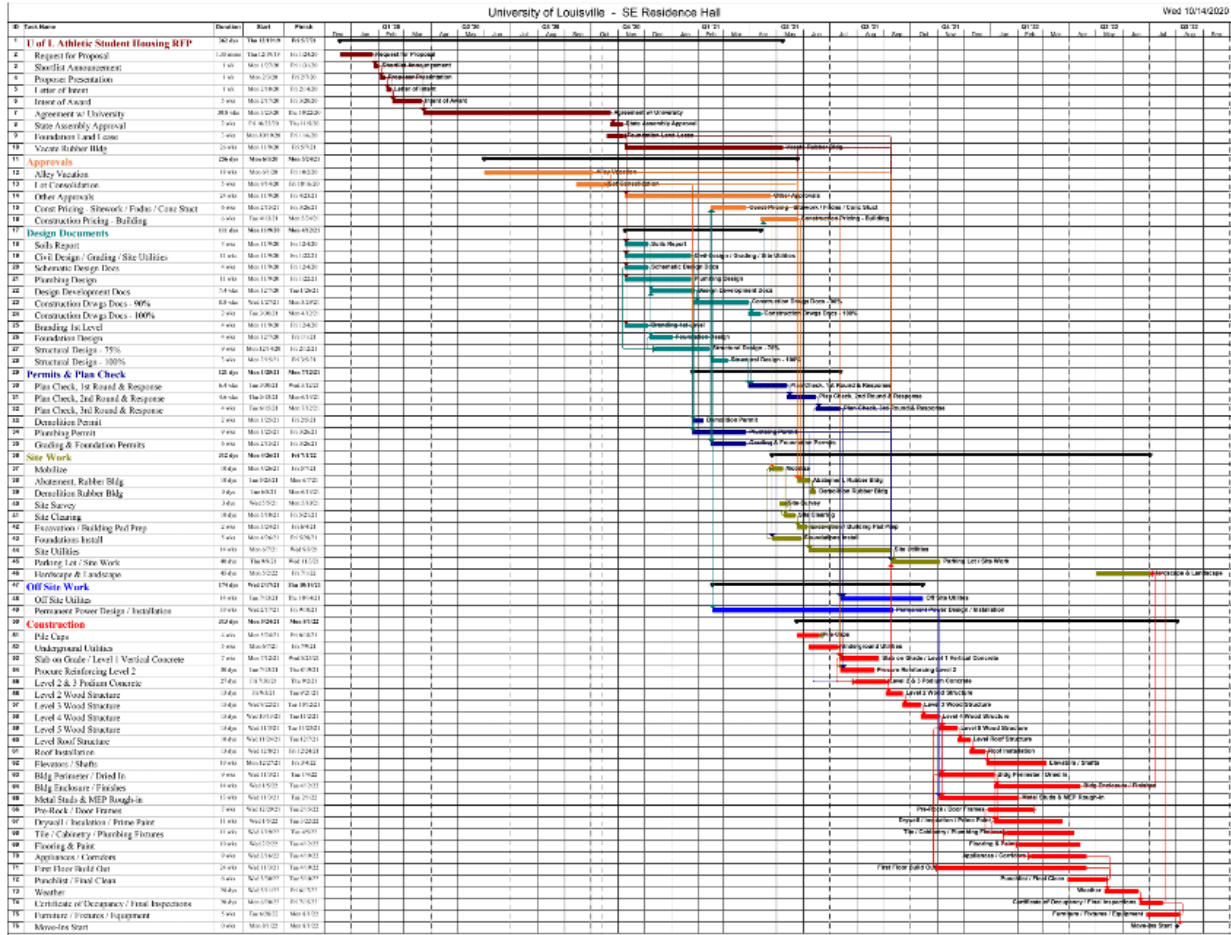


Exhibit B-3

Shell Building Plans

To be provided by landlord – pursuant to Section 2.02A(b)

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Exhibit B-4

Tenant Improvement Plans

To be provided by landlord – pursuant to Section 2.02A(d)

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Exhibit B-5

General and Supplemental Design Information – Affiliated Housing

1.0 GENERAL AND SUPPLEMENTAL DESIGN INFORMATION - AFFILIATED

1.1 GENERAL BUILDING AND ARCHITECTURAL DESCRIPTIONS

Despite the differing characteristics of the various buildings on the University Belknap campus, a number of general planning principles have been applied to all development. These basic principles have served as the foundation of campus development and building design.

1.1.1 OVERALL MASTER PLANNING PRINCIPLES:

- Use open spaces to clarify and reinforce campus organization, to define campus edges and to create a positive visual campus identity.
- Locate and design open spaces to create a more people-oriented environment and to provide opportunities for social interaction.
- Use pedestrian corridors to link existing and new open spaces into a continued system to create a visible pattern or organization:
 - Give priority to the quality of the campus pedestrian experience
 - Establish a hierarchy of walks that enhance campus orientation
 - Extend campus walkway corridors into newly developed campus areas
 - Clearly define pedestrian crossings to maximize visibility and safety
- Establish a compact concentrated pattern of development to use land efficiently, enhance security and maximize convenience.
- Coordinate the height and density of new construction with the character of the existing campus
- Capitalize on the visibility afforded by major arterial streets to establish a positive recognizable campus image

1.1.2 ARCHITECTURAL AND DESIGN CONSIDERATIONS

The general character of the dwelling units and buildings should be residential and not institutional. They should be designed to human scale while recognizing the limited amount of space available for this development and future residential development, including those being considered with mixed use function (residential). Extreme care is warranted in the design of the units and their exterior to convey the appearance of quality housing and providing a sense of place.

It is important to create a building design concept that blends well with the surrounding residential areas of campus as well as being aesthetically pleasing. This is not to say they cannot be contemporary or urban in their character. Both the campus and the residential neighborhoods to the north and west are noted for:

- Their red brick construction accented with brick and stone details
- Mature tree lined street edges
- Active concern of their residents regarding the quality and design of the residential environment

1.1.3 BUILDING CODES

- The latest version of the Kentucky Building Code is the required standard.

- Review and permitting will be through the Louisville Metro Building and Housing Department or Kentucky Building, Housing and Construction (Frankfort Ky.) when the project is located on University owned property.
- All design and engineering professionals must be licensed as such in the State of Kentucky.

1.1.4 BUILDING DESIGN (The following is desired, but not essential in their entirety)

- A. The orientation of the buildings should provide each dwelling unit with a favorable combination of privacy, sun exposure, view, adaptation to the site, relationship to adjacent buildings and cross-ventilation.
- B. Building should be designed and sited so that a sound is not created, nor directly transmitted from one Unit to another.
- C. Long, unbroken and uninteresting wall facades should be avoided. Consideration should be given to creating usable and attractive open spaces between buildings. Spaces between buildings should serve both visual and functional purposes.
- D. Minimize circulation space to apartments, avoiding long corridors
- E. No stairways or circulation corridors exposed to the elements
- F. Building should be grouped so windows do not directly face other windows at close proximity and public circulation and activities are buffered from private units
- G. Sources of exterior noise should be screened whenever possible; proposer needs to consider project location in relation to airport landing and take-off pattern, highway, and railroad proximity.
- H. Residents with disabilities should be able to move freely throughout the development. Building facilities, walkways and parking lots must be in compliance with current ADA and all state and local regulations for accessibility.
- I. A facility design that allows for “themed” living areas in dedicated space should be considered (i.e. sports administration, music, engineering, health and wellness etc.).
- J. A community based laundry facility or individual laundry connections, a community kitchen with an ice machine as well as space adequate for group meetings, recreation and programming activities that will be for resident use only are preferred.
- K. Access to the residential areas (main entrances) should be electronic card entry access control and provide multiple levels of security control. Specific suite and sleeping room locks are required. The resident section of the facility must be secured separately from the retail and parking areas of the development. The University will have access to the students assigned to its facility on a 24-hour emergency basis. There shall be no lock down where a student cannot enter the facility.
- L. Since residents are expected to be on the site both day and night hours, security is an extremely important design element.
 - Special consideration should be given to lighting the site, installing bike racks not facing the street, providing good visibility, installing security window screens on all 1st floor windows, thus providing residents the ability to visually monitor all areas of the site and eliminating secluded out-of-the-way areas.

- All public and open spaces should be well-lighted and visible from the dwelling units or by passing residents. The intent is that residents should be able to see clearly out of windows and doors and be able to move throughout the site without passing dark or hidden areas.
 - All exterior access doors to the residential area should be electronically controlled and monitored.
- M. Security and fire alarm and sprinkler systems should be designed and installed to allow tie-in monitoring by University Public Safety Department. Monitoring of alarm and security systems. The University's Department of Public Safety is an Underwriters Laboratory approved and authorized alarm monitoring service and partner in the Metro Louisville community wide 911 emergency response network. It is desirable to have facility security, duress, fire and sprinkler alarm systems designed and installed to allow tie-in and monitoring by the university's central station. Signal information including system status and alarm are communicated using the university campus wide Ethernet backbone.
- N. All university related housing and support facilities will be required to be 100% fire sprinkler protected and compliant with NFPA 13 or 13R depending on building and construction type. Trouble and flow alarms should report to the university central monitoring station.
- O. All university related housing and support facilities will be required to have an automatic fire alarms system whether required by local code or not.
- o Trouble and alarm signals should report to the university's central monitoring station.
 - The university's preference for structures having greater than two stories is a voice evacuation alarm system having features to allow push-to-talk and audio input from other sources for future connection to a campus wide emergency notification system.
 - Building fire alarm systems shall have provisions for activations from sprinkler water flow, manual pull stations at all exterior exits and by system smoke detectors located in public exit corridors through-out the building.
- P. The entire site should be lighted for security purposes. Selection of fixtures type and pole heights should ensure minimum lighting spillover into apartment windows. All meter panels should be located in easily accessible areas, but unobtrusively screened front view.
- Q. The lighting level of the parking areas should be consistent with accepted campus standards (University standard 2 foot candles minimum). Lenses should be of the vandal-proof high-impact plastic type. Lighting should be controlled by automatic light sensor photocells with bypass switches.
- R. Appropriate and aesthetically pleasing exterior signage shall be provided. Dwelling units should each be separately numbered. Laundries and other spaces having outside entry doors should be labeled as to designated uses. Building locations signs should be visible from access streets. All safety, Street and signs for individuals with disabilities required by code and governmental agencies should be provided.
- S. Proposals incorporating design and construction practices that significantly reduce or eliminate the negative impact of building on the environment and occupants are encouraged.

1.1.5 PEDESTRIAN ACCESS, CIRCULATION AND WALKWAY DESIGN

- The site should provide ample walks (minimum 6 foot width) and pathways to link activities together.

- All walks and pathways should have access and slopes designed to accommodate individuals with disabilities.
- Walks and pathways should be illuminated for night use (University standard 5 foot candles minimum).

1.16 LANDSCAPING

- Create a pleasing and functional outdoor living environment incorporating the use of plant materials, lighting, fixed outdoor furniture, and paving into a well-conceived landscape plan to create and identify and sense of place for the residential occupants. Outdoor spaces should be designed and landscaped for pedestrian circulation, outdoor activity, general leisure and aesthetic appeal. All outside area landscaping should meet the needs of the students who reside in the apartments.
- All plant materials proposed for the site should be native species hardy and suitable for the specific growing conditions to which they are subjected, i.e., soil conditions, sun shade, wind, drainage, etc. (plant and lawn area shall be fully irrigated).
- The landscape design should be consistent with the intensive use that will be expected on the site. The design should be sensitive to personal safety issues. The final landscape plan is to show all species by name and size.
- Paved areas for passive group/social activities, such as meeting, sunning, sitting or general conversation should be provided,
- Volleyball and/or basketball courts, and barbecue grills should be provided and located in areas in which noise will not disturb residents inside rooms, but are visible from individual rooms.

1.2 FURNITURE

Resident room and lounge furniture shall match or exceed existing furniture specifications used in University Housing. The University would like to participate in selection of furniture for the residential sections of the building. Furniture for each Unit to be fully assembled installed by occupancy date. Landlord shall follow all manufacturer procedures when provided. Only furniture that meets or exceeds the furniture specified will be considered. Alternate furniture must be approved by the University prior to acceptance. All requests for approval must be written and accompanied with specification sheets.

Procurement and operation of laundry and vending equipment can be negotiated as part of the existing university contracts for current resident facilities.

Exhibit B-6

Letter of Understanding Form

To be provided by landlord – pursuant to Section 2.03

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Exhibit C

SNDA Form

To be agreed upon by all parties – pursuant to Section 13.02

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Exhibit D

List of Existing Encumbrances

To be attached – pursuant to Section 17.01

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Exhibit E

Multi-Party Agreement

**MULTI-PARTY AGREEMENT REGARDING GROUND LEASE,
GROUND SUBLEASE AND MASTER LEASE**

This MULTI-PARTY AGREEMENT REGARDING GROUND LEASE, GROUND SUBLEASE AND MASTER LEASE (this “**Agreement**”) is entered into as of the ____ day of _____, 2020 by and among [THE COMMONWEALTH OF KENTUCKY] (“**Fee Landlord**”) whose address is _____, UNIVERSITY OF LOUISVILLE REAL ESTATE FOUNDATION, INC., a Kentucky nonprofit corporation (“**Ground Sublandlord**”) whose address is _____, 320 Eastern JV, LLC, a Kentucky limited liability company (“**Master Landlord**”) whose address is _____, UNIVERSITY OF LOUISVILLE, an agency of the Commonwealth of Kentucky, an educational institution of higher learning (“**Master Tenant**”) whose address is _____, and _____ (together with its successors and assigns, the “**Lender**”), having an address at _____.

RECITALS:

- A. Fee Landlord is the fee owner of certain real property which is more particularly described on Exhibit A attached hereto (the “**Property**”).
- B. Pursuant to that certain [Ground Lease] dated _____, 2020 (as the same may have been modified or amended, the “**Ground Lease**”) by and between Fee Landlord and Ground Sublandlord and evidenced by that certain Memorandum of Lease recorded in the Official Records (“**Official Records**”) of Jefferson County, Kentucky in Book ____, Page _____, Fee Landlord leased all of the Property to Ground Sublandlord.
- C. Pursuant to that certain Ground Lease dated _____, 2020 (as the same may have been modified or amended, the “**Ground Sublease**”) by and between Ground Sublandlord and Master Landlord and evidenced by that certain Memorandum of Lease recorded in the Official Records (“**Official Records**”) of Jefferson County, Kentucky in Book ____, Page _____, Ground Sublandlord leased all of the Property to Master Landlord. Pursuant to the terms of the Ground Sublease, Master Landlord intends to develop and construct certain improvements on the property (the “**Improvements**”).
- D. Pursuant to that Master Lease Agreement (the “**Master Lease**” and together with the Ground Sublease and the Ground Lease, collectively, the “**Leases**”) by and between Master Landlord and Master Tenant and evidenced by that certain Memorandum of Lease recorded in the Official Records of Jefferson County, Kentucky in Book ____, Page _____, Master Landlord leased the Improvements to Master Tenant.
- E. Lender intends to make a loan to Master Landlord (the “**Loan**”), pursuant to that certain [Construction Loan Agreement] dated on or about the date hereof between Master Landlord and Lender (the “**Loan Agreement**”) to be secured by, among other things, the Master Landlord’s interest in the Ground Sublease and the Property, and Lender is relying on the agreements set forth herein as an inducement to Lender to make the Loan to Master Landlord.

- F. As part of the collateral for the Loan, Master Landlord will execute and deliver to Lender a [Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement] dated on or about the date hereof, to be recorded in the Official Records (the “**Security Instrument**”), under which, Master Landlord will mortgage to Lender all of Master Landlord’s interest in the Ground Sublease and the Property. The Loan Agreement, the Security Instrument, and all other documents executed and/or delivered in connection with the Loan shall collectively be referred to as the “**Loan Documents**”.
- G. The parties hereto have agreed to enter into this Agreement in order to set forth the respective rights of such parties in and to the Property and the Improvements.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1) Fee Landlord Estoppel. Fee Landlord hereby represents and warrants to each of the parties hereto that:
 - (a) As of the date hereof, the Ground Lease is in full force and effect and there are no defaults thereunder, nor does there exist any event which with the giving of notice or passage of time, or both, would constitute a default under the Ground Lease.
 - (b) The current term of the Ground Lease expires on _____, and Ground Sublandlord has no options to renew the term of the Ground Lease.
 - (c) The Fee Landlord has not granted a lien on or a security interest in any interest it has in the Property.
- 2) Ground Sublandlord Estoppel. Ground Sublandlord hereby represents and warrants to each of the parties hereto that:
 - (a) As of the date hereof, the Ground Lease and the Ground Sublease are each in full force and effect and there are no defaults thereunder, nor does there exist any event which with the giving of notice or passage of time, or both, would constitute a default under either the Ground Lease or the Ground Sublease.
 - (b) The current term of the Ground Sublease expires on _____, and Master Landlord has two (2) options to extend the term of the Ground Sublease for five (5) years each.
 - (c) The Ground Sublandlord has not granted a lien on or a security interest in any interest it has in the Property.
- 3) Master Landlord Estoppel. Master Landlord hereby represents and warrants to each of the parties hereto that:
 - (a) As of the date hereof, the Ground Sublease and the Master Lease are each in full force and effect and there are no defaults thereunder, nor does there exist any event which with the giving of notice or passage of time, or both, would constitute a default under the Ground Sublease or the Master Lease.
 - (b) The current term of the Master Lease expires on _____, Master Tenant has no options to extend the Master Lease.

- (c) The Master Landlord has not granted a lien on or a security interest in any interest it has in the Property other than the Security Instrument and other Loan Documents in connection with the Loan.
- 4) Master Tenant Estoppel. Master Tenant hereby represents and warrants to each of the parties hereto that:
 - (a) As of the date hereof, the Master Lease is in full force and effect and there are no defaults thereunder, nor does there exist any event which with the giving of notice or passage of time, or both, would constitute a default under the Master Lease.
 - (b) The Master Tenant has not granted a lien on or a security interest in any interest it has in the Property or the Improvements.
- 5) Consent to Security Instrument and Loan Documents. Fee Landlord, Ground Sublandlord and Master Tenant each hereby consent to the execution and delivery by Master Landlord of the Security Instrument and other Loan Documents to Lender. Ground Sublandlord hereby acknowledges and agrees that Lender is a "Permitted Mortgagee" (as such term is defined in the Ground Sublease) and is entitled to all protections granted to Permitted Mortgagees set forth in the Ground Sublease. Each of the parties hereto hereby consents to the exercise of all remedies permitted under the Security Instrument or Loan Documents without the need for further consent.
- 6) Fee Landlord Covenants.

Fee Landlord hereby covenants and agrees that, notwithstanding anything contained in the Leases to the contrary:

- (a) Fee Landlord shall not amend, modify, cancel or terminate the Ground Lease without the consent of the Master Landlord or the Lender.
- (b) Lender shall have the right, without the consent of Fee Landlord to exercise all rights and remedies available to Lender under the Security Instrument, including the right to (i) acquire all of Master Landlord's right, title and interest in the Ground Sublease by foreclosure, assignment in lieu of foreclosure or otherwise, and (ii) obtain the appointment of a receiver. In the event Lender shall acquire all of Master Landlord's right, title and interest in the Ground Sublease, Lender may freely assign or sublease (subject to the terms of the Master Lease) such right, title and interest without the consent of Fee Landlord.
- (c) Fee Landlord shall serve upon Master Landlord and Lender (at the address for notices set forth herein) a copy of each notice to Ground Sublandlord under the Ground Lease, and no such notice shall be effective unless and until a copy thereof is served upon Master Landlord and Lender.
- (d) In the event of a default by Ground Sublandlord under the Ground Lease, Fee Landlord shall give written notice thereof to Master Landlord and Lender and either party shall have the right (but not the obligation) to cure such default within sixty (60) days following Master Landlord or Lender's receipt of such notice. Fee Landlord shall not take any action with respect to such default under the Ground Lease including, without limitation, any action intended to terminate, rescind or void the Ground Lease for such

period of sixty (60) days after Lender's receipt of such written notice; provided, however, that in the case of any nonmonetary default which cannot with diligence be cured within said 60-day period and if Master Landlord shall be in default under the Ground Sublease, if Lender shall proceed promptly to initiate measures to cure such default under the Ground Lease and thereafter prosecute the curing of such default with diligence, the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of such default with diligence. With respect to defaults by Ground Sublandlord that are not capable of or subject to cure by Master Landlord or Lender, so long as Master Landlord or Lender pays or causes to be paid any rent or other monetary obligations as the same become due, Fee Landlord shall not terminate the Ground Lease.

- (e) If the Ground Lease expires or is terminated for any reason, including without limitation, because a default under the Ground Lease is not capable of or subject to cure, or if the Ground Lease is rejected or disaffirmed in a bankruptcy proceeding or pursuant to any other law affecting creditor's rights, the Ground Lease shall not terminate and shall become a direct lease between Fee Landlord and Master Landlord (a "Ground Lease Direct Lease"). In the event of the occurrence of a Ground Lease Direct Lease, Master Landlord shall be bound by all of the terms and conditions set forth in the Ground Lease and Fee Landlord shall be bound by all of the covenants of the Ground Sublandlord set forth in Section 7 hereof. The terms and covenants of this subsection (e) shall expressly survive a termination, rejection or disaffirmation of any of the Leases.
- (f) Ground Sublandlord (and any successor in interest to Ground Sublandlord, including any tenant of a Ground Lease Direct Lease) has and shall have the right to freely assign and sublet its interest in the Ground Lease without the consent of the Fee Landlord.
- (g) The exercise of any purchase option, right of first refusal, put option or other preferential right of Fee Landlord contained in the Ground Lease shall not (i) apply upon Lender's acquisition of Master Landlord's interest in the Property by foreclosure, assignment in lieu of foreclosure or otherwise or to any subsequent transfer by Lender thereafter, (ii) result in the termination of the Ground Lease, or (iii) affect in any way Lender's rights pursuant to this Agreement or the Leases.
- (h) During the terms of the Leases, Fee Landlord shall not encumber its fee interest in the Property with a mortgage or any other encumbrance without the consent of the parties hereto.

7) Ground Sublandlord Covenants.

Ground Sublandlord hereby covenants and agrees that, notwithstanding anything contained in the Leases to the contrary:

- (a) Ground Sublandlord shall not amend, modify or cancel the Ground Sublease without the consent of the Lender.
- (b) Lender, without the consent of Ground Sublandlord, shall have the right to exercise all rights and remedies available to Lender under the Security Instrument, including the right to (i) acquire all of Master Landlord's right, title and interest in the Ground Sublease by foreclosure, assignment in lieu of foreclosure or otherwise, and (ii) obtain

the appointment of a receiver. Any right of Ground Sublandlord to consent to an assignment of the Ground Sublease shall not apply to (i) any assignment of the Ground Sublease by Lender following Lender's acquisition of title to Master Landlord's interest under the Ground Sublease by foreclosure, assignment in lieu of foreclosure or otherwise or (ii) the Master Lease. For the avoidance of doubt, Ground Sublandlord hereby consents to the Master Lease.

- (c) Ground Sublandlord shall serve upon Lender (at the address for notices set forth herein) a copy of each notice to Master Landlord under the Ground Sublease, and no such notice shall be effective unless and until a copy thereof is served upon Lender.
- (d) In the event of a default by Master Landlord under the Ground Sublease, Ground Sublandlord shall give written notice thereof to Lender and Lender shall have the right (but not the obligation) to cure such default within sixty (60) days following Lender's receipt of such notice. Ground Sublandlord shall not take any action with respect to such default under the Ground Sublease including, without limitation, any action intended to terminate, rescind or void the Ground Sublease for such period of sixty (60) days after Lender's receipt of such written notice; provided, however, that in the case of any nonmonetary default which cannot with diligence be cured within said 60-day period, if Lender shall proceed promptly to initiate measures to cure such default under the Ground Sublease and thereafter prosecute the curing of such default with diligence, the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of such default with diligence. With respect to defaults by Master Landlord that are not capable of or subject to cure by Lender, so long as Lender either (x) pays or causes to be paid any rent or other monetary obligations as the same become due, or (y) diligently pursues acquisition of leasehold title to the Property by exercising remedies under the Loan Documents, Ground Sublandlord shall not terminate the Ground Sublease.
- (e) If the Ground Sublease expires or is terminated for any reason, including without limitation, because a default under the Ground Sublease is not capable of or subject to cure, or if the Ground Sublease is rejected or disaffirmed in a bankruptcy proceeding or pursuant to any other law affecting creditor's rights, Lender shall, at Lender's request, be permitted to enter into a new lease with Ground Sublandlord on the same terms, conditions and priority as the Ground Sublease. The terms and covenants of this subsection (e) shall expressly survive a termination, rejection or disaffirmation of any of the Leases.
- (i) Master Landlord has and shall have the right to freely assign and sublet its interest in the Ground Sublease without the consent of the Ground Sublandlord, subject to the terms of the Master Lease.
- (j) The exercise of any purchase option, right of first refusal, put option or other preferential right of Ground Sublandlord contained in the Ground Sublease shall not (i) apply upon Lender's acquisition of Master Landlord's interest in the Property by foreclosure, assignment in lieu of foreclosure or otherwise or to any subsequent transfer by Lender thereafter, (ii) result in the termination of the Ground Sublease, or (iii) affect in any way Lender's rights pursuant to this Agreement or the Ground Sublease.

- (k) During the terms of the Leases, Ground Sublandlord shall not encumber its leasehold interest in the Property with a mortgage or any other encumbrance without the consent of the parties hereto.

8) Exercise of Extension Options.

Anything contained in the Leases to the contrary notwithstanding, the parties agree that the Lender shall be permitted to exercise any of the extension options granted under the Leases by providing notice to the parties hereto.

9) Condemnation and Casualty.

- (a) Anything contained in the Leases to the contrary notwithstanding, in the event of any condemnation of the Property, the Fee Landlord, Ground Sublandlord Master Landlord and Master Tenant shall be entitled to separate awards with respect to the Property and the Improvements. All awards attributable to the Master Landlord shall be applied or disbursed in accordance with the Loan Documents.
- (b) Anything contained in the Leases to the contrary notwithstanding, (i) any insurance proceeds following a casualty at the Property to the Improvements shall be applied by the Lender in the manner set forth in the Loan Documents, (ii) the Leases shall not be terminated or modified (other than for an abatement of rent) following and because of an event of casualty without the prior written consent of the Lender, and (iii) Lender shall serve as trustee for all insurance proceeds with respect to the Property.

9. Merger. Unless Lender shall otherwise expressly consent in writing, the fee title to the Property and any leasehold interest therein shall not merge, but shall always remain separate and distinct, notwithstanding the union of such estates either in the Master Landlord or in a third party by purchase or otherwise.

10. Notices. All notices required or permitted hereunder or in either the Master Lease or Lease, shall be sent by certified mail, return receipt requested or by a nationally recognized overnight carrier service and addressed to the party at such address as set forth below:

If to Lender:

Attention: _____

If to Fee Landlord:

Attention: _____

If to Ground Sublandlord:

Attention: _____

If to Master Landlord:

Attention: _____

If to Master Tenant:

Attention: _____

11. Amendments. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and may be altered, amended or modified only by written instrument executed by all of the parties hereto.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

13. Recording. The parties agree that this Agreement shall be recorded with in the Official Records.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument, but all of which together shall constitute but one instrument and become effective when one or more counterparts have been signed by each of the parties to this Agreement.

15. Successors and Assigns. This Agreement shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. The term "Lender" as set forth herein shall be deemed to include all subsequent holders of the Loan, expressly including any real estate mortgage investment conduit (as such term is used in Section 860D of the Internal Revenue Code of 1986).

16. Conflict. In the event of any conflict or inconsistency between the Leases and this Agreement, the terms of this Agreement shall control, and the Leases shall be amended hereby.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first above written.

FEE LANDLORD:

[INSERT SIGNATURE BLOCK AND NOTARY]

DRAFT

FEE LANDLORD:

[INSERT SIGNATURE BLOCK AND NOTARY]

DRAFT

MASTER LANDLORD:
[INSERT SIGNATURE BLOCK AND NOTARY]

DRAFT

MASTER TENANT:

[INSERT SIGNATURE BLOCK AND NOTARY]

DRAFT

LENDER:

[INSERT SIGNATURE BLOCK AND NOTARY]

DRAFT

EXHIBIT A TO MULTI-PARTY AGREEMENT
PROPERTY

DRAFT

THIS DOCUMENT IS PREPARED BY AND AFTER RECORDATION RETURN TO:

Dale Ahearn, Esq.
Frost Brown Todd LLC
400 West Market Street, Suite 3200
Louisville, Kentucky 40202

Schedule 2.02

Construction Insurance Requirements

A. Limits

1. Commercial General Liability

\$1,000,000.00	Each Occurrence
\$3,000,000.00	General Aggregate--Per Project Aggregate
\$1,000,000.00	Products/Completed Operations Aggregate--Per Project Aggregate extended for 5 years
\$1,000,000.00	Personal and Advertising Injury

2. Business Automobile

\$1,000,000.00	Combined Single Limit
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3. Workers' Compensation/ Employers Liability \$1,000,000

Statutory Requirements

4. Builders Risk. The Landlord shall procure and maintain builders risk insurance to cover "all risk" perils on a completed value form in an amount of protection of not less than 100% of the Contract amount.

5. Umbrella/Excess Liability (following form of CGL)

\$3,000,000.00 Each Occurrence/General Aggregate

B. Other Requirements

1. **Commercial General Liability Insurance.** Landlord shall cause its general contractor to maintain Commercial General Liability (CGL) and Commercial Umbrella insurance with limits as set forth above. If such CGL contains a general aggregate limit, it shall apply separately to this Project.

- (a) CGL insurance shall cover liability arising from premises and ongoing operations, products-completed operations, personal injury and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
- (b) Landlord and Tenant shall be included as additional insureds under the CGL and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs carried by Landlord or Tenant. If any additional insured has other insurance that is applicable to the loss such other insurance shall be on an excess or contingent basis.
- (c) There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage or employment-related practices.

2. **Business Auto.**

- (a) Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos).
- (b) Business auto coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.
- (c) Pollution liability coverage equivalent to that provided under the ISO pollution liability broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached.

3. **Workers' Compensation and Employers' Liability.**

- (a) The alternate employer endorsement (WC 00 03 01 A) (or equivalent form) shall be attached showing Landlord and Tenant in the schedule as the alternate employers.

4. **General.**

- (a) All policies shall (1) be written by insurance companies with a Best's Rating of no less than "A:VII"; and (2) provide that coverage shall not be suspended, voided, canceled, non-renewed, reduced in scope or limits, including for non-payment of premium, except after 30 days' prior written notice by certified mail, return receipt requested, has been given to Landlord and Tenant.

5. **Casualty Insurance upon Completion.** Upon completion of the Work, Landlord shall deliver to Tenant a certificate of insurance evidencing that Landlord has secured full replacement cost casualty insurance with respect to the Leased Premises in compliance with the requirements of Section 8.03.

Schedule 3.01

Minimum Annual Rent

Year	Rent
1	\$1,223,724.00
2	\$1,248,198.48
3	\$1,273,162.45
4	\$1,298,625.70
5	\$1,324,598.21
6	\$1,351,090.18
7	\$1,378,111.98
8	\$1,405,674.22
9	\$1,433,787.70
10	\$1,462,463.46
11	\$1,491,712.73
12	\$1,521,546.98
13	\$1,551,977.92
14	\$1,583,017.48
15	\$1,614,677.83
16	\$1,646,971.39
17	\$1,679,910.81
18	\$1,713,509.03
19	\$1,747,779.21
20	\$1,782,734.80
21	\$1,818,389.49
22	\$1,854,757.28
23	\$1,891,852.43
24	\$1,929,689.48
25	\$1,968,283.26
26	\$2,007,648.93
27	\$2,047,801.91
28	\$2,088,757.95
29	\$2,130,533.11
30	\$2,173,143.77
31	\$2,216,606.64
32	\$2,260,938.78
33	\$2,306,157.55
34	\$2,352,280.70
35	\$2,399,326.32
36	\$2,447,312.84
37	\$2,496,259.10
38	\$2,546,184.28
39	\$2,597,107.97
40	\$2,649,050.13

Schedule 6.06

Replacements Schedule

Repairs and replacements to be made by Landlord include, but are not limited to, major repairs which impact the serviceability of the Building, such as roofs, exterior windows, siding, electrical infrastructure, and plumbing infrastructure. Replacements to be made from the Replacement Reserves shall not include repairs and maintenance which are the responsibility of the Tenant under this Lease.

Unless otherwise agreed by the Parties in writing, Replacements shall be made by Landlord in accordance with the schedule below:

To be provided by landlord – list of things to be replaced in the building – Galen to finalize list with Housing – to be attached at a later date – pursuant to Section 6.06

Schedule 18.02

Early Termination Fee

As required by KRS 56.806(6), Section 18.02 of the Lease to which this Schedule is attached confirms that Tenant has the right to terminate the Lease upon thirty (30) days advance written notice to Landlord. If Tenant so terminates the Lease, then upon the effective date of such termination (the “**Early Termination Date**”), the Lease will thereupon be converted to a purchase agreement (the “**Early Termination Purchase Agreement**”), between Tenant and Landlord, no longer subject to KRS 56.806(6), effective as of the Early Termination Date, whereby Landlord shall be deemed to have agreed to sell to Tenant, and Tenant shall be deemed to have agreed to purchase from Landlord, the Landlord’s Interest for the **Early Termination Purchase Price** (as hereafter defined), and otherwise on the terms hereafter set forth.

During the term of the Early Termination Purchase Agreement and prior to closing on the purchase of the Landlord’s Interest pursuant hereto (the “**Early Termination Closing**”), the Landlord and Tenant will continue to act with respect to the Leased Premises, including but not limited to the obligations for maintenance and repair thereof, and the obligations of the Landlord to insure the Leased Premises pursuant to Section 8.03 of the Lease, as if the terms of the Lease remained in full force and effect until the consummation of the Early Termination Closing, which terms shall be deemed incorporated into the Early Termination Purchase Agreement, except that no further Rent shall be due and payable as would otherwise have been contemplated by the Lease.

The Early Termination Closing of the purchase of the Landlord’s Interest shall occur on a date and at a place within Louisville Metro, Kentucky, designated by Tenant and falling on a Business Day within six (6) months after the Early Termination Date (the “**Early Termination Closing Date**”). The purchase price to be paid by Tenant for the Landlord’s Interest pursuant hereto (the “**Early Termination Purchase Price**”) shall mean an amount calculated as of the date of the Early Termination Closing Date that is equal to the net present value of (A) the Rent for the remaining Term of the Lease from and after the Early Termination Date (less the amount of any prepaid Rent as of the Early Termination Closing Date assuming that the Lease had remained in effect), minus (B) the payments to be made to ULFI under the Ground Lease, the payments to be made for the Replacement Reserve Account, and the amount of the Estimated Landlord’s Operating Expenses for the remainder of the Term from and after the Early Termination Date (excluding amounts for which the Replace Reserve Account would be available); (C) utilizing a 5.50% discount rate, but in no event will the Early Termination Purchase Price be less than the minimum amount set forth in the schedule of Minimum Early Termination Purchase Price set forth below. Notwithstanding the foregoing, Tenant shall be entitled to seek the permission of the Lender to assume the Loan as of the Early Termination Closing Date, and if such assumption is so agreed by the Lender on terms and conditions acceptable to the Landlord and the Tenant, the outstanding principal balance of the Loan, and all other sums then due and payable by Landlord to the Lender as part of such assumption as of the Early Termination Closing Date, shall be credited against the Early Termination Purchase Price, including the Minimum Early Termination Purchase Price due to Landlord.

Example of Calculation

Early Termination Purchase Price = X

Where X equals Net Present Value of (A) - (B); with both A and B discounted at 5.5%.

Where A= The sum of the Minimum Annual Rent payable by Tenant under Section 3.01 of the Lease for the remaining Term of the Lease after the Early Termination Date, less the amount of any prepaid Rent as of the Early Termination Closing Date assuming that the Lease had remained in effect.

Where B= The sum of the payments of rent owed by the Landlord to ULFI under the Ground Lease, the Estimated Landlord's Operating Expenses to be paid by Landlord under Section 3.02 of the Lease from and after the Early Termination Date (excluding any amounts for which the Replacement Reserve Account would be used under Schedule 6.06), and the payments to be made by the Landlord to the Replacement Reserve Account pursuant to Section 6.06.

For purposes of this calculation, the Estimated Landlord's Operating Expenses will be deemed equal to the Landlord's Operating Expenses for the last full calendar year prior to the Early Termination Date, increased for future periods at the same percentage rate as the increases in Minimum Annual Rent payable by the Tenant under Section 3.01 of the Lease.

Upon payment of the Early Termination Purchase Price on the Early Termination Closing Date, Landlord will convey the Landlord's Interest to Tenant as though the Tenant had exercised the Purchase Option contained in Section 18.09 of the Lease.

Except as otherwise defined in this Schedule 18.02, all capitalized terms used in this schedule will have the meanings given in the Lease to which it is attached.

Minimum Early Termination Purchase Price Schedule

Numbers need to be updated

Year	Annual Rent	Annual Operating Expenses	NPV Remaining Rent	NPV Remaining OPEX	Minimum Termination Fee
1	\$ 1,222,508	\$ 152,505	\$ 25,869,552	\$ 3,227,166	\$ 24,500,000
2	1,246,958	155,555	26,069,869	3,252,155	24,000,000
3	1,271,897	158,666	26,256,754	3,275,468	24,000,000
4	1,297,335	161,840	26,428,978	3,296,953	24,000,000
5	1,323,282	165,076	26,585,237	3,316,446	24,000,000
6	1,349,748	168,378	26,724,143	3,333,774	24,000,000
7	1,376,743	171,745	26,844,223	3,348,754	24,000,000
8	1,404,277	175,180	26,943,913	3,361,190	24,000,000
9	1,432,363	178,684	27,021,550	3,370,875	24,000,000
10	1,461,010	182,258	27,075,373	3,377,589	23,697,784
11	1,490,230	185,903	27,103,508	3,381,099	23,722,409
12	1,520,035	189,621	27,103,970	3,381,157	23,722,814
13	1,550,436	193,413	27,074,654	3,377,499	23,697,154
14	1,581,444	197,281	27,013,324	3,369,849	23,643,475
15	1,613,073	201,227	26,917,612	3,357,909	23,559,704
16	1,645,335	205,252	26,785,008	3,341,367	23,443,641
17	1,678,242	209,357	26,612,848	3,319,890	23,292,958
18	1,711,806	213,544	26,398,314	3,293,128	23,105,186
19	1,746,042	217,815	26,138,414	3,260,706	22,877,709
20	1,780,963	222,171	25,829,985	3,222,230	22,607,755
21	1,816,583	226,614	25,469,671	3,177,282	22,292,389
22	1,852,914	231,147	25,053,920	3,125,418	21,928,502
23	1,889,973	235,770	24,578,971	3,066,169	21,512,802
24	1,927,772	240,485	24,040,842	2,999,039	21,041,804
25	1,966,327	245,295	23,435,317	2,923,501	20,511,816
26	2,005,654	250,201	22,757,932	2,838,998	19,918,933
27	2,045,767	255,205	22,003,964	2,744,943	19,259,021
28	2,086,682	260,309	21,168,415	2,640,710	18,527,705
29	2,128,416	265,515	20,245,995	2,525,640	17,720,355
30	2,170,984	270,825	19,231,109	2,399,036	16,832,073
31	2,214,404	276,242	18,117,836	2,260,157	15,857,678
32	2,258,692	281,767	16,899,912	2,108,224	14,791,688
33	2,303,866	287,402	15,570,716	1,942,410	13,628,305
34	2,349,943	293,150	14,123,239	1,761,841	12,361,398
35	2,396,942	299,013	12,550,074	1,565,592	10,984,482
36	2,444,881	304,993	10,843,386	1,352,687	9,490,699
37	2,493,779	311,093	8,994,891	1,122,092	7,872,800
38	2,543,654	317,315	6,995,831	872,714	6,123,118
39	2,594,527	323,661	4,836,948	603,398	4,233,550
40	2,646,418	330,134	2,508,453	312,924	2,195,529