



The Office of Finance and Administration
Academic Services #202 | 400 East Main Street
Frankfort, KY 40601 | (502) 597-6343
KYSU.EDU

April 2, 2021

Senator Rick Girdler, Co-Chair
Representative Chris Freeland, Co-Chair
Capital Projects and Bond Oversight Committee
Capital Annex Building – Room 34
702 Capitol Avenue
Frankfort, Kentucky 40601

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

Pursuant to KRS §§ 45.763 and 45A.077 this is to report a public-private partnership delivery method for the Kentucky State University capital project, Construct New Residence Hall, which was authorized in the 2020 Executive Branch Budget Bill, House Bill 352 and subsequently HB 192 of the 2021 Regular Session.

The New KSU Student Residence Hall Project will include the construction of a 400+ bed student housing facility, and a state-of-the-art dining hall that will service all students. The new student residence will directly alleviate the pressure points that the University is currently facing as we lack sufficient on campus housing options and are outsourcing students to off campus housing facilities, which is costly as well as negatively impacts retention. The new student housing facility will be a retainment and recruitment tool for the University to increase enrollment over time and allow us the ability to offer a brand new and upgraded facility to University Students. The Student Resident Hall project is estimated to break ground in 2021 with final completion in 2023.

A summary of the New Residence Hall:

- The Residence Hall will consist of a mixture of 2 room and 4 room suites, as well as a Student Resident Assistant Room, for a total of 400+ beds
- The Resident Hall will be fully furnished; project costs include FF&E
- KSU will manage the application for rooms and assignments within their student population
- KSU food service vendor will operate the dining facility


- CRM Development Company will maintain and operate the building and grounds for the life of the lease via a special purpose LLC named KSU Campus Housing LLC.
- The project will be financed through the issuance of tax-exempt Certificates of Participation with a term of 35 years supported by an inter-agency agreement with the Finance and Administration Cabinet to intercept KSU's General Fund appropriations in the event of an unscheduled draw on the Debt Service Reserve Fund.

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

KSU Chairwoman Elaine Farris, KSU President Dr. M. Christopher Brown II, and KSU EVP/CFO Douglas R. Allen II will attend the April 20, 2021 Committee meeting. Please contact Douglas R. Allen II, Executive Vice President for Finance and Administration/CFO at KSU, at (502) 597-5075 if there are any questions or should your staff require additional information.

Sincerely,



Douglas R. Allen II
EVP for Finance and Administration/CFO
Kentucky State University

Attachments

C: Katherine Halloran, Committee Staff Administrator

**KENTUCKY STATE
UNIVERSITY
REQUEST FOR
PROPOSAL
RFP-19-03
STUDENT HOUSING OPERATIONS & DEVELOPMENT**



*Inspiring Innovation.
Growing Leaders.
Advancing Kentucky.*

**Issue Date: October 9, 2018
Due Date: November 15, 2018 at 2:00 PM**

**Purchasing Department
400 East Main Street
Academic Services Building, Suite 423
Frankfort, KY 40601**

KENTUCK STATE UNIVERISTY

PURCHASING DEPARTMENT

REQUEST FOR PROPOSAL (RFP)

ATTENTION: This is not an order. Read all instructions, terms and conditions carefully

PROPOSAL NO:	RFP-19-03	RETURN ORIGINAL COPY OF PROPOSAL TO:
Issue Date:	October 9, 2018	KENTUCK STATE UNIVERSITY
Purchasing Official:	Debra Bright	PURCHASING DEPARTMENT
Phone:	(502) 597- 6434	400 EAST MAIN STREET
Type of Service:	Student Housing	FRANKFORT, KY. 40601
	Operations & Development	

IMPORTANT: PROPOSALS MUST BE RECEIVED BY November 15, 2018 AT 2:00 PM, ET

1. It is the intention of the Request for Proposal (RFP) to enter into competitive negotiation as authorized by KRS 45A.085.
2. Proposals for competitive negotiation shall not be subject to public inspection until negotiations between the Purchasing Agency and all Firms have been concluded and a contract awarded to the responsible Firm submitting the proposal determined in writing to be the most advantageous to the University. Price and the evaluation factors set forth in the advertisement and solicitations for proposals will be considered.
3. An award of contract may be made upon the basis of the initial written proposals received without written or oral discussions.
4. Contracts resulting from the FRP must be governed by and in accordance with the laws of the Commonwealth of Kentucky.
5. The University reserves the right to request proposal amendments or modifications after the proposal receiving date.
6. THE TERMS AND CONDITIONS OF THIS REQUEST FOR PROPOSAL INCLUDE ALL GENERAL CONDITIONS, AS SET FORTH BY KENTUCKY STATE UNIVERSITY PLUS AN SPECIAL CONDIITIONS ENUMERATED HEREIN.

NOTICE

1. Any agreement of collusion among Firms or prospective Firms, which restrain or is reasonably calculated to restrain competition by agreement to proposal at a fixed price or to refrain from offering, or otherwise is prohibited.
2. Any person who violates any provisions of KRS 45A.325 shall be guilty of a class D felony and shall be punished by a fine of not less than five thousand dollars, or be imprisoned not less than one year nor more than five years, or both such fine and imprisonment. Any Firm, corporation or association who violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars or more than twenty thousand dollars.

AUTHENTICATION OF RFP AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That I am the Firm (if the Firm is an individual), a partner (if the Firm is a partnership), or an Officer or Employee of the bidding corporation having authority to sign on its behalf (if the Firm is a corporation);
2. That the attached proposal has arrived at the Firm in independently, and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other Firm, of materials, supplies, equipment or services described in the RFP.
3. That the contents of the proposal have not been communicated by the Firm or its employees or agents to any person not an employee or agent of the Firm or its surety on any bond furnished with the proposal and will not be communicated to any such person prior to the official closing of the RFP.
4. That the Firm is legally entitled to enter into contracts with the Kentucky State University and it not in violation of any prohibited conflict of interest, including those prohibited by the provisions of KRS 45A.330 through KRS 45A.340 and KRS 164.390.
5. That I have fully informed myself regarding the accuracy of the statement made above.

SWORN STATEMENT OF COMPLIANCE WITH CAMPAIGN FINANCE LAWS

In accordance with KRS 45A.110(2), the undersigned hereby swears under penalty of perjury that he/she has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky and that the award of a contract to a Firm will not violate any provision of the campaign finance laws of the Commonwealth of Kentucky.

FIRM REPORT OF PRIOR VIOLATIONS OF KRS CHAPTERS 136, 139, 141, 337, 338, 341 & 342

The Firm by signing and submitting a proposal agrees as required by KRS 45A.485 to submit final determinations of any violations of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that have occurred in the previous five (5) years prior to the award of a contract and agrees to remaining continuous compliance with the provisions of the statutes during the duration of any contract that may be established. Final determinations of violations of these statutes must be provided to the University by the successful Firm prior to the award of a contract.

CERTIFICATION OF NON-SEGREGATED FACILITIES

The Firm, by submitting a proposal, certifies that he/she is in compliance with the Code of Federal Regulations, 41 CFR 60-1.8 that prohibits the maintaining of segregated facilities.

SIGNATURE REQUIRED: This proposal cannot be considered valid unless signed and dated by an authorized agent of the Firm. Type or print the signatory's name, title, address, phone number and fax number in the spaces provided. Offers signed by an agent are to be accompanied by evidence of his/her authority unless such evidence has been previously furnished to the issuing office.

Company Name

Authorized Signature **Date**

Address

Typed or Printed Name

City, State, Zip

Title

Phone Number

Fax Number

Federal Identification Number

AFFIDAVIT OF EXEMPTION FROM THE
KENTUCKY WORKERS' COMPENSATION ACT

Applicant, pursuant to KRS 342. 012, hereby declares exemption from the requirement to obtain workers' compensation insurance coverage. In support of this claim to exemption, Applicant states that the following facts are true and correct:

Full name of Applicant _____

Home address _____ Phone No. _____

FEIN or SSN _____ No. of Employees: _____

The foregoing is true and correct as I verily believe and swear.

Applicant/or authorized agent

State of _____

County of _____

The foregoing Affidavit of Exemption was acknowledged and sworn to before me by _____, this _____ day of _____, 20__.

NOTARY PUBLIC

MY COMMISSION EXPIRES _____, 20__.

Instructions

A copy of this Affidavit is to be kept on file with the Kentucky State University Purchasing Office.

Notice of Affiant: Fraudulent execution of this form constitutes a criminal offense (KRS 523.030), under the laws of the Commonwealth.

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1.0 DEFINITIONS

The term "addenda" means written or graphic instructions issued by the Kentucky State University prior to the receipt of proposals that modify or interpret the RFP documents by additions, deletions, clarifications and/or corrections.

The term "competitive negotiations" means the method authorized in the Kentucky Revised Statutes, Chapter 45A.085.

The terms "offer" or "proposal" mean the Private Partner's/Private Partners' response to this RFP.

The term "Private Partner" means the entity or contractor group submitting the proposal.

The term "contractor" means the entity receiving a contract award.

The term "purchasing agency" means Kentucky State University.

The term "purchasing official" means Kentucky State University's appointed contracting representative.

The term "responsible Private Partner" means a person, company or corporation that has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an Private Partner is responsible, the University may evaluate various factors including (but not limited to): financial resources; experience; organization; technical qualifications; available resources; record of performance; integrity; judgment; ability to perform successfully under the terms and conditions of the contract; adversarial relationship between the Private Partner and the University that is so serious and compelling that it may negatively impact the work performed under this RFP; or any other cause determined to be so serious and compelling as to affect the responsibility of the Private Partner.

The term "solicitation" means RFP.

The term "University" means Kentucky State University.

2.0 GENERAL OVERVIEW

2.1 Intent and Scope

Kentucky State University intends to develop a partnership with a private entity to manage and transform its on-campus student housing inventory. To that end, the University is issuing this Request for Proposals to solicit responses from interested parties ("Private Partner") to enter into a public-private partnership with the University to complete its program of requirements for the University's campus in Frankfort Kentucky. The selected Private Partner shall operate, maintain, design, build, and renovate campus housing facilities in a manner consistent with the University's objectives.

The University is currently engaged in an overall campus facility master plan process which is expected to be complete in the summer of 2019. No new construction projects for housing are anticipated until the master planning process is complete. However, renovation projects may commence before that time, if necessary.

One renovation project related to housing is currently underway. It is a mechanical renovation of “The Halls”, a 319 bed residence hall located on the south part of the campus. The project is expected to be complete in July of 2019. The only other current project affecting housing is an energy savings performance contract. This project will commence in the fall of 2018 and is expected to be complete in the fall of 2020.

As of September of 2018, the University has 5 residence halls in operation and one closed for renovation. These facilities are:

- Kentucky Hall – 136 Beds, 45,851 gross square feet
- Chandler Hall – 114 Beds, 28,208 gross square feet
- Combs Hall – 106 Beds, 25,592 gross square feet
- McCullin Hall – 97 Beds, 32,480 gross square feet
- Young Hall – 150 Beds, 44,592 gross square feet
- The Halls – 319 Beds, 61,400 gross square feet (under renovation)

An additional facility, formerly used as faculty/staff housing, Russell Court Apartments (18,152 gross square feet), is currently closed and in need of extensive renovation.

It is the University’s desire to provide residential life management and programming for student housing in the plan, with the responsibility for other operational and facilities management scopes to be determined between the University and the Private Partner.

The Private Partner shall clearly identify its proposed transaction structure, examples of which include and equity-debt, 501(c)(3), concessionaire, or alternative model. Underlying goals of the plan’s implementation include:

- Support the University’s recruitment and retention efforts;
- Implement a transaction structure such that there is no, or limited, impact of the University’s balance sheet;
- Evaluate the impact of the proposed transaction structure on the University’s credit;
- Improve the residential life experience for the University’s students; and,
- Develop a model that can be extended to other auxiliary or education and general facilities on the University’s campus.

2.2 Background Information

The University anticipates significant growth in enrollment and housing demand over the next five years. Current enrollment is approximately 2,000 students with approximately 600 housed on campus. By 2024, a campus enrollment of 3,500 is planned with approximately 1,000 housed on campus. One outcome of the facility master planning process planned for the 2018-19 academic year will be to determine whether existing housing facilities should be renovated or replaced over the next five years. It is the intent of the University that the Private Partner be a party to those discussions and a part of the planning process.

2.3 University Information

Kentucky State University was founded in 1886 as a normal school for the training of African-American teachers in Kentucky. Today, KSU is one of two historically black institutions of higher

education in the Commonwealth of Kentucky and one of only two land grant institutions in the state. Now in its 132nd year of educational service to Kentucky and the nation, KSU is the most diverse institution of higher education in Kentucky.

Kentucky State University is located in Frankfort, the state's capital with a population of about 27,000. Frankfort is approximately 25 miles from Lexington and 50 miles from Louisville. The main campus consists of 513 acres and 34 academic, residential, athletic, and service buildings, in addition to the south campus and research farm. KSU employees approximately 400 faculty and staff, including approximately 120 faculty members.

Kentucky State University enrolls a diverse population of approximately 1,900 full-time and part-time students from around the world. KSU is also home to more than 40 student organizations and 13 NCAA Division II sports programs. The University sponsors numerous intramural sports and recreational activities.

KSU offers 27 Baccalaureate degree programs, 2 Associate degree programs, 8 Master degree programs, and one Doctorate degree program.

Additional information about Kentucky State University is available at www.kysu.edu.

Fall enrollment is approximately 1,100 full-time, 400 part-time and 400 dual credit students. Spring enrollment is approximately the same with the exception of an additional 400 dual credit students. The University houses approximately 600 students each semester.

Over the next three years, the University intends to grow to approximately 3,200 full-time and part-time students. Projected enrollment breakdown is approximately 2,000 full-time, 500 part-time, and 700 dual credit students. Housing will be provided for approximately 900 students each semester.

2.4 Overview of the Selection Process

Kentucky State University will evaluate all RFP responses that are submitted by the due date – November 15, 2018, at 2:00 P.M. EST – and that are deemed compliant based on the submission requirements identified within this RFP. Kentucky State University may, at its sole discretion, define a shortlist of responding Private Partners that will be subsequently required to respond to the University's key terms for consideration and interview with the Project Management Committee. Following interviews of the short-listed Private Partners, the University will enter into negotiations with the most responsive and responsible Private Partner or Partners whose proposals are determined to be the most advantageous to the University, taking into consideration the criteria set forth in the RFP. Kentucky State University reserves the right to negotiate with multiple Private Partners simultaneously in pursuit of the most favorable terms for the University.

2.5 Overview of the Agreement

As defined in this RFP, the University intends to enter into an agreement with the Private Partner selected through the RFP process for a term of not more than 75 years, though preferably shorter. During the term of this agreement, the Private Partner is anticipated to have control of the improvements relating to use, general maintenance, replacement and repair, and commercial leasing, consistent with the parameters of this RFP.

The Private Partner and the University may enter into an agreement for management of operations, commercial leasing, and residential life management and programming if that is determined to be necessary based on the proposals and subsequent negotiations that result from this RFP process.

2.6 Submission Requirements

Respondents must provide complete submissions to be considered compliant to the terms of the RFP. Submission details are provided in Section 3.5 of this RFP, but respondents should ensure that the following information is provided in the RFP responses:

- Acknowledgement of receipt of materials;
- Proposed transaction structure terms;
- Proposed schedule for transition of housing operations;
- Funding sources;
- Pro-forma for operations and proposed near-term renovations (renovations or capital investment proposed within the first 12 months of the agreement);
- List of respondent owned or operated on or off campus properties in the United States, east of the Mississippi River.

2.7 Housing Management Committee

Any contract developed as a result of this RFP will be managed by a Project Management Committee named by the President of Kentucky State University. This committee will be responsible for decision making and recommending approval to the Kentucky State University President and Board of Regents (when necessary) regarding all contracts, designs, and other issues relating to management of housing at the university.

2.8 Compliance with State Building Codes and State and Federal Law

Any renovations or new construction that may result from a contract developed under this RFP shall comply with applicable building codes and any requirements under state or federal law. Authorization from either the Kentucky General Assembly or the Kentucky Council on Postsecondary Education and the Secretary of the Kentucky Finance and Administration Cabinet is required before any construction project on university property may commence.

2.9 Housing Maintenance and Operations

Kentucky State University prefers to retain the responsibility for room assignments, billing, marketing, and residential life programming for all student housing facilities. Management of the physical assets of the housing program shall be managed as a part of the public-private partnership. The University expects the Private Partner to provide, at its expense, for all maintenance, routine replacement of fixtures and equipment, and any required repairs. The Private Partner shall adequately fund a reserve in accordance with a budget approved annually by the University.

The Private Partner shall manage custodial services for all housing under this agreement. Custodial services shall be of a “high-quality” as defined through an agreement between the University and the Private Partner. The Private Partner shall determine, in collaboration with the University whether the Partner will provide custodial services or outsource the responsibilities to a third-party entity.

Delivery and management of information technology services in housing facilities shall be negotiated between the Private Partner and the University. All information technology equipment and services must be compatible with existing university information technology hardware and

systems. Capital reinvestment for information technology for housing facilities is expected to be fully funded by the Private Partner.

2.10 Non-Housing Projects

The final agreements developed with the Private Partner through this agreement may include retail components that support the mission of the University and provide value to students, faculty and staff. Operating costs for any such projects shall be the responsibility of the Private Partner. Retail facilities shall be maintained by the Private Partner at a level consistent with the maintenance of housing facilities.

2.11 Components of the Contract

It is expected by the University that any contract developed from this RFP shall address the following:

2.11.1 Insurance

The Private Partner shall provide insurance as required by University policy and state and federal law.

2.11.2 Buy-Out by the University

The contract will contain provisions providing Kentucky State University with a right, at its sole option, to buy out the remainder of the contract term. The buy-out provision will be based upon a calculation to be determined through negotiation with the Private Partners determined to be finalists.

2.11.3 Delivery of Premises at End of Term

At the conclusion of the contract, any improvements located on University property will remain and shall be delivered to the University fully operational and in good condition as determined jointly by the University and the Private Partner. It is expected that the Private Partner will design and construct and maintain the improvements such that their expected useful life will equal or exceed 125% of the term of the contract.

2.11.4 Financial Reporting

The contract will contain covenants requiring periodic financial supports to be submitted by the Private Partner to ensure that the Private Partner maintains financial strength throughout the term of the agreement. Records of the Private Partner pertaining to this contract are subject to audit, at the University's discretion, throughout the term of the contract.

2.11.5 Termination

The University will have, as a remedy for default under the contract, the right to terminate and take possession and occupancy of any improvements. The default conditions will be defined during negotiations.

2.12 Financial and Credit Objectives

Kentucky State University will evaluate a variety of transaction and funding structures proposed by the Private Partners during the competitive selection process. Additionally, the degree of risk-transfer, as well as balance sheet and credit impacts of the proposed structure will be part of the

evaluation. The University expects respondents to provide information related to how their previous public-private partnership structures have impacted their institutional partners balance sheet and credit from a rating agency perspective.

2.13 **Real Estate Taxes**

The University does not have any information on whether or not the improvements will be subject to real estate taxes at this time. Improvements to the site may be subject to property taxes.

3.0 **PROPOSAL REQUIREMENTS**

3.1 **Key Event Dates**

Release of RFP	October 9, 2018
Pre-Proposal Conference	2 p.m. EST October 25, 2018
Deadline for Written Questions	3 p.m. EST, November 1, 2018
RFP Proposals Due	2 p.m. EST, November 15, 2018
Private Partner Presentations*	Week of December 3, 2018 (if needed)
Contract Awards*	Week of December 15, 2018

*projected dates

3.2 **Private Partner Communication**

To ensure that RFP documentation and subsequent information (modifications, clarifications, addenda, Written Questions and Answers, etc.) are directed to the appropriate persons within the Private Partner's firm, each Private Partner who intends to participate in this RFP is to provide the following information to the purchasing officer. Prompt, thorough compliance is in the best interest of the Private Partner. Failure to comply may result in incomplete or delayed communication of addenda or other vital information. Contact information is the responsibility of the Private Partner. Without the prompt information, any communication shortfall shall reside with the Private Partner.

- Name of primary contact
- Mailing address of primary contact
- Telephone number of primary contact
- Fax number of primary contact
- E-mail address of primary contact
- Additional contact persons with same information provided as primary contact

This information shall be transmitted via fax or e-mail to:

Debra Bright
Debra.bright@kysu.edu
Fax (502) 597-6090

All communication with the University regarding this RFP shall only be directed to the purchasing officer listed above.

Public disclosure: Responses to Become Public Records: All materials submitted in response to this solicitation become a matter of public record and shall be regarded as public record.

Designation of Confidential Information: Kentucky State shall only recognize as confidential only those elements in each response, which are trade secrets as that term is defined in the law of Kentucky and which are clearly marked as 'TRADE SECRET, "CONFIDENTIAL,' or 'PROPRIETARY.' Vague designations and blanket statements regarding entire pages or documents are insufficient and shall not bind Kentucky State to protect the designated matter from disclosure.

The Kentucky Open Records Act limits Kentucky State's ability to withhold prequalification and bid data to trade secrets or records, the disclosure of which is exempt or prohibited pursuant to federal or state law. If a submittal contains any trade secrets that a Contractor does not want disclosed to the public or used by Kentucky State for any purpose other than evaluation of the Contractor's eligibility, each sheet of such information must be marked with the designation "Confidential." Kentucky State will notify the submitter of data so classified of any request to inspect such data so that the submitter will have an opportunity to establish that such information is exempt from inspection in any proceeding to compel inspection.

Kentucky State Not Liable for Required Disclosure: The Regents shall not in any way be liable or responsible for the disclosure of any records if they are not plainly marked 'TRADE SECRET,'

3.3 Pre-Proposal Conference

A mandatory pre-proposal conference will be held on October 25, 2018 at 2:00 P.M. EST in the Jordan Building Conference Room on the Kentucky State University Campus.

3.4 Private Partner Presentations

All Private Partners whose proposals are judged acceptable for award may be required to make a presentation to the evaluation committee.

3.5 Preparation of Offers

The Private Partner is expected to follow all specifications, terms, conditions and instructions in this RFP.

The Private Partner will furnish all information required by this solicitation.

Proposals should be prepared simply and economically, providing a description of the Private Partner's capabilities to satisfy the requirements of the solicitation. Emphasis should be on completeness and clarity of content. All documentation submitted with the proposal should be bound in the single volume except as otherwise specified.

An electronic version of the RFP, in .PDF format only, is available through the Kentucky State University website: <https://kysu.edu/administration-governance/finance-business/purchasing/>

Private Partner's proposals must respond to each criterion in the following order:

- Cover Page
- Cover Letter to include indication of interest and capability to implement the scope defined in this RFP
- Table of Contents
- Acknowledgements
 - Signature page that acknowledges receipt, review, and understanding of all materials provided in this RFP and any subsequent addenda.
- Firm History and Economic Capability
 - Information regarding the prime firm, potential joint-venture partners, and major sub-contractors. Information shall include:
 - Years in industry
 - Experience with public and private colleges and universities, university affiliated entities and not-for-profit entities;
 - Income statements for at least the 3 previous years
 - Balance sheet for at least the 3 previous years
 - Statement of cash flows for at least the 3 previous years
 - Statement of retained earnings for at least the 3 previous years.
 - Evidence of the ability to fully fund the improvements outlined in the proposal.
- Proposed Management and Development Program
 - Structure of housing management program and how the program will be implemented by the Private Partner.
- Previous Project Graphic Documents/Renderings
 - Renderings, graphics, floor plans for previously completed new construction and renovations that are representative of the Private Partner's work.
 - List of projects completed in the United States east of the Mississippi River.
- Program Budget
 - Projected budget for operation of the housing program on a per-student or square footage basis.
- Program Schedule
 - Projected implementation schedule to transition management of the housing program from the University to the Private Partner.
- Proposed Transaction Structures
 - Detailed description of the transaction structure proposed for the plan.
- Source of Funds
 - Identification of the source of funding for all transaction structures proposed in response to this RFP. Specify if any of the proposed funding sources will have any recourse to the University, identifying any expected default provisions or acceleration rights that could adversely impact the University.

- Pro Forma
 - Sample detailed pro-forma for a 300 bed residential facility. This sample pro-forma will inform the University as to how the Private Partner plans, budgets, and projects for any potential future new development. Pro Forma shall include:
 - All revenue (at published university housing rates and proposed rates) and expenses, including operating and maintenance expenses and net operating income
 - Annual cash flow after defunding obligations
 - Replacement reserves
 - Additional revenue beyond rental revenue during the 9-month academic-year term
 - All developer compensation
 - Disclose cost of capital assumption for funding – full term of the contract
 - Project compensation to the Private Partner
 - Project compensation to the University

- Optional Additional Information
 - The Private Partner may provide any information that is deemed to be essential to the evaluation, for which no provision is made in the RFP. Please limit your response to three pages for this section of the RFP response.

3.6 Proposed Deviations from the RFP

The stated requirements appearing elsewhere in this RFP shall become a part of the terms and conditions of any resulting contract. Any deviations therefrom must be specifically defined in accordance with the transmittal letter, Section 4.3 (d). If accepted by the University, the deviations shall become part of the contract, but such deviations must not be in conflict with the basic nature of this RFP.

Note: Private Partners shall not submit their standard terms and conditions as exceptions to the University's General Terms and Conditions. Each exception to the University's General Terms and Conditions shall be individually addressed.

3.7 Proposal Submission and Deadline

Private Partner must provide the following materials prior to 2 p.m. EST on the date specified in Section 3.1 and addressed to the purchasing officer listed in Section 3.2:

- Seven (7) copies on an electronic storage device clearly marked with the proposal number and name, firm name and what is included and two (2) printed copies of each proposal under a sealed cover

Note: Proposals received after the closing date and time will not be considered. In addition, proposals received via fax or e-mail are not acceptable.

Kentucky State University accepts deliveries of RFPs Monday through Friday from 8 a.m. to 5 p.m. EST. However, RFPs must be received by 2 p.m. EST on the date specified on the RFP in order to be considered.

Proposals shall be enclosed in sealed envelopes to the above referenced address and shall show on the face of the envelope: the closing time and date specified, the solicitation number and the name and address of the Private Partner.

Note: In accordance with the Kentucky Revised Statute 45A.085, there will be no public opening.

3.8 Modification or Withdrawal of Offer

An offer and/or modification of offer received at the office designated in the solicitation after the exact hour and date specified for receipt will not be considered.

An offer may be modified or withdrawn by written notice before the exact hour and date specified for receipt of offers. An offer also may be withdrawn in person by an Private Partner or an authorized representative, provided the identity of the person is made known and the person signs a receipt for the offer, but only if the withdrawal is made prior to the exact hour and date set for receipt of offers.

3.9 Acceptance or Rejection and Award of Proposal

The University reserves the right to accept or reject any or all proposals (or parts of proposals), to waive any informalities or technicalities, to clarify any ambiguities in proposals and (unless otherwise specified) to accept any item in the proposal. In case of error in extension or prices or other errors in calculation, the unit price shall govern. Further, the University reserves the right to make a single award, split awards, multiple awards or no award, whichever is in the best interest of the University.

3.10 Rejection

Grounds for the rejection of proposals include (but shall not be limited to):

- Failure of a proposal to conform to the essential requirements of the RFP.
- Imposition of conditions that would significantly modify the terms and conditions of the solicitation or limit the Private Partner's liability to the University on the contract awarded on the basis of such solicitation.
- Failure of the Private Partner to sign the University RFP. This includes the Authentication of Proposal and Statement of Non-Collusion and Non-Conflict of Interest statements.
- Receipt of proposal after the closing date and time specified in the RFP.

3.11 Addenda

Any addenda or instructions issued by the purchasing agency prior to the time for receiving proposals shall become a part of this RFP. Such addenda shall be acknowledged in the proposal.

No instructions or changes shall be binding unless documented by a proper and duly issued addendum.

3.12 Disclosure of Private Partner's Response

The RFP specifies the format, required information and general content of proposals submitted in response to this RFP. The purchasing agency will not disclose any portions of the proposals prior to contract award to anyone outside the Purchasing Division, the University's administrative staff, representatives of the state or federal government (if required) and the members of the committee evaluating the proposals. After a contract is awarded in whole or in part, the University shall have the right to duplicate, use or disclose all proposal data submitted by Private Partners in response to this RFP as a matter of public record.

Any submitted proposal shall remain valid six (6) months after the proposal due date.

The University shall have the right to use all system ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal will not affect this right.

3.13 Restrictions on Communications with University Staff

From the issue date of this RFP until a contractor is selected and a contract award is made, Private Partners are not allowed to communicate about the subject of the RFP with any University administrator, faculty, staff or members of the board of trustees except: the purchasing office representative, any University purchasing official representing the University administration, others authorized in writing by the purchasing office and University representatives during Private Partner presentations. If violation of this provision occurs, the University reserves the right to reject the Private Partner's proposal.

3.14 Cost of Preparing Proposal

Costs for developing the proposals and any subsequent activities prior to contract award are solely the responsibility of the Private Partners. The University will provide no reimbursement for such costs.

3.15 Disposition of Proposals

All proposals become the property of the University. The successful proposal will be incorporated into the resulting contract by reference.

3.16 Alternate Proposals

Private Partners may submit alternate proposals. If more than one proposal is submitted, all must be complete (separate) and comply with the instructions set forth within this document. Each proposal will be evaluated on its own merits.

3.17 Questions

All questions should be submitted by either fax or e-mail to the purchasing officer listed in Section 3.2 no later than the date listed in Section 3.1.

3.18 Section Titles in the RFP

Section titles used herein are for the purpose of facilitating ease of reference only and shall not be construed to infer the construction of contractual language.

3.19 No Contingent Fees

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this contract, except bona fide employees of the Private Partner or bona fide established commercial or selling agencies maintained by the Private Partner for the purpose of securing business. For breach or violation of this provision, the University shall have the right to reject the proposal, annul the contract without liability, or, at its discretion, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

3.20 Proposal Addenda and Rules for Withdrawal

Prior to the date specified for receipt of offers, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to the University purchasing office, signed by the Private Partner. Unless requested by the University, the University will not accept revisions or alterations to proposals after the proposal due date.

4.0 PROPOSAL FORMAT AND CONTENT

4.1 Proposal Information and Criteria

The following list specifies the items to be addressed in the proposal. Private Partners should read it carefully and address it completely and in the order listed to facilitate the University's review of the proposal.

Proposals shall be organized into the sections identified in Section 3.5. The content of each section is detailed in that section.

4.2 Signed Authentication of Proposal and Statements of Non-Collusion and Non-Conflict of Interest Form

The Private Partner will sign and return the proposal cover sheet and print or type their name, firm, address, telephone number and date. The person signing the offer must initial erasures or other changes. An offer signed by an agent is to be accompanied by evidence of their authority unless such evidence has been previously furnished to the purchasing agency. The signer shall further certify that the proposal is made without collusion with any other person, persons, company or

parties submitting a proposal; that it is in all respects fair and in good faith without collusion or fraud; and that the signer is authorized to bind the principal Private Partner.

4.3 Transmittal Letter

The Transmittal Letter accompanying the RFP shall be in the form of a standard business letter and shall be signed by an individual authorized to legally bind the Private Partner. It shall include:

- A statement referencing all addenda and written questions, the answers and any clarifications to this RFP issued by the University and received by the Private Partner (If no addenda have been received, a statement to that effect should be included.).
- A statement that the Private Partner's proposal shall remain valid for six (6) months after the closing date of the receipt of the proposals.
- A statement that the Private Partner will accept financial responsibility for all travel expenses incurred for oral presentations (if required) and candidate interviews.
- A statement that summarizes any deviations or exceptions to the RFP requirements and includes a detailed justification for the deviation or exception.
- A statement that identifies the confidential information as described in Section 6.22.

4.4 Executive Summary and Proposal Overview

The Executive Summary and Proposal Overview shall condense and highlight the contents of the technical proposal in such a way as to provide the evaluation committee with a broad understanding of the entire proposal.

5.0 EVALUATION CRITERIA PROCESS

A committee of University officials appointed by the Director of Purchasing will evaluate proposals and make a recommendation to the Director of Purchasing. The evaluation will be based upon the information provided in the proposal, additional information requested by the University for clarification, information obtained from references and independent sources and oral presentations (if requested).

The evaluation of responsive proposals shall then be completed by an evaluation team, which will determine the ranking of proposals. Proposals will be evaluated strictly in accordance with the requirements set forth in this solicitation, including any addenda that are issued. The University will award the contract to the responsible Private Partner whose proposal is determined to be the most advantageous to the University, taking into consideration the evaluation factors set forth in this RFP.

The evaluation of proposals will include consideration of responses to the list of requirements in Section 3.5. Private Partners must specifically address all criteria in their response. Any deviations or exceptions to the specifications or requirements must be described and justified in a transmittal

letter. Failure to list such exceptions or deviations in the transmittal letter may be considered sufficient reason to reject the proposal.

The relative importance of the criteria is defined below:

Primary Criteria

- Private Partner Qualifications – 25%
- Services Defined – 20%
- Financial Proposal – 20%
- Evidence of Successful Performance and Implementation – 30%

Secondary Criteria

- Other Additional Services – 5%

The University will evaluate proposals as submitted and may not notify Private Partners of deficiencies in their responses.

Proposals must contain responses to each of the criteria, listed in Section 4 even if Private Partner's response cannot satisfy those criteria. A proposal may be rejected if it is conditional or incomplete in the judgment of the University.

6.0 SPECIAL CONDITIONS

6.1 Contract Term

The term of this contract shall be determined in negotiations.

6.2 Effective Date

The effective date of the contract shall be the date upon which the parties execute it and all appropriate approvals have been received.

6.3 Competitive Negotiation

It is the intent of the RFP to enter into competitive negotiation as authorized by KRS 45A.085.

The University will review all proposals properly submitted. However, the University reserves the right to request necessary modifications, reject all proposals, reject any proposal that does not meet mandatory requirement(s) or cancel this RFP, according to the best interests of the University.

Private Partner(s) selected to participate in negotiations may be given an opportunity to submit a Best and Final Offer to the purchasing agency. All information-received prior to the cut-off time will be considered part of the Private Partner's Best and Final Offer.

The University also reserves the right to waive minor technicalities or irregularities in proposals providing such action is in the best interest of the University. Such waiver shall in no way modify the RFP requirements or excuse the Private Partner from full compliance with the RFP specifications and other contract requirements if the Private Partner is awarded the contract.

6.4 Appearance Before Committee

Any, all or no Private Partners may be requested to appear before the evaluation committee to explain their proposal and/or to respond to questions from the committee concerning the proposal. Private Partners are prohibited from electronically recording these meetings. The committee reserves the right to request additional information.

6.5 Additions, Deletions or Contract Changes

The University reserves the right to add, delete, or change related items or services to the contract established from this RFP. No modification or change of any provision in the resulting contract shall be made unless such modification is mutually agreed to in writing by the contractor and the Director of Purchasing and incorporated as a written modification to the contract. Memoranda of understanding and correspondence shall not be interpreted as a modification to the contract.

6.6 Contractor Cooperation in Related Efforts

The University reserves the right to undertake or award other contracts for additional or related work to other entities. The contractor shall fully cooperate with such other contractors and University employees and carefully fit its work to such additional work. The contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by University employees. This clause shall be included in the contracts of all contractors with whom this contractor will be required to cooperate. The University shall equitably enforce this clause to all contractors to prevent the imposition of unreasonable burdens on any contractor.

6.7 Entire Agreement

The RFP shall be incorporated into any resulting contract. The resulting contract, including the RFP and those portions of the Private Partner's response accepted by the University, shall be the entire agreement between the parties.

6.8 Governing Law

The contractor shall conform to and observe all laws, ordinances, rules and regulations of the United States of America, Commonwealth of Kentucky and all other local governments, public authorities, boards or offices relating to the property or the improvements upon same (or the use thereof) and will not permit the same to be used for any illegal or immoral purposes, business or occupation. The resulting contract shall be governed by Kentucky law and any claim relating to this contract shall only be brought in the Franklin Circuit Court in accordance with KRS 45A-245.

6.9 Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act

To the extent Company receives Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, 61.932 and 61.933 (the "Act"), Company shall secure and protect the Personal Information by, without limitation: (i) complying with all requirements applicable to non-affiliated third parties set forth in the Act; (ii) utilizing security and breach investigation procedures that are appropriate to the nature of the Personal Information disclosed, at least as stringent as University's and reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction; (iii) notifying University of a security breach relating to Personal Information in the possession of Company or its agents or subcontractors within seventy-two (72) hours of discovery of an actual or suspected breach unless the exception set forth in KRS 61.932(2)(b)2 applies and Company abides by the requirements set forth in that exception; (iv) cooperating with University in complying with the response, mitigation, correction, investigation, and notification requirements of the Act , (v) paying all costs of notification, investigation and mitigation in the event of a security breach of Personal Information suffered by Company; and (vi) at University's discretion and direction, handling all administrative functions associated with notification, investigation and mitigation.

6.10 Termination for Convenience

Termination provisions shall be developed through negotiations.

6.11 Termination for Non-Performance

Termination provisions shall be developed through negotiations.

6.12 Funding Out

Termination provisions shall be developed through negotiations.

6.13 Prime Contractor Responsibility

Any contracts that may result from the RFP shall specify that the contractor(s) is/are solely responsible for fulfillment of the contract with the University.

6.14 Assignment

The contractor(s) shall not assign the contract in whole or in part without the prior written consent of the University. Any attempted assignment shall be void.

6.15 Permits, Licenses, Taxes and Commonwealth Registration

The contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations and ordinances of all federal, state and local governments in which work under this contract is performed.

The contractor must furnish certification of authority to conduct business in the Commonwealth of Kentucky as a condition of contract award. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. However, the contractor need not be registered as a prerequisite for responding to the RFP.

The contractor shall pay any sales, use, personal property and other tax arising out of this contract and the transaction contemplated hereby. Any other taxes levied upon this contract, the transaction or the equipment or services delivered pursuant hereto shall be the responsibility of the contractor.

The contractor will be required to accept liability for payment of all payroll taxes or deductions required by local and federal law including (but not limited to) old age pension, social security or annuities.

6.16 Attorneys' Fees

In the event that either party deems it necessary to take legal action to enforce any provision of the contract and in the event that the University prevails, the contractor agrees to pay all expenses of such action including attorneys' fees and costs at all stages of litigation.

6.17 Patents, Copyrights and Trademarks

The contractor shall protect the University from any and all damages or liability arising from alleged infringements of patents, copyrights or trademarks.

6.18 Indemnification

The contractor shall indemnify, hold and save harmless the University, its affiliates and subsidiaries and their officers, agents and employees from losses, claims, suits, actions, expenses, damages, costs (including court costs and attorneys' fees of the University's attorneys), all liability of any nature or kind arising out of or relating to the Contractor's response to this RFP or its performance or failure to perform under the contract awarded from this RFP. This clause shall survive termination for as long as necessary to protect the University.

6.19 Insurance

The successful Contractor shall procure and maintain, at its expense, the following minimum insurance coverages insuring all services, work activities and contractual obligations undertaken in this contract. These insurance policies must be with insurers acceptable to the University.

COVERAGES

Workers' Compensation
Employer's Liability
Commercial General Liability including operations/completed operations, products and contractual liability (including defense and investigation costs), and this contract

LIMITS

Statutory Requirements (Kentucky)
\$500,000/\$500,000/\$500,000
\$1,000,000 each occurrence
(BI & PD combined) \$2,000,000 Products and Completed Operations Aggregate

Business Automobile Liability covering owned, leased, or non-owned autos	\$1,000,000 each occurrence (BI & PD combined)
Professional Liability	\$2,000,000 each occurrence

The successful contractor agrees to furnish Certificates of Insurance for the above described coverages and limits to the Kentucky State University, Purchasing Division. The University, its trustees and employees must be added as additional insured on the Commercial General Liability policy with regard to the scope of this solicitation. Any deductibles or self-insured retention in the above-described policies must be paid and are the sole responsibility of the contractor. Coverage is to be primary and non-contributory with other coverage (if any) purchased by the University. All of these required policies must include a Waiver of Subrogation (except Workers' Compensation) in favor of the University, its trustees and employees.

Through the negotiation process, it may be determined that modifications to require insurance levels are necessary. Final requirements will be determined through negotiation.

6.20 Method of Award

It is the intent of the University to award a contract to the qualified Private Partner whose offer, conforming to the conditions and requirements of the RFP, is determined to be the most advantageous to the University, cost and other factors considered.

Notwithstanding the above, this RFP does not commit the University to award a contract from this solicitation. The University reserves the right to reject any or all offers and to waive formalities and minor irregularities in the proposal received.

6.21 Reciprocal Preference

In accordance with KRS 45A.494, a resident Private Partner of the Commonwealth of Kentucky shall be given a preference against a nonresident Private Partner. In evaluating proposals, the University will apply a reciprocal preference against an Private Partner submitting a proposal from a state that grants residency preference equal to the preference given by the state of the nonresident Private Partner. Residency and non-residency shall be defined in accordance with KRS 45A.494(2) and 45A.494(3), respectively. Any Private Partner claiming Kentucky residency status shall submit with its proposal a notarized affidavit affirming that it meets the criteria as set forth in the above reference statute.

6.22 Reports and Auditing

The University, or its duly authorized representatives, shall have access to any books, documents, papers, records or other evidence which are directly pertinent to this contract for the purpose of financial audit or program review. Records or other information confidentially disclosed as part of the solicitation process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided by the Kentucky Open Records Act. Additionally, the contractor recognizes that any books, documents, papers, records, or other evidence received during a financial audit or program review shall be subject to the Kentucky Open Records Act.

6.23 Confidentiality

The University recognizes an Private Partner's possible interest in preserving selected information and data included in the proposal; however, the University must treat such information and data as required by the Kentucky Open Records Act, KRS 61.870, et seq.

Information areas which normally might be considered proprietary, and therefore confidential, shall be limited to individual personnel data, customer references, formulae and company financial audits which, if disclosed, would permit an unfair advantage to competitors. If a proposal contains information in these areas and the Private Partner declares them to be proprietary in nature and not available for public disclosure, the Private Partner shall declare in the Transmittal Letter the inclusion of proprietary information and shall noticeably label as confidential or proprietary each sheet containing such information. Proposals containing information declared by the Private Partner to be proprietary or confidential, either wholly or in part, outside the areas listed above may be deemed non-responsive and may be rejected.

The University's General Counsel shall review each Private Partner's information claimed to be confidential and, in consultation with the Private Partner (if needed), make a final determination as to whether or not the confidential or proprietary nature of the information or data complies with the Kentucky Open Records Act.

6.24 Conflict of Interest

This RFP and any resulting contract are subject to provisions of the Kentucky Revised Statutes regarding conflict of interest. When submitting and signing a proposal, a Private Partner is certifying that no actual, apparent or potential conflict of interest exists between the interests of the University and the interests of the Private Partner. A conflict of interest (whether contractual, financial, organizational or otherwise) exists when any individual, contractor or subcontractor has a direct or indirect interest because of a financial or pecuniary interest, gift or other activities or relationships with other persons (including business, familial or household relationships) and is thus unable to render or is impeded from rendering impartial assistance or advice, has impaired objectivity in performing the proposed work or has an unfair competitive advantage.

Questions concerning this section or interpretation of this section should be directed to the University purchasing officer identified in this RFP.

6.25 Extending Contract

The Private Partner's response to this RFP must state whether or not the Private Partner will permit the use of this contract by other Universities, state agencies, public and private institutions in the Commonwealth of Kentucky. An answer to this issue must be submitted within the response.

6.26 Copyright Ownership and Title to Designs and Copy

The contractor and University intend this RFP to result in a contract for services, and both consider the products and results of the services to be rendered by the contractor hereunder to be a work made for hire. The contractor acknowledges and agrees that the work and all rights therein, including (without limitation) copyright, belongs to and shall be the sole and exclusive property of

the University. For any work that is not considered a work made for hire under applicable law, title and copyright ownership shall be assigned to the University.

Title to all dies, type, cuts, artwork, negatives, positives, color separations, progressive proofs, plates, copy and any other requirement not stated herein required for completion of the finished product for use in connection with any University job shall be the property of and owned by the University. Such items shall be returned to the appropriate department upon completion and/or delivery of work unless otherwise authorized by the University. In the event that time of return is not specified, the contractor shall return all such items to the appropriate University department within one week of delivery.

6.27 Vendor Registration Requirements

The Purchasing Office shall approve all vendors. The Purchasing Office shall not grant approval for any vendor until the vendor provides the following documentation:

- A Certificate of Insurance for General Liability Coverage (keep originals not photocopies on file).
- A Certificate of Insurance for Workers' Compensation if the independent contractor has workers' comp Insurance.
- A signed copy of the AFFIDAVIT OF EXEMPTION FROM THE KENTUCKY WORKERS' COMPENSATION ACT if the independent contractor does not have workers compensation.
- A copy of the independent contractor's business license (if applicable).
- A written subcontract in place for each job conducted by the individual contract laborer.



**KENTUCKY STATE
UNIVERSITY
RFP-19-03
Student Housing, Operations, & Development**

ADDENDUM #1

November 13, 2018

Revised RFP Schedule of Events

Event	Date/Time (All times are Eastern)
RFP Proposal Due Date has been extended to	November 27, 2018 at 2:00PM
Contract Award	Week of December 15, 2018

NOTE: Kentucky State University reserves the right to revise this schedule. Any such revision will be formalized by the issuance of an addendum to the RFP.



KENTUCKY STATE UNIVERSITY

RFP 19-03

Student Housing, Operations & Development

ADDENDUM #2

November 15, 2018

1. Will KSU provide detailed information on each dorm as to the current conditions of:
 - a. Mechanical and Electrical Systems
 - b. Common Area Maintenance Historical Costs
 - c. Current Utility Cost by Dorm
 - d. Any capital improvements that have been made or are planned
 - e. Current custodial costs

Once the University enters negotiations with a potential partner, the University will strive to provide all information necessary to develop a contract. The university requires assistance from the partner to review many items, including the items outlined above. Since the university is requesting a funding structure and model, rather than a project cost, we anticipate that potential partners can develop a structure that can be adjusted based on the information developed through the negotiation process.

2. Please provide KSU's expectations on the level of refurbishment required for each dorm.

As the University expects that this RFP will result in a partnership agreement with shared planning, development, and responsibility for housing. The level of refurbishment of each dorm will be determined in the negotiation process depending on the financing models developed and the amount of funding available.

3. If the private sector is going to take over the housing refurbishments and maintenance responsibilities, will they have the authority to set rates?

This will be determined through negotiations with the selected partner based on the financial models proposed.

4. Can you please provide a set of plans for the building(s) included within the RFP scope?

See response to question #1.

5. What is the estimated timing and phasing of the RFP project as it relates to management services as well as construction of the new 300 bed dorm being pro forma's in the submittal?

The University prefers to transfer management of the housing facilities to the partner as soon as possible. Firm schedules will be developed during contract negotiations. The timing of any new residence hall will depend on the financing structure proposed and the

availability of revenues to support any such construction. Also, a 300 bed residence hall is required for the pro forma, but any final project could range from 150 beds to 600 beds depending on University needs and the financing structure.

6. Has a determination been made as to the location of the new dorm and is any information available regarding the site?

No. It is important to note that the primary focus of this RFP is for a partnership arrangement to manage housing at Kentucky State University. There is no guarantee of any new construction project at this time. That will be determined during negotiations and campus master planning processes. It is expected that the partner will be involved and included as an active participant in those planning processes. It is also possible that any future project resulting from this RFP will require authorization from the Kentucky General Assembly in the state/executive branch budget bill as an “Other Funds” project.

PRELIMINARY NEW BOND ISSUE REPORT *

Issue: Kentucky State University Certificates of Participation

Purpose of Issue: The proceeds of the Series 2021 Certificates will be used to (i) pay costs of construction, installation, improvement and equipping of the project which will include a new student housing building on the campus of the University, (ii) fund capitalized interest through 12/1/2023, (iii) fund an initial deposit to the Operations and Maintenance Fund / Capital Reserve Fund, (iv) fund a Debt Service Reserve Fund and (v) pay costs of issuance of the Series 2021 Certificates.

Date of Sale: June 16, 2021 (subject to change)

Date of Delivery: July 1, 2021 (subject to change)

Ratings:
Moody's TBD

2021 Series A

Sources:

Par amount of bonds:	\$ 54,895,000
Premium (Discount)	\$ 3,359,354
Total Sources:	<u>58,254,354</u>

Uses:

Project Fund Deposit	47,728,888
Debt Service Reserve Fund	3,221,263
Operations & Maintenance Reserve	285,000
Capital Reserve Fund	1,200,000
Capitalized Interest Fund	4,749,686
Issuance Cost:	<u>1,069,731</u>
Total Uses:	58,254,568

All-in True Interest Cost: 3.3917%

Final Maturity Date: 12/1/2056

Average Annual Debt Service: \$ 2,781,198

Total Debt Service: \$ 98,500,761

Average Life (years): 21.36

Refunding Summary: NA

Bond Issue Being Refinanced: NA

Par Amount of Refunded Bonds: NA

Net PV Savings: NA

Percentage Savings of Refunded Bonds: NA

Method of Sale: Negotiated
 Bond Counsel: Dinsmore & Shohl, LLP
 Underwriter: Key Banc Capital Markets
 Underwriters' Counsel: Frost Brown Todd
 Trustee: Huntington National Bank
 Financial Advisor: Commonwealth Economics

Based off cashflows as of 3/24/2021
 Preliminary Subject to Change

Pursuant to KRS Chapter 45, the Issuer is providing information on all costs associated, either directly or indirectly, with this bond issuance. Costs are estimated as of the date of the cashflows and are subject to change.

PROFESSIONAL SERVICES:

Firm	Service	Series A Fee (\$)
Dinsmore & Shohl	Bond Counsel	200,000.00
Dinsmore & Shohl	Expenses	-
Commonwealth Economics	Financial Advisor	125,000.00
OFM	Financial Advisor	13,723.75
Key Banc	Underwriter's Discount	548,950.00
Frost Brown Todd	Underwriter's Counsel	100,000.00
Huntington Bank	Trustee Fees	7,000.00
Moody's	Rating Service	60,000.00
Printing, Electronic Official Statment& Roadshow		5,000.00
Other		7,500.00
Rounding		2,557.12
TOTAL		1,069,730.87

NET DEBT SERVICE

**Kentucky State University
Tax-Exempt Certificates of Participation, Series 2021
(Student Housing Project)**

**Assumed Rating: A2/A3 (Enhanced w/ Kentucky State Intergovernmental Agreement)
30-Months Capitalized Interest**

**Total Lease Payments (Base Rent + Add. Rent) Level / \$696,600 O&M Escalate 3% / 35-Year Term
Preliminary Numbers as of March 24, 2021**

Period Ending	Principal	Coupon	Interest	Total Debt Service	O&M Expenses (3% Annual Growth)	Trustee	Capitalized Int. Fund (thru 12/1/2023)	Debt Service Reserve Fund	Net Debt Service
06/30/2022			1,801,605.21	1,801,605.21	348,300.00	2,250.00	(1,801,605.21)		350,550.00
06/30/2023			1,965,387.50	1,965,387.50	707,049.00	4,500.00	(1,965,387.50)		711,549.00
06/30/2024			1,965,387.50	1,965,387.50	728,260.47	4,500.00	(982,693.75)		1,715,454.22
06/30/2025	1,275,000.00	3.000%	1,946,262.50	3,221,262.50	750,108.29	4,500.00			3,975,870.79
06/30/2026	1,290,000.00	3.000%	1,907,787.50	3,197,787.50	772,611.54	4,500.00			3,974,899.04
06/30/2027	1,305,000.00	3.000%	1,868,862.50	3,173,862.50	795,789.88	4,500.00			3,974,152.38
06/30/2028	1,320,000.00	3.000%	1,829,487.50	3,149,487.50	819,663.58	4,500.00			3,973,651.08
06/30/2029	1,335,000.00	3.000%	1,789,662.50	3,124,662.50	844,253.49	4,500.00			3,973,415.99
06/30/2030	1,350,000.00	3.000%	1,749,387.50	3,099,387.50	869,581.09	4,500.00			3,973,468.59
06/30/2031	1,365,000.00	3.000%	1,708,662.50	3,073,662.50	895,668.52	4,500.00			3,973,831.02
06/30/2032	1,380,000.00	4.000%	1,660,587.50	3,040,587.50	922,538.58	4,500.00			3,967,626.08
06/30/2033	1,410,000.00	4.000%	1,604,787.50	3,014,787.50	950,214.74	4,500.00			3,969,502.24
06/30/2034	1,435,000.00	4.000%	1,547,887.50	2,982,887.50	978,721.18	4,500.00			3,966,108.68
06/30/2035	1,465,000.00	4.000%	1,489,887.50	2,954,887.50	1,008,082.81	4,500.00			3,967,470.31
06/30/2036	1,495,000.00	4.000%	1,430,687.50	2,925,687.50	1,038,325.29	4,500.00			3,968,512.79
06/30/2037	1,520,000.00	3.000%	1,377,987.50	2,897,987.50	1,069,475.05	4,500.00			3,971,962.55
06/30/2038	1,535,000.00	3.000%	1,332,162.50	2,867,162.50	1,101,559.31	4,500.00			3,973,221.81
06/30/2039	1,550,000.00	3.000%	1,285,887.50	2,835,887.50	1,134,606.09	4,500.00			3,974,993.59
06/30/2040	1,565,000.00	3.000%	1,239,162.50	2,804,162.50	1,168,644.27	4,500.00			3,977,306.77
06/30/2041	1,575,000.00	3.000%	1,192,062.50	2,767,062.50	1,203,703.60	4,500.00			3,975,266.10
06/30/2042	1,585,000.00	3.250%	1,142,681.25	2,727,681.25	1,239,814.71	4,500.00			3,971,995.96
06/30/2043	1,600,000.00	3.250%	1,090,925.00	2,690,925.00	1,277,009.15	4,500.00			3,972,434.15
06/30/2044	1,615,000.00	3.250%	1,038,681.25	2,653,681.25	1,315,319.42	4,500.00			3,973,500.67
06/30/2045	1,630,000.00	3.250%	985,950.00	2,615,950.00	1,354,779.00	4,500.00			3,975,229.00
06/30/2046	1,645,000.00	3.250%	932,731.25	2,577,731.25	1,395,422.37	4,500.00			3,977,653.62
06/30/2047	1,655,000.00	4.000%	872,900.00	2,527,900.00	1,437,285.05	4,500.00			3,969,685.05
06/30/2048	1,680,000.00	4.000%	806,200.00	2,486,200.00	1,480,403.60	4,500.00			3,971,103.60
06/30/2049	1,700,000.00	4.000%	738,600.00	2,438,600.00	1,524,815.70	4,500.00			3,967,915.70
06/30/2050	1,725,000.00	4.000%	670,100.00	2,395,100.00	1,570,560.17	4,500.00			3,970,160.17
06/30/2051	1,750,000.00	4.000%	600,600.00	2,350,600.00	1,617,676.98	4,500.00			3,972,776.98
06/30/2052	1,770,000.00	4.000%	530,200.00	2,300,200.00	1,666,207.29	4,500.00			3,970,907.29
06/30/2053	1,790,000.00	4.000%	459,000.00	2,249,000.00	1,716,193.51	4,500.00			3,969,693.51

NET DEBT SERVICE

**Kentucky State University
Tax-Exempt Certificates of Participation, Series 2021
(Student Housing Project)**

**Assumed Rating: A2/A3 (Enhanced w/ Kentucky State Intergovernmental Agreement)
30-Months Capitalized Interest**

**Total Lease Payments (Base Rent + Add. Rent) Level / \$696,600 O&M Escalate 3% / 35-Year Term
Preliminary Numbers as of March 24, 2021**

Period Ending	Principal	Coupon	Interest	Total Debt Service	O&M Expenses (3% Annual Growth)	Trustee	Capitalized Int. Fund (thru 12/1/2023)	Debt Service Reserve Fund	Net Debt Service
06/30/2054	1,810,000.00	4.000%	387,000.00	2,197,000.00	1,767,679.32	4,500.00			3,969,179.32
06/30/2055	1,830,000.00	4.000%	314,200.00	2,144,200.00	1,820,709.70	4,500.00			3,969,409.70
06/30/2056	1,850,000.00	4.000%	240,600.00	2,090,600.00	1,875,330.99	4,500.00			3,970,430.99
06/30/2057	5,090,000.00	4.000%	101,800.00	5,191,800.00	951,522.62	2,250.00		(3,221,262.50)	2,924,310.12
	54,895,000.00		43,605,761.46	98,500,761.46	42,117,886.36	157,500.00	(4,749,686.46)	(3,221,262.50)	132,805,198.86

NET DEBT SERVICE

**Kentucky State University
Tax-Exempt Certificates of Participation, Series 2021
(Student Housing Project)**

**Assumed Rating: A2/A3 (Enhanced w/ Kentucky State Intergovernmental Agreement)
30-Months Capitalized Interest**

**Total Lease Payments (Base Rent + Add. Rent) Level / \$696,600 O&M Escalate 3% / 35-Year Term
Preliminary Numbers as of March 24, 2021**

Date	Principal	Coupon	Interest	Total Debt Service	O&M Expenses (3% Annual Growth)	Trustee	Capitalized Int. Fund (thru 12/1/2023)	Debt Service Reserve Fund	Net Debt Service
12/01/2021			818,911.46	818,911.46			(818,911.46)		
06/01/2022			982,693.75	982,693.75	348,300.00	2,250.00	(982,693.75)		350,550.00
12/01/2022			982,693.75	982,693.75	348,300.00	2,250.00	(982,693.75)		350,550.00
06/01/2023			982,693.75	982,693.75	358,749.00	2,250.00	(982,693.75)		360,999.00
12/01/2023			982,693.75	982,693.75	358,749.00	2,250.00	(982,693.75)		360,999.00
06/01/2024			982,693.75	982,693.75	369,511.47	2,250.00			1,354,455.22
12/01/2024	1,275,000.00	3.000%	982,693.75	2,257,693.75	369,511.47	2,250.00			2,629,455.22
06/01/2025			963,568.75	963,568.75	380,596.82	2,250.00			1,346,415.57
12/01/2025	1,290,000.00	3.000%	963,568.75	2,253,568.75	380,596.82	2,250.00			2,636,415.57
06/01/2026			944,218.75	944,218.75	392,014.72	2,250.00			1,338,483.47
12/01/2026	1,305,000.00	3.000%	944,218.75	2,249,218.75	392,014.72	2,250.00			2,643,483.47
06/01/2027			924,643.75	924,643.75	403,775.16	2,250.00			1,330,668.91
12/01/2027	1,320,000.00	3.000%	924,643.75	2,244,643.75	403,775.16	2,250.00			2,650,668.91
06/01/2028			904,843.75	904,843.75	415,888.42	2,250.00			1,322,982.17
12/01/2028	1,335,000.00	3.000%	904,843.75	2,239,843.75	415,888.42	2,250.00			2,657,982.17
06/01/2029			884,818.75	884,818.75	428,365.07	2,250.00			1,315,433.82
12/01/2029	1,350,000.00	3.000%	884,818.75	2,234,818.75	428,365.07	2,250.00			2,665,433.82
06/01/2030			864,568.75	864,568.75	441,216.02	2,250.00			1,308,034.77
12/01/2030	1,365,000.00	3.000%	864,568.75	2,229,568.75	441,216.02	2,250.00			2,673,034.77
06/01/2031			844,093.75	844,093.75	454,452.50	2,250.00			1,300,796.25
12/01/2031	1,380,000.00	4.000%	844,093.75	2,224,093.75	454,452.50	2,250.00			2,680,796.25
06/01/2032			816,493.75	816,493.75	468,086.08	2,250.00			1,286,829.83
12/01/2032	1,410,000.00	4.000%	816,493.75	2,226,493.75	468,086.08	2,250.00			2,696,829.83
06/01/2033			788,293.75	788,293.75	482,128.66	2,250.00			1,272,672.41
12/01/2033	1,435,000.00	4.000%	788,293.75	2,223,293.75	482,128.66	2,250.00			2,707,672.41
06/01/2034			759,593.75	759,593.75	496,592.52	2,250.00			1,258,436.27
12/01/2034	1,465,000.00	4.000%	759,593.75	2,224,593.75	496,592.52	2,250.00			2,723,436.27
06/01/2035			730,293.75	730,293.75	511,490.29	2,250.00			1,244,034.04
12/01/2035	1,495,000.00	4.000%	730,293.75	2,225,293.75	511,490.29	2,250.00			2,739,034.04
06/01/2036			700,393.75	700,393.75	526,835.00	2,250.00			1,229,478.75
12/01/2036	1,520,000.00	3.000%	700,393.75	2,220,393.75	526,835.00	2,250.00			2,749,478.75
06/01/2037			677,593.75	677,593.75	542,640.05	2,250.00			1,222,483.80
12/01/2037	1,535,000.00	3.000%	677,593.75	2,212,593.75	542,640.05	2,250.00			2,757,483.80

NET DEBT SERVICE

**Kentucky State University
Tax-Exempt Certificates of Participation, Series 2021
(Student Housing Project)**

Assumed Rating: A2/A3 (Enhanced w/ Kentucky State Intergovernmental Agreement)

30-Months Capitalized Interest

Total Lease Payments (Base Rent + Add. Rent) Level / \$696,600 O&M Escalate 3% / 35-Year Term

Preliminary Numbers as of March 24, 2021

Date	Principal	Coupon	Interest	Total Debt Service	O&M Expenses (3% Annual Growth)	Trustee	Capitalized Int. Fund (thru 12/1/2023)	Debt Service Reserve Fund	Net Debt Service
06/01/2038			654,568.75	654,568.75	558,919.26	2,250.00			1,215,738.01
12/01/2038	1,550,000.00	3.000%	654,568.75	2,204,568.75	558,919.26	2,250.00			2,765,738.01
06/01/2039			631,318.75	631,318.75	575,686.83	2,250.00			1,209,255.58
12/01/2039	1,565,000.00	3.000%	631,318.75	2,196,318.75	575,686.83	2,250.00			2,774,255.58
06/01/2040			607,843.75	607,843.75	592,957.44	2,250.00			1,203,051.19
12/01/2040	1,575,000.00	3.000%	607,843.75	2,182,843.75	592,957.44	2,250.00			2,778,051.19
06/01/2041			584,218.75	584,218.75	610,746.16	2,250.00			1,197,214.91
12/01/2041	1,585,000.00	3.250%	584,218.75	2,169,218.75	610,746.16	2,250.00			2,782,214.91
06/01/2042			558,462.50	558,462.50	629,068.55	2,250.00			1,189,781.05
12/01/2042	1,600,000.00	3.250%	558,462.50	2,158,462.50	629,068.55	2,250.00			2,789,781.05
06/01/2043			532,462.50	532,462.50	647,940.60	2,250.00			1,182,653.10
12/01/2043	1,615,000.00	3.250%	532,462.50	2,147,462.50	647,940.60	2,250.00			2,797,653.10
06/01/2044			506,218.75	506,218.75	667,378.82	2,250.00			1,175,847.57
12/01/2044	1,630,000.00	3.250%	506,218.75	2,136,218.75	667,378.82	2,250.00			2,805,847.57
06/01/2045			479,731.25	479,731.25	687,400.18	2,250.00			1,169,381.43
12/01/2045	1,645,000.00	3.250%	479,731.25	2,124,731.25	687,400.18	2,250.00			2,814,381.43
06/01/2046			453,000.00	453,000.00	708,022.19	2,250.00			1,163,272.19
12/01/2046	1,655,000.00	4.000%	453,000.00	2,108,000.00	708,022.19	2,250.00			2,818,272.19
06/01/2047			419,900.00	419,900.00	729,262.86	2,250.00			1,151,412.86
12/01/2047	1,680,000.00	4.000%	419,900.00	2,099,900.00	729,262.86	2,250.00			2,831,412.86
06/01/2048			386,300.00	386,300.00	751,140.74	2,250.00			1,139,690.74
12/01/2048	1,700,000.00	4.000%	386,300.00	2,086,300.00	751,140.74	2,250.00			2,839,690.74
06/01/2049			352,300.00	352,300.00	773,674.96	2,250.00			1,128,224.96
12/01/2049	1,725,000.00	4.000%	352,300.00	2,077,300.00	773,674.96	2,250.00			2,853,224.96
06/01/2050			317,800.00	317,800.00	796,885.21	2,250.00			1,116,935.21
12/01/2050	1,750,000.00	4.000%	317,800.00	2,067,800.00	796,885.21	2,250.00			2,866,935.21
06/01/2051			282,800.00	282,800.00	820,791.77	2,250.00			1,105,841.77
12/01/2051	1,770,000.00	4.000%	282,800.00	2,052,800.00	820,791.77	2,250.00			2,875,841.77
06/01/2052			247,400.00	247,400.00	845,415.52	2,250.00			1,095,065.52
12/01/2052	1,790,000.00	4.000%	247,400.00	2,037,400.00	845,415.52	2,250.00			2,885,065.52
06/01/2053			211,600.00	211,600.00	870,777.99	2,250.00			1,084,627.99
12/01/2053	1,810,000.00	4.000%	211,600.00	2,021,600.00	870,777.99	2,250.00			2,894,627.99
06/01/2054			175,400.00	175,400.00	896,901.33	2,250.00			1,074,551.33

NET DEBT SERVICE

**Kentucky State University
Tax-Exempt Certificates of Participation, Series 2021
(Student Housing Project)**

**Assumed Rating: A2/A3 (Enhanced w/ Kentucky State Intergovernmental Agreement)
30-Months Capitalized Interest**

**Total Lease Payments (Base Rent + Add. Rent) Level / \$696,600 O&M Escalate 3% / 35-Year Term
Preliminary Numbers as of March 24, 2021**

Date	Principal	Coupon	Interest	Total Debt Service	O&M Expenses (3% Annual Growth)	Trustee	Capitalized Int. Fund (thru 12/1/2023)	Debt Service Reserve Fund	Net Debt Service
12/01/2054	1,830,000.00	4.000%	175,400.00	2,005,400.00	896,901.33	2,250.00			2,904,551.33
06/01/2055			138,800.00	138,800.00	923,808.37	2,250.00			1,064,858.37
12/01/2055	1,850,000.00	4.000%	138,800.00	1,988,800.00	923,808.37	2,250.00			2,914,858.37
06/01/2056			101,800.00	101,800.00	951,522.62	2,250.00			1,055,572.62
12/01/2056	5,090,000.00	4.000%	101,800.00	5,191,800.00	951,522.62	2,250.00		(3,221,262.50)	2,924,310.12
	54,895,000.00		43,605,761.46	98,500,761.46	42,117,886.36	157,500.00	(4,749,686.46)	(3,221,262.50)	132,805,198.86

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the “Memorandum”), is made and entered into as of June 1, 2021 by and between the FINANCE AND ADMINISTRATION CABINET, a cabinet and agency of the Commonwealth of Kentucky (the “Cabinet”), and KENTUCKY STATE UNIVERSITY, a public body corporate and an educational institution and agency of the Commonwealth of Kentucky (the “University”).

WITNESSETH

WHEREAS, the University and KSU Campus Housing, LLC, a Kentucky limited liability company (the “Lessor”) have entered into a Facilities Lease dated as of June 1, 2021 (the “Facilities Lease”); and

WHEREAS, the Lessor and The Huntington National Bank, as Trustee (the “Trustee”) have entered into the Trust Indenture dated as of June 1, 2021 (the “Trust Indenture”), whereby the Lessor has issued certificates of participation secured by its rights in the Facilities Lease (the “Certificates”), including without limitation the right to receive Lease Payments (as defined in the Facilities Lease) from the University; and

WHEREAS, the Facilities Lease requires, while the Certificates are outstanding under the Trust Indenture, that the University to pay Lease Payments, when due, on or before and in the amounts set forth in the Facilities Lease; and

WHEREAS, the University and the Cabinet desire to enter into this Memorandum for the University to authorize and direct that the Cabinet transfer appropriated funds to the Trustee in order to assure the timeliness of payment of the Lease Payments.

NOW THEREFORE, in consideration of the mutual benefits and covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Incorporation of Recitals; Defined Terms. The facts and recitations set out in the recitals of this Memorandum are adopted and incorporated as a part hereof, and the terms defined in the recitals shall have the same meanings when used herein. In addition, all words and terms defined in the Facilities Lease and in the Trust Indenture and all interpretations therein provided shall have the same meanings, respectively, and be subject to the same interpretations as therein provided where used in this Memorandum, unless the context or use clearly indicates another or different meaning or intent.

Section 2. Transfer of Moneys for Lease Payments. Section 3.04 of the Trust Indenture requires that the Trustee provide a notice to the Cabinet (a “Notice”) if a Lease Payment has not been paid in full when due. The University hereby directs, and the Cabinet hereby agrees, that upon the receipt of a Notice, the Cabinet shall apply amounts available from the University’s General Fund appropriation, as set forth in the State/Executive Branch Budget applicable to the fiscal year that the Notice was sent by the Trustee, to pay to the Trustee, for deposit in accordance with the Indenture, the unpaid Lease Payment amount (the “Transfer Amount”) set forth in the Notice. Within five days of the date of the Notice, the Cabinet shall remit the Transfer Amount by wire transfer to the account set forth in the Notice.

Section 3. Third Party Beneficiaries. All of the provisions herein contained are made for the benefit of each of the owners of the Certificates. Each and all of the owners of the Certificates and the Trustee on behalf of the owners of the Certificates have the rights of third party beneficiaries to enforce all of the provisions of the Facilities Lease.

Section 4. Notices. Except as otherwise specifically provided herein, all notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when delivered courier service providing for next day delivery or by electronic means:

If to the Cabinet: Kentucky Finance and Administration Cabinet
Room 383, Capitol Annex
Frankfort, KY 40601
Attention: Secretary of Finance and Administration

If to the University: Kentucky State University
Julian M. Carroll Academic Services Building
Frankfort, Kentucky 40601
Attention: President

If to the Trustee: The Huntington National Bank
3805 Edwards Road # 350
Cincinnati, Ohio 45209
Attention: Corporate Trust Department

A copy of each notice, approval, consent, request or other communication given hereunder by shall be given to all addressees identified above. The addressees may, by notice given hereunder, designate any further or different addresses to which subsequent notices, approvals, consents, requests, or other communications shall be sent or persons to whose attention the same shall be directed.

Section 5. Binding Effect. This Memorandum shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 6. Severability. In the event any provision of this Memorandum shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. If any provision herein shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

Section 7. Execution Counterparts. This Memorandum may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8. Captions. The captions or headings in this Memorandum are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Memorandum.

Section 9. Governing Law; Venue. This Memorandum shall be deemed to be a contract made under the laws of the Commonwealth of Kentucky and for all purposes shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky, without regard to conflict of law principles. Venue for any actions arising between the parties as a result of this Memorandum or the services provided hereunder shall be in Franklin County, Kentucky.

Section 10. Amendment. Except as otherwise provided herein, this Memorandum may be amended only by a written instrument signed by both parties. Notice of any amendment affecting related obligations or duties of the Trustee under the Trust Indenture shall be provided by the University to the Trustee within thirty (30) days of the execution of an amending document.

Section 11. References. Except as otherwise provided herein, any and all references in this Memorandum to any document or documents shall be references to such document or documents as the same may from time to time be modified, amended, renewed, consolidated, or extended.

Section 12. Authority. Any individual signing this Memorandum on behalf of an entity hereby represents and warrants in his/her individual capacity that he/she has full authority to do so on behalf of such entity.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum by their officers thereunto duly authorized, as of the date and year first above written.

**FINANCE AND ADMINISTRATION
CABINET OF THE COMMONWEALTH
OF KENTUCKY**

By: _____

Holly M. Johnson
Secretary of the
Finance and Administration Cabinet
of the Commonwealth of Kentucky

APPROVED AS TO FORM AND LEGALITY BY:

General Counsel
Office of General Counsel
Finance and Administration Cabinet

[Signatures continue on the following page.]

KENTUCKY STATE UNIVERSITY

By: _____
Douglas R. Allen, II
Executive Vice-President and Chief
Financial Officer of Finance and
Administration

APPROVED AS TO FORM AND LEGALITY BY:

General Counsel
Kentucky State University

Seen, acknowledged, and agreed:

THE HUNTINGTON NATIONAL BANK,
as Trustee

By: _____
Authorized Officer

DEVELOPMENT CONTRACT

THIS DEVELOPMENT CONTRACT (this "Contract") is entered into as of this 1st day of April 2021 ("Effective Date"), by and between **Kentucky State University**, an institution of higher education and agency of the Commonwealth of Kentucky (the "University"), and **KSU Campus Housing, LLC** (f/k/a CRM/KSU Housing, LLC), a Kentucky limited liability company, or its permitted assigns (the "Developer"), each referred to herein as a "Party" and collectively, as the "Parties".

RECITALS

A. The University issued a Request for Proposal (19-03 hereinafter "RFP") as a means of identifying developers for the design, development and construction of a new residence hall project to be developed on its Frankfort, Kentucky campus (the "Project").

B. The Project consists of a 400 plus bed student housing facility and state of the art dining hall that will serve all University students.

C. In response to the RFP, Developer proposed (i) to provide the development, design and construction services for, (ii) to cause the construction of, and (iii) to facilitate financing for, the Project through the issuance of Certificates of Participation ("COPs") on certain land located on the University's campus located at Main Street, Frankfort, Kentucky ("Residence Hall Site") (Exhibit A). The Residence Hall Site is owned in fee simple by the University. The Certificates of Participation are to be enhanced with an Inter-Agency Agreement between the University and the Finance and Administration Cabinet that provides for the intercept of General Fund appropriations to the University in the event that moneys are not deposited with the COPs Trustee in a timely manner consistent with the provisions of KRS 164A.608.

D. The University desires that the Project be constructed upon the Residence Hall Site and, in accordance with (i) a service agreement signed by the University and approved by the Kentucky State University Board of Regents dated December 3, 2020, and (ii) an authorization in an amount ("Authorized Amount"), excluding capitalized interest, associated financing cost and required reserves, up to \$55,562,000, in H.B. 352 of the General Assembly, 2020 Regular Session, as enacted and vetoed in part, and subsequently in HB 192 of the 2021 Regular Session, as enacted and vetoed in part, the University is authorized to lease the Residence Hall Site pursuant to that certain Ground Lease Agreement dated of even date herewith between the University and KSU Campus Housing, LLC (the "Ground Lease"), and Developer has agreed to lease from the University, the Residence Hall Site. A copy of the Ground Lease is attached hereto as Exhibit B. Developer along with its Affiliates as provided herein, intends to develop, design, construct, and own the Project on the Residence Hall Site.

E. KSU Campus Housing, LLC will ground lease the Residence Hall Site from the University. Pursuant to the aforementioned University resolution, Developer and the University will enter into that certain Facilities Lease of even date herewith (the "Facilities Lease") wherein the University has agreed to lease the Project from KSU Campus Housing, LLC. A copy of the Facilities Lease is attached hereto as Exhibit C. The Project on the Residence Hall Site will be

financed through the issuance of Certificates of Participation (“COP”) underwritten by Key Bank on behalf of KSU Campus Housing, LLC.

F. Developer and the University have agreed to enter into this Contract, based upon the approval of the Kentucky State University Board of Regents, to set forth their respective rights and obligations with respect to the design and construction of the Project.

NOW, THEREFORE, in consideration of the foregoing premises, the terms and conditions set forth below, and intending to be legally bound, the Parties hereto agree as follows:

ARTICLE I
DEVELOPMENT OF THE PROJECT

1.1 Description of the Project. The foregoing recitals are hereby incorporated into and made a part of this Contract. The Parties agree that Developer will, at its expense, develop, design, construct, and ground lease the Project on the Residence Hall Site in accordance with the Schematic Design for the Project referenced in Section 1.4 hereof. The Project will be known as the “Kentucky State University Residence Hall Project,” or such other name as determined from time to time by the University. The Developer will consist of approximately 400 plus beds and will consist of a mixture of two (2) room and four (4) room suites, as well as a Student Resident Assistant Room. The Resident Hall will be fully furnished; project costs include Furniture Fixtures and Equipment (“FF&E), but excludes dining and kitchen equipment. The University will manage the application for rooms and assignments within their student population. The University’s food service vendor will operate and provide equipment for the dining portion of the facility.

1.2 Developer Conditions. The obligations of Developer under this Contract are contingent upon the following, unless waived by Developer: (a) the due authorization, execution and delivery of this Contract, the Ground Lease and the Facilities Lease by all parties thereto; (b) issuance of the COPs; (c) Developer’s receipt of all permits necessary for the development and use of the Project in accordance with the building plans; (d) Developer’s determination from any due diligence review after the Effective Date that the Project and the Residence Hall Site is suitable for development without undue cost or difficulty; and (e) Developer’s determination that that the final costs of the Project as reflected in the final, building plans, shall not exceed the Authorized Amount (subject to adjustment as agreed to in writing between Developer and the University in finalizing the Budget as defined below, subject to any Executive Branch or Legislative Branch approvals that may be required, and excluding cost related to certificates of participation and required reserves). In the event that any of the foregoing contingencies are not fully satisfied by July 15, 2021, this Contract may be terminated by Developer, in which event the Ground Lease and the Facilities Lease shall also automatically terminate. To the extent that the condition giving rise to such termination failed wholly as a result of the University’s actions or inactions in default of its obligations under this Contract, the University shall reimburse Developer for all documented out-of-pocket expenses incurred by Developer or Developer-related parties prior to the date of such termination and upon such payment Developer shall deliver to the University copies of all documents, reports and plans prepared to date for the Project, and upon request of the University, Developer shall assign to the University any or all of such documents as may be requested by the University.

1.3 Construction Documents.

(a) Project Design. All architectural, engineering, interior design, landscaping, construction and other services for the Project to be provided by any third-party shall be provided by qualified professionals, pursuant to separate contractual arrangements between Developer and such firms or between the construction manager or consultant and such firms. Developer shall negotiate contracts with and shall be responsible to monitor and oversee all aspects of the performance of, the construction manager and all contractors and any other professional firms providing architectural design, engineering, interior design, landscaping, construction, or other services for the Project. The following entities are intended to be retained by Developer in connection with the Project, and they shall herein be designated as follows (subject to Developer's ability to negotiate mutually agreeable and commercially reasonable terms and conditions in each contract for services):

- (1) "Architect": EOP Architects, PSC.
- (2) "General Contractor": D.W. Wilburn, Inc.

Developer shall have the right to select other professionals and subcontractors as necessary or desirable, in addition to or in lieu of the foregoing, for the design, permitting, development, and construction of the Project, all in its reasonable discretion.

1.4 Schematic Design. The schematic design for the Project, including but not limited to, the Residence Hall Site plans, room mix, elevations, and other general design criteria for the Project (the "Schematic Design") are approved by the University and referenced in the attached Exhibit E.

1.5 Plans and Specifications. The plans and specifications for the Project (the "Plans and Specs") will be provided by Developer to the University and shall be: (a) consistent with the approved Schematic Design; and (b) in conformity with the requirements of the Governmental Authorities (defined below).

1.6 Project Budget. The proposed initial budget for the Project and its costs (excluding rating fees, underwriting fees and any required reserves) (the "Budget") are approved by the University and attached as Exhibit E.

1.7 Ownership of Drawings for Project. Developer shall grant to the University a license to use all digital and paper documents prepared in connection with the development of the Project.

1.8 Communications. In the event differences between the Parties arise, the Parties agree to act in good faith to resolve their differences. Developer agrees to provide periodic update reports to the University's Designated Representative regarding the status of the Project' development and schedule. The University may visit the job site to inspect the progress and performance of the work at any time. If such site visits are during normal business hours and would be of a nature that would interfere with construction, the University will coordinate such

visits/inspections with the Developer Representative to avoid undue interference with construction. In entering the Residence Hall Site, the University and its representatives shall comply with all reasonable restrictions of Developer or its agents, contractors and subcontractors intended to prevent personal injury or property damage.

ARTICLE II

CONSTRUCTION OF THE PROJECT

2.1 Construction of the Project. Developer shall construct and equip the Project, or cause the Project to be constructed and equipped, to Final Completion (hereafter defined) utilizing only new and good quality materials in accordance with the terms of this Contract, provided that material substitutions of similar or like kind are permitted if there are interruptions in supply chain as a result of COVID-19 or its variants or other Force Majeure events. “Final Completion” of the Project shall mean: Substantial Completion (hereafter defined) and receipt by Developer of a complete set of lien releases from each and every person or entity supplying labor, material or services to the Project.

2.2 Staging Areas and Right of Entry. During the Term of this Contract, the University hereby grants to Developer and its employees, contractors, subcontractors, agents and representatives (collectively, the “Developer Parties”), the right to enter on to those areas adjacent to the Residence Hall Site (“Staging Areas”) for the following purposes set forth below:

- (a) Location and maintenance of construction assets and equipment, including construction trailers, prior to and during construction of the Project;
- (b) Storage of equipment and materials for the construction of the Project; and
- (c) Short-term parking for Developer Parties while working on the Residence Hall Site.

Upon the vacation of the Staging Areas by the Developer Parties, Developer shall (a) remove any and all structures, equipment, supplies, construction materials, trash and debris from the Staging Areas and (b) restore them, at Developer’s expense, to substantially the same condition that existed prior to Developer’s entry thereon. The University will have no responsibility for security at or of the Staging Areas. For avoidance of doubt, the Rosenwald Building will be demolished as part of the Project and not restored.

2.3 Target Completion Date. The target Substantial Completion date for the Project is July 2023 (the “Target Completion Date”), with the expectation that the COPs are fully funded by July 1, 2021, except to the extent of any delay by the University, or by reason of Force Majeure (defined below). Developer shall give the University written notice of the occurrence of any Force Majeure event or act or omission by the University, that has caused or is reasonably likely to cause a delay (or total stoppage) in the progress of the Project of more than twenty (20) days. The term “Substantial Completion” shall mean the date on which: (a) Developer provides to the University a temporary certificate of occupancy or equivalent and a certificate of substantial completion by the Architect or (b) Developer provides to the University a certificate of occupancy or its equivalent.

2.4 Performance of Construction.

(a) Developer shall, after the awarding of the construction contracts, cause the commencement and diligent continuance of the construction of the Project. All items of work shown on the Plans and Specs for the construction of the Project's improvements is sometimes referred to herein as the "Project Work".

(b) As it relates to this Contract, Developer shall be solely responsible for all means, methods and techniques in the performance of all Project Work and constructing the Project. The construction of the Project shall be performed in a diligent and continuous fashion utilizing an adequate workforce in order to expeditiously construct the Project.

(c) All Project Work shall be performed pursuant to good construction practices and sound professional standards, and in compliance with all laws and legal regulatory requirements of Governmental Authorities relating to the construction and the performance of the Project Work. All construction shall be performed in a good and workmanlike manner, utilizing new, good quality materials as provided in the Plans and Specs.

2.5 Standard of Work; Warranty.

(a) All work shall be performed in a good and workmanlike manner in accordance with the provisions of this Contract and all requirements of law, including all applicable rules, regulations, ordinances, statutes, and guidelines promulgated by any applicable governmental or quasi-governmental authorities, agencies, or organizations (collectively referred to as the "Governmental Authorities"). The Project shall be constructed applying sound and generally accepted construction practices and sound professional standards utilizing materials of a quality and type standard in the industry for similar projects.

(b) Developer shall cause the General Contractor to guarantee and warrant to the University for a period of one (1) year from Substantial Completion as follows:

(1) That the Project Work has been performed in a good and workmanlike manner.

(2) That the Project Work has been done consistent with the Plans and Specs, as modified by approved Change Orders.

(3) That the Project Work is free from faults and defects.

(4) That the Project Work is in material compliance with all applicable laws, ordinances, rules and regulations.

2.6 Developer Obligations. Developer will take all necessary actions to accomplish the construction of the Project and perform the Project Work, including but not limited to, the following:

- (a) Procuring any and all licenses, permits, and approvals for the development and construction of the Project;
- (b) Contracting and paying for all budgeted project design, engineering, and testing services for the Project;
- (c) Entering into all construction contracts for the construction of the Project;
- (d) Executing all documentation and taking all action necessary to cause the disbursement of funds obtained for the construction of the Project, including furnishings;
- (e) Performing all other actions with regard to the development and construction of the Project as contemplated pursuant to this Contract;
- (h) Being responsible for and paying all over Budget costs and expenses that are not expressly covered by a Change Order as provided in Section 2.7 below; and
- (i) Being responsible for all security for the Residence Hall Site and any off-site storage or staging areas utilized by Developer during the construction period. Developer will, throughout all construction periods, be responsible for the enforcement of discipline and good order among workers on the Residence Hall Site and any off-site storage or staging areas. All signage shall be subject to the University's prior written approval.

Notwithstanding any other provision of this Contract, the Facilities Lease or the Ground Lease to the contrary, the University will be responsible for the payment of ad valorem real property and personal property taxes assessed against the buildings and other improvements and furnishings that are part of the Project or the materials used in construction of such buildings or other improvements that are assessed as of any date prior to or subsequent to Substantial Completion of the Project.

2.7 Changes to the Project; Change Orders.

(a) General. During the course of construction of the Project, Developer may order changes within the general scope of the Plans and Specs, consisting of additions, deletions, or other revisions that Developer deems necessary or desirable, provided that such changes are (i) approved in writing by the University, which approval shall not be unreasonably withheld, delayed or conditioned, (ii) in conformity with the approved Schematic Design, and (iii) in conformity with the requirements of the Governmental Authorities.

(b) Change Orders. No change in the Plans and Specs, deviation from the Plans and Specs and/or changes related to the Project Work shall occur without the written approval of Developer and the University. At any time, by written order, the University may request changes in the Project Work (individually a "Change Directive," and collectively the "Change Directives") consisting of additions, deletions, clarifications, changes, modifications or revisions of the Plans and Specs, the quantity or type of materials, the design of any aspect of the Project, any required equipment or services, or material change in the schedule for performance of the Project Work. Developer agrees to work with the University in good faith to agree upon the scope, timing and cost adjustments, if any, for any requested Change Directive. Developer will review all Change Directives and, if necessary, prepare the corresponding change orders (the "Change Orders") on standard AIA forms. All Change Orders must be agreed upon in writing and signed by both the University and Developer. Developer agrees to perform the modifications in the Project Work as set forth in each fully executed Change Order. If a Change Order requested by the University results in a net increase in the Budget for the Project and/or the cost of the Project Work when aggregated with any prior Change Orders requested by the University, the University shall be responsible for and shall fund the net additional monies in advance prior to any work with respect to such Change Order being commenced. In the event the Project Budget and/or the cost of the Project Work as a result of a Change Order shall increase prior to Developer's execution of the Change Order requested by the University, Developer shall prepare an amendment to the Project Timeline and/or the Project Budget. The University agrees to review and respond to Change Orders, changes in the Project Timeline and/or changes in the Project Budget within five (5) days after receipt of notice from Developer to the University. Developer shall not be responsible for any change (delay) in the Project Timeline or increase in the Project Budget caused by a Change Order requested by the University. Developer agrees with the University that all Project Work shall be performed in a manner consistent with the Project Budget and the Project Timeline as the same may be modified.

2.8 Punch List. The University will walk through the Project with Developer and, to the extent that Developer's and such contractor's punch list items pertain to the Project, or to any other of the University's interests in the Project, give input as to matters to be included in said punch list. Developer shall cause all punch list items to be promptly completed or remedied.

2.9 Minimal Disturbance. During the construction of the Project, Developer shall use commercially reasonable efforts to minimize the amount of disturbance to the current facilities located around the Residence Hall Site.

2.10 Permits and Approvals. Developer, at its sole cost and expense, shall apply for and use its best efforts to obtain any and all necessary building permits, licenses, and approvals that are necessary to construct the Project. The University agrees that it shall at all times and at no additional cost to the University cooperate with Developer in the procurement of any such permits, licenses, and approvals, and shall execute such documentation as is reasonably required therefor.

2.11 Assistance and Cooperation. The University shall make all reasonable efforts to assist Developer in obtaining permission for Developer to cause all buildings, structures, and other

improvements required for construction of the Project, both above-ground and underground, to be removed from the Residence Hall Site, and the University shall provide, at no additional cost to the University, reasonable assistance to Developer in obtaining all necessary utilities for the Residence Hall Site (including without limitation electricity, natural gas, potable water, sanitary sewer, and telephone, telecommunication, and data service in capacities acceptable to Developer). The University's obligations hereunder shall include providing all reasonable assistance to Developer to vacate, in the event that it is necessary, any easements, existing storm water or wastewater lines, or rights-of-way located within the boundaries of the Residence Hall Site and relocate, as necessary, any utility or other installations within such vacated rights-of-way or other areas of the Residence Hall Site where feasible. The Parties agree to work in good faith to establish such easements as may be reasonably requested by the other.

2.12 Insurance. Beginning no later than the earlier of commencement of (a) staging or (b) construction of the Project (including, without limitation, commencement of excavation, demolition and other site work) and continuing through at least the date of execution by the University of written confirmation of Substantial Completion of the Project, Developer shall procure and maintain, or cause to be procured and maintained, the minimum insurance coverage described in this Section 2.12 or such other coverage types and amounts required by its lender. Each requirement of this Section 2.12 applies to Developer and Developer's contractors and subcontractors as it applies to Developer.

(i) Employers Liability Coverage. Developer shall maintain employers' liability coverage with (1) an each-accident limit of not less than \$500,000, (2) an each-employee limit of not less than \$500,000, and (3) a disease policy limit of not less than \$500,000.

(ii) Commercial General Liability. Developer shall maintain commercial general liability ("CGL") coverage which provides (1) an each-occurrence limit of not less than \$1,000,000, and (2) a general-aggregate limit of not less than \$2,000,000.

(A) The CGL insurance shall be written on ISO occurrence form CG 00 01 10 01 or a substitute form, providing at least equivalent coverage for liability arising from premises, operations, independent contractors, products/completed-operations, personal and advertising injury, and liability assumed under an insured contract.

(B) Developer shall include the University as an additional insured under the CGL policy using ISO endorsement CG 20 26 07 04 or a substitute form(s) providing equivalent coverage.

(C) The CGL insurance provider shall be of recognized financial standing and carry a rating of A-VIII or better by A.M. Best.

(D) The CGL insurance shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs which cover the additional insured(s).

(E) The CGL policy shall not exclude coverage to the additional insured(s) for bodily injury or property damage arising out of the products/completed-operations hazard.

Developer shall cause the General Contractor and all subcontractors to maintain workers compensation coverage meeting the requirements of Kentucky law.

Developer shall cause the General Contractor and all subcontractors to maintain business automobile coverage reasonably satisfactory to the University with a limit of not less than \$1,000,000 each accident, with the University being added as an additional insured under such policy.

(iii) Business Automobile Liability Coverage. Developer will maintain business automobile liability insurance covering owned, leased and non-owned vehicles with \$1,000,000 occurrence and aggregate limits for bodily injury and property damage combined.

(iv) Umbrella/Excess Liability.

(A) Developer may employ an umbrella/excess liability policy to achieve the above-required minimum coverage.

(B) Developer shall cause the General Contractor to maintain no less than \$10,000,000 of umbrella/excess liability coverage in excess of the CGL amounts it shall be required to carry as set forth above.

(v) Professional Liability. Developer shall cause the General Contractor and the Architect to each maintain professional liability insurance with a per-claim limit of not less than \$2,000,000 per occurrence and an annual aggregate limit of not less than \$2,000,000.

(vi) Builder's Risk. Developer shall cause General Contractor to maintain or cause to be maintained All Risk and Builder's Risk - Completed Value Form Property Insurance ("Builder's Risk") covering all physical loss or damage to the Project covered by the extended coverage endorsement then in use in the Commonwealth of Kentucky (including vandalism and malicious mischief) in an amount not less than full replacement value of the Project. All such insurance shall be written on an occurrence basis. Such insurance shall include the University and Developer as an additional insured under the Builder's Risk policy.

All insurance policies to be maintained pursuant to this Section 2.12 must be issued by a company authorized to conduct business in the Commonwealth of Kentucky that is reasonably acceptable to the University. All insurance policies shall contain a provision that the policies and coverages shall not be altered or cancelled without thirty (30) days' prior written notice to the University. All insurance shall apply as primary and non-contributory insurance with respect to

any other insurance or self-insurance programs which cover the University. All insurance shall be written on an occurrence basis. Developer shall furnish certificates and other evidence of insurance coverage prior to commencement of (y) staging or (z) construction of the Project (including, without limitation, commencement of excavation, demolition and other site work) and prior to each policy renewal date. Upon request of the University, Developer shall furnish or cause to be furnished certified copies of policies evidencing all insurance coverage required under this Contract.

All insurance policies required to be maintained by the General Contractor, any subcontractor, or the Architect shall name the University and Developer as additional insureds.

2.13 Liens. Developer shall cause title to the Project to be and remain, during construction of the Project, free from and clear of all liens, claims, and encumbrances created by, through or under Developer or any contractor or subcontractor, except for (a) real estate taxes and assessments that are a lien but not yet due and payable, (b) liens or claims for materials supplied or labor or services performed in connection with the Project that are bonded-off or otherwise removed in accordance with applicable laws within sixty (60) days of the filing of such lien and in any event prior to the commencement of an action to foreclose on such lien and (c) any other liens or exceptions that are approved in writing by the University.

2.14 Environmental Laws. Developer shall not knowingly permit a violation of any Environmental Laws (as defined below) to exist with respect to the Project. Neither Developer nor its contractors or subcontractors shall use or permit to be used all or any portion of the Project for the storage, treatment, use or disposal of any substance for which a license or permit is required by state, federal or local Environmental Laws and for which no such license or permit has been obtained. Without limitation express or implied, unless caused by the negligence or willful misconduct of the University, Developer shall pay all sums and take all such actions as may be required to avoid or discharge the imposition of any lien on the Project facilities under any Environmental Law to the extent caused by a violation by Developer, its contractors or subcontractors of this Section 2.14, and Developer shall indemnify and save harmless the University Indemnified Parties (hereafter defined) from any and all loss, claims, liabilities, fines, and expenses (including attorney's and expert fees) incurred or suffered by the University by virtue of the failure of Developer, its contractors, or subcontractors, to comply with the provisions of this Section 2.14 or by virtue of the failure of the Developer, its contractors, or subcontractors, to comply with any Environmental Law in connection with the presence of any Hazardous Materials in violation of such Environmental Laws.

"Environmental Laws" as used herein shall mean all applicable federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment and/or governing use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Materials and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local Governmental Authorities with respect thereto, including, without limitation, CERCLA and similar state law. "Hazardous Materials" as used herein shall mean any and all substances, materials, chemicals, or wastes that now or hereafter are classified or considered to be hazardous or toxic under any Environmental Law, or that are or become

regulated by any Governmental Authority because of toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness, or reactivity under any Environmental Law applicable to the Project, and shall also include: (a) gasoline, diesel fuel, and any other petroleum hydrocarbons; (b) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (c) polychlorinated biphenyls; (d) radon gas; and (e) flammable liquids and explosives.

2.15 Unforeseen Conditions. The Parties acknowledge that the University selected the Residence Hall Site as the location for the Project. Accordingly, in the event Developer encounters any unforeseen conditions (including, without limitation, the presence of any Hazardous Materials), the Parties shall work in good faith to agree upon the scope, timing and cost adjustments necessary to rectify such condition and evidence the same via the University executing a Change Order in accordance with Section 2.7(b) above. In the event that the Parties are unable to agree upon such scope, timing or cost adjustments, either Party may terminate this Contract. In such event, the University shall reimburse Developer for all documented out-of-pocket expenses incurred by Developer or Developer-related parties prior to the date of such termination, but only if the University terminates this Contract.

ARTICLE III **REPRESENTATIONS AND WARRANTIES**

3.1 Representations and Warranties of the University. The University represents and warrants that the following matters are true and correct as of the date of this Contract and shall be true and correct throughout the Term of this Contract:

(a) To the University's knowledge, all of the documents provided to Developer by the University are true, correct, and complete in all material respects.

(b) There are no actions, suits or proceedings pending or threatened against or affecting the University which could impair the University's ability to perform its obligations under this Contract.

(c) This Contract and all of the documents or instruments to be executed in connection with the transactions contemplated hereunder (i) have been duly authorized, executed and delivered, (ii) are the legal, valid and binding obligations of the University, enforceable against it in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium, and other principles relating to or limiting the rights of contracting parties generally), and (iii) do not violate any provision of any agreement to which it is a party or to which it is subject.

(d) No brokerage commission, finder's fee or other, similar compensation is payable in connection with the transactions contemplated hereunder.

3.2 Representations and Warranties of Developer. Developer represents and warrants that the following matters are true and correct as of the date of this Contract and shall be true and correct throughout the Term of this Contract:

(a) To Developer's knowledge, all of the documents provided to the University by Developer are true, correct and complete in all material respects.

(b) There are no actions, suits or proceedings pending or threatened against or affecting Developer which could impair Developer's ability to perform its obligations under this Contract.

(c) Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Kentucky and qualified to do business in the Commonwealth of Kentucky. This Contract and all of the documents or instruments to be executed in connection with the transactions contemplated hereunder (i) have been duly authorized, executed and delivered, (ii) are the legal, valid and binding obligations of Developer, enforceable against it in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally), and (iii) do not violate any provision of any agreement to which it is a party or to which it is subject.

(d) No brokerage commission, finder's fee or other, similar compensation is payable in connection with the transactions contemplated hereunder.

3.3 Definition of Knowledge. Whenever a representation or warranty is made in this Contract to the "knowledge" of a Party, such representation and warranty shall be limited to (a) facts and circumstances within the actual and present knowledge of such Party, and (b) facts and circumstances that were disclosed in any written notice at any time received by such Party.

ARTICLE IV **INDEMNIFICATION**

4.1 Indemnification Obligations of Developer. Developer hereby agrees to indemnify and hold the University and its officers, members, managers, officials, directors, trustees, employees, and agents (collectively, the "University Indemnified Parties" and each, a "University Indemnified Party") harmless from and against the losses, liabilities, claims, damages, costs, and reasonable legal fees, (collectively, the "Losses") imposed upon, incurred by, or asserted against a University Indemnified Party on account of:

(a) a loss of or damage to property, or injury to or death of any person, that is caused by Developer or any of its members, owners, affiliates, employees, consultants, contractors, subcontractors or agents during the construction of the Project, or any part thereof or that occurs on the Residence Hall Site during the construction of the Project; or

(b) a breach or default on the part of Developer in the performance of a covenant, obligation, or agreement of Developer in this Contract.

Notwithstanding anything contrary contained herein, Developer shall have no duty to indemnify a University Indemnified Party to the extent the Losses result or resulted from (i) the willful

misconduct or gross negligence of a University Indemnified Party; or (ii) the breach by a University Indemnified Party of a material representation, warranty or covenant made in this Contract.

4.2 Indemnification Obligations of the University. To the extent permitted by law, and without waiving sovereign immunity, if any, the University hereby agrees to indemnify, defend and hold Developer and its affiliates, as well as their respective officers, members, managers, officials, directors, employees, and agents (each, a “Developer Indemnified Party”) harmless from and against the Losses imposed upon, incurred by, or asserted against a Developer Indemnified Party on account of:

(a) a loss of or damage to property, or injury to or death of any person, that is caused by the University or any of its directors, officers, employees, agents, or independent contractors; or

(b) a breach or default by the University in the performance of any of its covenants, obligations, or agreements under this Contract.

Notwithstanding anything contrary contained herein, the University shall have no duty to indemnify a Developer Indemnified Party in the event the Losses result or resulted from (i) the willful misconduct or gross negligence of a Developer Indemnified Party; or (ii) the breach by a Developer Indemnified Party of a material representation, warranty, or covenant made in this Contract.

4.3 Successors and Assigns. The indemnification obligations set forth in this Article IV are intended to and shall include the indemnification of all affected officers, members, managers, officials, directors, trustees, employees, and agents of each Party seeking indemnification, respectively, and their successors and permitted assigns. All insurance required to be maintained pursuant to this Contract is in support of, and not in satisfaction of Developer’s indemnification obligations. The indemnification obligations are intended to and shall be enforceable thereby to the full extent permitted by law and shall survive the termination of this Contract.

ARTICLE V EVENTS OF DEFAULT

5.1 Events of Default. Any one or more of the following events (each an “Event of Default”) shall constitute a breach of this Contract:

(a) the filing by Developer of any petition for dissolution or liquidation of Developer, or the commencement by Developer of a voluntary case under any applicable bankruptcy, insolvency or other similar law for the relief of debtors, foreign or domestic, now or hereafter in effect, or Developer shall have consented to the entry of an order for relief in an involuntary case under any such law, or the appointment of or taking possession by a receiver, custodian or trustee (or other similar official) for Developer or any substantial

part of its property, or a general assignment by Developer for the benefit of its creditors, or Developer shall have taken any corporate action in furtherance of any of the foregoing; or the filing against Developer of an involuntary petition in bankruptcy that results in an order for relief being entered or, notwithstanding that an order for relief has not been entered, the petition is not dismissed or stayed within ninety (90) days of the date of the filing of the petition, or the filing under any law relating to bankruptcy, insolvency or relief of debtors of any petition against Developer that either (i) results in a finding or adjudication of insolvency of Developer, or (ii) is not dismissed or stayed within ninety (90) days of the date of the filing of such petition;

(b) Developer shall breach in any material respect any of its representations or warranties under this Contract or shall fail to observe or perform any material term, covenant or condition of this Contract; provided, however, such failure or breach, shall not constitute an Event of Default so long as Developer gives notice to the University within thirty (30) days of its intention to cure such failure or breach.

5.2 Remedies; Remedies Cumulative.

(a) If an Event of Default shall have occurred and be continuing, the University shall have all other rights available at law, in equity or otherwise, including without limitation, the right to require Developer to complete, or cause to be completed, all or any part of the Project or pay for another contractor to complete, or cause to be completed all or any part of the project, in accordance with the payment and performance bond supplied by the general contractor. In such event, Developer shall hold the University harmless from any damages or additional costs arising from the Event of Default.

(b) No failure to exercise and no delay in exercising, on the part of any Party to this Contract, any right, remedy, power or privilege under this Contract shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Substantial Completion of the Project will not relieve Developer of its obligation to achieve Final Completion of the Project. The rights, remedies, powers and privileges provided in this Contract are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

ARTICLE VI **MISCELLANEOUS**

6.1 Term. This Contract shall remain in effect from the Effective Date until the later of (i) Final Completion of the Project or (ii) termination of the Ground Lease, Facilities Lease and all obligations of Developer thereunder ("Term").

6.2 Governing Law; Venue. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. The Parties hereby agree that all demands, claims, actions, causes of action, suits, proceedings and litigation between or among the Parties or arising out of this Contract shall be filed, tried and litigated only in the Franklin Circuit

Court, Commonwealth of Kentucky. In connection with the foregoing, the parties hereto irrevocably consent to the jurisdiction and venue of such courts and expressly waive any claims or defenses of lack of jurisdiction of or proper venue by such courts.

6.3 Exhibits, Entire Agreement, Beneficiaries. All exhibits referred to herein shall be considered a part of this Contract as fully as if and with the same force and effect as if such exhibit had been included herein in full. This Contract, and all the agreements and exhibits identified herein, represent the entire agreement between the University and Developer with regard to the Project and all prior agreements are superseded hereby. This Contract is for the sole benefit of the University and Developer and for any mortgagees of any mortgage that Developer shall hereafter execute, and no other party other than those specifically listed in this Contract are benefited hereby.

6.4 Relationship of the Parties. The relationship of the Parties shall be limited to the development and construction of the Project. The Parties shall act as independent contractors of each other with regard to this Contract. All personnel and staff of each Party shall be and remain employees or agents of, or independent contractors with, that Party and not of or with the other Party. Neither Party shall represent to any third-party that the Parties are partners, co-venturers or principal and agent, or have any other relationship other than that of independent contractors with regard to this Contract.

6.5 No Waiver. The failure of any Party to seek redress for violation, or to insist upon the strict performance of any covenant, agreement, provision, or condition of this Contract shall not constitute a waiver of such strict performance and the Parties shall have all remedies provided in this Contract and by applicable law with respect to any subsequent act which would originally constitute a violation.

6.6 Interpretation. Within this Contract, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. The paragraph headings used in this Contract are intended for reference purposes only and shall not be considered in the interpretation of the terms and conditions of this Contract. No provision of this Contract is to be interpreted for or against either Party because that Party or its legal counsel drafted such provision.

6.7 Severability. If one or more of the provisions of this Contract or any application of this Contract shall be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions of this Contract and any other application of such provisions shall in no way be affected or impaired.

6.8 Amendments and Assignments. This Contract may be amended, from time to time, only with the written consent of the University and Developer. This Contract may not be assigned by either Party without the prior written consent of the other Party, which consent may be withheld in the discretion of the non-assigning Party.

6.9 Counterparts. This Contract may be executed in several counterparts, including by digital or pdf signatures, each of which shall be deemed an original, and said counterparts shall constitute but one and the same instrument.

6.10 Notices. All notices, demands, requests, consents and other instruments required or permitted to be given pursuant to the terms of this Contract shall be in writing and shall be deemed to have been duly delivered and deemed to have been received (a) upon personal delivery, (b) two (2) business days after deposit with a nationally recognized overnight delivery service, (c) if mailed, upon the first to occur of actual receipt or four (4) business days after being placed in the United States mail, postage prepaid, registered or certified mail, with return receipt requested, or (d) upon receipt of electronic confirmation of receipt in the event of delivery by facsimile or electronic mail (provided that a copy of such correspondence is also delivered by one of the methods described in (a) – (c) above within one (1) day following delivery of such facsimile or electronic mail). The addresses to which notices shall be sent are set forth below. Notice of any change in address by any of the Parties to this Contract shall be given in writing to the other Party as provided above, and shall be effective only upon actual receipt:

If to the University, to: Kentucky State University
Finance and Administration
400 East Main Street
Academic Services Building, Suite 201
Frankfort, Kentucky 40601
Attn: Douglas R. Allen II
Email: douglas.allen@kysu.edu

With copy to: Kentucky State University
Office of General Counsel
400 East Main Street
Julian Carroll Building, Room 539
Frankfort, Kentucky 40601
Attn: Lisa Lang, Esq.
Email: lisa.lang@kysu.edu

If to Developer, to: KSU Campus Housing, LLC
1560 Delaware Avenue
Lexington, Kentucky 40505
Attn: William Craig Turner
Email: wcraigturner@me.com

With Copy to: John P. Watz, Esq.
Henry Watz Raine & Marino, PLLC
401 West Main Street, Suite 314
Lexington, Kentucky 40507
Email: jwatz@hwrmlaw.com

Each of the University and Developer shall designate a representative (hereinafter the “the University Representative” and the “Developer Representative”), who each shall be authorized to receive such oral notices as may be made from time to time under the Contract (but only if and when oral notices

are expressly permitted under this Contract), perform such actions as are specifically assigned to said representative under this Contract and act on behalf of the Parties on a day-to-day basis with respect to the Project. A Party may change its representative on ten (10) days' prior written notice to the other Party.

The initial University Representative shall be Douglas R. Allen II or Lisa Lang.

The initial Developer Representative shall be William Craig Turner or Megan Walsen.

6.11 Additional Acts. In connection with this Contract, as well as all transactions contemplated by this Contract, the University and Developer each agree to work in good faith and execute and deliver such additional documents and instruments and take all such necessary action and perform such additional acts as may be necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions, and conditions of this Contract and all such transactions; provided, however, this Contract may be modified only in accordance with the terms hereof.

6.12 Announcements. Except as may be required by law or Governmental Authorities, the Parties shall agree on the content and date of any public announcement or statement concerning the existence of this Contract or its subject matter or anything related to the Project.

6.13 Force Majeure. The time for performance by a Party of any term, provision or covenant of this Contract shall be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, acts of war or terrorism, floods, restrictions by Governmental Authorities, not within the control of, or the result of the fault or negligence of, the Party, as the case may be ("Force Majeure"), and not already known to the Party as of the Effective Date. A Party claiming Force Majeure shall notify the other of such delay by notice in accordance with this Contract not more than twenty (20) business days after the beginning of such delay and the cause(s) thereof.

6.14 Relationship of the Parties. The relationship of the Parties shall be limited to the development and construction of the Project. Nothing herein or in the Ground Lease, Facilities Lease shall be deemed to create a partnership or joint venture between the Parties, nor to authorize either Party to act as an agent for the other.

[Remainder of page intentionally blank. Signatures appear on the following pages.]

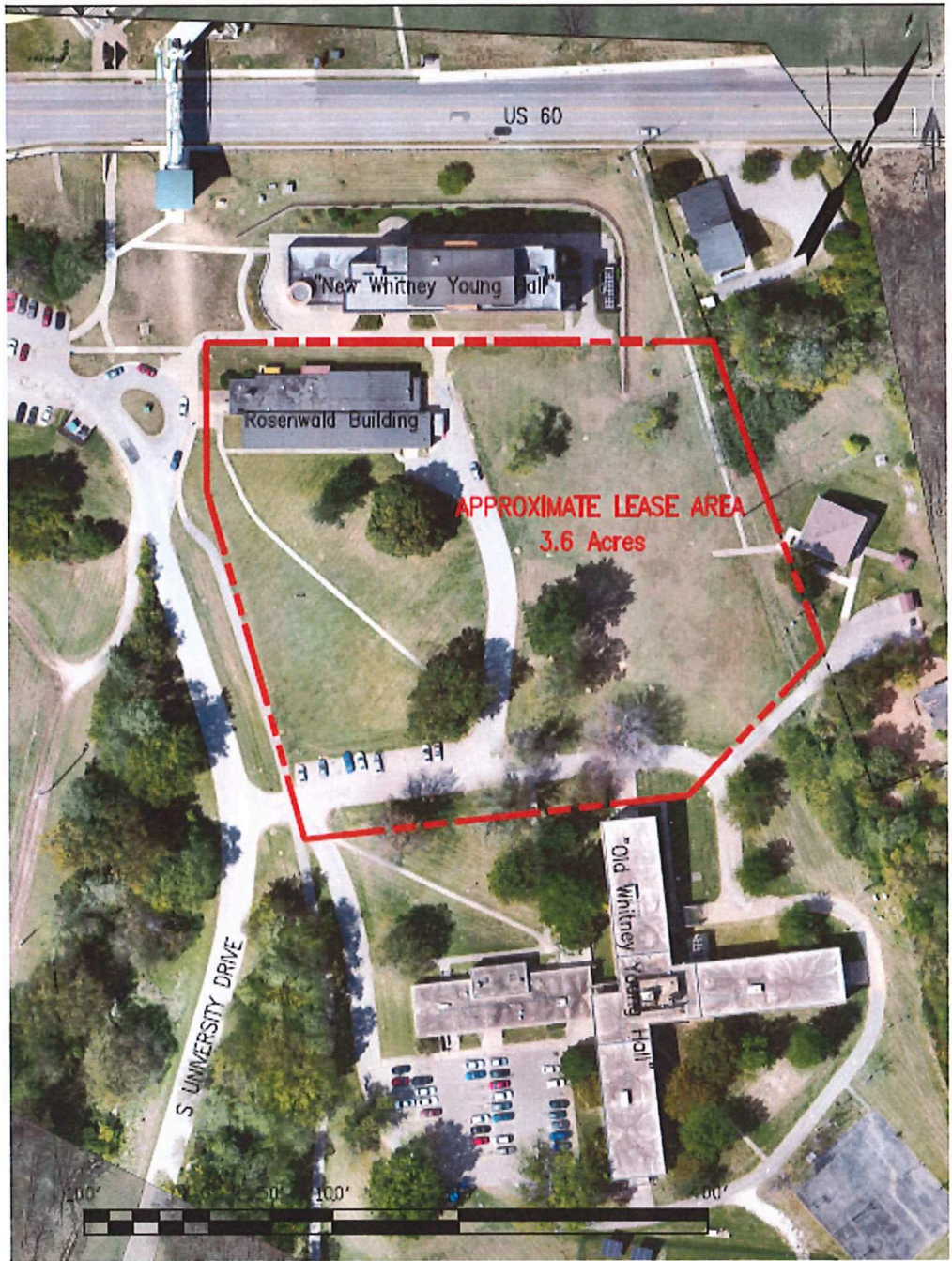
EXHIBIT A:

Description of the Residence Hall Site

The area depicted on the attached aerial photograph is the Property to be leased and will include ingress and egress rights for vehicular or pedestrian traffic over the remaining property of Kentucky State University, including South University Drive.

Being a part of the same property conveyed to a predecessor of Kentucky State University by deed dated November 15, 1898 of record in Deed Book 36, Page 224, in the Franklin County Clerk's Office.

[To be replaced with a metes and bounds legal description to be provided.]



Z:\044\030\Young Hall\044_030\0201_0_2041.PM, 1100, EnSite Engineering, KAP

Exhibit A-2

EXHIBIT B:
Ground Lease

EXHIBIT C:

Facilities Lease

EXHIBIT D:
Schematic Design



Kentucky State University
New Residence Hall

Schematic Design Package – Table of Contents

Sheet Number/Description

1. Birdseye Rendering	24. A-103C: Floor Plan – Sector 3C
2. Perspective Rendering	25. A-106: Roof Plan
3. Rendered Site Plan	26. A-110: Enlarged Plans – Suite Types
4. Schematic Site Traffic Diagram	27. A-151A: Reflected Ceiling Plan – Sector 1A
5. Dining Level 0 Floor Plan	28. A-151B: Reflected Ceiling Plan – Sector 1B
6. Entry Level 1 Floor Plan	29. A-151C: Reflected Ceiling Plan – Sector 1C
7. Level 2 Floor Plan	30. A-152A: Reflected Ceiling Plan – Sector 2A
8. Levels 3-5 Floor Plans	31. A-153A: Reflected Ceiling Plan – Sector 2B
9. Suite Types – 2 Bedroom Plan	32. A-154A: Reflected Ceiling Plan – Sector 2C
10. Suite Types – 4 Bedroom Plan	33. A-201: Building Elevations
11. Suite Types – RA Plan	34. A-202: Building Elevations
12. COV: Cover Sheet	35. A-301: Building Sections
13. A-0.00: Wall Types	36. A-302: Building Sections
14. A-0.01: Overall Floor Plans	37. A-303: Building Sections
15. A-100: Floor Plan – Sector 0A Dining	38. A-304: Building Sections
16. A-101A: Floor Plan – Sector 1A	39. A-401: Wall Sections
17. A-101B: Floor Plan – Sector 1B	40. A-402: Wall Sections
18. A-101C: Floor Plan – Sector 1C	41. A-403: Wall Sections
19. A-102A: Floor Plan – Sector 2A	42. A-404: Wall Sections
20. A-102B: Floor Plan – Sector 2B	43. A-405: Wall Sections
21. A-102C: Floor Plan – Sector 2C	44. A-406: Wall Sections
22. A-103A: Floor Plan – Sector 3A	45. A-407: Wall Sections
23. A-103B: Floor Plan – Sector 3B	

EXHIBIT E:

Budget

Pre-Development Expense	\$ 750,000.00
Construction Hard Costs	\$37,656,000.00
Soft Costs (A & E; Development; Legal, etc.)	\$ 8,772,888.00
FF&E	\$ 1,300,000.00
Operations & Maintenance Reserve	\$ 1,200,000.00
Capital Reserve Fund	\$ <u>1,200,000.00</u>
Total	\$50,878,888.00