



# Finance & Facilities Committee Meeting Agenda

Wednesday, February 9, 2022  
10:30 AM – 12:00 Noon

Florida Polytechnic University  
WEBEX TELECONFERENCE MEETING

Dial in: 1-415-655-0001 | Access code: 2426 831 1468#

## MEMBERS

Beth Kigel, Chair  
Samantha Ashby

Gary Wendt, Vice Chair

Cliff Otto

## AGENDA

- |       |  |  |
|-------|--|--|
| I.    | Call to Order  | Beth Kigel, Chair  |
| II.   | Roll Call  | Kristen Wharton  |
| III.  | Public Comment   | Beth Kigel   |
| IV.   | <a href="#">Approval of November 10, 2021 Minutes</a><br><b>*Action Required*</b>                | Beth Kigel   |
| V.    | <a href="#">Finance and Facilities Committee Work Plan Review</a>                                | Penney Farley<br>AVP and Controller  |
| VI.   | <a href="#">University FY22 Q2 Financial Update</a>  | Penney Farley  |
| VII.  | <a href="#">Contracts Over \$2,000,000 (Liberty Lawn Care, LLC)</a><br><b>*Action Required*</b>  | Penney Farley  |
| VIII. | <a href="#">Campus Construction Update</a>   | David Calhoun, AVP<br>Facilities and Safety Services                                 |
| IX.   | <a href="#">Ground Lease Agreement with Ryan Companies USA, Inc.</a><br><b>*Action Required*</b> | Andrea Cashell<br>Director of Procurement  |
| X.    | <a href="#">Advancement and Foundation Update</a>  | Kathy Bowman, VP<br>Advancement & Foundation CEO                                     |
| XI.   | <a href="#">Approval of Foundation Board Appointment</a><br><b>*Action Required*</b>             | Kathy Bowman   |
| XII.  | <a href="#">Foundation FY22 Q2 Financial Update</a>  | Larry Locke, Director of Finance<br>and Development Operations<br>and Foundation COO |
| XIII. | Closing Remarks and Adjournment  | Beth Kigel   |



# Finance & Facilities Committee Meeting

## DRAFT MEETING MINUTES

November 10, 2021  
2:30 PM - 3:30 PM

### Florida Polytechnic University WEBEX TELECONFERENCE MEETING

#### I. Call to Order

Committee Chair Beth Kigel called the Finance and Facilities Committee meeting to order at 2:32 p.m.

#### II. Roll Call

Kristen Wharton called the roll: Committee Chair Beth Kigel, Committee Vice-Chair Gary Wendt, Trustee Samantha Ashby, and Trustee Cliff Otto were present (Quorum).

Other Board Members present: Trustee Bob Stork, Trustee Mark Bostick

Staff present: President Randy Avent, Kathy Bowman, Penney Farley, Andrea Cashell, David Blanton, David Calhoun, Mike Dieckmann, Larry Locke, Melaine Schmiz, Lydia Guzman, Laura Marrone, Dr. Kathryn Miller, Dr. Tom Dvorske, John Causey, Kimberly Abels, Michele Rush, and Kristen Wharton.

#### III. Public Comment

There were no requests received for public comment.

#### IV. Approval of Minutes

**Trustee Gary Wendt made a motion to approve the Finance and Facilities Committee meeting minutes of September 10, 2021. Trustee Cliff Otto seconded the motion; a vote was taken, and the motion passed unanimously.**

#### V. Finance and Facilities Committee Work Plan Review

Penney Farley reviewed the Finance and Facilities Committee Work Plan. There was no discussion on this item.

#### VI. University Financials

Farley presented the first quarter financials starting with institutional ratios. She stated Florida Poly remains in a strong financial position relative to standard benchmarks set by NACUBO (National Association of College and University Business Officers).

Assets, liabilities, and net position for FY22 as compared to FY21 were reviewed. Cash and investments are down \$13M due to construction draws for the Applied Research Center (ARC). Receivables are down \$1.6M due to timing of construction draws. Deferred inflows and outflows are related to pension and OPEB (Other Post-employment Benefits) over which

the University has no control. Trustee Gary Wendt suggested Farley present this chart without the ARC included so trustees can see just the activity of the University. Farley agreed she can show the chart both ways. Committee Chair Kigel agreed.

Next, Farley reviewed a first quarter year-over-year variance summary of sources and uses. Chair Cliff Otto asked if raises were built into the budget. Farley said raises are now permanently embedded into the operating budget. Trustee Wendt inquired how much lottery money the University receives; Farley stated approximately \$500k.

Budget to actuals for sources and uses were reviewed. While there is a 30% increase in OPS (Other Personnel Services) expenditures, Farley stated there is \$900k in carryforward funds to accommodate OPS.

Farley presented carryforward balances for both Education & General (E&G) and Capital expenditures, then provided an update on CARES funding. All of CARES I funds have been spent. CARES II funds have \$378k remaining and Cabinet continues to discuss how to best spend the \$1.6M in CARES III funds. Trustee Wendt asked if the University has reporting requirements on how CARES funds are spent. Farley stated the University reports on CARES fund expenditures every quarter. President Avent added he fully expects the University to be audited on CARES expenditures at some point.

There is a total of \$37k in uncollectable student debt for the years 2014-2018 that President Avent recently wrote off. Going forward, the committee will review bad debts at the end of each fiscal year. Trustee Wendt recognized these overall receivables are less than 1%.

Farley reported the contracts with Cisco and Skanska were executed by President Avent for Furniture, Fixtures, and Equipment (FF&E) for the Applied Research Center (ARC).

Finally, Farley reviewed the revised carryforward spending plan. The previously approved plan included a total of \$7,677,820. Now that FY21 books are closed out and OPEB figures are in, the revised total is \$8,950,360. This revision does not need to go back to the Board of Governors; however, it does require approval by the Board of Trustees.

**Trustee Samantha Ashby made a motion to recommend approval of the revised University Carryforward Spending Plan for the 2021-2022 fiscal year to the Board of Trustees. Trustee Gary Wendt seconded the motion; a vote was taken, and the motion passed unanimously.**

VII. Contracts Over \$200,000

There were no changes to the list of contracts over \$200k since the September meeting and no discussion occurred on this item.

VIII. Powers and Duties of the President

Committee Chair Kigel shared that the Governance Committee reviewed and approved this item earlier in the day; however, because there is an element to this item that impacts the Finance and Facilities Committee, she thought it prudent for the committee to review this item. Board Chair Cliff Otto shared the Governance Committee voted unanimously to move the revisions to the Resolution forward to the full Board for approval.

Committee Chair Kigel reviewed the changes to the Resolution, which include:

1. Increasing the President's authority as it relates to purchasing agreements from \$500K to \$1M, with the Chair of the Finance Committee approving contracts that are \$1M to \$2M in total value, and the Finance & Facilities Committee approving any contracts exceeding \$2M in total value.
2. Only requiring an annual report to the finance committee on purchasing agreements that exceed \$1M in total value.

**Trustee Cliff Otto made a motion to recommend approval of the revised draft Florida Polytechnic University Board of Trustees 2021-004 Resolution on Powers and Duties of the President to the Board of Trustees. Trustee Gary Wendt seconded the motion; a vote was taken, and the motion passed unanimously.**

IX. Campus Construction Update

David Calhoun provided an update on campus construction, including the Applied Research Center (ARC), the FIPR Institute (Environmental Engineering building), and Ryan Companies' Public Private Partnership (P3) building.

The ARC is scheduled for substantial completion on May 22, 2022, with a projected move in of April 1, 2022.

A design criteria package is being developed for the Environment Engineering building. Construction is projected to begin summer 2022 with completion in summer 2023.

Ryan Companies has provided a conceptual schematic design package to the University, and leadership has received a presentation from Ryan Companies. Board Chair Cliff Otto inquired if they requested parking spaces on that parcel. Calhoun replied as this is not an optimal use of space, they adjusted the building further south on the parcel so people could easily park in Lot 6. Construction is projected to start August 2022 and completed in August 2023. Trustee Wendt inquired if the University has an agreement with Ryan. President Avent stated this Board approved the agreement earlier this summer and the Board of Governors also approved the agreement in August. Ryan Companies is still working through internal approvals.

Calhoun reported that all agencies have provided feedback on the revised Campus Master Plan (CMP). Minor recommendations were given. The final draft of the CMP will come to the Board in spring 2022 for approval.

The BOG required Educational Plant Survey (EPS) has commenced and will include two phases of study: space validation and needs assessment. The space validation portion will take place December 7-8; the needs assessment will occur in spring 2022 and brought to the Board of Trustees for adoption. This committee and the Board will approve the final EPS at their May and June 2022 meetings respectively.

X. Advancement and Foundation Update

Kathy Bowman gave an update on Advancement's pre-campaign planning. Currently, major gift giving capacity falls between \$110M and \$333M with a total gift value of approximately \$105M. The University has hired a capital campaign consulting firm to conduct feasibility studies and provide additional direction.

Bowman also reviewed three additional benchmarks she tracks including donor retention, donor recapture rate, and donor acquisition rate. Donor retention is "pretty good" at 45%,

while donor recapture is “very low” at 3%. These benchmarks have a direct impact on fundraising.

Annual giving programs and upcoming engagement activities on campus were also reviewed.

Trustee Wendt asked if Florida Poly will use its #1 University in the South ranking as a backbone of Advancement’s solicitation activities. Bowman responded in the affirmative.

XI. Foundation FY22 Q1 Financial Update

Larry Locke reviewed the University Foundation’s FY22 first quarter financials, including budget to actuals and a statement of activities year-over-year (YOY). While the chart reflects a revenue variance of -68%, donations for October 2021 were \$660k with a net gain of \$650k. Operating expenses are down 28% from budget. YOY revenue in the first quarter decreased 46% while operating expenses YOY decreased 59%. The Advancement team projects revenue of \$750k-\$1M by January 1, 2022.

Trustee Kigel asked how giving projections through January 2022 compared to what was budgeted. Locke responded they projected just over \$1M in revenue for the year. If the Foundation has a good second half of the fiscal year, revenue could double or even triple budgeted revenue.

XII. Closing Remarks and Adjournment

Trustee Wendt expressed concern that student housing was not on the meeting’s agenda. President Avent stated this topic will be a strategic item of discussion at next week’s Board meeting.

With no further business to discuss the meeting adjourned at 3:39 p.m.

**Florida Polytechnic University  
Finance and Facilities Committee  
Board of Trustees  
February 9, 2022**

**Subject: Finance and Facilities Committee Work Plan Review**

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**Proposed Committee Action**

Review only. No action required.

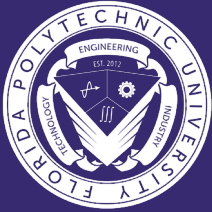
**Background Information**

Penelope Farley, Assistant Vice President and Controller, will review the Committee's 2021-2022 Committee Work Plan.

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**Supporting Documentation:** 2021-2022 Finance and Facilities Committee Work Plan

**Prepared by:** Penelope Farley, Assistant Vice President and Controller



# Committee Work Plan

## Finance & Facilities Committee Work Plan

**2021-2022**

*Revised 9.8.21*

### SEPTEMBER

- Finance and Facilities Committee Charter *(review and approve every two years – due September 2022)*
- Legislative Operating Budget Request *(review and approve)*
- Fixed Capital Outlay Budget *(review and approve)*
- University E&G Carryforward Spending Plan *(review and approve)*
- University Annual Financial Report (Unaudited) *(review only)*
- University and Foundation Year-End Financial Updates
- Contracts *(review and approve as needed)*
- Construction Update
- Foundation's Actual Use of University Resources *(review only)*
- Advancement Update
- Foundation Board Appointments *(review and approve as needed)*

### NOVEMBER

- University and Foundation Quarterly Financial Updates
- Foundation Financial Audit *(review only – for prior FY)*
- Educational Plant Survey *(if information is available by November)*
- Bad Student Debts
- Contracts *(review and approve as needed)*
- Construction Update
- Advancement Update
- Foundation Board Appointments *(review and approve as needed)*

### FEBRUARY

- University and Foundation Quarterly Financial Updates
- Educational Plant Survey *(if information is available by February)*
- Contracts *(review and approve as needed)*
- Construction Update
- Advancement Update
- Foundation Board Appointments *(review and approve as needed)*

## JUNE

- Legislative Session Appropriations Update
- University Operating Budget *(review and approve)*
- Foundation Operating Budget *(review only)*
- Capital Improvement Plan (CIP) *(review and approve – for FY+1)*
- Legislative Operating Budget Request *(review and approve – for FY+1)*
- Foundation's Anticipated Use of University Resources *(review and approve – for FY+1)*
- Review of Financial Internal Controls - University Support Organizations *(for 2022 only)*
- University and Foundation Quarterly Financial Updates
- Contracts *(review and approve as needed)*
- Construction Update
- Advancement Update
- Foundation Board Appointments *(review and approve as needed)*



**Florida Polytechnic University  
Finance and Facilities Committee  
Board of Trustees  
February 9, 2022**

**Subject: University FY22 Second Quarter (Q2) Financial Update**

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**Proposed Committee Action**

Information only – no action required.

**Background Information**

Penelope Farley, Assistant Vice President and University Controller, will provide the Committee with an update on the second quarter financials for fiscal year 2022.

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**Supporting Documentation:** FY22 Q2 Financial Review

**Prepared by:** Penelope Farley, Assistant Vice President and Controller







**FLORIDA POLYTECHNIC**  
UNIVERSITY

# **University Financials**

## **Quarter 2, FY2022**

**Penney Farley**  
**February 9, 2022**

# Institutional Ratios

Ratio	Florida Poly	Benchmark	Status
Cash ratio	1,126	1	
Viability	213	1.25-2.0	
Primary reserve	206	0.4	
Net income	21	2.0-4.0	

**Cash ratio** is the ability to cover short-term obligations.

**Viability** is the availability of expendable assets to cover debt.

**Primary reserve** measures financial strength.

**Net income** measures operating performance.

- **Florida Poly remains in a strong financial position relative to standard benchmarks**

# Outline

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- Introduction
  - **Net Position**
  - **YOY Variance**
  - **Budget-to-Actual**
  - **Other Sources**
  - **Summary**
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# FY22 Net Position

	12/31/2021	12/31/2020	\$ change	% change	
<b>Assets</b>	<b>Assets &amp; Deferred Outflows</b>				
	Cash and Investments	\$ 37,685,091	\$ 48,894,471	\$ (11,209,380)	-22.93%
	Receivables	7,274,225	545,944	6,728,281	1232.41%
	Property, Plant & Equipment, net	168,911,831	161,772,245	7,139,586	4.41%
	Deferred Outflows	12,967,812	10,710,611	2,257,201	21.07%
	<b>Total Assets &amp; Deferred Outflows</b>	<b>226,838,959</b>	<b>221,923,271</b>	<b>4,915,688</b>	<b>2.22%</b>
<b>Liabilities</b>	<b>Liabilities &amp; Net Position</b>				
	Current Liabilities	3,346,712	10,628,347	(7,281,635)	-68.51%
	Noncurrent Liabilities	25,176,764	23,751,391	1,425,373	6.00%
	Deferred Inflows	4,120,842	2,565,760	1,555,082	60.61%
	<b>Total Liabilities &amp; Deferred Inflows</b>	<b>32,644,317</b>	<b>36,945,498</b>	<b>(4,301,181)</b>	<b>-11.64%</b>
<b>Net</b>	<b>Net Position</b>	194,194,642	184,977,773	9,216,869	4.98%
	<b>Total Liabilities &amp; Net Position</b>	<b>\$ 226,838,959</b>	<b>\$ 221,923,271</b>	<b>\$ 4,915,688</b>	<b>2.22%</b>

- Cash & Investments used primarily for Property, Plant & Equipment
- Receivables and Current Liabilities affected by construction draws
- Noncurrent Liabilities include increase in pension and decrease in OPEB



# FY22 Net Position – w/o ARC

	w/o ARC 12/31/2021	w/o ARC 12/31/2020	\$ change	% change	
<b>Assets</b>	<b>Assets &amp; Deferred Outflows</b>				
	Cash and Investments	\$ 36,733,996	\$ 42,637,269	\$ (5,903,273)	-13.85%
	Accounts Receivable and Prepaids	1,487,815	282,636	1,205,179	426.41%
	Property, Plant & Equipment, net	131,811,573	136,425,680	(4,614,107)	-3.38%
	Deferred Outflows	12,967,812	10,710,611	2,257,201	21.07%
	<b>\$ 183,001,196</b>	<b>\$ 190,056,196</b>	<b>\$ (7,055,000)</b>	<b>-3.71%</b>	
<b>Liabilities</b>	<b>Liabilities &amp; Net Position</b>				
	Current Liabilities	\$ 1,065,272	\$ 2,289,959	\$ (1,224,687)	-53.48%
	Noncurrent Liabilities	25,176,764	23,751,391	1,425,373	6.00%
	Deferred Inflows	4,120,842	2,565,760	1,555,082	60.61%
	<b>Total Liabilities &amp; Deferred Inflows</b>	<b>30,362,877</b>	<b>28,607,110</b>	<b>1,755,767</b>	<b>6.14%</b>
<b>Net</b>	<b>Net Position</b>	152,638,319	161,449,086	(8,810,767)	-5.46%
	<b>Total Liabilities &amp; Net Position</b>	<b>\$ 183,001,196</b>	<b>\$ 190,056,196</b>	<b>\$ (7,055,000)</b>	<b>-3.71%</b>

- Cash & Investments have been used to front PECO dollars not released until Q3
- AR has increased due to scholarships, grants and agency funds due to us
- PP&E decrease is a net of depreciation and new assets of \$700K
- Current liabilities decreased due to timing of payments for Auxiliary and deposits held

# YOY Variance

	<u>Actual 12/31/21</u>	<u>Actual 12/31/20</u>	<u>Variance</u>	
<b>Sources</b>	<b>Summary of Sources</b>			
	State and Lottery Appropriations	\$ 20,752,177	\$ 17,292,138	20.01%
	Student Tuition & Fees	1,811,631	1,670,347	8.46%
	Scholarships	6,059,564	5,867,955	3.27%
	Other Sources	3,961,068	3,501,280	13.13%
	<u>\$ 32,584,440</u>	<u>\$ 28,331,720</u>	<u>15.01%</u>	
<b>Uses</b>	<b>Summary of Uses</b>			
	Salary & Benefit	\$ 11,432,054	\$ 11,687,594	-2.19%
	Other Personnel Services (OPS)	1,436,569	1,379,076	4.17%
	Operating Expenses	7,028,950	6,276,938	11.98%
	Scholarships	6,063,799	5,642,860	7.46%
	<b>Total Uses</b>	<u>25,961,372</u>	<u>24,986,468</u>	<u>3.90%</u>
	<u>\$ 6,623,068</u>	<u>\$ 3,345,252</u>	<u>97.98%</u>	
	<b>Sources (over)/under</b>			
	<u>\$ 6,623,068</u>	<u>\$ 3,345,252</u>	<u>97.98%</u>	

- State and Lottery Appropriations include Performance Based Funding
- Student Tuition & Fees and Financial Aid increased with student growth
- Other Sources increased from Auxiliary and CARES funding
- Increased Operating Expenses due to contractual services in Auxiliary
- Scholarships include CARES funding of \$603k

# Budget-to-Actual

	FY 21-22 Budget	Budget 12/31/21	Actual 12/31/21	Variance	
<b>Sources</b>	<b>Summary of Sources</b>				
	State and Lottery Appropriations	\$ 41,539,451	\$ 20,769,726	\$ 20,752,177	-0.08%
	Student Tuition & Fees	3,898,268	1,949,134	1,811,631	-7.05%
	Scholarships	11,000,000	5,500,000	6,059,564	10.17%
	Other Sources	10,465,467	5,232,734	3,961,068	-24.30%
	<b>Total Sources</b>	<b>\$ 66,903,186</b>	<b>\$ 33,451,593</b>	<b>\$ 32,584,440</b>	<b>-2.59%</b>
<b>Uses</b>	<b>Summary of Uses</b>				
	Salary & Benefit	\$ 28,489,903	\$ 14,244,951	\$ 11,432,054	-19.75%
	Other Personnel Services (OPS)	2,675,293	1,337,646	1,436,569	7.40%
	Operating Expenses	25,128,514	12,564,257	7,028,950	-44.06%
	Scholarships	11,000,000	5,500,000	6,063,799	10.25%
	<b>Total Uses</b>	<b>67,293,710</b>	<b>33,646,855</b>	<b>25,961,372</b>	<b>-22.84%</b>
	<b>Sources (over)/under</b>	<b>\$ (390,523)</b>	<b>\$ (195,262)</b>	<b>\$ 6,623,068</b>	<b>-3491.89%</b>

- Scholarships include \$603 of CARES funding
- Other sources include a decrease in interest income and grant revenues
- CARES institutional funding hasn't been timely spent due to supply chain
- Aux revenues are up \$128k but FIPR revenues are down \$189k
- Vacancies remain open with key positions to be filled
- Decrease in Operating Expenses reflects PBF funds that are still available



# Carryforward Balances

## • Education & General

<b>Beginning Balance, 7/1/21</b>	<b>\$ 8,950,360</b>
<b>Source:</b>	
Interest	18,769
Total E&G carryforward sources	<u>8,969,129</u>
<b>Uses:</b>	
Non-recurring operating expenses	(1,405,105)
Restricted by Appropriation	(147,240)
Total E&G carryforward uses	<u>(1,552,345)</u>
<b>Ending Balance, 12/31/21</b>	<b><u>\$ 7,416,784</u></b>

## • Capital

<b>Beginning Balance, 7/1/21</b>	<b>\$ 9,719,950</b>
<b>Sources:</b>	
Interest	65,960
Project transfer-in	-
Total Capital Carryforward Sources	<u>9,785,910</u>
<b>Uses:</b>	
Applied Research Center	(1,808,124)
Reclaimed Water Infrastructure	(5,143)
Total Capital Carryforward Uses	<u>(1,813,267)</u>
<b>Ending Balance, 12/31/21</b>	<b><u>\$ 7,972,643</u></b>

- Education & General carryforward to provide funding for the remainder of the Engineering (FIPR) Building, temp positions and non-recurring items
- Capital carryforward sufficient to construct and complete the Engineering Shop 1 building as well as finish the Reclaimed Water Infrastructure

# Federal Funds (HEERF)

	(Polk County)			
	CARES I	CARES I	CARES II	CARES III
<b>Institutional Funding:</b>				
Funding life-to-date	\$ 626,651	\$ 300,000	\$ 1,211,962	\$ 1,621,780
Disbursements life-to-date	\$ 626,651	\$ 300,000	\$ 999,754	\$ 49,863
<b>Remaining funds to draw</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 212,208</b>	<b>\$ 1,571,917</b>
<b>Financial Aid Funding:</b>				
Funding life-to-date	\$ 626,652	\$ -	\$ 626,652	\$ 1,621,781
Disbursements life-to-date	\$ 626,652	\$ -	\$ 626,652	\$ 413,739
<b>Remaining funds to draw</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,208,042</b>

- Planned expenditure of funding is in progress
- Supply chain issues remain an issue
- Planned request for extension to spend funds

# Summary

- **University balance sheet remains strong and supportive of strategic priorities**
  - Primary Reserve Ratio remains high and driven by our resources
  - Viability remains high and driven by our low debt levels
- **University will use significant HEERF (CARES) funding to strategically align our technology and infrastructure needs to support students and faculty**
- **The FY23 budget cycle is gearing up!**

**Florida Polytechnic University  
Finance and Facilities Committee  
Board of Trustees  
February 9, 2022**

**Subject: Review of Contracts Over \$2,000,000**

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**Proposed Committee Action**

Recommend approval to the Board of Trustees of a five-year agreement with Liberty Lawn Care, LLC, with total contract value not exceeding \$2,509,370.00 over the course of five years.

**Background Information**

All contracts greater than \$2,000,000 must be approved by the Florida Polytechnic University Board of Trustees. We request approval of the attached contract for Landscape and Grounds Maintenance services.

In 2016 the University issued a solicitation for grounds maintenance services (ITN 16-001), the award went to Liberty Lawn Care, LLC. The initial contract term was for a period of three years, with two (2) one (1) year renewals. The time had come to test the market and issue a new solicitation.

Therefore, a competitive solicitation was issued in October 2021 (ITN 21-007) for a new University Grounds Maintenance Services contract. The evaluation committee unanimously chose Liberty Lawn Care, LLC, based off four required evaluation criterions. The intent to Award notice was posted on our website on December 3, 2021. The University did not receive dispute or protest to the Intent to Award (as allowed by Florida Board of Governor's regulations 18.002).

The agreement is written for three (3) years, with an option to renew for two (2) one (1) year periods. The total contract value for these services, including renewals, will not exceed \$2,509,370.00.

Liberty Lawn Care has not taken exception to any of the provisions of the contract, and a mutual agreement has been reached if the Board of Trustees approves.

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**Supporting Documentation:**

1. Contract for Services
2. [Invitation to Negotiate \(ITN\)](#) (link)
3. Proposal Response
4. Scope of Work and Payment Schedule

**Prepared by:** Laura Marrone, Associate Director of Procurement

**Contract for Landscape and Grounds Maintenance Services  
between  
Florida Poly and Liberty Lawn Care, LLC**

This Agreement (the "Agreement") is made and entered into on the date fully executed by both parties below (the "Effective Date") by and between The Florida Polytechnic University Board of Trustees ("University"), whose principal business address is 4700 Research Way, Lakeland, Florida 33805-8531 and Liberty Lawn Care, LLC. ("Contractor"), with a principal business address of 3141 Combee Dairy Road, Auburndale FL 33823.

**RECITALS**

WHEREAS, University has requested proposals Landscape and Grounds Maintenance ("Services"), pursuant to ITN-#21-007 Landscape and Grounds Maintenance ("Competitive Solicitation"); and,

**WHEREAS**, Contractor submitted a Proposal for the provision of the Services ("Proposal"), certain terms of which were negotiated with University; and,

**WHEREAS**, University desires Contractor to provide the Services as more particularly described herein; and

**NOW THEREFORE**, in consideration of the mutual covenants of the parties set forth in this Agreement, the parties agree as follows:

**A. General Terms**

1. **Recitals.** The above recitals are true and correct and incorporated herein.
2. **Term.** This agreement begins on January 27, 2022, and continues through January 26, 2025, with options to renew for two (2) one-year (1) periods.
3. **Contract.** University grants Contractor the opportunity to provide the Services on the terms provided herein and in accordance with:
  - A.** Exhibit "I", Competitive Solicitation ITN 21-007 ("ITN") attached and incorporated by reference.
  - B.** Exhibit "II", Contractor's Solicitation Response attached and by reference; and any addenda thereto.
  - C.** In the event of conflict between or among terms and conditions in documents pertaining to the Services, such documents govern in the following order of

precedence: First, this document; Second, the Competitive Solicitation; and Third, Contractor's Solicitation Response. All provisions of this Agreement will be considered as prepared through the joint efforts of the Parties and will not be construed against either Party as a result of the preparation or drafting thereof. No consideration will be given or presumption made on the basis of who drafted any particular provision of this Agreement.

4. **Fee for Services.** As full compensation, inclusive of any and all expenses, for the Services to be provided by Contractor in this Agreement, University agrees to pay Contractor US \$2,509,370.00 ("Fee") during the of this contract. Contractor will submit to University invoices for the Fee for those Services rendered, in arrears. University will designate a representative to serve as University's point of contact for the Contractor's submission of invoices and questions concerning payment status.
5. **Payment.** Contractor must submit bills for compensation for services or expenses in sufficient detail for a pre- and post-audit, and in accordance with Payment Schedule which is labeled as Exhibit III.
  - A. Contractor is responsible for any taxes due under this Agreement. University will make payment within 30 days of receipt of a proper invoice.
  - B. If University does not issue payment within 30 days of receipt of a proper invoice, University will pay to Contractor an interest penalty at the rate established pursuant to section 55.03(1) Florida Statutes if the interest exceeds \$1.00.
  - C. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s), may be contacted at 863-874-8448.
  - D. University may make payment to Contractor via the University's EFT/ACH payment process. Vendor must provide the necessary information to University upon request.
6. **Public Records, Contract for Services: Compliance with section 119.0701, Florida Statutes.**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Florida Polytechnic University**  
**Attention: General Counsel**  
**4700 Research Way**  
**Lakeland, FL 33805**  
**ogc@floridapoly.edu**  
**(863) 874-8412**

To the extent that Contractor meets the definition of “contractor” under section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Contractor must comply with public records laws, including the following provisions of section 119.0701, requiring Contractor to:

- A.** Keep and maintain public records required by University to perform the service.
- B.** Upon request from the University’s custodian of public records, provide the University with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, Florida Statutes, or as otherwise provided by law.
- C.** Ensure that confidential information or records that are exempt from public records disclosure are not disclosed except as authorized by law for the duration of this agreement, renewals, and following completion of the contract if Contractor does not transfer the records to University.
- D.** Upon completion of this Agreement, transfer, at no cost, to University all public records in possession of Contractor or keep and maintain public records required by University to perform the service.
  - 1) If Contractor transfers all public records to University upon completion of the contract, Contractor must destroy any duplicate confidential information or records that are exempt from public records disclosure.
  - 2) If Contractor keeps and maintains public records upon completion of this Agreement, Contractor must meet all applicable requirements for retaining public records.
  - 3) All records stored electronically must be provided to University, upon request from the University’s custodian of public records, in a format that is compatible with the information technology systems of the University.

- E.** Third parties requesting to inspect or copy public records relating to this agreement must be made directly to University. If University does not possess the requested records, University will notify Contractor of the request, and Contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.
- F.** The University may inspect the:
  - 1) Financial records, papers, and documents of the Contractor that are directly related to the performance of the contract or the expenditure of state funds.
  - 2) Contractor's programmatic records, papers, and documents which the University determines are necessary to monitor the performance of this agreement or to ensure that the terms of this agreement are being met.
  - 3) The Contractor must provide such records, papers, and documents requested by the University within 10 business days after the request is made.
  - 4) The right of access in this provision is not limited to the required retention period but lasts as long as the records are retained.
- G.** The terms of section 6 are material terms of this agreement, and failure to comply may result in termination and/or civil penalties.

## 7. **Indemnification.**

- A.** Contractor agrees to release, indemnify, defend, and hold harmless: (1) Florida Polytechnic University or The University Board of Trustees; (2) The Florida Board of Governors; (3) The State of Florida and their respective trustees, officers, employees, and agents from:
  - 1) any and all liability, fines, royalties, fees, taxes, suits, claims, demands and actions, costs, attorney's fees and expenses of any kind or nature whatsoever ("Losses") for any loss of life, personal, bodily, or economic injury or damage or loss to property arising out of the negligent or intentional acts, errors or omissions of Contractor, its officers, agents, employees and contractors; and from and against any orders, judgments or decrees which may be entered pursuant thereto.
- B.** Nothing in this agreement may be construed as an indemnification of the Contractor by the University or as a waiver of sovereign immunity beyond that provided in section 768.28, Florida Statutes.



- C. This provision will survive the termination of this agreement.
- D. Due to its sovereign immunity, University will not indemnify Contractor.

**8. Copyright and Intellectual Property.**

- A. If Contractor uses copyrighted materials or documents not owned by University ("Copyrighted Materials") in Contractor's performance of the agreement, Contractor represents and warrants that it owns, or is licensed to use and to authorize others to use, the Copyrighted Materials.
- B. Contractor will, at its expense, defend any suit brought against University and will indemnify University against an award of damages and costs, including attorney's fees, made against University by a settlement or final judgment that is based on a claim that University's use of the Copyrighted Materials infringes a trademark or copyright of a third party.
- C. This provision will survive the termination of this agreement.
- D. Any reports or deliverables provided to the University pursuant to this agreement are considered as works for hire, and the University may use such reports or deliverables for any purposes.

**9. Termination.**

- A. Termination at Will. This Agreement may be terminated by University by providing written notice to Contractor of such intent to terminate at least 10 days prior to the effective date of such termination.
- B. Termination for Cause. Notwithstanding the provisions of subsection 9(A) above, University may, upon 5 days' written notice to Contractor set forth with specificity the basis for the termination to terminate this Agreement for Cause. For purposes of this Agreement, "cause" is defined as Contractor's failure to perform the Services within the time specified herein or any extension thereof or Contractor's failure to adhere to any of the material terms of this Agreement.
- C. If this Agreement is terminated, University will only be liable for payment of goods received and services rendered prior to the date of termination and accepted by University.

10. **Insurance.** Contractor will have and maintain types and amounts of insurance that at a minimum cover the Contractor's (or subcontractors') exposure in performing this Agreement. University is self-insured, and will provide its Certificate of Insurance upon request; University is not required to obtain additional insurance for this Agreement.
11. **Force Majeure.** Neither party will be deemed to be in default of its obligations if and so long as it is prevented from performing its obligations by an act of war, terrorism, labor strike, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
12. **Compliance with Law.** Contractor will comply with all statutes, ordinances, rules, regulations, orders, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority over it. If this agreement is funded in any part with federal funds, the terms of section 202 of Executive Order 11246, as amended, are incorporated as if fully set forth in this agreement. The hyperlink in this agreement is for convenience only and any failure of it to function does not relieve the Supplier of any obligations of this clause.
13. **Availability of Funds.** University's financial obligations continue under this Agreement are conditioned upon the appropriation of funds on an annual basis, which is not controlled by the University. In the event that the entities controlling such funding fail to appropriate funds or to allow University to use funds and University has determined, in University's sole discretion, that there are insufficient funds available to cover University's obligation under this Agreement, University will have the right to terminate this Agreement for the upcoming year without damage, penalty, cost, or further obligation. University will notify Contractor at least 30 days in advance of a termination pursuant to this provision; University must pay for all services rendered until the date of termination.
14. **Independent Contractor.** Contractor is retained by University only for those purposes and to the extent set forth in this Agreement, and Contractor's relation to University will, during the term of this Agreement, be that of Independent Contractor. Contractor is not and will not be considered as having an employee status. Contractor is responsible for the payment of any taxes on any monies received by Contractor.
15. **Prohibitions.** Unless expressly and specifically authorized in writing by University in advance, Contractor is prohibited from engaging in any of the following:
  - A. Incurring any debt or obligation on behalf of University;
  - B. Entering into any contract, arrangement, or transaction which binds University to

any extent or creates any obligation on University; and/or

**C.** Utilizing University's name, credit, reputation, goodwill, resources, and/or assets for any purpose.

16. **Travel.** Reserved.

17. **Notices.** Any notice to either party must be in writing and signed by the party giving it, and served:

**A.** By hand notice; or

**B.** Through the United States Mail, postage prepaid, registered or certified, return receipt requested; or

**C.** Through expedited mail or package service if a receipt showing the delivery has been retained; or

**D.** By e-mail and addressed as follows:

**To UNIVERSITY:**

The Florida Polytechnic University  
Board of Trustees  
4700 Research Way  
Lakeland, FL 33805

Attn: Procurement Department

E-mail: [procurement@floridapoly.edu](mailto:procurement@floridapoly.edu)

**To CONTRACTOR:**

Kenneth Jackson  
3141 Combee Dairy Road  
Auburndale FL 33823

Attn: Kenny Jackson

E-mail: [KennyJackson@LibertyLawnCare.com](mailto:KennyJackson@LibertyLawnCare.com)

**CONTRACT MANAGER:**

Attn: David Calhoun  
Email: [dcalhoun@floridapoly.edu](mailto:dcalhoun@floridapoly.edu)

Notice is effective upon receipt.

18. **Assignment.** This agreement may not be assigned by Contractor without the express written consent of University.

19. **Governing Law.** This agreement and any amendments to it are governed by the laws of the State of Florida and venue for any actions arising out of this agreement must be in the state courts in Polk County, Florida.

20. **Software.** If Contractor is providing software, University may create and retain a copy of the software and related documentation for backup and disaster-recovery purposes, and for archival purposes for use after this agreement is terminated.

21. **Survival.** Any provision of this agreement providing for performance by either party after termination of this agreement survives termination and continues to be effective and enforceable.
22. **E-Verify.** All terms defined in section 448.095, Florida Statutes are adopted and incorporated into this provision. Pursuant to section 448.095, Florida Statutes, Contractor certifies that it is registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this agreement. If Contractor enters into a contract with a subcontractor to perform work or provide services pursuant to this agreement, Contractor must also require the subcontractor to comply with the requirements of section 448.095, Florida Statutes. The subcontractor must provide to Contractor an affidavit stating that the subcontractor does not employ, contract with, or subcontract with or to any unauthorized alien. Contractor must maintain a copy of such affidavit for the duration of the contract. University may terminate this agreement immediately upon notice to Contractor for any violation of this provision.
23. **Confidentiality of Information.** If Contractor is exposed to University's confidential information (such as donor information), Contractor will keep such information confidential and will act in accordance with any guidelines and applicable laws including the Family Educational Rights and Privacy Act (FERPA) and the Gramm-Leach Bliley Act.
24. **Conflicts of Interest.** Acceptance of this Agreement certifies that Contractor is aware of the requirements of Chapter 112, Florida Statutes and in compliance with the requirements of Chapter 112, Florida Statutes and other laws and regulations concerning conflicts of interests in dealing with entities of the State of Florida. Contractor certifies that its directors and/or principal officers are not employed and/or affiliated with the University unless a current Conflict of Interest (Report of Outside Activity/Employment) form has been completed, executed by such director or officer, and approved in accordance with applicable University policies or rules. Violation of this section by Contractor is a ground for cancellation of this Agreement.
25. **Work for Hire.** Any work specifically created for the University under this Agreement by the Contractor or anyone working on behalf of Contractor (the term *Contractor* encompasses both) is considered a "work for hire." All designs, prints, paintings, artwork, sketches, etchings, drawings, writings, photographs, or any other work or material or property produced, developed or fabricated and any other property created hereunder, including all material incorporated therein and all preliminary or other copies thereof, (the "Materials") are and remain the property of the University, and, unless otherwise

specifically set forth herein, are considered specially ordered for the University as a "work made for hire," or, if for any reason held not to be a "work for hire," the Contractor who created, produced, developed or fabricated the Materials hereunder assigns all of his/her right, title and interest in the Materials to the University. The University owns all right, title and interest in the Materials. The Contractor agrees upon request to execute any documents necessary to perfect the transfer of such title to the University. The Materials must be to the University's satisfaction and are subject to the University's approval. The Contractor bears all risk of loss or damage to the Materials until the University has accepted delivery of the Materials. The University is entitled to return, at the Contractor's expense, any Materials which the University deems to be unsatisfactory. On or before completion of the Contractor's services hereunder, the Contractor must furnish the University with valid and adequate releases necessary for the unrestricted use of the Materials for advertising or trade purposes, including model and property releases relating to the Materials and releases from any persons whose names, voices or likenesses are incorporated or used in the Materials. The Contractor hereby represents and warrants that the Materials may be used or reproduced for advertising or trade purposes or any commercial purposes without violating any laws or the rights of any third parties and that no third party has any rights in, to, or arising out of, or in connection with the Materials, including without limitation any claims for fees, royalties, or other payments. The provisions of paragraph 12 (indemnification) of this Agreement expressly apply to these regarding (a) the performance or non-performance of the University's order by the Contractor, (b) the use or reproduction in any manner, whatsoever, or (c) any breach or alleged breach of any of the Contractor's agreements or representations and warranties herein.

26. **Civil Rights.** The Contractor and any subcontractors must abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) prohibiting discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender, identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sexual orientation, gender identity, national origin, protected veteran status or disability.

27. **Entire Agreement.** This agreement and any documents incorporated specifically by reference represent the entire agreement between the parties and supersedes all prior oral or written statements or agreements. This agreement may only be amended by signed

written amendments.

28. **Coverage and Participation.** The intended coverage of this ITN and any Agreement resulting from this solicitation will be for the use of the State University System of Florida. With the consent and agreement of the Successful Vendor, other state universities, state or community colleges, district school boards, other educational institutions, and other governmental agencies, may assess and access an Agreement resulting from this solicitation issued and administered by Florida Polytechnic University, ITN 21-007. The University reserves the right to add and/or delete elements, or to change any element of the coverage and participation at any time without prior notification and without any liability of any kind or amount.

29. **Exhibits.** All exhibits listed below are incorporated into this agreement.

- A.** Exhibit I – Competitive Solicitation ITN 21-007
- B.** Exhibit II - Contractor’s Solicitation Response
- C.** Exhibit III – Scope of Work and Payment Schedule

Florida Polytechnic University  
Board of Trustees

CONTRACTOR:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Print

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to form and legality:

\_\_\_\_\_  
Florida Poly Attorney

\_\_\_\_\_  
Date

President on behalf of the University Board of  
Trustees

\_\_\_\_\_  
Randy K. Avent

\_\_\_\_\_  
Date

## **DIGITAL COPY**

# **FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES INVITATION TO NEGOTIATE**

**ITN 21-007  
Grounds Maintenance**

**Prepared by  
Liberty Lawn Care, LLC**



**TAB**

**A**



ITN CERTIFICATION FORM FLORIDA POLYTECHNIC UNIVERSITY

Invitation to Negotiate #ITN 21-007

Landscape and Ground Maintenance

SUBMITTAL DEADLINE: October 29, 2021 2:00p.m. ET

I understand that the Invitation to Negotiate (ITN) response is due no later than the due date and time as stated above, and that it is my responsibility for the response and all required documents to be received by the Florida Polytechnic University (Florida Poly) Procurement Department prior to this date and time. I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same materials, supplies or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this solicitation and certify that I am authorized to sign this proposal for the respondent and that the respondent is in compliance with all requirements of the ITN, including but not limited to certification requirements. In submitting a proposal to Florida Poly, the respondent offers and agrees that if the proposal is accepted, the respondent will convey, sell, assign or transfer to Florida Poly all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-Trust Laws of the U.S. and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by Florida Poly. At Florida Poly's discretion, such assignment shall be made and become effective at the time Florida Poly tenders final payment to the respondent. Furthermore, by responding to this solicitation, respondent agrees that the specifications, qualifications, evaluation criteria, terms and conditions are not restrictive and attests that he/she has no objection to any of the specifications, qualifications, evaluation criteria, terms or conditions.

Manual Authorized Signature: Kenneth G Jackson

Printed Authorized Name: Kenneth G Jackson

Company Name: Liberty Lawn Care, LLC

Federal Employer ID #: (9 digits) 27-2854035

Address: P.O. Box 2233

City, State, Zip: Auburndale, FL 33823

Phone: 863-412-4714

Toll Free: N/A

Fax: N/A

Email Address: KennyJackson@LibertyLawnCare.com

Is your firm a Florida Certified Minority Business? YES NO X

NO RESPONSE - If not responding to this solicitation, please advise reason and return via email to bids@floridapoly.edu with reason for NO RESPONSE:

**SUBMIT OFFER TO:  
FLORIDA POLYTECHNIC UNIVERSITY**

Digital: [bids@floridapoly.edu](mailto:bids@floridapoly.edu)  
 Hardcopy: 4700 Research Way  
 Lakeland, FL 33805

Phone: 863-874-8428  
 Website: [Procurement Department](#)

Your submission must be uploaded, submitted, and finalized prior to the closing time on  
**October 27, 2021, 2:00 p.m. EST.**

We strongly recommend that you give yourself sufficient time and at least ONE (1) day before the closing time to finalize your submission. See **Section III** for full response instructions.

**Florida Polytechnic University**

**INVITATION TO NEGOTIATE**

**Contractual Services**

**Acknowledgement Form**

Page 1 of 16 Pages      OFFERS WILL BE OPENED **October 27, 2021**      ITN NO. **21-007**

UNIVERSITY PUBLISHING DATE: **10/4/2021**      ITN TITLE: **Landscape Service and Ground Maintenance**

FEDERAL EMPLOYER IDENTIFICATION NUMBER: **27-2854035**

SUPPLIER NAME: **Liberty Lawn Care, LLC**

SUPPLIER MAILING ADDRESS: **P.O. Box 2233**

CITY - STATE - ZIP CODE: **Auburndale, Fl. 33823**

AREA CODE:      TELEPHONE NUMBER: **863-412-4714**

FAX: **None**

EMAIL: **KennyJackson@LibertyLawnCare.com**

**POSTING OF PROPOSAL TABULATIONS**  
 Proposal tabulations with intended award(s) will be posted for review by interested parties on the Procurement Department solicitation webpage and will remain posted for a period of 72 hours. Failure to file a protest in accordance with BOG regulation 18.002 or failure to post the bond or other security in accordance with BOG regulation 18.003 will constitute a waiver of protest proceedings.

**Government Classifications**  
 Check all that apply

- African American
- Asian-Hawaiian
- Hispanic
- Native American
- Non-Profit Organization
- Small Business Federal
- American Woman
- Government Agency
- MBE Federal
- Non-Minority
- PRIDE
- Small Business State

*Kenneth G. Jackson*

**AUTHORIZED SIGNATURE  
(MANUAL/DIGITAL)**

Kenneth G. Jackson, Manager

**AUTHORIZED SIGNATURE (TYPED), TITLE**

*I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm or person submitting an offer for the same materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this offer and certify that I am authorized to sign this offer for the Supplier and that the Supplier is in compliance with all requirements of the Invitation to Negotiate, including but not limited to, certification requirements. In submitting an offer to an agency for the State of Florida, the Supplier offers and agrees that if the offer is accepted, the Supplier will convey, sell, assign or transfer to the State of Florida all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the state of Florida. At the State's discretion, such assignment will be made and become effective at the time the procurement agency tenders final payment to the Supplier.*

**POLK COUNTY LOCAL BUSINESS TAX RECEIPT**

**ACCOUNT NO. 137716**

**CLASS: A**

**EXPIRES:**

**09/30/2022**

**OWNER NAME**

**KEN JACKSON**

**LOCATION**

**3241 COMBEE DAIRY RD  
AUBURNDALE**

**BUSINESS NAME AND MAILING ADDRESS**

**LIBERTY LAWN CARE LLC  
LIBERTY LAWN CARE LLC  
3241 COMBEE DAIRY RD  
AUBURNDALE, FL, 33823**

**CODE  
810000**

**ACTIVITY TYPE  
LTD OTHER SERVICES**

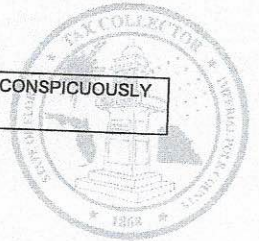
**OFFICE OF JOE G. TEDDER, CFC \* TAX COLLECTOR**

**THIS POLK COUNTY LOCAL BUSINESS TAX RECEIPT MUST BE CONSPICUOUSLY  
DISPLAYED AT THE BUSINESS LOCATION**

**PAID - 57481 08/16/2021 OPY**

**OLP 31.50**

**LIBERTY LAWN CARE LLC**



# *State of Florida*

## *Department of State*

I certify from the records of this office that LIBERTY LAWN CARE LLC is a limited liability company organized under the laws of the State of Florida, filed on June 15, 2010.

The document number of this limited liability company is L10000063972.

I further certify that said limited liability company has paid all fees due this office through December 31, 2021, that its most recent annual report was filed on February 7, 2021, and that its status is active.

*Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capital, this  
the Seventh day of February, 2021*



*Ronald R. DeSantis*  
Secretary of State

Tracking Number: 8216467308CC

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/30/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Mulling Insurance Agency, Inc. P.O. Box 308 Auburndale, FL 33823	CONTACT NAME: <b>Barbie Humbert-Lefan</b>	
	PHONE (A/C, No, Ext): <b>(863) 967-4454</b> FAX (A/C, No): <b>(863) 967-7592</b> E-MAIL ADDRESS: <b>barbieh@mullinginsurance.com</b>	
INSURED  <b>Liberty Lawn Care LLC</b> PO Box 2233 Auburndale, FL 33823	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : <b>Southern Owners Insurance Co.</b>	<b>10190</b>
	INSURER B : <b>Auto-Owners Ins. Co.</b>	<b>18988</b>
	INSURER C :	
	INSURER D :	
	INSURER E :	

**COVERAGES** CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			72731907	6/23/2021	6/23/2022	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
							MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			4846422401	2/7/2021	2/7/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			4846422402	6/23/2021	6/23/2022	EACH OCCURRENCE \$ 2,000,000
							AGGREGATE \$ 2,000,000
							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Landscape Gardening

**CERTIFICATE HOLDER**

Florida Polytechnic University  
Board of Trustees  
4700 Research Way  
Lakeland, FL 33805

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/19/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Certisure, Inc. 147 Avenue C SW, Suite 101 Winter Haven FL 33880		<b>CONTACT NAME:</b> Brenda McCorquodale <b>PHONE (A/C, No, Ext):</b> <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b> admin@certipay.com	
<b>INSURED</b> Liberty Lawn Care LLC 480 Amethyst Ave Auburndale FL 33823		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> RetailFirst Insurance Company <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	
LIBELAW-02		NAIC # 10700	

**COVERAGES** **CERTIFICATE NUMBER:** 2004210304 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	520-57063-0000	1/11/2021	1/11/2022	X PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b>  Florida Polytechnic University 4700 Research Way Lakeland FL 33805	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  <b>AUTHORIZED REPRESENTATIVE</b> 
---	---



### Attachment E

## Certification Regarding E-Verify System

Contractor hereby certifies compliance with the following:

Pursuant to section 448.095, Florida Statutes, Contractor must utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor while performing work or providing services for Florida Polytechnic University. Contractor shall also include in any related subcontracts a requirement that subcontractors performing work or providing services for Florida Polytechnic University on its behalf utilize the E-Verify system to verify the employment eligibility of all new employees hired by subcontractor.

CONTRACTOR:

Liberty Lawn Care, LLC

Business Name

By: Kenneth G. Jackson  
Signature

Name: Kenneth G. Jackson  
Printed

Title: Manager  
Printed

Date: 05-28-2021



**TAB**

**B**

## Executive Overview

Name: Liberty Lawn Care, LLC

Street Address: 3241 Combee Dairy Road, Auburndale, Fl. 33823

Mailing Address: P.O. Box 2233, Auburndale, Fl. 33823

Email: [KennyJackson@LibertyLawnCare.com](mailto:KennyJackson@LibertyLawnCare.com)

Telephone: 863-412-4714

Website: [www.LibertyLawnCare.com](http://www.LibertyLawnCare.com)

Primary Contact: Kenny Jackson, 863-412-4714, [KennyJackson@LibertyLawnCare.com](mailto:KennyJackson@LibertyLawnCare.com)

Years in Business: 11 years

Form of Ownership: Florida Limited Liability Company owned by Kenny & Tara Jackson

Primary office: 3241 Combee Dairy Road, Auburndale, Fl. 33823

Bankruptcy: Never declared bankruptcy, insolvent, or placed in receivership.

Litigation or Claims: Never been involved in any litigation or claims for more than \$25,000.00

Conflicts of Interest: No known conflicts of interest exist. We would make changes necessary to avoid any potential conflicts of interest that may arise. However, we have been on site for about five years with no known conflicts.

**TAB**

**C**

# Exhibit 2 - Landscaping Schedule

## FLORIDA POLYTECHNIC UNIVERSITY Groundskeeping

### Campus

DESCRIPTION		2020-2021													
		QTY	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
<b>Green Areas</b>															
Mow Interior Sodded Areas	42	4	5	4	4	2	2	2	2	2	2	4	4	5	4
Bushhog Areas	19	2	2	3	1	1	1	1	1	1	1	1	2	2	2
Hard Edge	42	4	5	4	4	2	2	2	2	2	2	4	4	5	4
Line Trim	42	4	5	4	4	2	2	2	2	2	2	4	4	5	4
Weed Control	12	1	1	1	1	1	1	1	1	1	1	1	1	1	1
<b>Yellow Areas</b>															
Mow Interior Sodded Areas	42	4	5	4	4	2	2	2	2	2	2	4	4	5	4
Hard Edge	42	4	5	4	4	2	2	2	2	2	2	4	4	5	4
Line Trim	42	4	5	4	4	2	2	2	2	2	2	4	4	5	4
Blow Sidewalks	42	4	5	4	4	2	2	2	2	2	2	4	4	5	4
Fertilization	4	0	0	1	0	0	1	0	0	0	0	1	0	0	1
Insect Control	4	0	0	1	0	0	1	0	0	0	0	1	0	0	1
Pre-Emergent weed control	1312	10	10	1	10	10	10	10	10	10	10	10	10	10	10
Post Emergent Weed Control	1324	0	0	1	0	0	0	0	0	0	0	1	0	0	0
<b>Brown Areas</b>															
Irrigations Inspections/Report	12	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Irrigation Repairs	12	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Detail Mulch Beds	42	4	5	4	4	3	2	2	2	2	2	4	4	5	3
Post - Emergent Weed Control	42	4	5	4	4	3	2	2	2	2	2	4	4	5	3
Insect Control	4	0	0	1	0	0	1	0	0	0	0	1	0	0	1
Ornamental Grass Cutbacks (campus wide)	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Annual Mulching (Grade B or better Cypress)	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Trim Hardwood Trees	As needed	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Trim Palmettos 2 Times per year	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Fertilize Hardwood Trees (8 - 10 - 10)	4	0	0	1	0	0	1	0	0	0	0	0	0	0	0
Palm Pruning - Medjool (Full Head)	1	0	0	0	0	0	1	0	0	0	0	1	0	0	1
Palm Pruning - Washingtonians	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Palm Fertilization (12 - 4 - 12)	4	0	0	1	0	0	1	0	0	0	0	0	0	0	1
Palm Innoculations (Medjools)	4	0	1	0	0	0	1	0	0	0	0	1	0	0	1
Blow Roads and Parking Lots biweekly	26	2	2	2	2	2	3	2	2	2	2	3	2	2	2
<b>Red Areas</b>															
Mowing	100	10	10	10	8	8	5	5	5	5	5	10	9	10	10
Fertilization	6	1	0	1	0	1	0	1	0	1	0	1	0	1	0
Irrigation Inspections	51	5	5	4	4	4	4	4	4	4	4	4	4	4	5
Aeration	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Weed Control (pre & post emergent)	6	0	1	0	1	0	1	1	1	1	1	0	1	0	1



# FLORIDA POLY UNIVERSITY Groundskeeping

## Campus DESCRIPTION

Area	DESCRIPTION	Qty	Unit \$	Price Extended
<b>Green Areas</b>				
	Insert Estimated SF 2,265,120			\$ 62,600.00
Mow Interior Sodded Areas				
Bushhog Areas		42	\$ 100.00	\$ 4,200.00
Hard Edge		19	\$ 2,000.00	\$ 38,000.00
Line Trim		42	\$ 100.00	\$ 4,200.00
Weed Control		42	\$ 100.00	\$ 4,200.00
		12	\$ 1,000.00	\$ 12,000.00
<b>Yellow Areas</b>				
	Insert Estimated SF 1,481,040			\$ 120,992.00
Mow Interior Sodded Areas				
Hard Edge		42	\$ 2,160.00	\$ 90,720.00
Line Trim		42	\$ 100.00	\$ 4,200.00
Blow Sidewalks		42	\$ 100.00	\$ 4,200.00
Fertilization		42	\$ 100.00	\$ 4,200.00
Insect Control		4	\$ 1,188.00	\$ 4,752.00
Pre-Emergent weed control		4	\$ 1,188.00	\$ 4,752.00
Post Emergent Weed Control		2	\$ 1,584.00	\$ 3,168.00
		K3 4	\$ 1,250.00	\$ 5,000.00
<b>Brown Areas</b>				
	Insert Estimated SF 500,000			\$ 280,864.00
Irrigations Inspections/Report				
Irrigation Repairs		12	\$ 1,313.00	\$ 15,756.00
Detail Mulch Beds		12	\$ 1,000.00	\$ 12,000.00
Weed Control		42	\$ 1,200.00	\$ 50,400.00
Insect Control		42	\$ 100.00	\$ 4,200.00
Ornamental Grass Cutbacks (campus wide)		4	\$ 3,845.00	\$ 15,380.00
Annual Mulching (Grade B or better Cypress)		1	\$ 15,000.00	\$ 15,000.00
Trim Palmettos 2 times per year	3000 cu yrds	1	\$ 111,000.00	\$ 111,000.00
Trim Hardwood Trees	120 man hrs per cut	2	\$ 3,600.00	\$ 7,200.00
Fertilize Hardwood Trees (8 - 10 - 10)	624 trees	As needed	\$ 500.00	\$ 500.00
Palm Pruning - Medjool (Full Head)	624 trees	4	\$ 1,700.00	\$ 6,800.00
Palm Pruning - Washingtonians	122 trees	1	\$ 4,880.00	\$ 4,880.00
Palm Fertilization (12 - 4 - 12)	453 trees	2	\$ 9,060.00	\$ 18,120.00
Palm Innoculations (Medjools)	575 trees	4	\$ 2,510.00	\$ 10,040.00
Blow Roads and Parking Lots biweekly	122 trees	4	\$ 1,552.00	\$ 6,208.00
		26	\$ 130.00	\$ 3,380.00
<b>Red Areas</b>				
	Insert Estimated SF 113,256			\$ 38,770.00
Mowing				
Fertilization		100	\$ 185.00	\$ 18,500.00
Irrigation Inspections		6	\$ 750.00	\$ 4,500.00
Aeration		51	\$ 70.00	\$ 3,570.00
Weed Control (pre & post emergent)		1	\$ 3,000.00	\$ 3,000.00
Insecticide		6	\$ 300.00	\$ 1,800.00
Fungicide		3	\$ 300.00	\$ 900.00
Top Dressing and Verticut		As needed		
		1	\$ 6,500.00	\$ 6,500.00
<b>Total</b>				\$ 503,226.00

**TAB**

**D**

## STATEMENT OF AVAILABLE EQUIPMENT/DEDICATED PERSONNEL \* ON CAMPUS

The bidder is required to state below the automotive, industrial construction, and other equipment which the bidder has or will have available prior to commencement of the agreement to perform the services. The University reserves the right to reject any quote when, in its opinion, the bidder has not demonstrated he/she will be properly equipped to perform the services in an efficient, effective manner through the duration of the term. In instances where a proposed item of equipment is not presently possessed, the bidder shall provide documentation, acceptable to the University, that the bidder will have the equipment available prior to commencement of the services.

The bidder must own or lease the equipment necessary to perform the grounds maintenance services for the University. In order to be considered responsive for this quote, please provide the following:

**\*Dedicated Personnel on Campus** – Please provide an organization chart or list of personnel dedicated to the Ground Maintenance of this campus.

Equipment Description	Quantity Possessed	Own or Lease	Present Condition	Explanation If Not Possessed
52" Exmark Mowers	10	Own	Good	
50" Dixie Chopper Mowers	4	Own	Good	
60" Exmark Mowers	5	Own	New	
72" Exmark Mowers	4	Own	New	
60" Exmark Mowers	4	Own	New	
F Series Pick-up Truck	2	Own	New	
Lawn Trailers / Dump Trailers	9	Own	Good	
E-Z Go Light Utility Vehicle	2	Own	Good	
Two Cycle hand held equipment Line trimmers, Edgers, Hedgers, Blowers and Pole Saws	83	Own	Good	
Kubota L4760 tractor	1	Own	Good	
John Deere 5100e tractor	1	Own	Good	
John Deere 2655 triplex	1	Own	Good	
Athletic Field Mower	3	Own	Good	
Toro 3250 Triplex	3	Own	Good	
Toro 6500-D Fairway Mower	1	Own	Good	
Toro Fairway Verticutter	1	Own	Good	
Toro Fairway Blower	1	Own	Good	
Toro Fairway Sweeper	1	Own	Good	
Toro Pro Core Aerifier	1	Own	Good	
Toro Multi-Pro Sprayer	1	Own	Good	



## Dedicated Personnel on Campus

Personnel	Position	Scope of Work	Experience on this Campus
Kenny Jackson	Manager	All areas of scope	5 ½ Years
Jason	Irrigation Manager	Irrigation Inspections and Repairs in all areas	4 Years
Mario Valerio	Crew Leader	Mowing, hard edges, line trimming, blowing, detailing mulch beds in Green, Yellow, and Brown areas	5 ½ Years
Mike Suarez	Crew Member	Mowing, hard edges, line trimming, blowing, detailing mulch beds in Green, Yellow, and Brown areas	3 ½ Years
Mario Garcia	Crew Member	Mowing, hard edges, line trimming, blowing, detailing mulch beds in Green, Yellow, and Brown areas	4 Years
Elvin Perez	Crew Member	Full time detailing of mulch beds in Green, Yellow, and Brown areas	1 Year
Frank Fernandez	Tractor Work	Bushhog 52 acres in Green area	5 ½ Years
Harry Seymour	Tractor Work	Bushhog 52 acres in Green area	5 ½ Years
Antonio Solomon	Tree Trimmer	Trim all 453 Washingtonian palm trees in Brown area	3 Years
Brian Gould	Tree Trimmer	Trim all 122 Medjool palm trees in Brown area	5 ½ Years
Bobby Ellis	Sports Field	All work on sports field in Red area	5 ½ Years

**TAB**

**E**

## References

- Reference 1: Lakeland Square Mall  
Frederick Garrett  
Operations Manager/Lakeland Square Mall Retail  
Office: 863-859-5412, Cell: 517-749-0890  
[Frederick.Garrett@brookfieldpropertiesretail.com](mailto:Frederick.Garrett@brookfieldpropertiesretail.com)  
Worked with for 3 years.
- Reference 2: Lakeside Village  
Mike Miller  
Lead Maintenance/Lakeside Village  
Office: 863-661-0751, Cell: 863-661—0751  
[Mmiller@Castoinfo.com](mailto:Mmiller@Castoinfo.com)  
Worked with for 3 years.
- Reference 3: The Landings At Lake Henry  
Natasha Rivera  
Community Manager  
Office: 863-421-2229, Cell: 773-440-2215  
[NRivera@suncommunities.com](mailto:NRivera@suncommunities.com)  
Worked with for 4 years.
- Reference 4: Highland Community Management  
Denise Abercrombie  
Senior Community Manager  
Office: 863-940-2863, Cell: 863-412-6144  
[d.abercrombie@HCMManagement.org](mailto:d.abercrombie@HCMManagement.org)  
Worked with for 5 years.
- Reference 5: The Artemis Lifestyles  
Lizbeth Martell  
Community Association Manager  
Office: 407-705-2190 x234, Cell: 407-552-1004  
[LMartell@artemislifestyles.com](mailto:LMartell@artemislifestyles.com)  
Worked with for 5 years.

## References

- Reference 6: Kings Pointe  
Regina Beach  
Community Manager  
Office: 863-862-8248  
[RBeach@suncommunities.com](mailto:RBeach@suncommunities.com)  
Worked with for 6 years.
- Reference 7: Cypress Greens Golf and Tennis Community  
Deborah Green  
Community Manager  
Office: 866-367-4309, Cell: 863-956-1147  
[DGreen@suncommunities.com](mailto:DGreen@suncommunities.com)  
Worked with for 6 years.
- Reference 8: Royal Palm Village  
Hope Golden  
Community Manager  
Office: 863-422-1086  
[hgolden@suncommunities.com](mailto:hgolden@suncommunities.com)  
Worked with for 3 years.
- Reference 9: Ariana Village  
Sheila Mills  
Community Manager  
Office: 863-687-3835  
[SMills@suncommunities.com](mailto:SMills@suncommunities.com)  
Worked with for 6 years.
- Reference 10: Juliana Village  
Vicki Minter  
LCAM, Highland Community Management  
Office: 863-940-2863  
[v.minter@hcmanagement.org](mailto:v.minter@hcmanagement.org)  
Worked with for 3 years.

**TAB**

**F**



ITN 21-007 Landscape and Grounds Maintenance

ADDENDUM #1

Subject: PLEASE NOTE: REVISED DUE DATE - OCTOBER 29, 2021 @ 2:00 P.M. EST ATTACHMENT A HAS BEEN REVISED TO ATTACHMENT A-1

Issue Date: October 25, 2021

Procurement Services
W: 863-874-8428 | F: 863-874-8716
4700 Research Way
Lakeland, FL 33805-8531
Bids@floridapoly.edu

ALL RESPONDENTS MUST ACKNOWLEDGE RECEIPT OF THIS ADDENDUM BY SIGNING BELOW AND SUBMITTING THIS EXECUTED DOCUMENT WITH YOUR RESPONSE. FAILURE TO EXECUTE AND RETURN THIS ADDENDUM FORM MAY DISQUALIFY YOUR FIRM'S RESPONSE.

This Addendum shall become part of your firm's response and the subsequent documents if applicable.

The following items are issued to, add to, delete from, modify and clarify the ITN and all associated documents. These items shall have full force and effect as the ITN and all associated documents. Responses to be submitted on the specified response due date shall conform to the additions and revisions listed.

Vendor Name: Liberty Lawn Care, LLC

Address: P.O. Box 2233, Auburndale, Fl. 33823

Phone Number: 863-412-4714

Email: KennyJackson@LibertyLawnCare.com

Signature: Kenneth G. Jackson



ITN 21-007 Landscape and Grounds Maintenance

ADDENDUM # 2

Subject: Questions and Answers

Issue Date: October 25, 2021

Procurement Services
W: 863-874-8428 | F: 863-874-8716
4700 Research Way
Lakeland, FL 33805-8531
Bids@floridapoly.edu

ALL RESPONDENTS MUST ACKNOWLEDGE RECEIPT OF THIS ADDENDUM BY SIGNING BELOW AND SUBMITTING THIS EXECUTED DOCUMENT WITH YOUR RESPONSE. FAILURE TO EXECUTE AND RETURN THIS ADDENDUM FORM MAY DISQUALIFY YOUR FIRM'S RESPONSE.

This Addendum shall become part of your firm's response and the subsequent documents if applicable.

The following items are issued to, add to, delete from, modify and clarify the ITN and all associated documents. These items shall have full force and effect as the ITN and all associated documents. Responses to be submitted on the specified response due date shall conform to the additions and revisions listed.

Vendor Name: Liberty Lawn Care, LLC

Address: P.O. Box 2233, Auburndale, Fl. 33823

Phone Number: 863-412-4714

Email: KennyJackson@LibertyLawnCare.com

Signature: Kenneth G. Jackson



Question	Answer
Attachment A states that the submittal due date is June 1st. Can you please confirm that this date is not correct?	<b>Due date has been revised to October 29, 2021, 2:00 PM (EST). Please see Addendum No. One (1).</b>
Under several sections of oak trees, in the yellow and green areas, it looks like it has been cleared with a forestry grinder. These areas look rough for mowing. Are they controlled by herbicide? What is the expectation for these areas?	<b>The area should be treated to prevent growth of palm meadows, saplings, weeds etc. It is the intent to be able to access these areas by foot in the future and become a shaded area for pedestrian traffic. It is also important to maintain a visual sight line across these areas without shrub obstructions.</b>
Can we request copies of the current Landscape contract under the Sunshine Law?	<b>Under the Sunshine Law you can request copies of the current contract, all requests for that must be done through our office of General Counsel. Their email address is <a href="mailto:OGC@floridapoly.edu">OGC@floridapoly.edu</a>.</b>
Are there any restrictions on when work can be performed or when it can be performed in certain areas of the campus?	<b>Please refer to the Specifications located in the ITN document Section II, Section D Work Schedule (on page 10).</b>
How many irrigation valves do they currently have in place?	<b>The Irrigation system is comprised of 2 control panels, 3 irrigation wells, one pond pump, and approximately 171 zones.</b>
Are we responsible for broken heads regardless if it was our doing or not? If not, would you be ok with setting up a pre-approved amount for irrigation repairs monthly so minor repairs do not have to wait to be repaired.	<b>All irrigation inspections should produce a list of needed repairs, along with a quote for the repairs for University review and approval.</b>
What is the frequency of the irrigation inspections? It states that we are to check the system periodically.	<b>Irrigation inspections are conducted once a month for all zones (12 total).</b>
What is the water source for the irrigation?	<b>Wells and ponds.</b>
Are areas under construction to be included in this RFP? If so, can you please provide the landscape plans for these areas?	<b>The University reserves the right to add and remove areas when in the best interest of the University.</b>
Is there a direct report storage area where we can keep a Gator for an onsite Porter so they can direct report and have equipment? Or can we place a shipping container on property? If so where?	<b>Storage and locations will be coordinated with the successful Respondent.</b>



Question	Answer
Are there any trash cans that we would be responsible for changing liners on a weekly basis?	<b>No.</b>
Is there an expectation of manpower or number of crew members on the property or do you just care that the property looks good and doesn't really matter how many crew members are on-site?	<b>According to your expertise, provide a staff matrix that shows managers/staff and proposed assignments in order to meet the requirements and expectations set forth in the scope of work contained in the ITN 21-007 document.</b>
Are there any unclear boundaries of the property?	<b>Boundaries per plan provided.</b>
Are we responsible for the 2 dorm buildings across from the campus control center? If not, where is the cutoff?	<b>No, please refer to the plan provided.</b>
Do you want the "extra services" such as mulch, palms etc. to be built into the monthly amount, or do you want to pay for those services on a as needed basis?	<b>Please provide price per service as requested in the ITN document, Section III, Tab C, and complete Exhibit 2 (information located on page 13).</b>
Why is the property going out to bid? Are you dissatisfied with the current vendor, what are some of the issues they are having? This will allow us to tailor our bid to account for these and to provide a plan to rectify the issues if we are awarded the bid.	<b>The current contract is set to expire in January.</b>
What is the current landscape maintenance budget? A range is fine if you are not comfortable sharing the exact amount, but it will help understand where you are and allow us to get as competitive as possible. Our main goal is to provide a quality service to meet and exceed your expectations. We always price the work so we can be successful without jeopardizing quality. This also allows to help you allocate funds in the right places. Ex; you may be spending too much on a particular service or not enough.	<b>Budgets fluctuate. Our budgets are appropriated on a yearly basis from the State of Florida.</b>
Is there a preferred area to park our truck/trailer during the service visits?	<b>This will be coordinated with the successful Respondent.</b>
Do you have the current provider's last few fert/chem reports that you wouldn't mind sharing with us? This will give us some background on the chemicals/fert used on site, so we can account for future applications accordingly.	<b>Under the Sunshine Law you can request copies of the current contract, all requests for that must be done through our office of General Counsel. Their email address is <a href="mailto:OGC@floridapoly.edu">OGC@floridapoly.edu</a>. Services are currently rendered in accordance with the scope provided.</b>

Question	Answer
Do you have the current provider's last few irrigation reports that you wouldn't mind sharing with us? This will show us the number of irrigation heads and roughly how many irrigation heads break per month.	<b>Under the Sunshine Law you can request copies of the current contract, all requests for that must be done through our office of General Counsel. Their email address is OGC@floridapoly.edu. Services are currently rendered in accordance with the scope provided (inspections only). Repairs we be made per occurrence, as directed by the University.</b>
Do you have mulch or Pine straw counts you can share with us? This is helpful so all bidders are going off the same quantity.	<b>We do not currently have pine straw. As for mulch, please provide price per cubic yard of mulch for the campus (assume 2" thickness) as well as an estimated total as requested in the ITN document, Section III, Tab C, and complete Exhibit 2 (located on page 13).</b>
Is mulch not included in the monthly billable amount? Or is this priced separately on a as needed basis?	<b>Mulch is billed upon receipt on an annual basis.</b>  <b>Please provide price per cubic yard of mulch for the campus (assume 2" thickness) as well as an estimated total as requested in the ITN document (located on page 13), Section III, Tab C, and complete Exhibit 2 where indicated.</b>
It states to trim the palmettos 2x per year. Are we required to just keep them off the sidewalks? Or are we required to do hard cutbacks?	<b>Palmettos are cut back 2x/year, so not to impede walkways, and parking areas.</b>
What is required for the Medjool inoculations 4x per year? Is it a fungicide and insecticide? Or 1 or both?	<b>The successful Respondent should assist the University in identifying what is required to prevent disease and sustain healthy plant life of the Medjool's.</b>  <b>Successful Respondent should recommend the type of inoculation as requested in the ITN document (located on page 8), Section II Brown Areas. The Respondent should include details of the recommended plan in Tab I under "Additional Information" the pricing for proposed plan should also be completed in Exhibit 2 where indicated.</b>

<p>I see the solicitation document says that all suppliers are required to sign in and sign out for the Mandatory Site Visit. I signed in, but I did not sign out. Does that mean we are disqualified now?</p>	<p><b>The University will accept responses from any and all parties who signed in on the official sign in sheet at the Mandatory Site Visit that was held at on the Main Campus on Monday, October 18, 2021.</b></p>
<p>Do you have a staging area for the equipment?</p>	<p><b>A staging area will be provided and coordinated with the successful Respondent.</b></p>
<p>Where should Attachment E – E-Verify Certification go in my Response?</p>	<p><b>This Attachment should go with Tab A “Essential Documents”.</b></p>

**TAB**

**G**

## Sample Agreement

The sample agreement has been reviewed and I have no objections to any specific contract terms at this time.

*Kenneth G. Jackson*

Kenneth G. Jackson, Manager

Liberty Lawn Care, LLC

## **AGREEMENT**

This Agreement (the "Agreement") is made and entered into on the date fully executed by both parties below (the "Effective Date") by and between The Florida Polytechnic University Board of Trustees ("University"), whose principal business address is 4700 Research Way, Lakeland, Florida 33805-8531 and \_\_\_\_\_ ("Contractor"), with a principal business address of \_\_\_\_\_.

### **RECITALS**

**WHEREAS**, University has requested proposals to \_\_\_\_\_ ("Services"), pursuant to ITN- \_\_\_\_\_ ("Competitive Solicitation"); and,

**WHEREAS**, Contractor submitted a Proposal for the provision of the Services ("Proposal"), certain terms of which were negotiated with University; and,

**WHEREAS**, University desires Contractor to provide the Services as more particularly described herein; and

**NOW THEREFORE**, in consideration of the mutual covenants of the parties set forth in this Agreement, the parties agree as follows:

1. **Recitals.** The above recitals are true and correct and incorporated herein.
2. **Term.** This agreement begins on \_\_\_\_\_ and continues through \_\_\_\_\_ or until Services are fully rendered, whichever is later. Agreement may be renewed \_\_\_\_\_.
3. **Contract.** University grants Contractor the opportunity to provide the Services on the terms provided herein and in accordance with:
  - A. Exhibit "I", Competitive Solicitation ITN xx-xxxx ("ITN") attached and incorporated by reference.
  - B. Exhibit "II", Contractor's Solicitation Response attached and by reference; and any addenda thereto.
  - C. In the event of conflict between or among terms and conditions in documents pertaining to the Services, such documents govern in the following order of precedence: First, this document; Second, the Competitive Solicitation; and Third, Contractor's Solicitation Response. All provisions of this Agreement will be considered as prepared through the joint efforts of the Parties

and will not be construed against either Party as a result of the preparation or drafting thereof. No consideration will be given or presumption made on the basis of who drafted any particular provision of this Agreement.

4. **Fee for Services.** As full compensation, inclusive of any and all expenses, for the Services to be provided by Contractor in this Agreement, University agrees to pay Contractor an all-inclusive maximum fee of US \_\_\_\_\_ (“Fee”). Contractor will submit to University invoices for the Fee for those Services rendered, in arrears. University will designate a representative to serve as University’s point of contact for the Contractor’s submission of invoices and questions concerning payment status.
5. **Payment.** Contractor must submit bills for compensation for services or expenses in sufficient detail for a pre- and post-audit, and in accordance with Payment Schedule which is labeled as Exhibit III.
  - A. Contractor is responsible for any taxes due under this Agreement. University will make payment within 30 days of receipt of a proper invoice.
  - B. If University does not issue payment within 30 days of receipt of a proper invoice, University will pay to Contractor an interest penalty at the rate established pursuant to section 55.03(1) Florida Statutes if the interest exceeds \$1.00.
  - C. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s), may be contacted at 863-874-8448.
  - D. University may make payment to Contractor via the University’s EFT/ACH payment process. Vendor must provide the necessary information to University upon request.
6. **Public Records, Contract for Services: Compliance with section 119.0701, Florida Statutes.**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Florida Polytechnic University  
Attention: General Counsel  
4700 Research Way  
Lakeland, FL 33805**

**ogc@floridapoly.edu**  
**(863) 874-8412**

To the extent that Contractor meets the definition of “contractor” under section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Contractor must comply with public records laws, including the following provisions of section 119.0701, requiring Contractor to:

- A. Keep and maintain public records required by University to perform the service.
- B. Upon request from the University’s custodian of public records, provide the University with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that confidential information or records that are exempt from public records disclosure are not disclosed except as authorized by law for the duration of this agreement, renewals, and following completion of the contract if Contractor does not transfer the records to University.
- D. Upon completion of this Agreement, transfer, at no cost, to University all public records in possession of Contractor or keep and maintain public records required by University to perform the service.
  - 1) If Contractor transfers all public records to University upon completion of the contract, Contractor must destroy any duplicate confidential information or records that are exempt from public records disclosure.
  - 2) If Contractor keeps and maintains public records upon completion of this Agreement, Contractor must meet all applicable requirements for retaining public records.
  - 3) All records stored electronically must be provided to University, upon request from the University’s custodian of public records, in a format that is compatible with the information technology systems of the University.
- E. Third parties requesting to inspect or copy public records relating to this agreement must be made directly to University. If University does not possess the requested records, University will notify Contractor of the request, and Contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.
- F. The University may inspect the:



- 1) Financial records, papers, and documents of the Contractor that are directly related to the performance of the contract or the expenditure of state funds.
  - 2) Contractor's programmatic records, papers, and documents which the University determines are necessary to monitor the performance of this agreement or to ensure that the terms of this agreement are being met.
  - 3) The Contractor must provide such records, papers, and documents requested by the University within 10 business days after the request is made.
  - 4) The right of access in this provision is not limited to the required retention period but lasts as long as the records are retained.
- G. The terms of section 6 are material terms of this agreement, and failure to comply may result in termination and/or civil penalties.

**7. Indemnification.**

- A. Contractor agrees to release, indemnify, defend, and hold harmless: (1) Florida Polytechnic University or The University Board of Trustees; (2) The Florida Board of Governors; (3) The State of Florida and their respective trustees, officers, employees, and agents from:
- 1) any and all liability, fines, royalties, fees, taxes, suits, claims, demands and actions, costs, attorney's fees and expenses of any kind or nature whatsoever ("Losses") for any loss of life, personal, bodily, or economic injury or damage or loss to property arising out of the negligent or intentional acts, errors or omissions of Contractor, its officers, agents, employees and contractors; and from and against any orders, judgments or decrees which may be entered pursuant thereto.
- B. Nothing in this agreement may be construed as an indemnification of the Contractor by the University or as a waiver of sovereign immunity beyond that provided in section 768.28, Florida Statutes.
- C. This provision will survive the termination of this agreement.
- D. Due to its sovereign immunity, University will not indemnify Contractor.

**8. Copyright and Intellectual Property.**

- A. If Contractor uses copyrighted materials or documents not owned by University ("Copyrighted Materials") in Contractor's performance of the agreement, Contractor represents and warrants that it owns, or is licensed to use and to authorize others to use, the Copyrighted Materials.

- B. Contractor will, at its expense, defend any suit brought against University and will indemnify University against an award of damages and costs, including attorney's fees, made against University by a settlement or final judgment that is based on a claim that University's use of the Copyrighted Materials infringes a trademark or copyright of a third party.
  - C. This provision will survive the termination of this agreement.
  - D. Any reports or deliverables provided to the University pursuant to this agreement are considered as works for hire, and the University may use such reports or deliverables for any purposes.
9. **Termination.**
- A. Termination at Will. This Agreement may be terminated by University by providing written notice to Contractor of such intent to terminate at least 10 days prior to the effective date of such termination.
  - B. Termination for Cause. Notwithstanding the provisions of subsection 10(A) above, University may, upon 5 days' written notice to Contractor set forth with specificity the basis for the termination to terminate this Agreement for Cause. For purposes of this Agreement, "cause" is defined as Contractor's failure to perform the Services within the time specified herein or any extension thereof or Contractor's failure to adhere to any of the material terms of this Agreement.
  - C. If this Agreement is terminated, University will only be liable for payment of goods received and services rendered prior to the date of termination and accepted by University.
10. **Insurance.** Contractor will have and maintain types and amounts of insurance that at a minimum cover the Contractor's (or subcontractors') exposure in performing this Agreement. University is self-insured, and will provide its Certificate of Insurance upon request; University is not required to obtain additional insurance for this Agreement.
11. **Force Majeure.** Neither party will be deemed to be in default of its obligations if and so long as it is prevented from performing its obligations by an act of war, terrorism, labor strike, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
12. **Compliance with Law.** Contractor will comply with all statutes, ordinances, rules, regulations, orders, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority over it. If this agreement is funded in any part with federal funds, the terms of section 202 of Executive Order 11246, as amended, are incorporated as if fully set forth in this agreement. The hyperlink in this agreement is for convenience only and any failure of it to function does not relieve the Supplier of any obligations of this clause.

13. **Availability of Funds.** University's financial obligations continue under this Agreement are conditioned upon the appropriation of funds on an annual basis, which is not controlled by the University. In the event that the entities controlling such funding fail to appropriate funds or to allow University to use funds and University has determined, in University's sole discretion, that there are insufficient funds available to cover University's obligation under this Agreement, University will have the right to terminate this Agreement for the upcoming year without damage, penalty, cost, or further obligation. University will notify Contractor at least 30 day in advance of a termination pursuant to this provision; University must pay for all services rendered until the date of termination.
14. **Independent Contractor.** Contractor is retained by University only for those purposes and to the extent set forth in this Agreement, and Contractor's relation to University will, during the term of this Agreement, be that of independent Contractor. Contractor is not and will not be considered as having an employee status. Contractor is responsible for the payment of any taxes on any monies received by Contractor.
15. **Prohibitions.** Unless expressly and specifically authorized in writing by University in advance, Contractor is prohibited from engaging in any of the following:
- A. Incurring any debt or obligation on behalf of University;
  - B. Entering into any contract, arrangement, or transaction which binds University to any extent or creates any obligation on University; and/or
  - C. Utilizing University's name, credit, reputation, goodwill, resources, and/or assets for any purpose.
16. **Travel.** N/A or Invoices/bills for approved travel expenses will be submitted in accordance with section 112.061, Florida Statutes. The University may establish rates not to exceed the maximum allowed as provided in §112.061, Florida Statutes. The University reserves the right not to pay travel expenses unless the University approves such expenses in advance, in writing. The University has the right to make travel arrangements for Contractor.
17. **Notices.** Any notice to either party must be in writing and signed by the party giving it, and served:
- A. By hand notice; or
  - B. Through the United States Mail, postage prepaid, registered or certified, return receipt requested; or
  - C. Through expedited mail or package service if a receipt showing the delivery has been retained; or
  - D. By e-mail and addressed as follows:

**To UNIVERSITY:**

The Florida Polytechnic University  
Board of Trustees  
Address: 4700 Research Way  
Lakeland, FL 33805

**To CONTRACTOR:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: Procurement Department  
E-mail: procurement@floridapoly.edu

Attn: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**CONTRACT MANAGER:**

Attn: \_\_\_\_\_  
Email: \_\_\_\_\_

Notice is effective upon receipt.

- 18. **Assignment.** This agreement may not be assigned by Contractor without the express written consent of University.
- 19. **Governing Law.** This agreement and any amendments to it are governed by the laws of the State of Florida and venue for any actions arising out of this agreement must be in the state courts in Polk County, Florida
- 20. **Software.** If Contractor is providing software, University may create and retain a copy of the software and related documentation for backup and disaster-recovery purposes, and for archival purposes for use after this agreement is terminated.
- 21. **Survival.** Any provision of this agreement providing for performance by either party after termination of this agreement survives termination and continues to be effective and enforceable.
- 22. **E-Verify.** All terms defined in section 448.095, Florida Statutes are adopted and incorporated into this provision. Pursuant to section 448.095, Florida Statutes, Contractor certifies that it is registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this agreement. If Contractor enters into a contract with a subcontractor to perform work or provide services pursuant to this agreement, Contractor must also require the subcontractor to comply with the requirements of section

448.095, Florida Statutes. The subcontractor must provide to Contractor an affidavit stating that the subcontractor does not employ, contract with, or subcontract with or to any unauthorized alien. Contractor must maintain a copy of such affidavit for the duration of the contract. University may terminate this agreement immediately upon notice to Contractor for any violation of this provision.

23. **Confidentiality of Information.** If Contractor is exposed to University's confidential information (such as donor information), Contractor will keep such information confidential and will act in accordance with any guidelines and applicable laws including the Family Educational Rights and Privacy Act (FERPA) and the Gramm-Leach Bliley Act.
24. **Conflicts of Interest.** Acceptance of this Agreement certifies that Contractor is aware of the requirements of Chapter 112, Florida Statutes and in compliance with the requirements of Chapter 112, Florida Statutes and other laws and regulations concerning conflicts of interests in dealing with entities of the State of Florida. Contractor certifies that its directors and/or principal officers are not employed and/or affiliated with the University unless a current Conflict of Interest (Report of Outside Activity/Employment) form has been completed, executed by such director or officer, and approved in accordance with applicable University policies or rules. Violation of this section by Contractor is a ground for cancellation of this Agreement.
25. **Work for Hire.** Any work specifically created for the University under this Agreement by the Contractor or anyone working on behalf of Contractor (the term *Contractor* encompasses both) is considered a "work for hire." All designs, prints, paintings, artwork, sketches, etchings, drawings, writings, photographs, or any other work or material or property produced, developed or fabricated and any other property created hereunder, including all material incorporated therein and all preliminary or other copies thereof, (the "Materials") are and remain the property of the University, and, unless otherwise specifically set forth herein, are considered specially ordered for the University as a "work made for hire," or, if for any reason held not to be a "work for hire," the Contractor who created, produced, developed or fabricated the Materials hereunder assigns all of his/her right, title and interest in the Materials to the University. The University owns all right, title and interest in the Materials. The Contractor agrees upon request to execute any documents necessary to perfect the transfer of such title to the University. The Materials must be to the University's satisfaction and are subject to the University's approval. The Contractor bears all risk of loss or damage to the Materials until the University has accepted delivery of the Materials. The University is entitled to return, at the Contractor's expense, any Materials which the University deems to be unsatisfactory. On or before completion of the Contractor's services hereunder, the Contractor must furnish the University with valid and adequate releases necessary for the unrestricted use of the Materials for advertising or trade

purposes, including model and property releases relating to the Materials and releases from any persons whose names, voices or likenesses are incorporated or used in the Materials. The Contractor hereby represents and warrants that the Materials may be used or reproduced for advertising or trade purposes or any commercial purposes without violating any laws or the rights of any third parties and that no third party has any rights in, to, or arising out of, or in connection with the Materials, including without limitation any claims for fees, royalties, or other payments. The provisions of paragraph 12 (indemnification) of this Agreement expressly apply to these regarding (a) the performance or non-performance of the University's order by the Contractor, (b) the use or reproduction in any manner, whatsoever, or (c) any breach or alleged breach of any of the Contractor's agreements or representations and warranties herein.

26. **Civil Rights.** The Contractor and any subcontractors must abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) prohibiting discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender, identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sexual orientation, gender identity, national origin, protected veteran status or disability.
27. **Entire Agreement.** This agreement and any documents incorporated specifically by reference represent the entire agreement between the parties and supersedes all prior oral or written statements or agreements. This agreement may only be amended by signed written amendments.
28. **Coverage and Participation.** The intended coverage of this ITN and any Agreement resulting from this solicitation will be for the use of the State University System of Florida. With the consent and agreement of the Successful Vendor, other state universities, state or community colleges, district school boards, other educational institutions, and other governmental agencies, may assess and access an Agreement resulting from this solicitation issued and administered by Florida Polytechnic University, ITN xx-xxxx. The University reserves the right to add and/or delete elements, or to change any element of the coverage and participation at any time without prior notification and without any liability of any kind or amount.
29. **Exhibits.** All exhibits listed below are incorporated into this agreement.
  - A. Exhibit I – Competitive Solicitation ITN xx-xxxx
  - B. Exhibit II - Contractor's Solicitation Response
  - C. Exhibit III – Payment Schedule

The parties have caused this Agreement to be executed by signing below.

UNIVERSITY:

CONTRACTOR:

The Florida Polytechnic University

Board of Trustees

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to form and legality:

BY: \_\_\_\_\_

Florida Poly Attorney

DATE: \_\_\_\_\_

Approved by University Board of Trustees

DATE: \_\_\_\_\_

President on behalf of the

University Board of Trustees

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**TAB**

**H**



## Confidential Information

No confidential information, trade secrets. Or proprietary information submitted as part of this proposal.

**TAB**

**I**

## Additional Information

I initialed two changes on the pricing sheet. I changed Pre-Emergent weed control from 12 to 2 and Post Emergent Weed Control from 2 to 4. I believe these quantities were in error.

I included my Mulch Bed Counts per Area and Unit Costs and Man Hour Calculations.

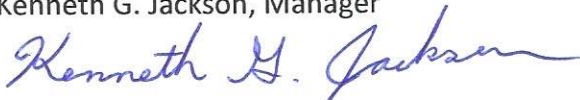
I would like to thank The Florida Polytechnic University Board of Trustees for allowing me the opportunity to work on your property over the past five years. I am very grateful for the awesome experience that it has been. I'm asking for the opportunity to continue my service to the university. This is a very important campus located in a fast-growing corridor of our county and it is almost in my backyard. I want to preserve the landscaping gains we have made and propose improvements going forward to make the grounds a more beautiful backdrop for the unique architecture of the buildings with world recognition being built on this campus.

In providing the grounds maintenance for the university, I have proven how responsive my company is. I answer all messages, emails, and voice mail messages the same day I receive them. Property checks are very easy because you are only five miles from my office.

You can see from my dedicated personnel list that I have mostly maintained the same people working the campus the entire five years. They know the university well and what it takes to get the job done correctly. They take a lot of pride in making the campus look great and would love to continue their service to the university.

Should we not win the opportunity to continue to serve the university, I will still be available for service until the university is ready to go with a new vendor. We will continue to provide our best level of service until our last day.

Kenneth G. Jackson, Manager



Liberty Lawn Care, LLC

863-412-4714

KennyJackson@LibertyLawnCare.com

Mulch Bed Counts per Area

Area	Tot Sq Ft
Inside Ring	44682
Middle Ring	83440
Outside Ring	129270
Ponds	117900
Tree Rings	8280
Parking lot Indian Hawthorns	11904
Parking Lot Palmettoes	23864
Magnolia Rings	800
Wellness Center	6500
Student Development	5400
Cir Round About	20000
Oak Park	43000
Admin	4960

**500000**

## Unit Cost and Man Hour Calculations

				Quantity	Time	Unit Cost
Landscape Activities	Quantity	\$ Unit	Total		Man Hours	
	Scope	Scope	Scope			
<b>Green Areas</b>			<b>\$ 62,600.00</b>			
Mow Sodded Areas	42	\$ 100.00	\$ 4,200.00		3 man hrs	\$ 30.00
Bushhog Areas	19	\$ 2,000.00	\$ 38,000.00	52 Acres		\$ 38.46
Hard Edge	42	\$ 100.00	\$ 4,200.00		3 man hrs	\$ 30.00
Line Trim	42	\$ 100.00	\$ 4,200.00		3 man hrs	\$ 30.00
Weed Control	12	\$ 1,000.00	\$ 12,000.00	6 Man hrs plus spray chemicals		
<b>Yellow Areas</b>			<b>\$ 120,992.00</b>			
Mow Interior Sodded Areas	42	\$ 2,160.00	\$ 90,720.00		72 man hrs	\$ 30.00
Hard Edge	42	\$ 100.00	\$ 4,200.00		3 man hrs	\$ 30.00
Line Trim	42	\$ 100.00	\$ 4,200.00		3 man hrs	\$ 30.00
Blow Sidewalks	42	\$ 100.00	\$ 4,200.00		3 man hrs	\$ 30.00
Fertilizer	4	\$ 1,188.00	\$ 4,752.00	34 Acres	.80 per 1,000 sq ft	
Insect Control	4	\$ 1,188.00	\$ 4,752.00	34 Acres	.80 per 1,000 sq ft	
Pre- Emergent weed control	2	\$ 1,584.00	\$ 3,168.00	34 Acres	1.07 per 1,000 sq ft	
Post Emergent Weed control	4	\$ 1,250.00	\$ 5,000.00	34 Acres	.85 per 1,000 sq ft	
<b>Brown Areas</b>			<b>\$ 280,864.00</b>			
Irrigation Inspections/Reports	12	\$ 1,313.00	\$ 15,756.00		26 man hrs	\$ 50.00
Irrigation Repairs	12	\$ 1,000.00	\$ 12,000.00	Used historical data on site for estimate		
Detail Mulch Beds	42	\$ 1,200.00	\$ 50,400.00		40 man hrs	\$ 30.00
Post-emergent Weed control	42	\$ 100.00	\$ 4,200.00	Chemicals only for above Detail line		
Insect Control	4	\$ 3,845.00	\$ 15,380.00	500,000 sq ft	.01 per 1,000 sq ft	
Ornamental Grass Cutbacks	1	\$ 15,000.00	\$ 15,000.00		500 man hrs	\$ 30.00
Annual Mulching	1	\$ 111,000.00	\$ 111,000.00	3000 cu yds		\$ 37.00
Trim Palmettos 2 times per year	2	\$ 3,600.00	\$ 7,200.00		120 man hrs	\$ 30.00
Trim Hardwood Trees	As needed	\$ 500.00	\$ 500.00		16 man hrs	\$ 30.00
Fertilize Hardwood Trees-8-10-10	4	\$ 1,700.00	\$ 6,800.00	624		\$ 2.72
Palm Pruning - Medjool (Full Head)	1	\$ 4,880.00	\$ 4,880.00	122		\$ 40.00
Palm Pruning - Washingtonian	2	\$ 9,060.00	\$ 18,120.00	453		\$ 20.00
Palm Fertilization - 12-4-12	4	\$ 2,510.00	\$ 10,040.00	575		\$ 4.37
Palm Innoculations (Medjools)	4	\$ 1,552.00	\$ 6,208.00	122		\$ 12.71
Blow Roads and Parking Lots Bi-weekly	26	\$ 130.00	\$ 3,380.00		4 man hrs	\$ 30.00
<b>Red Areas</b>			<b>\$ 38,770.00</b>			
Mowing	100	\$ 185.00	\$ 18,500.00			
Fertilization	6	\$ 750.00	\$ 4,500.00			
Irrigation Inspections	51	\$ 70.00	\$ 3,570.00			
Aeration	1	\$ 3,000.00	\$ 3,000.00			
Weed Control (pre & post emergent)	6	\$ 300.00	\$ 1,800.00			
Insecticide	3	\$ 300.00	\$ 900.00			
Fungicide	As needed					
Top Dressing & Verticut	1	\$ 6,500.00	\$ 6,500.00			
<b>Annual Total</b>			<b>\$ 503,226.00</b>			

FLORIDA POLYTECHNIC UNIVERSITY

Invitation to Negotiate #ITN 21-007

Ground Maintenance Services Additional Information Requested

1. Please confirm your price per tree. In the event the University has more trees than anticipated, what is the cost per tree? (Fertilize Hardwood Trees) estimated quantity 624 @ \$2.72 each, (Palm Pruning-Medjool) estimated quantity 122 @ \$35.00 each, (Palm Pruning-Washingtonian) estimated quantity 453 @ \$18.00 each, (Palm Fertilization) estimated 575 @ \$4.37 each, and (Palm Inoculations-Medjools) estimated quantity 122 @ \$12.71 each.
2. Please provide your hourly rate(s) for irrigation repairs (pricing should include various rates for skilled labor and general labor. Emergency, after-hours, and normal business hours pricing). We charge \$50.00 per hour for each of these services.
3. Please provide Annual Mulching pricing for 3,000 cubic yards (assuming two inch thickness, Grade B or better Cypress) \$37.00 per cubic yard (provided it can be sprayed in)
4. The ITN asked for 12 Pre-Emergent and 4 Post-Emergent Weed control, please respond to the scope as written. Entered on new pricing sheet as it is requested. However, the pricing sheet emailed to me states 12 and 2. The unit cost is correct so if needs to be 4 then can multiply quantity by 4.
5. Additionally the University is giving the opportunity to all three companies to provide their best and final pricing on the attached Exhibit II. This best and final offer should include the additional items requested above. Provided on new pricing sheet.

Vendor Name: Liberty Lawn Care, LLC

Address: 3241 Combee Dairy Road, Auburndale, FL 33823

Phone Number: 863-412-4714

Email: [KennyJackson@LibertyLawnCare.com](mailto:KennyJackson@LibertyLawnCare.com)

Signature: Kenneth G. Jackson

# FLORIDA POLY UNIVERSITY Groundskeeping

## Campus

### DESCRIPTION

Area		Qty	Unit \$	Price Extended
<b>Green Areas</b>		Insert Estimated SF 2,265,120		
Mow Interior Sodded Areas				\$ 53,100.00
Bushhog Areas		42	\$ 100.00	\$ 4,200.00
Hard Edge		19	\$ 1,500.00	\$ 28,500.00
Line Trim		42	\$ 100.00	\$ 4,200.00
Weed Control		42	\$ 100.00	\$ 4,200.00
		12	\$ 1,000.00	\$ 12,000.00
<b>Yellow Areas</b>		Insert Estimated SF 1,481,040		
Mow Interior Sodded Areas				\$ 134,332.00
Hard Edge		42	\$ 2,160.00	\$ 90,720.00
Line Trim		42	\$ 100.00	\$ 4,200.00
Blow Sidewalks		42	\$ 100.00	\$ 4,200.00
Fertilization		42	\$ 100.00	\$ 4,200.00
Insect Control		4	\$ 1,188.00	\$ 4,752.00
Pre-Emergent weed control		4	\$ 1,188.00	\$ 4,752.00
Post Emergent Weed Control		12	\$ 1,584.00	\$ 19,008.00
		2	\$ 1,250.00	\$ 2,500.00
<b>Brown Areas</b>		Insert Estimated SF 500,000		
Irrigations Inspections/Report				\$ 278,442.00
Irrigation Repairs		12	\$ 1,313.00	\$ 15,756.00
Detail Mulch Beds		12	\$ 1,000.00	\$ 12,000.00
Weed Control		42	\$ 1,200.00	\$ 50,400.00
Insect Control		42	\$ 100.00	\$ 4,200.00
Insect Control		4	\$ 3,845.00	\$ 15,380.00
Ornamental Grass Cutbacks (campus wide)		1	\$ 15,000.00	\$ 15,000.00
Annual Mulching (Grade B or better Cypress)	3000 cu yrds	1	\$ 111,000.00	\$ 111,000.00
Trim Palmettos 2 times per year	120 man hrs per cut	2	\$ 3,600.00	\$ 7,200.00
Trim Hardwood Trees	624 trees	As needed	\$ 500.00	\$ 500.00
Fertilize Hardwood Trees (8 - 10 - 10)	624 trees	4	\$ 1,700.00	\$ 6,800.00
Palm Pruning - Medjool (Full Head)	122 trees	1	\$ 4,270.00	\$ 4,270.00
Palm Pruning - Washingtonians	453 trees	2	\$ 8,154.00	\$ 16,308.00
Palm Fertilization (12 - 4 - 12)	575 trees	4	\$ 2,510.00	\$ 10,040.00
Palm Innoculations (Medjools)	122 trees	4	\$ 1,552.00	\$ 6,208.00
Blow Roads and Parking Lots biweekly		26	\$ 130.00	\$ 3,380.00
<b>Red Areas</b>		Insert Estimated SF 113,256		
Mowing				\$ 36,000.00
Mowing		100	\$ 180.00	\$ 18,000.00
Fertilization		6	\$ 650.00	\$ 3,900.00
Irrigation Inspections		51	\$ 50.00	\$ 2,550.00
Aeration		1	\$ 2,500.00	\$ 2,500.00
Weed Control (pre & post emergent)		6	\$ 300.00	\$ 1,800.00
Insecticide		3	\$ 250.00	\$ 750.00
Fungicide		As needed		
Top Dressing and Verticut		1	\$ 6,500.00	\$ 6,500.00
<b>Total</b>				\$ 501,874.00

Vendor Name:

Liberty Lawn Care, LLC

Address:

3141 Combee Dairy Road, Auburndale, Fl. 33823

Phone:

863-412-4714

Email:

KennyJackson@LibertyLawnCare.com

Signature:

*Kenneth G. Jackson*

**Exhibit III - Scope of Work & Payment Schedule  
Florida Poly & Liberty Lawn Care, LLC  
SA-21-007-0125-2**

FLORIDA POLY UNIVERSITY Groundskeeping				
Campus				
DESCRIPTION				
Area		Qty	Unit \$	Price Extended
<b>Green Areas</b>		Insert Estimated SF 2,265,120		
Mow Interior Sodded Areas				\$ 53,100.00
Bushhog Areas		42	\$ 100.00	\$ 4,200.00
Hard Edge		19	\$ 1,500.00	\$ 28,500.00
Line Trim		42	\$ 100.00	\$ 4,200.00
Weed Control		42	\$ 100.00	\$ 4,200.00
		12	\$ 1,000.00	\$ 12,000.00
<b>Yellow Areas</b>		Insert Estimated SF 1,481,040		
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Post Emergent Weed Control		12	\$ 1,584.00	\$ 19,008.00
		2	\$ 1,250.00	\$ 2,500.00
<b>Brown Areas</b>		Insert Estimated SF 500,000		
Irrigations Inspections/Report				\$ 278,442.00
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Detail Mulch Beds		12	\$ 1,000.00	\$ 12,000.00
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Weed Control (pre & post emergent)		6	\$ 300.00	\$ 1,800.00
Insecticide		3	\$ 250.00	\$ 750.00
Fungicide		As needed		
Top Dressing and Verticut		1	\$ 6,500.00	\$ 6,500.00
<b>Total</b>				\$ 501,874.00

Vendor Name: Liberty Lawn Care, LLC  
 Address: 3141 Combee Dairy Road, Auburndale, Fl. 33823  
 Phone: 863-412-4714  
 Email: KennyJackson@LibertyLawnCare.com  
 Signature: *Kenneth G. Jackson*







**Florida Polytechnic University  
Finance and Facilities Committee  
Board of Trustees  
February 9, 2022**

**Subject: Campus Construction Update**

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**Proposed Committee Action**

Information only – no action required.

**Background Information**

David Calhoun, Assistant Vice President of Facilities and Safety Services, will give a presentation containing a brief overview of the projects in progress and those that are forthcoming.

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**Supporting Documentation:** PowerPoint Presentation

**Prepared by:** David Calhoun, Assistant Vice President of Facilities and Safety Services



**FLORIDA POLYTECHNIC  
UNIVERSITY**

## **Campus Construction Update**

**David Calhoun**

**February 09, 2022**



# ARC Overview

- **Project budget \$48.5M**
- **Funded to Date**
  - PECO funding 16-17 (\$5.0M)
  - PECO funding 17-18 (\$2.0M)
  - PECO funding 21-22 (\$14.9)
  - CF funding 16-17 (\$5.0M)
  - CF funding 18-19 (\$17.9M)
  - CF funding 19-20 (\$3.5M)
  - CITF funding (\$200K)
- **Est. Operation (\$2.0M)**
- **Completion**
  - Substantial Comp.: 03-23-22
  - Final Comp.: 05-22-22
- **Building size**
  - New NAS (66,861) vs. (60,786)
  - New GSF (96,600) vs. (85,100)



# Mechanical Shop Building (Environmental Engineering)

- **Project budget (CIP)**  
**\$9.8M**
- **Funded to Date**
  - TBD
- **Est. Operation (\$200K)**
- **Est. Completion**
  - June 30, 2023
- **Building size**
  - 20,080 Gross Square Footage
- **Status**
  - Design Criteria Package is in progress.





FLORIDA POLY

# Public Private Partnership





# Public Private Partnership



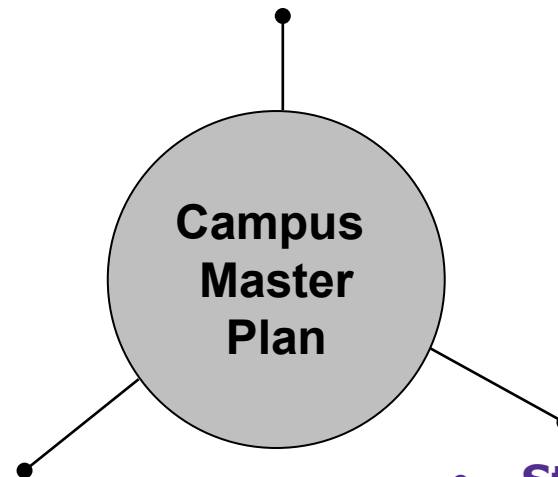
**The Concept Schematic Design has been received, and primarily includes the building's program overview and orientation within the campus. Included in our review will be the validation of infrastructure support and feedback on the building's compliance with our Campus Design Standards. August 2022 is the scheduled construction start date.**



# Campus Master Plan/ Educational Plant Survey

- **State Government**

- Capital Improvement Plan (CIP)
- Fixed Capital Outlay (FCO)
- Legislative authority to construct



- **Host Local Government(s)**

- 90-day review period
- Campus Development Agreement

- **State University System**

- Capital improvement list for PECO
- Educational Plant Survey
- BOG Needs Assessment

**Campus Master Plan is the central document used by various agencies to govern campus construction**

# Campus Master Plan/ Educational Plant Survey

## Campus Master Plan

- Agency reviews are complete, and comments have been received/incorporated
- The final draft is scheduled to go before the Full Board for adoption on 2/16/22

## Educational Plant Survey

- The Educational Plant Survey consists of two phases (Space Validation and Needs Assessment)
- The Space Validation is scheduled for December 7-8 and will include a survey of University operated facilities
- The Needs Assessment will be scheduled in Spring 2022 and will determine our space needs based on student FTE
- If deficits in space are recognized by the BOG, it will result in a survey recommendation

# Summary

- **Applied Research Center**
  - On target for a March 23, 2022, Substantial Completion, and May 22, 2022, Final Completion
- **Mechanical Shop**
  - Advanced Schematic Design is in progress, to support an expedited schedule utilizing a Design Build Construction Method.
- **Public Private Partnership**
  - Design is in progress, and Concepts have been received for University review/compliance.
- **Campus Master Plan/Educational Plant Survey**
  - Comments have been received by various agencies for incorporation into the Master Plan, and the Space Validation portion of the Educational Plant Survey has been completed. The needs assessment is scheduled for spring 2022.

**Florida Polytechnic University  
Finance & Facilities Committee  
Board of Trustees  
February 9, 2022**

**Subject: Ground Lease Agreement with Ryan Companies USA, Inc. (Ryan)**

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**Proposed Committee Action**

Recommend to the Board of Trustees the approval of the ground lease agreement with Ryan Companies USA, Inc., for the development of a previously approved P3 research facility on the campus of Florida Polytechnic University which will be subleased by International Flavors and Fragrances, Inc.

**Background Information**

During the May 2021 Executive Committee Meeting, the Florida Poly Board of Trustees approved a resolution seeking approval from the Board of Governors to develop a research facility via a public-private partnership with Fortune 500 company International Flavors & Fragrances (IFF). The Board of Governors subsequently approved the development at its September 2021 meeting.

Ryan Companies USA, Inc. ("Ryan") and the University negotiated a ground lease agreement in which Ryan will finance, construct, operate, and maintain the research facility and IFF will serve as the subtenant. The draft ground lease agreement was previously approved by the Board of Trustees and the Board of Governors as part of the initial approval of the public-private partnership. However, exhibits to the draft ground lease agreement - such as logistical plans, timelines for construction, and design schedules - required further negotiation. Since the exhibits to the ground lease were not yet complete, the ground lease could not be executed.

Following the approvals by the Board of Trustees and Board of Governors, Ryan and the University have continued negotiations regarding the exhibits attached to the ground lease document. Ryan and the University have concluded negotiations and completed the exhibits to the ground lease as summarized in the table below:

<b>Exhibit</b>		<b>Status</b>
A	Legal Description of Land	Completed
B	Permitted Title Encumbrances	Completed
C	Memo of Ground Lease	Completed
D	Form of IP License Agreement	No Change
E	Site Plan	Completed
F	Campus Master Plan Goals and Objectives	Completed
G	Legal Description of Outfall Easement	Completed
H	Form of Release	Completed
I	Construction Timeline	Completed
J	Depiction of Staging Area	Completed
K	Mobilization Plan	Completed
L	University Design Standards	Completed
M	Design Schedule	Completed
N	Scope Notes	Deleted
O	Rules and Regulations	Completed

Ryan and the University have only revised the exhibits attached to the previously approved draft ground lease agreement; no other substantive changes to the ground lease were made.

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**Supporting Documentation:** Ground Lease Agreement (Ryan)

**Prepared by:** Alex Landback, Associate General Counsel

**GROUND LEASE AGREEMENT**

LANDLORD: THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES, a public body corporate of the State of Florida

TENANT: HS POLY RESEARCH, LLC, a Delaware limited liability company

SITE: FLORIDA POLYTECHNIC UNIVERSITY CAMPUS

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Exhibit A Legal Description of Land  
Exhibit B Permitted Title Encumbrances  
Exhibit C Memo of Ground Lease  
Exhibit D Form of IP License Agreement  
Exhibit E Site Plan  
Exhibit F Florida Poly Campus Master Plan Goals and Objectives  
Exhibit G Legal Description of Outfall Easement  
Exhibit H Form of Release  
Exhibit I Construction Timeline  
Exhibit J Depiction of Staging Area  
Exhibit K Mobilization Plan  
Exhibit L University Design Standards  
Exhibit M Design Schedule  
Exhibit N Rules and Regulations



## **GROUND LEASE AGREEMENT**

**THIS GROUND LEASE AGREEMENT** (“Lease”) is made and entered into as of [\_\_\_\_\_, 2022] (the “Effective Date”), between HS POLY RESEARCH, LLC, a Delaware limited liability company (“Tenant”) and THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES, a public body corporate of the State of Florida and an institution of higher education (“Landlord”); with reference to the following facts:

- A. Landlord is the fee simple owner of certain land in Lakeland, Florida upon which is located the main campus of Florida Polytechnic University (the “Florida Poly Campus”).
- B. Landlord is authorized to enter into this Lease pursuant to the provisions of Section 1013.171(1), Florida Statutes and Florida Board of Governors Public-Private Partnership (P3) Guidelines.
- C. Landlord’s institutional missions include teaching, research, and service at Florida Polytechnic University (“Florida Poly”).
- D. The availability of on-campus state of the art research facilities is an objective of Landlord in entering into this Lease and related agreements.
- E. Landlord, in an effort to use its resources in an efficient and effective manner, has determined that it is in the Landlord’s best interest to pursue an arrangement whereby a qualified private entity shall provide planning, financial analysis, private financing, design, construction, operation and management of a research facility at the Florida Poly Campus.
- F. Landlord issued Florida Poly ITN No. 21-001 including the above terms, and Landlord selected the team of International Flavors & Fragrances, Inc. (“IFF”) and Tenant after they submitted their best and final offer.
- G. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Land in accordance with the terms and conditions of this Lease, for the purpose of Tenant constructing, operating and subleasing to Subtenant an approximately 30,000 square foot building and on-site improvements specifically related thereto with the intention that the building be used by Subtenant for the purpose of promoting scientific research and development in affiliation with and related to the research and educational activities of Landlord (collectively, the “Project”).
- H. Tenant has entered into this Lease on the condition Tenant will in turn enter into a sublease with IFF.
- I. IFF will, contemporaneously with entering into the IFF Sublease, enter into the Affiliation Agreement with Landlord describing the relationship between IFF and Landlord. Landlord would not enter into this Lease but for IFF’s entry into the Affiliation Agreement.

NOW, THEREFORE, good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Landlord and Tenant agree as follows:

In consideration of the mutual agreements contained in this Lease, Landlord leases to Tenant that certain real property located in the City of Lakeland, Polk County, Florida, and being more particularly described on **Exhibit A** attached hereto and by this reference and incorporated herein (the “Land”). Tenant shall construct the Improvements on the Land and may make alterations, replacements, modifications or additions thereto in accordance with the terms of this Lease which Improvements shall be and remain the property of Tenant during the term of this Lease and thereafter revert to Landlord. The Land and the Improvements are hereinafter collectively referred to as the “Property”.

The Land is leased hereunder subject only to the encumbrances comprising the Permitted Title

Encumbrances (as hereinafter defined).

This Lease is made upon the following terms and conditions:

## 1. DEFINITIONS AND BASIC TERMS.

1.01 **Defined Terms.** In addition to any other terms whose definitions are fixed and defined by this Lease, each of the following defined terms, when used in this Lease with an initial capital letter, shall have the meaning ascribed to them in this Article 1:

- a. *Affiliate* – means, with respect to any Person; (a) any other Person that, directly or indirectly, through one or more intermediaries, Controls, is controlled by or is under common control with such Person, (b) any successor to such Person by merger, consolidation or reorganization, (c) any purchaser of all or substantially all of the assets of such Person as a going concern, or (d) an entity which directly or indirectly acquires all, substantially all or a controlling interest of the stock, shares or other equity interests of such Person, whether in connection with a public offering, a private sale thereof or otherwise.
- b. *Affiliation Agreement* – shall initially mean that certain affiliation agreement dated on or about the date hereof by and between IFF and the Landlord and shall also include any comparable future agreement entered into by and between any future Subtenant and Landlord outlining the affiliation between such future Subtenant and the Landlord related to joint research and development activities between such parties.
- c. *Approval Period* – means the time period beginning the day immediately following the last day of the Inspection Period and ending two hundred seventy (270) days thereafter, as may be extended in accordance with Paragraph 23.02, entitled “Approval Period.”
- d. *Breakage Costs* – means any exit fees, deferred financing fees, defeasance costs, prepayment premiums or penalties, make-whole payments or other prepayment amounts, including payments owed or receivable in connection with the early termination of interest rate hedging arrangements, as the case may be, that Tenant must pay under any Funding Agreement or otherwise as a result of (x) the prepayment, redemption, or acceleration of the maturity of any Project Debt or (y) the termination, in whole or in part, of any interest rate swaps or commitments to lend or provide Project Debt.
- e. *Business Days* – wherever used in this Lease, the term “business day” or “business days” shall not include Saturday, Sunday, any days that are federal holidays, or the days between (and including) Christmas Day and New Year’s Day.
- f. *Board of Governors* – means the Florida Board of Governors of the State University System.
- g. *Commencement Date* – means the date that is the earlier of (i) the date Subtenant commences regular business operations from the entire Property, or (ii) sixty (60) days after issuance of a temporary certificate of occupancy allowing Subtenant to install its trade fixtures and personal property.
- h. *Conditions Precedent* – shall have the meaning ascribed thereto in Paragraph 17.05(a).

- i. *Contractor* - means Ryan Companies US, Inc.
- j. *Control* – (including, with its correlative meanings, “controlled by” and “under common control with”) means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise) of a Person.
- k. *Convenience Termination Date*- shall have the meaning ascribed thereto in Article 30.
- l. *CPI* – means the unadjusted Consumer Price Index for All Urban Consumers (CPI-U) for Tampa-St. Petersburg-Clearwater, FL (1987-97 = 100) published by the Bureau of Labor Statistics of the United States Department of Labor.
- m. *Effective Date* – shall have the meaning ascribed in the first paragraph of this Lease.
- n. *Florida Poly* – shall mean Florida Polytechnic University.
- o. *Florida Poly Campus*-shall mean the main Florida Poly campus located in Lakeland, Florida.
- p. *Force Majeure* – shall have the meaning ascribed thereto in Paragraph 26.15, entitled “Force Majeure.”
- q. *Funding Agreement* – means: (a) any loan agreement, funding agreement, account maintenance or control agreement, intercreditor agreement, subordination agreement, trust indenture, hedging agreement, swap agreement, credit insurance policy, guaranty, indemnity agreement, reimbursement agreement, or other agreement by, with or in favor of any Lender pertaining to or evidencing Project Debt, other than Security Documents; (b) any note, bond or other negotiable or non-negotiable instrument evidencing the indebtedness of Tenant for Project Debt; and (c) any amendment, supplement, extension, renewal, refinancing, variation or waiver of any of the foregoing agreements or instruments.
- r. *GAAP* means accounting principles generally accepted in the United States of America, applied on a consistent basis.
- s. *Good Industry Practice* – means those means, methods, techniques, practices and procedures generally considered industry standard in the design, development, construction, operation, maintenance, sustainability, repair, rehabilitation, replacement and renovation of buildings, structures, facilities, systems and improvements comparable in size, use and function to the Improvements in the Lakeland, Florida area.
- t. *Governmental Approvals* – means all zoning, land use, site plan, and operational approvals from all governmental and quasi-governmental entities having jurisdiction over the Property (including Landlord), and all consents and approvals from governmental and non-governmental persons or entities, which are necessary or desirable for the development and operation of the Property for Tenant’s intended use, including, but not limited to: demolition permits, building and development permits, site development permits, curb cut permits, authorization and permits, site

plan approvals, water and sanitary sewer tap permits, stormwater approvals, and utility permits and approvals.

- u. *Hazardous Materials* – means any and all toxic, radioactive, or hazardous substances, chemicals, materials or pollutants, of any kind or nature, which are regulated, governed, restricted or prohibited by any Law currently in existence or hereafter enacted or rendered, and shall include (without limitation), all oil, gasoline, and petroleum-based substances.
- v. *IFF Sublease* – means the Sublease Agreement entered into with IFF contemporaneously with this Lease.
- w. *Improvement Documents* – shall have the meaning as set forth in Paragraph 19.02.
- x. *Improvements* – means all buildings, structures or other improvements constructed or to be constructed on the Land by Tenant, including, without limitation, all buildings, site lighting, stormwater control structures and retention, utilities and other site development improvements, or any alterations, replacements, modifications or additions thereto made by Tenant in accordance with the terms of this Lease. For purposes of Article 19, entitled “Surrender”, Improvements shall not include Tenant’s or any Subtenant’s trade fixtures, equipment, inventory, and any other personal property of any nature that may have been installed on the Property by or on behalf of Tenant or any Subtenant.
- y. *Inspection Period* – means the time period beginning on the Effective Date and ending one hundred twenty (120) days thereafter, as more specifically described in Paragraph 25.01.
- z. *Land* – means the real property subleased to Tenant pursuant to this Lease, as more particularly described on **Exhibit A** attached hereto.
- aa. *Laws* – means any order, writ, injunction, decree, judgment, law, ordinance, decision, principle of common law, ruling that has the force of law or any treaty, constitution, statute, code, rule or regulation of any governmental authority, applicable to the Property or Tenant.
- bb. *Leasehold Mortgage* – means any indenture, mortgage, deed of trust or other security agreement or arrangement securing the repayment of Project Debt and encumbering Tenant’s leasehold interest in the Land and interest in the Improvements, in each case that satisfies all of the conditions in Paragraph 28.02.
- cc. *Leasehold Mortgagee* – means the holder or beneficiary of a Leasehold Mortgage.
- dd. *Lender* – means each bank, trust company or other financial institution, noteholder or any other holder of a beneficial interest in a Security Document, which is a provider of Project Debt or any guaranty or credit enhancement in respect thereof, and any participating parties, trustees and agents together with their respective successors and assigns.
- ee. *Lease Year*- means each twelve (12) month period commencing as of the Commencement Date of the Term of this Lease and each annual anniversary of the Commencement Date occurring thereafter during the Term or any Term Extension.
- ff. *Legal Requirements* – means requirements, limitation, restrictions and conditions of

Laws by governmental authorities, including Florida Poly rules, regulations and standards relating to the design and construction of improvements, buildings, structures and other installations on the Florida Poly Campus in effect at the time of construction of the initial Improvements and provided to Tenant by Landlord, or as are applicable to any subsequent Improvements, whether or not presently contemplated, that are applicable to the Property or the uses conducted on the Property by Tenant.

- gg. *Maintenance Schedule* – means the schedule for asset management services for the Term of this Lease, as may be updated annually by Tenant and approved by Landlord. The initial Maintenance Schedule shall be prepared by the Tenant and delivered to Landlord within 60 days following final completion of the initial Improvements.
- hh. *Outfall Easement* – shall have the meaning ascribed thereto in Paragraph 15.02 (d).
- ii. *Outfall Improvements* – shall have the meaning ascribed thereto in Paragraph 15.02(d)
- jj. *Outside Completion Date* – shall mean September 1, 2024.
- kk. *Permitted Title Encumbrances* – means all easements, rights-of-way, covenants, agreements, encumbrances, restrictions and other matters affecting the Land which are identified on **Exhibit B** attached hereto and made a part hereof as it may be amended.
- ll. *Person* – means any individual, corporation, partnership, joint venture, business trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or any governmental authority.
- mm. *Prohibited Person* means any Person:
  - (a) that has failed to comply with all federal, state and local laws, statutes and ordinances (including the USA PATRIOT Act) and as a result such Person or any of its directors, officers or senior management has been charged with, convicted of, pleaded guilty to, or entered into a settlement in compromise of, a felony, fraud or securities violations or other crime of moral turpitude within ten (10) years before the date of measurement, provided, if a Person (other than an individual) qualifies as a Prohibited Person solely because it or one of its directors, officers or senior management has been charged with, convicted of, pleaded guilty to, or entered into a settlement in compromise of, a felony, fraud or securities violations or other crime of moral turpitude within ten (10) years before the date of measurement, then such Person (other than an individual), as applicable, shall not be deemed a Prohibited Person if such charge would not constitute a material adverse event with respect to such Person (other than an individual), as applicable, if convicted thereof;
  - (b) that is an organized crime figure or has a director, officer or senior management personnel who is an organized crime figure;
  - (c) that is on the list of Specially Designated Nationals and Blocked Persons under any other U.S. Department of Treasury’s Office of Foreign Assets Control regulation or executive order (“OFAC”) and/or with whom Landlord is restricted from doing business with under OFAC or has a director, officer or

senior management personnel that meets such criteria;

(d) that is organized in, or a citizen of, a country that is subject to any of the following or has a director, officer or senior management personnel who meets such criteria: (i) the Trading with the Enemy Act of 1917, 50 U.S.C. App. §1, et seq., as amended; (ii) the International Emergency Economic Powers Act of 1976, 50 U.S.C. § 1701, et seq., as amended; and (iii) the Anti-Terrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. § 2405, as amended,

(e) that is blocked or subject to blocking pursuant to Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), or is otherwise associated with any such Person in any manner violative of such executive order or that has a director, officer or senior management personnel who is so blocked or subject to blocking;

(f) that is entitled to sovereign immunity, including any foreign or domestic government or governmental agency or representative, unless such sovereign immunity has been irrevocably, unconditionally and effectively waived in writing in form and substance reasonably satisfactory to Landlord and an opinion of legal counsel in form reasonably acceptable to Landlord shall be delivered to Landlord from a firm reasonably acceptable to Landlord that such waiver is irrevocable, unconditional and effective; or

(g) that is an affiliate of any of the persons described in clauses (a) or (b) of this definition.

nn. *Project* – shall have the meaning ascribed thereto in Recital G.

oo. *Project Debt* – means indebtedness (including mezzanine and subordinated indebtedness) for funds borrowed or for the value of goods or services rendered or received, or any refinancing indebtedness in connection thereto, the repayment of which is secured by one or more Security Documents. Project Debt includes principal (including accreted principal), accrued interest (including capitalized interest), customary and reasonable lender, agent, trustee and monoline fees, costs and expenses payable to Lenders with respect thereto, premiums or reimbursement obligations with respect to any insurance or financial guaranty with respect thereto, all payment obligations under any hedging agreements with respect thereto, including (without double counting) current pay and accreting swaps, lease financing obligations, and Breakage Costs.

pp. *Property* – means, collectively, the Land and the Improvements.

qq. *Qualified Property Manager* means a Person that (i) has (or can reasonably be expected to be able to obtain) all necessary Governmental Approvals (other than any such approvals from Landlord) necessary in connection with the operation or management of the Project and (ii) together with its Affiliates that are not Prohibited Persons, has not less than five (5) years' experience in property management and controls, owns and/or manages, together with its Affiliates, not less than ten (10) properties of a type, quality and size similar to the Improvements, totaling in the aggregate no less than 3,000,000 square feet, unless otherwise approved in writing

by the Landlord. Notwithstanding the foregoing, Tenant, Ryan Companies, US, Inc. (“Ryan”), and each of their Affiliates shall be deemed a Qualified Property Manager for the purposes hereof.

- rr. *Qualified Purchaser* – means a Person that satisfies the following requirements: (i) such purchaser is a Qualified Sponsor or is controlled (directly or indirectly) by a Qualified Sponsor; and (ii) if not itself a Qualified Sponsor, a Qualified Sponsor owns (directly or indirectly), in the aggregate, at least ten percent (10%) of the ownership interests in such purchaser. No direct or indirect owner in a Qualified Purchaser may be a Prohibited Person. Notwithstanding the foregoing and for the avoidance of doubt, any Leasehold Mortgagee, and/or any designee, nominee or transferee at the foreclosure of the Leasehold Mortgage and security interests thereunder or any transfer in lieu of foreclosure under the Security Documents arising out of an event of default by Tenant under any Funding Agreements, shall constitute a Qualified Purchaser. Notwithstanding the foregoing, each of Tenant, Ryan, IFF, any Subtenant entering into an Affiliation Agreement with Landlord, and their respective Affiliates, shall be deemed a Qualified Purchaser for the purposes hereof.
- ss. *Qualified Sponsor* – means any Person that (i) is not a Prohibited Person; (ii) has tangible net worth in accordance with GAAP of not less than fifty million dollars (\$50,000,000.00) (exclusive of the value of the Lease) subject to escalation every ten (10) years based on increases in the CPI, commencing with the ten (10) year anniversary of the Effective Date; (iii) together with its Affiliates that are not Prohibited Persons, has not less than five (5) years’ experience in property management and controls, owns and/or manages, together with its Affiliates, not less than ten (10) properties of a type, quality and size similar to the Improvements, totaling in the aggregate no less than 3,000,000 square feet, unless otherwise approved in writing by the Landlord (provided, however, notwithstanding the foregoing, this clause (iii) shall be deemed satisfied in the event that such Person engages Tenant, Ryan, or any of Tenant’s or Ryan’s Affiliates or another Qualified Property Manager as property manager for the Property); (iv) is not, and/or is not controlled by, in Landlord’s reasonable determination, a Person who has been convicted of a felony in any state or federal court involving fraud, embezzlement, or other financial crime; (v) is not, and/or is not controlled by, a Person who has been previously adversely involved in a lawsuit (or any arbitration in lieu of a lawsuit) with Landlord or any Affiliate of Landlord concerning any matter, unless otherwise approved in writing by the Landlord; and (vi) is reasonably and in good faith determined by Landlord to have a professional reputation that is not contrary to the educational and research mission of Landlord.
- tt. *Qualified Subtenant* – means any Subtenant entering into a sublease with Tenant for the purpose of promoting scientific research and development or otherwise supporting the educational mission of Landlord. The parties acknowledge and agree that for the purposes of this Paragraph 1.01.tt, “the purpose of promoting scientific research and development or otherwise supporting the educational mission of Landlord” shall be broadly construed with University exercising its best judgement in determining if this standard is met, not to be unreasonably withheld. In addition, a Qualified Subtenant may not be engaged in any business contrary to Florida Law

or Florida State University System written policy at the time the Subtenant enters into a sublease with the Tenant. A Qualified Subtenant shall mean, in addition to the above, an entity who:

- (a) has not filed a petition in bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation under any law or statute of any government or any subdivision within ten (10) years prior to the date of the proposed sublease;
- (b) has not been party to a material affiliation agreement or lease, as applicable, with respect to a university research facility which has been terminated on account of any material default or breach by such party within ten (10) years prior to the date of the proposed sublease;
- (c) during the previous ten (10) year period, has not been adjudicated, either civilly or criminally, by judicial or administrative proceedings in any jurisdiction, to be in violation of any laws proscribing the discrimination against any individual or individuals on the basis of race, religion, ethnicity, sex or national origin or other legally protected status;
- (d) shall not have had any civil or administrative judgments involving fraud or dishonesty, or criminal convictions of any kind, entered against the proposed lessee or its key principals;
- (e) in the reasonable determination of the Landlord, does not pose a material risk of reputational damage or negative publicity to Landlord;
- (f) is not engaged in activity that the Landlord reasonably determines to be objectionable;
- (g) would not, due to the nature of its enterprise, reasonably be expected to have a detrimental impact on Landlord's campus culture;
- (h) is not subject to a foreign influence that is subject to limitations on economic activity in the State of Florida at the time of entering into a sublease with the Tenant;
- (i) has not been a party to litigation adverse to Landlord, or the subject of any default proceedings instituted by Landlord.

uu. *Rent*- shall have the meaning ascribed thereto in Paragraph 3.01, entitled "Rent."

vv. *Security Documents* – means any mortgage, deed of trust, pledge, lien, security agreement, indenture, trust agreement, hypothecation, assignment, collateral assignment, financing statement under the Uniform Commercial Code of any jurisdiction, security instrument or other charge or encumbrance of any kind, including any lease in the nature of a security instrument, given to any Lender as security for Project Debt or Tenant's obligations pertaining to Project Debt and encumbering Tenant's interest in the Lease or its property.

ww. *Site Plan* – means the site plan attached hereto as **Exhibit E**. The Site Plan is incorporated herein only for the purposes specifically stated in this Lease and does not otherwise affect the terms and conditions set forth herein.

xx. *Subtenant* – means IFF and its successors and assigns, and/or any other subtenant under a sublease with Tenant for all or a portion of the Improvements (any such sublease being subject to Landlord's approval in accordance with the terms and



conditions of this Lease).

yy. *Subtenant's Costs* – shall mean the costs to relocate and replace the Subtenant's facilities at another location of equivalent size. Such costs shall include, but not be limited to, the replacement costs of Subtenant's trade fixtures, furnishings, equipment and personal property (with respect to personal property, only if the right is exercised within the first 10 years of the term), the costs to relocate or terminate employees due to the relocation (other than within 10 miles of the Florida Poly Campus), the difference in base rent on a per square foot basis for the balance of the remaining term under the IFF Sublease plus (if the termination is exercised after year 15 of the Lease) one extension option, brokerage costs, all "soft" costs for the design, permitting and construction of the relocation space, including but not limited to, architect, engineering, legal fees and other professional services, the difference between the cost of any of Subtenant's improvements and any improvement allowance available at the new location for equivalent improvements as in the Project, miscellaneous business expenses such as letterhead, and a 3% administrative fee of the "hard construction costs" for Subtenant's management of the relocation and construction of its premises at the relocation site.

zz. *Substantial Completion* means the substantial completion of construction of the Improvements in accordance with the Approved Plans and Specifications, with the exception of any minor punch list items which do not adversely affect Tenant's intended use of the Improvements, the exterior walls and windows of the Building are "weather-tight" as measured by the construction and performance standard for the windows and curtain wall systems included as part of the construction of the Improvements, and the issuance by the appropriate governmental authorities of a temporary or permanent certificate of occupancy or its equivalent (as the case may be) for the Improvements.

aaa. *Taxes*- shall have the meaning ascribed thereto in Paragraph 8.01.

bbb. *Term* – shall have the meaning ascribed thereto in Paragraph 2.01.

ccc. *Timeline* – shall have the meaning ascribed thereto in Paragraph 16.02(d).

ddd. *University Design Standards* – means all applicable, published design, engineering and construction standards, codes and regulations set forth in **Exhibit L** attached hereto.

1.02 **Rules of Interpretation.** The headings of Articles and Paragraphs in this Lease are provided for convenience of reference only and will not affect the construction, meaning or interpretation of this Lease. All references to "Articles," "Paragraphs," or "Exhibits" refer to the corresponding Articles, Paragraphs or Exhibits of or to this Lease. All Exhibits to this Lease are hereby incorporated by reference. All words used in this Lease will be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the words "include," "includes" and "including" shall be interpreted to mean "including without limitation." Unless otherwise stated, any reference to a person or entity, whether or not a party, includes its permitted successors and permitted assigns and, in the case of any governmental authority, any entity succeeding to its functions and capacities. Other grammatical forms of defined words or phrases have corresponding meanings. A reference to a writing includes any mode of representing or reproducing words, figures or

symbols in a lasting and visible form. Unless otherwise provided, a reference to a specific time of day for the performance of an obligation is a reference to the time in the place where that obligation is to be performed. A reference to a document, law, code, rule, regulation, contract or agreement, including this Lease, includes a reference to that document, code, rule, regulation, contract or agreement as novated, amended, modified, revised, supplemented, replaced or restated from time to time in accordance with the relevant provisions thereof. If any payment, act, matter or thing hereunder would occur on a day that is not a business day, then such payment, act, matter or thing shall, unless otherwise expressly provided for herein, occur on the next succeeding business day. The words “hereof,” “herein” and “hereunder” and words of similar import shall refer to this Lease as a whole and not to any particular provision of this Lease. The parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Lease and, unless expressly provided otherwise in this Lease, (a) where this Lease requires the consent, approval, or similar action by a party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever this Lease gives a party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable.

## 2. TERM; USE AND OPERATION.

2.01 Term. This Lease shall be in force and effect from the Effective Date for a term (“Term”) commencing on the Commencement Date and ending on the last day of the three hundred sixtieth (360<sup>th</sup>) full calendar month succeeding the Commencement Date. The Term of this Lease is subject to extension as provided in Paragraph 2.02(d) below.

### 2.02 Landlord Rights Upon Expiration or Termination of Sublease with IFF.

- a. In the event that IFF fails to timely exercise either of its two (2) five (5) year options to extend the initial twenty (20) year term of the IFF Sublease (subject to, and in accordance with, the applicable terms and provisions of the IFF Sublease, and provided that Tenant and IFF have not otherwise agreed in writing to extend the term of the IFF Sublease), then Tenant shall promptly notify Landlord (“Non-Renewal Notice”) that IFF has not exercised the applicable extension option, and in such in event, Landlord shall have the option, to be exercised, if at all, by written notice to Tenant (“Landlord’s Option Notice”) delivered no later than the date that is six (6) months following the date of receipt by Landlord of the Non-Renewal Notice to either (i) terminate this Lease and purchase the Improvements from Tenant as contemplated in Paragraph 2.02(b) below, or (ii) sublease the entirety of the Property from Tenant as contemplated in Paragraph 2.02(c) below.
- b. In the event that Tenant delivers a Non-Renewal Notice to Landlord and thereafter Landlord timely delivers to Tenant Landlord’s Option Notice to terminate this Lease and purchase the Improvements pursuant to clause (i) of Paragraph 2.02(a) above, then, notwithstanding anything herein to the contrary, the Term of this Lease shall terminate conterminously with the term of the IFF Sublease, Landlord shall pay to Tenant the Early Termination Purchase Price (as hereinafter defined; which Early Termination Purchase Price shall not be construed as a penalty) no later than the applicable early termination date, and thereafter the parties shall have no further obligations or liabilities under this Lease, except to the extent the same expressly survive the expiration or termination of the Term. For the purposes of this Lease, the “Early Termination

Purchase Price” shall mean a sum equal to \$5,000,000.00 for any early termination of this Lease effective on or before the last day of the two hundred fortieth (240<sup>th</sup>) full calendar month following the Commencement Date (such date being referred to herein as the “Initial IFF Sublease Expiration Date”); provided, however upon each annual anniversary of the Initial IFF Sublease Expiration Date, the Early Termination Purchase Price shall increase by two percent (2%) (e.g., for any applicable early termination of this Lease effective as of the last day of the three hundredth (300<sup>th</sup>) full calendar month following the Commencement Date, the Early Termination Purchase Price shall be \$5,520,404.02, for any applicable early termination of this Lease effective as of the last day of the three hundred sixtieth (360<sup>th</sup>) full calendar month following the Commencement Date, the Early Termination Purchase Price shall be \$6,094,972.10, etc.).

- c. In the event that Tenant delivers a Non-Renewal Notice to Landlord and Landlord thereafter timely delivers to Tenant Landlord’s Option Notice to sublease the entirety of the Property from Tenant pursuant to clause (ii) of Paragraph 2.02(a) above, then the parties shall act in good faith to enter into a commercially reasonable sublease agreement within sixty (60) days following Tenant’s receipt of such Landlord’s Option Notice, subject to the following terms:
  - (i) The initial term of Landlord’s sublease shall be five (5) years commencing immediately upon the expiration of the IFF Sublease.
  - (ii) In addition, in the event that Landlord’s initial five (5) year term referenced in Paragraph 2.02(c)(i) above expires on the last day of the three hundredth (300<sup>th</sup>) full calendar month following the Commencement Date, then Landlord shall have the option, to be exercised (if at all) by written notice delivered to Tenant no later than twelve (12) months prior to the expiration of such initial five (5) year sublease term, to either (A) terminate this Lease effective as of the expiration of the such initial five (5) year sublease term and purchase the Improvements from Tenant for the Early Termination Purchase Price (such sum to be payable no later than the applicable early termination date), and thereafter the parties shall have no further obligations or liabilities under this Lease, except to the extent the same expressly survive the expiration or termination of the Term, or (B) extend the then-current sublease term for the full remainder of the Term of this Lease, such that the sublease term and the Term of this Lease shall expire conterminously.
  - (iii) Landlord shall pay to Tenant, as base rent under the sublease, monthly installments (payable on the first day of each month) of “Landlord Sublease Base Rent” in accordance with the following schedule (for the avoidance of doubt, the parties acknowledge that the following schedule may include periods of time that are not actually part of Landlord’s sublease term, and in such event, Landlord shall have no obligation to pay Landlord Sublease Base Rent to Tenant for any such period described in the schedule below to the extent that Landlord’s sublease term is not actually in effect during such period):

<u>Period</u>	<u>Monthly Landlord Sublease Base Rent</u>
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First Day of 241 <sup>st</sup> Full Calendar Month of Term - Last Day of 252 <sup>nd</sup> Full Calendar Month of Term	\$100,000.00
First Day of 253 <sup>rd</sup> Full Calendar Month of Term - Last Day of 264 <sup>th</sup> Full Calendar Month of Term	\$102,000.00
First Day of 265 <sup>th</sup> Full Calendar Month of Term - Last Day of 276 <sup>th</sup> Full Calendar Month of Term	\$104,040.00
First Day of 277 <sup>th</sup> Full Calendar Month of Term - Last Day of 288 <sup>th</sup> Full Calendar Month of Term	\$106,120.80
First Day of 289 <sup>th</sup> Full Calendar Month of Term - Last Day of 300 <sup>th</sup> Full Calendar Month of Term	\$108,243.22
First Day of 301 <sup>st</sup> Full Calendar Month of Term - Last Day of 312 <sup>nd</sup> Full Calendar Month of Term	\$110,408.08
First Day of 313 <sup>th</sup> Full Calendar Month of Term - Last Day of 324 <sup>th</sup> Full Calendar Month of Term	\$112,616.24
First Day of 325 <sup>th</sup> Full Calendar Month of Term - Last Day of 336 <sup>th</sup> Full Calendar Month of Term	\$114,868.57
First Day of 337 <sup>th</sup> Full Calendar Month of Term - Last Day of 348 <sup>th</sup> Full Calendar Month of Term	\$117,165.94
First Day of 349 <sup>th</sup> Full Calendar Month of Term - Last Day of 360 <sup>th</sup> Full Calendar Month of Term	\$119,509.26

- (iv) In addition to Landlord's obligation to pay Landlord Sublease Base Rent, the sublease shall be absolute triple net, it being understood that all costs and expenses (other than depreciation, interest on and amortization of any debt incurred by Tenant, and any costs incurred by Landlord in financing or refinancing the Property) and all other obligations relating to the Property and the appurtenances thereto and the use and occupancy thereof, shall be paid and performed by Landlord alone.
  - (v) In the event that, despite the good faith efforts of Landlord and Tenant, the parties fail to enter into such sublease agreement within such sixty (60) day period, then Landlord shall be deemed to have rescinded Landlord's Option Notice and thereafter Tenant shall be free to market the Property to prospective third-party Subtenants.
- d. In the event that Tenant delivers any Non-Renewal Notice to Landlord:
- (i) If Landlord thereafter fails to timely exercise both Landlord's right to terminate this Lease and purchase the Improvements pursuant to clause (i) of Paragraph 2.02(a) above, and Landlord's right to sublease the Improvements pursuant to clause (ii) of Paragraph 2.02(a) above; or
  - (ii) If Landlord exercises its initial option to sublease the Improvements pursuant to

clause (ii) of Paragraph 2.02(a) above, but thereafter prior to the expiration of the initial five (5) year sublease Term, Landlord fails to timely exercise any option of Landlord to terminate the Lease and purchase the improvements, or otherwise extend the term of Landlord's sublease for the remainder of the Term of this Lease, in any case in accordance with the terms and provisions of Paragraph 2.02(c)(ii) above;

then in any such event, notwithstanding anything herein to the contrary, the Term of this Lease shall automatically be deemed extended for an additional period of ten (10) years, such that the Term of this Lease shall expire on the last day of the four hundred eightieth (480<sup>th</sup>) full calendar month succeeding the Commencement Date.

- 2.03 Use and Operation. Subject to by applicable zoning Laws, permits, and licenses, Tenant shall be permitted to use the Land and Improvements solely and exclusively for: site investigation, relocation and installation of utilities; construction, equipping, operation, maintenance, repair, life cycle repair and replacement, and renovation of facilities, equipment and systems, and other elements included in the Improvements; and subleasing the Property (subject to the terms and provisions of this Lease, including, Article 13 below).
- 2.04 Signs. Tenant shall be permitted to install any and all signage related to Subtenant or Subtenant's business on the Property (at no expense to Landlord). Permitted signage shall include, but not be limited to, a monument sign on the Property and any directional way-finding signage throughout the Florida Poly Campus. All pylon/monument and directional signage is subject to Landlord's reasonable approval (such approval not to be unreasonably withheld, conditioned or delayed) and, if required by Landlord, shall include the Florida Poly name and/or logo on the signage alongside (but not as part of) the Subtenant name and logo (but not Subtenant's façade signage, which shall include only Subtenant's name and logos, at Tenant's discretion). Landlord shall grant Tenant and Subtenant a license to use Florida Poly's name and/or logo for this specific and limited purpose, in the form of attached **Exhibit D**.
- 2.05 Rules and Regulations. Tenant shall comply and shall use commercially reasonable efforts to cause Subtenant to comply with and cause all Tenant contractors and other persons within Tenant's control to comply with all rules, regulations and standards, as may be now or hereinafter adopted or amended, which are applicable to the Florida Poly Campus generally, on a non-discriminatory and reasonable manner, which includes those implemented by Landlord, the Board of Governors, and/or the State of Florida; provided: (i) such rules and regulations do not affect Tenant's or Subtenant's business operations from the Property, and (ii) do not require Tenant or Subtenant to bear any additional expenditure or cost. The current rules and regulations applicable to the Florida Poly Campus are attached hereto as **Exhibit N**.
- 2.06 Tenant's Parking. Landlord agrees to provide an exclusive right to Tenant to lease fifty (50) spaces in the parking lot most immediately adjacent to the Improvements for use by Tenant, IFF, any subsequent Subtenant and their respective employees, guests and invitees and such persons shall have unlimited use of the parking spaces on a twenty-four (24) hours basis at the standard annual reserved parking rate then-charged to students and employees of Florida Poly for comparable parking spaces at such parking lot (the "Parking Fee"). Tenant shall have the right to enforce parking within the parking area by any means available, including but limited to, establishing parking rules

requirements, posting signage, and towing of unauthorized vehicles. The Tenant shall pay, or cause the Subtenant to pay, the Parking Fee on the Commencement Date and each annual anniversary of the Commencement Date thereafter.

3. RENT; NET LEASE.

3.01 Rent. In consideration of Tenant undertaking the financing, construction, and maintenance of the Improvements, Tenant shall pay Landlord rent for the Land (“Rent”) in the amount of \$1.00 per year payable in advance on the Effective Date (except as expressly set forth below to the contrary). Tenant shall submit Rent to Landlord at the address specified in Article 22 of this Lease, entitled “Notices” or such account or other address as Landlord may designate by notice to Tenant. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent herein stipulated or other amount owed to Landlord shall be deemed to be received other than on account of the earliest stipulated Rent or other amount due. No endorsement or statement on any check or any letter accompanying or transmitting any check or payment as Rent or amount due shall be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord’s right to recover the balance of such Rent or amount due and any other amounts due or pursue any other remedy provided for in this Lease or available at law or in equity. Notwithstanding the foregoing:

- a. In the event that Tenant fails to achieve Substantial Completion of the initial Improvements on or before the Outside Completion Date, then such delay shall not be deemed a default under this Lease; provided, however, to the extent that such delay is not caused by any Force Majeure, casualty or condemnation events, or by any acts or omissions of Landlord or IFF or any of their respective agents, employees, Affiliates and/or contractors, then Rent under this Lease shall be increased to an amount equal to \$1,000.00 per day commencing on the date immediately following the Outside Completion Date (such date being subject to extension for any of the aforementioned delays not caused by Tenant) and ending of the date that Substantial Completion of the initial Improvements is actually achieved;
- b. In the event the IFF Sublease expires or is terminated prior the expiration of the Term of this Lease, if thereafter Tenant enters into a sublease with a Subtenant (subject to Article 13 below) that fails to enter into an Affiliation Agreement with Landlord (other than a sublease to Landlord or any of its Affiliates), then effective as of the commencement date of such sublease and during the applicable sublease term thereof, Rent under this Lease shall be increased to the Market Rental Rate (as hereinafter defined), payable to Landlord in advance in monthly installments; and
- c. In the event the IFF Sublease expires or is terminated prior the expiration of the Term of this Lease, if thereafter Tenant fails to enter into any sublease with any Subtenant such that Tenant’s leasehold under this Lease is not encumbered by any sublease for a period of more than one (1) year, for any reason other than Force Majeure, casualty, condemnation or a planned closure for repair, remodeling and/or replacement of any of the Improvements, then commencing immediately upon the expiration of such one (1) year period and continuing until such time that Tenant again enters into an effective sublease encumbering its leasehold hereunder

(subject to Article 13 below), then Rent under this Lease shall be increased to the Market Rental Rate, payable to Landlord in advance in monthly installments (and for the avoidance of doubt, Tenant shall not be deemed in default of this Lease).

3.02 Market Rental Rate. “Market Rental Rate” shall mean the then fair market annual rent for the ground leasehold of the Land for the remainder of the Term, taking into account all relevant factors. Landlord shall deliver Landlord’s notice of the Market Rental Rate to Tenant within ten (10) days of Tenant’s request therefor, and Landlord and Tenant shall thereafter negotiate to come to an agreement regarding the Market Rental Rate. If the parties are unable to agree on the Market Rental Rate within thirty (30) days following Landlord’s delivery of notice of its initial proposal of the Market Rental Rate, then the Market Rental Rate shall be determined by appraisal as provided below (the “Appraisal Method”), or alternatively, Tenant, at its sole option, may withdraw any applicable request to sublease the Property, as may be applicable. Provided that Tenant does not withdraw any applicable request to sublease the Property in accordance with the preceding sentence, Landlord and Tenant shall attempt to agree on a single broker (the “First Appraiser”) who shall be licensed in the State of Florida and shall have at least five (5) years’ experience ground leasing land in Polk County, Florida reasonably comparable to the Land. If Landlord and Tenant shall fail to agree on the choice of the First Appraiser within ten (10) days after demand by either party, then each of Landlord and Tenant shall select a broker within five (5) days after the expiration of the prior ten (10) day period. If either Landlord or Tenant shall fail to appoint a broker, then the broker appointed by the appointing party shall select the second broker within (5) days after the expiration of the applicable (5) day period referred to above. The two (2) brokers thus selected shall select, within five (5) days after their appointment, a third broker (the “Third Appraiser”). Any broker appointed or selected hereunder shall be licensed in the State of Florida and shall have at least five (5) years’ experience ground leasing land in Polk County, Florida reasonably comparable to the Land. If the parties elect to use the Appraisal Method, the Market Rental Rate for the applicable remainder of the Term shall be determined by the First Appraiser or the Third Appraiser, as applicable, based upon customary and usual appraisal techniques of expert brokers as of the date of determination. As use herein, the term “Final Arbiter” means the First Appraiser or, if selected, the Third Appraiser. Each of Landlord and Tenant shall submit to the Final Arbiter its detailed analysis of its proposed Market Rental Rate. The Final Arbiter shall request in writing that Landlord and Tenant provide any supplemental information that may be necessary for the Final Arbiter to render a decision regarding the Market Rental Rate. The Final Arbiter shall hold a hearing, upon not less than ten (10) days written notice to Landlord and Tenant, and not later than fifteen (15) days following selection of the Final Arbiter, at which Landlord and Tenant shall have the opportunity to explain and justify the Market Rental Rate proposed by each party. Any party not attending such hearing shall have waived its right to defend its proposal at a hearing. The Final Arbiter shall prepare a written report of his or her determination of the Market Rental Rate and deliver a copy to Landlord and a copy to Tenant within thirty (30) days of the selection or appointment of the Final Arbiter. The Final Arbiter shall select the Market Rental Rate proposed by either Landlord or Tenant and shall not be entitled to choose any other Market Rental Rate or to make a determination based upon the average of the Market Rental Rates proposed by Landlord and Tenant. The determination of the Final Arbiter shall be final and binding upon the parties. If the Appraisal Method is used to determine the Market Rental Rate, then the reasonable fees and expenses of the brokers involved in the process, including the fees and expenses of the Final

Arbiter, shall be shared equally by Landlord and Tenant.

3.03 Net Lease. This Lease is a “net” lease. The parties acknowledge and agree that Landlord would not enter into this Lease if the Rent described in this Lease were not absolutely net to Landlord or if Landlord were to incur any liability whatsoever, foreseen or unforeseen, with respect to the Property or any portion thereof, including the Land and Improvements, or Tenant’s exercise of any other of its rights under this Lease. Accordingly, except as may be provided in this Lease to the contrary, Tenant shall pay all expenses, costs, Taxes, fees and charges of any nature whatsoever arising in connection with or attributable to the Property or the Improvements, including without limitation, the Property, during the Term of this Lease or in any manner whatsoever arising as a result of Tenant’s exercise of, or Landlord’s grant of, the rights described in this Lease, including, without limitation, all fees of Tenant’s consultants, ad valorem real estate taxes, utility costs and expenses, costs of design, construction, operation, maintenance, repair, replacement and renovation of the Improvements, Tenant’s accounting and attorney’s fees, costs of any financing obtaining by Tenant, costs of any leasehold title insurance policy obtained by Tenant, utility charges and surety bond and insurance premiums, and Tenant shall pay and be responsible for all costs, expenses, obligations, liabilities and acts necessary to and for the proper use, operation, maintenance, care and occupancy of the Property.

#### 4. REPRESENTATIONS AND WARRANTIES.

The parties make these representations and warranties:

4.01 Authority and Obligations of the Parties. To induce the other party to enter into this Lease, each party represents and warrants to the other that it has the right and authority to enter in this Lease and perform all of its obligations hereunder. Subject to the provisions of Section 20.04 hereof, this Lease constitutes a legal, valid, and binding obligation upon such party, which is enforceable against it in accordance with its terms, subject as to enforceability, to bankruptcy, insolvency, and other laws of general applicability relating to or affecting creditors’ rights generally and to general equity principles. Neither the execution nor delivery of this Lease, nor the consummation of the transaction contemplated hereby, will conflict with or result in a breach under any agreement or instrument by which such party is bound, and will not constitute a violation of any applicable Law to which such party is subject.

#### 4.02 Title to the Improvements and Land.

- a. Landlord does not hereby make any representation, warranty, covenant or guaranty regarding title, right or interest in the Land to Tenant; provided, however, that Landlord does warrant and guaranty title, right and interest in and to the leasehold estate created by this Lease in favor of Tenant. Tenant shall not encumber the fee ownership of the Property held by the Landlord, but Tenant shall have the right to encumber the leasehold estate that Tenant holds and Tenant’s Improvements. Tenant acknowledges that prior to the Commencement Date it will have performed whatever due diligence is required regarding title, condition and value of the Land and the suitability of the Land for the design, construction, management, operation, use, maintenance, and repair of the Improvements, and Tenant will obtain, at its discretion, a title insurance policy or other protection concerning Tenant’s leasehold interest provided in this Lease.
- b. This Lease is subject to Permitted Title Encumbrances, Florida Poly rules, regulations and standards (subject to Paragraph 2.05 above) and the easements, agreements,



instruments and documents that are executed or imposed from time to time after the date of execution of this Lease and communicated in writing to Tenant and Subtenant, as long as such future matters do not materially impair Tenant's rights under this Lease to construct, operate and maintain the Improvements for the permitted use; or otherwise materially increase any of the obligations of Tenant or Subtenant hereunder, and provided: (i) such rules, regulations and standards, and the easements, agreements, instruments and documents that are executed or imposed from time to time after the date of execution of this Lease do not affect Subtenant's business operations from the Property, (ii) do not require Tenant or Subtenant to bear any material expenditure or cost.

#### 4.03 OFAC.

- a. Neither Landlord nor, to Landlord's actual knowledge, any trustee, manager, beneficiary, partner, or principal of Landlord nor any of its agents, is subject to or in violation of the Executive Order, that none of them is listed on or is owned or controlled by, or acting on behalf of any person listed on the United States Department of the Treasury Office of Foreign Assets Control list of "Specially Designated Nationals and Blocked Persons" as modified from time to time, and that none of them is otherwise subject to or in violation of the provisions of the Executive Order or the Patriot Act or is a person with whom the other party is prohibited from dealing with or otherwise engaging with in accordance with the Executive Order or the Patriot Act. The most current list of "Specially Designated Nationals and Blocked Persons" can be found at the following web site: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>. For the purposes of this Agreement, "Executive Order" shall mean that certain Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001; and "Patriot Act" shall mean the U.S. Bank Secrecy Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 10756). For the purposes of this Agreement, "Executive Order" shall mean that certain Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001; and "Patriot Act" shall mean the U.S. Bank Secrecy Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 10756).
- b. Neither Tenant, nor to Tenant's actual knowledge, any trustee, manager, member, beneficiary, partner, or principal of Tenant is subject to or in violation of the Executive Order, that none of them is listed on or is owned or controlled by, or acting on behalf of any person listed on the United States Department of the Treasury Office of Foreign Assets Control list of "Specially Designated Nationals and Blocked Persons" as modified from time to time, and that none of them is otherwise subject to or in violation of the provisions of the Executive Order or the Patriot Act or is a person with whom the other party is prohibited from dealing with or otherwise engaging with in accordance with the Executive Order or the Patriot Act. The most current list of "Specially Designated Nationals and Blocked Persons" can be found at the following web site: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.
- c.

## 5. 'AS IS' CONDITION; ALTERATION, REPAIR, MAINTENANCE OF IMPROVEMENTS.

5.01 As Is Condition. Tenant acknowledges and agrees that the Land shall be leased by Landlord to Tenant on the Commencement Date in an "as is" condition, and that, except as

specifically set forth in this Lease, Landlord makes absolutely no representations or warranties and undertakes no indemnity or guaranty whatsoever with respect to the Land or the condition thereof.

5.02 Alteration, Repair, and Maintenance of Improvements. Tenant, at its sole expense and in its sole discretion, may make replacements, alterations, additions and improvements to the Improvements; provided such activity is done in a good and workmanlike manner in accordance with this Lease, including requirements hereof governing the original design and construction of the Improvements, and all applicable Laws, Legal Requirements, and Governmental Approvals. The Improvements shall be and remain the property of Tenant during the term of this Lease and shall revert to Landlord at the expiration or earlier termination hereof, subject to Tenant's right to make alterations to the Improvements as allowed under this Lease.

5.03 Renovation or Remodel of Improvements. Subject to compliance with the requirements of Article 16, Tenant may renovate or remodel the Improvements now or hereafter erected on the Land so long as Tenant continues to pay Landlord the Rent required under this Lease.

5.04 Title to and Removal of Trade Fixtures. All trade fixtures, equipment, and personal property of any nature which may be installed or placed in or upon the Property by Tenant shall remain the property of Tenant. Tenant shall have the right, at any time during the Term, and at the end of the Term, pursuant to Article 19, to remove such trade fixtures, equipment, and personal property from the Property; provided, however, Tenant shall promptly repair any damage caused by such removal. Tenant may assign, lien, encumber, mortgage or create a security interest in or upon its trade fixtures, equipment, or other personal property in the Property without the consent of Landlord. To the extent Landlord may have a lien on or security interest in the trade fixtures, equipment, or other personal property of Tenant, pursuant to this Lease, by Law or otherwise, Landlord hereby subordinates such lien or security interest to any lender of Tenant subject to notice from Tenant of the identity of such Lender; provided that such subordination shall not waive, release or otherwise affect any unsecured claim Landlord may have against Tenant or affect Landlord's rights, interests and remedies under this Lease. Upon the request of Tenant, Landlord agrees to provide Tenant, within ten (10) days of such request, a written subordination in form reasonably satisfactory to Tenant and any lender of Tenant evidencing Landlord's subordination of any rights it has or may have in Tenant's trade fixtures, equipment, and other personal property. If Landlord unreasonably fails to execute such subordination of rights, any lender of Tenant may enforce the provisions of this Paragraph 5.04 as a third-party beneficiary hereof.

## 6. COMPLIANCE WITH LAWS AND AGREEMENTS; HAZARDOUS MATERIALS.

6.01 Compliance with Laws. During the Term of this Lease, Tenant shall comply and shall use commercially reasonable efforts to cause Subtenant to comply with and cause the Property to be in compliance with all Laws and Legal Requirements; provided, however, in no event shall Tenant be responsible for the presence of any Hazardous Materials existing on the Property as of the Effective Date. During the Term of this Lease, Tenant is responsible for any violations of applicable Laws or Governmental Approvals at or relating to the Improvements and the payment of all fines, penalties, sanctions, assessments, and other costs, expenses or fees, including reasonable attorney's fees (unless such violation is the direct result of actions or omissions of Landlord, or Landlord's employees, contractors, agents or representatives). If Tenant becomes aware of any such violations, the presence of

Hazardous Materials in violation of Laws or other circumstance or condition which presents a reasonably foreseeable risk of injury or harm to persons or damage to property on the Property, it shall promptly notify Landlord in writing. Tenant shall prepare and submit to Landlord a remedial plan to address any such violation or condition and prevent the re-occurrence of similar violations. To the extent that Tenant through its actions or the actions of its employees or contractors (acting within the scope of their employment or contract) causes Hazardous Materials to be placed or released on, under or within the Property in violation of applicable environmental Laws or causes damage to natural resources, Tenant shall be fully responsible and liable for clean-up and remedial work at its costs and expense and payment of all penalties, fines, sanctions or assessments relating thereto.

6.02 Hazardous Materials.

- a. Landlord's Representation and Warranty. Landlord represents and warrants to Tenant as of the Effective Date that to its actual knowledge, Landlord: (i) has not used, discharged, dumped, spilled, or stored any Hazardous Materials on or about the Land in violation of Law which would have a material adverse effect on the use of the Land by Tenant hereunder, (ii) has received no notice of any Hazardous Materials on or about the Land in violation of applicable Law, or (iii) there does not exist on or about the Land any Hazardous Materials in violation of applicable Laws which would have an material adverse effect on the use of the Land by Tenant hereunder. During the Term, Landlord shall have an ongoing obligation to disclose to Tenant any and all information which Landlord has regarding any Hazardous Materials affecting the Property, and without limitation, Landlord has delivered and shall promptly deliver, as applicable, to Tenant copies of any environmental reports that it currently has or later obtains with respect to the Property
- b. Use, Storage and Sale of Hazardous Materials. Tenant, or its employees, agents, licensees, contractors shall not use, generate, manufacture, refine, treat, process, produce, store, deposit, handle, transport, release, or dispose of Hazardous Materials in, on or about the Property, in violation of any federal, state or local laws currently in existence or during the Term enacted or rendered including United States export compliance regimes (including International Trade in Arms Regulations, Office of Foreign Assets Control, and Export Administration Regulations). Notwithstanding the foregoing, Tenant may use normal quantities of Hazardous Materials customarily used in the conduct of Tenant's (or any Subtenant of Tenant's) business, provided that Tenant's activities at or about the Improvements and the handling by Tenant of all Hazardous Materials shall comply at all times with all applicable Laws. Tenant shall at Tenant's expense promptly take all actions required by any governmental agency or entity in connection with or as a result of the Handling by Tenant of Hazardous Materials at or about the Improvements, including inspection and testing, performing all cleanup, removal and remediation work required with respect to those Hazardous Materials, complying with all closure requirements and post-closure monitoring, and filing all required reports or plans.
- c. Notice by Tenant. Tenant shall promptly notify Landlord of any actual or alleged release of Hazardous Materials or violation of any environmental or export compliance Laws relating to the Improvements or the Property or the release or suspected release of Hazardous Materials in, under or about the Improvements or the Property potentially in violation of environmental Laws of which Tenant has knowledge, and Tenant shall

promptly deliver to Landlord a copy of any notices, filings or permits sent or received by Tenant, or on behalf of Tenant, with respect to any of the foregoing events, occurrences, conditions or circumstances. In connection with the investigation, clean-up, removal, remediation, resolution or other disposition of any claims regarding actual or alleged release of Hazardous Materials, in no event is Tenant entitled to agree to any lesser clean-up standard than is required by applicable Law or to any limitation on use of the Land or Improvements that would be binding on Landlord, the Board of Governors or the State of Florida without Landlord's consent in its sole and absolute discretion.

- d. Indemnification by Tenant. Tenant shall indemnify, defend (by counsel reasonably acceptable to Landlord), protect, and hold Landlord, its employees, agents, attorneys, officers, successors and assigns, free and harmless from and against any and all claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses or expenses (including, without limitation, reasonable attorneys' fees and costs through litigation and all appeals or other review proceedings) or death of or injury to any person or damage to any property or natural resources whatsoever, arising from or caused in whole or in part, directly or indirectly by any "Tenant Contamination" (defined as any contamination of the Property by Hazardous Materials during the Term where such contamination is caused by the act or omission of Tenant). Tenant's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all fines, penalties, contributions and all costs of any required or necessary repair, clean-up or detoxification or decontamination of the Land, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith.
- e. Landlord Costs. Landlord shall bear the cost, expenses and fees, and liabilities, penalties, forfeitures, damages, losses or expenses arising out of the death of or injury to any person or damage to any property whatsoever, to the extent caused in whole or in part, directly or indirectly by "Landlord Contamination" (defined as any contamination of the Property by Hazardous Materials which existed on or under the Land as of the Effective Date or were released on or under the Land during the Term where the existence of such contamination was not caused by any Tenant Contamination). Landlord shall, only to the extent caused by Landlord Contamination, bear the costs of any required or necessary repair, clean-up or detoxification or decontamination of the Land and repairs to the Improvements, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith.

6.03 Survival and Duration of Obligations. All representations, warranties, obligations and indemnities made or given under this Article 6 shall survive the expiration or earlier termination of this Lease for a period of seven (7) years.

## 7. MECHANICS' LIENS.

7.01 No Liens. Tenant will not create or permit to be created or to remain, and will promptly discharge, at its sole cost and expense, any lien, encumbrance or charge upon the Property, any part thereof or upon Tenant's leasehold interest, which arises out of the use or occupancy of the Property by Tenant or by reason of any labor or materials furnished or claimed to have been furnished to Tenant or by reason of any construction, addition, alteration or repair of any part of the Property. If any such lien is filed against the Property, within sixty (60) days

after Tenant's receipt of written notice of the filing thereof, Tenant shall cause such lien or claim to be released or discharged with respect to the Property by payment or bonding. Notwithstanding anything to the contrary set forth in this Lease, in no event shall the interest of Landlord in all or any part of the Property be subject to any construction, mechanics', materialmen's, laborers' or other statutory or common law lien for improvements or work made or done by or at the instance of Tenant, whether or not the same shall be made or done with the consent of Landlord or by agreement between Tenant and Landlord. Pursuant to Florida Statutes §713.10, all persons dealing with or contracting with Tenant or any contractor of Tenant are hereby put on notice of the foregoing provision. Tenant and Landlord agree to execute a Memorandum of Lease, in the form of **Exhibit C** attached hereto and by this reference incorporated herein, to be recorded in the public records of the county in which the Land is situated for the purpose of giving constructive notice of the provisions of this Paragraph 7.01.

7.02 Contests. Tenant shall not be required, nor shall Landlord have the right, to pay, discharge, or remove any charges, liens or encumbrances, or to comply with any Legal Requirements not governing health, safety, security, privacy or Hazardous Materials, so long as Tenant contests the existence, amount or validity of the matter in question by appropriate proceedings. This right of Tenant to withhold performances while proceedings are pending shall apply only if Tenant's proceedings effectively prevent any sale, forfeiture or loss of the Improvements or Landlord's rights under this Lease. Landlord shall not be required to join in any contest by Tenant pursuant to this Paragraph 7.02 unless applicable laws then in effect require that the proceeding be brought by or in the name of the Landlord. In such event, subject to reasonable assurances from Tenant, Landlord shall join the proceedings or them to be brought in its name; however, Landlord will not be subjected to any liability and attorney's fees for the payment of any costs, expenses or attorney's fees in connection with any contest or proceedings and Tenant shall indemnify Landlord against and save Landlord harmless from any of such costs, expenses and attorney's fees.

## 8. TAXES, ASSESSMENTS AND OTHER CHARGES.

8.01 Taxes, Assessments and Other Charges. Tenant shall pay, prior to delinquency, all taxes, assessments, levies, fees, fines, penalties and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which are during the Term, hereof, imposed or levied upon or assessed against the Property, or any portion thereof, including the Land and any Improvements now or hereafter located on the Land (the "Taxes"). Sales and use Taxes shall be paid by Tenant on the Rent and any other amounts payable by Tenant, pursuant to Paragraph 26.18 hereof.

8.02 Contest. Tenant shall have the right at its own cost and expense to initiate and prosecute in good faith any proceedings permitted by law for the purpose of obtaining an abatement or of otherwise contesting the validity or amount of any Taxes, provided Tenant's exercise of the foregoing right does not subject Landlord to any penalties or affect Landlord's interest in the Land. If required by Law, Tenant may take such action in the name of Landlord who will cooperate with Tenant at Tenant's cost to such extent as Tenant may reasonably require. If the tax proceedings result in a reduction of Taxes during the Term of this Lease, whether or not the proceeding are brought by Landlord or Tenant, any refund shall be the property of Tenant. Landlord will not be subjected to any liability for the payment of any costs, expenses or attorney's fees in connection with any contest or proceedings and Tenant shall indemnify Landlord against and save Landlord harmless from any of such costs and expenses, including

without limitation, attorney's fees and costs.

8.03 Proration. To the extent Landlord is obligated to pay Taxes, all real estate taxes and assessments which are due and payable in the first year of the Term of this Lease or within one (1) year after the expiration of the Term of this Lease shall be prorated as of the Commencement Date or the date of expiration of the Term, whichever is applicable, on the basis of the fiscal year with respect to which such taxes or assessment are assessed and based on the maximum discount permitted by law. If any payments are made based on estimated tax bills, the parties agree to submit a final accounting based on the final tax bill and if one party paid more than its pro rata share, then the other party shall reimburse the other party within thirty (30) days after receipt of written notice and proper documentation from the other party. Tenant shall be responsible for and shall pay the portion of such taxes relating to the period beginning with the Commencement Date through and including the date of expiration of the Term and during any holdover. Landlord and Tenant shall use reasonable efforts to cause any tax bills to be sent directly to Tenant but if such bills are sent to Landlord, Landlord shall promptly present to Tenant copies of all tax bills received.

## 9. UTILITIES.

Tenant at its sole cost and expense shall obtain and promptly pay for installation of facilities and all utility, communication and other services furnished to or consumed on the Property, including, but not limited to, electricity, cable, gas, water, sewer, stormwater, heat, cooling, telephone, janitorial, garbage collection, and all charges related to any of these services, including any tap-in, connection or impact fees. Tenant shall have the right, at its option, to repair and restore utility service to the Property as Tenant may deem necessary to reasonably conduct its business on the Property consistent with the permitted use of the Land. Landlord shall cooperate with Tenant, at Tenant's expense, in all applications for utility service; and Landlord agrees to grant to utility providers and/or to Tenant, as may be applicable, any easements reasonably required for providing utility services required for Tenant's use of the Land and the Improvements. Tenant shall deliver written requests to Landlord, together with a legal description of any requested easement, and provide sufficient advance notice of the nature, scope and duration of any easements required for the use of the Land and the Improvements. Landlord will receive and process Tenant's requests for the grant of easements and invoice Tenant for all fees, costs and expenses related thereto in accordance with Landlord's then-current standards, processes and procedures for such matters. Such easements granted by Landlord shall be non-exclusive. Each easement shall (a) not materially impair the value, functionality, safety or remaining useful life of the Florida Poly Campus, any portion thereof, or any improvements, buildings and structures thereon, or materially increase the costs to operate, insure, maintain and repair of the foregoing; (b) be reasonably necessary for the use of the Land and the Improvements as permitted by this Lease; (c) not cause any part of the Florida Poly Campus, the Land or the Improvements to fail to comply with the requirements of applicable Laws, Governmental Authorizations or Florida Poly rules, regulations or standards; and (d) be permitted by and subject to all recorded easements and other restrictions, encumbrances and agreements affecting the Land. Landlord shall have the right to change the locations of any such easements, as it sees fit in its reasonable discretion, as long as such changes do not materially impair (provided that any reduction in quality or quantity of utility service shall be deemed material) Tenant's ability to construct, operate and maintain the Improvements for the permitted uses hereunder; provided, however, any costs and expenses arising from changing any such easements at Landlord's request shall be the sole responsibility of Landlord. No such easement granted to Tenant hereunder shall extend beyond the Term of this Lease. To the extent that any utilities specifically serving the Improvements are connected to general utility systems serving the Florida Poly Campus, Landlord, at Landlord's sole cost and expense, shall maintain such general utility systems in good working order and condition up to the applicable points of connection with the Improvements. Notwithstanding anything herein to the contrary, Tenant, at Tenant's sole cost and expense, shall cause all necessary public or private water, electric, sanitary sewer, storm sewer and data and

telecommunications utilities to be stubbed to the Property. Without limiting the foregoing, in addition to the utility easements described above, Landlord agrees from time to time, as may be reasonably required, to grant to Tenant, any applicable utility provider and/or their respective contractors, temporary construction easements reasonably required to install any applicable utility improvements and/or to stub the same to the Property, such temporary construction easements to be in in locations reasonably approved by Landlord.

## 10. INDEMNIFICATION AND PROPERTY DAMAGE.

10.01 Tenant's Indemnification. Except to the extent caused by the negligence or fault or more culpable misconduct or omissions of Landlord or Landlord's employees, agents or contractors or any other Landlord Indemnified Parties or Landlord's breach of this Lease, Tenant shall defend all actions against Landlord, and any trustee officer, director, employee, agent or representative of Landlord (collectively the "Landlord Indemnified Parties"), with respect to, and shall pay, protect, indemnify, and save harmless Landlord and the other Landlord Indemnified Parties against, any and all claims, demands, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees and expenses of litigation, collectively, "Losses") of any nature arising from (i) injury to or death of any person, or damage to or loss of property, on the Property or connected with the use, condition or occupancy of the Property or the design, construction and operation of the Improvements; (ii) infringement or misappropriation of intellectual property of third parties; (iii) liens by contractors, vendors or other persons providing any labor, services, equipment, materials or supplies in connection with the construction, operation, maintenance or repair of the improvements; (iv) violations of applicable Laws, Legal Requirements or Governmental Approvals; or (v) any breach of any representation, warranty, covenants, obligation or agreement or violation by Tenant of this Lease.

10.02 Landlord's Obligations. Subject to all immunities (including sovereign immunity), exemptions, rights, privileges, defenses, affirmative defenses and limitations on liability at law or otherwise in favor of or benefitting Landlord, Landlord shall be responsible and shall hold harmless Tenant and any trustee officer, director, employee, agent or representative of Tenant from any (i) claims, demands, liabilities, losses, damages, costs and expenses for injury to or death or damage or loss of property on the Land solely to the extent caused by the negligence or fault or more culpable misconduct or omissions of Landlord, or Landlord's employees, contractors, agents, and representatives or any other Landlord Indemnified Parties, and (ii) any breaches by Landlord of the terms of this Lease, and any Losses arising out of the foregoing (i) or (ii).

10.03 Survival. All of the provisions of this Article 10 shall survive the termination or expiration of this Lease for a period of seven (7) years.

## 11. INSURANCE REQUIREMENTS.

Tenant shall procure and maintain the following insurance policies and coverages and Tenant shall require its contractor to procure and maintain the following insurance coverages throughout the course of site preparation and construction and shall require all subcontractors providing services in relation to this Lease to carry any and all insurance coverage that adequately covers each subcontractor's exposure based on the type of services each will provide. All policies shall be with insurance companies authorized to do business in the State of Florida and meeting the requirements for insurance companies set forth in this Lease. Tenant agrees to furnish a current Certificate(s) of Insurance to Landlord prior to commencement of construction and at the later written request of Landlord as evidence that the following coverages remain in effect:

11.01 General Liability Insurance. Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall maintain general liability insurance against liability occasioned by any accident, injury (including death) or damage suffered or occurring on or about the Property by reason of Tenant's use and occupancy of the Property. The liability policy shall be for the minimum of \$1,000,000.00 combined single limit coverage for property damage and bodily injury to any one person and general aggregate limits of \$3,000,000.00 per accident. Tenant shall cause all architects and contractors to obtain and maintain insurance policies consistent with Florida Poly rules, regulations, standards and requirements. Landlord does not represent that coverage and limits specified herein will necessarily be adequate to cover the liability of Tenant or its contractor or subcontractors, and the absence of a demand for any type of insurance policy or insurance condition, or for higher coverage limits shall not be construed as a waiver of Tenant's obligation to carry and maintain the appropriate types of insurances at limits that are appropriate to the liability exposure associated with this Lease. Landlord, and the Florida Board of Governors shall be Additional Insureds or Loss Payees on all applicable policies of insurance maintained by Tenant (but not Tenant's architects or contractors) hereunder.

a. Construction Period Insurance:

- (i) Builders Risk Insurance. Completed value form in amount of protection of not less than 100% of the completed value of the Improvements covering "all risk" perils of loss that includes Windstorm and Flood as covered causes of loss.
- (ii) Worker's Compensation and Employer's Liability Insurance. Worker's Compensation insurance shall be obtained in accordance with Chapter 440 Florida Statutes with the prescribed limits of liability for all employees who will be working at the construction site whether working for any contractor or any subcontractor.
- (iii) Commercial Liability Insurance. Commercial General Liability including Property products/completed operations, contractual and explosion, collapse and underground (XCU) coverages where required by the risks. The limits of liability must be at least \$2,000,000.00 each occurrence, \$5,000,000.00 annual aggregate for bodily injury and property damage liability. The limit may include umbrella or excess liability insurance.
- (iv) Comprehensive Automobile Liability Insurance. All owned, hired, leased or non-owned vehicles used in connection with the construction of the Improvements. Policy limits shall be at least combined single limit of \$2,000,000 each accident, for bodily injury and property damage liability. This limit may include umbrella or excess liability insurance.
- (v) Professional Liability Insurance. With respect to design and engineering services for the construction of the Improvements, \$5,000,000 per claim and aggregate liability limit will be provided by Contractor. Policies written on a claim made form shall continue for five (5) years following the completion of the performance or the attempted performance of the provisions of this Lease relating to the construction of the Improvements. If the coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the effective date or coinciding with the effective date of this agreement the Contractor must purchase extended reporting coverage for



a minimum of five (5) years following the completion of the performance or the attempted performance of the construction provisions of this Lease.

- b. After construction of the Improvements and during the Term, Tenant shall obtain and maintain the following insurance policies and coverages:
- (i) Commercial Property Insurance (Building & Personal Property). The Improvements shall be insured against loss by fire, lightning, windstorm, flood, sinkhole, vandalism, malicious mischief and other hazards customarily insured by extended coverage, all risk (now known as causes of loss-special form) coverage for their full replacement value, which shall be adjusted from time to time to reflect current replacement value.
  - (ii) Worker's Compensation and Employer's Liability Insurance. Worker's Compensation insurance shall be obtained in accordance with Chapter 440 Florida Statutes with the prescribed limits of liability for all employees who will be working on the Property whether working for Tenant, Contractor or any subcontractor.
  - (iii) Commercial General Liability Insurance. Commercial general liability insurance including property, products, completed operations and contractual liability. Limits of coverage shall be at least \$5,000,000.00 each occurrence limit for bodily injury and property damage liability. The limit may include umbrella or excess liability insurance.
  - (iv) Comprehensive Automobile Liability Insurances. All owned, hired, leased or non-owned vehicles used by Tenant shall be covered. Policy limits shall be at least \$1,000,000 each accident combined single limit for bodily injury and property damage liability.

11.02 Casualty Insurance. Tenant, at its sole cost and expense, shall keep special form property insurance and all other coverage necessary to insure against all losses to all Improvements located on the Property caused by damage or destruction by flood, fire, windstorm and all other insurable risks. All policies of insurance provided for herein shall be issued by insurance companies authorized to do business in the State of Florida and with general policy holder's rating of not less than A- and a financial rating of not less than Class VIII as rated in the most current available "Best's" insurance reports. If available, all policies of insurance required hereby must contain a provision that the company writing said policy will endeavor to give to Landlord thirty (30) days' notice in writing in advance of any cancellation or lapse of coverage. Tenant shall carry such additional insurance which may be required to meet any requirements of applicable Laws. In addition, the liability insurance requirements under this Article 11 shall be reviewed by Landlord and Tenant every five (5) years for the purpose of reducing or increasing (in consultation with their respective insurance advisors) the minimum limits of such insurance to limits which shall be reasonable and customary for similar facilities of like size and operation in accordance with generally accepted insurance industry standards. The replacement value of the buildings and other insurable improvements of the Property shall be re-evaluated from time to time (but no more frequently than once every five (5) years) at the request of either Landlord or Tenant.

11.03 Requirements. All insurance maintained by Tenant pursuant to this Article 11 shall provide that (i) the rights of the insured(s) to receive and collect the proceeds thereof

shall not be diminished because of any additional insurance carried by Landlord or Tenant on its own account, (ii) all losses shall be payable notwithstanding any act or negligence of Landlord or Tenant which might, absent such agreement, result in a forfeiture of all or part of such insurance payment and notwithstanding the occupation of the Property for purposes more hazardous than permitted by the terms of such policy; (iii) be written with insurance companies authorized to do business in Florida; and (iv) be written on an occurrence basis with the exception of Professional Liability coverage.

11.04 Certificates. Tenant shall cause the insurance carrier or its authorized representatives to issue to Landlord copies of the certificates evidencing the existence in full force and effect the policies required under this Article 11. Upon request by Landlord delivered not less than thirty (30) days prior to the expiration of any policy of insurance, Tenant shall deliver to Landlord, not less than fifteen (15) days prior to the expiration of such policy of insurance, a certificate evidencing renewal or replacement of such policy of insurance effective no later than the expiration date of the current policy.

11.05 Waiver. To the extent permitted by law and to the extent that insurance is in force and collectible, Landlord and Tenant each hereby release and waive all right each of them would have against the other, by any of subrogation or otherwise, arising from or caused by any hazard covered by insurance on the Property. Tenant shall obtain such release and waiver from each insurance company issuing the policies required under this Lease with the exception of Professional Liability coverage.

## 12. CONDEMNATION AND CASUALTY.

### 12.01 Casualty.

- a. If the Improvements shall be damaged or rendered wholly or partially untenantable by fire or other casualty during the Term of this Lease, Rent shall not abate during such period, whether the Property is tenantable or not, subject, however, to the right of the parties to terminate this Lease as provided in 12.01(b) below. Tenant shall be entitled to adjust, collect and compromise, in its sole discretion, all claims under any applicable insurance policies carried by Tenant and to execute and deliver all necessary proofs of loss, receipts, vouchers and releases required by the insurers. Tenant shall use any such proceeds for repair of such damage, with any excess paid to Tenant or the Leasehold Mortgagee, as applicable.
- b. In case of any damage or destruction by fire or other casualty, including without limitation, natural disasters, (i) if a Casualty occurs within eighteen (18) months prior to the expiration of the then current Term which results in damage to the Improvements with a cost to repair in excess of twenty-five percent (25%) of the then current fair market value of the Project, then Tenant may terminate this Lease by notice to Landlord on the date for termination specified in such notice, and (ii) if the damage shall be so extensive that repairs cannot, in the opinion of Tenant's contractor, reasonably be completed within two hundred seventy (270) days from the date of the casualty, then Tenant may elect to terminate the Lease as of the date of such casualty by written notice delivered to Landlord. In the event of termination, the insurance proceeds payable in connection with the damage or destruction of the Improvements shall be paid in the order set forth below: (i) first, to Tenant to the extent necessary to demolish the damaged Improvements and leave the Land clean and free of debris; (ii) second, to pay in full any indebtedness of Tenant to any Leasehold Mortgagee, (iii) third to Tenant for the interest of Tenant in the Improvements; and, (iv) fourth, to the extent proceeds remain, to Landlord for Landlord's residual interest in the Improvements.

Upon this termination, regardless of the amount of proceeds available, Tenant shall satisfy and cause to be released any liens or other encumbrances placed or suffered to be placed on Tenant's interest in the Property.

#### 12.02 Condemnation.

- a. If any governmental authority, utility, or other entity having the power of eminent domain acquires all or a portion of the Property by the exercise of such power, or by voluntary conveyance in lieu of the exercise of such power, and as a consequence thereof: (i) the whole or any part of the Improvements shall be taken; or (ii) portions of the Property shall be divided or separated in any manner from other portions of the Property, and as a result any of the Improvements become untenable; or (iii) any portion of the Property shall be taken and as a result of such taking the Improvements become untenable; and, in any such case, Tenant determines in its reasonable discretion that such condemnation or conveyance will have a material adverse impact on the ability of Tenant to conduct its business at the Property or its Subtenants to conduct their business from the Improvements; then, within thirty (30) days after the date on which Tenant receives written notice that such condemnation or conveyance has occurred, Tenant shall have the right to terminate this Lease by written notice to Landlord which termination shall be effective as of the date such governmental authority, utility, or other entity having the power of eminent domain takes actual possession of such portion of the Improvements or the Property so condemned or conveyed. In the event that Landlord unilaterally (i.e. not at the request or direction of the Governor of Florida, the State of Florida, or any governmental authority thereof) exercises any power of condemnation it may now or hereafter have with respect to condemning the Property resulting in a termination of this Lease, Landlord shall pay Tenant the Early Termination Purchase Price not later than the effective date of such termination.
- b. If any part of the Improvements shall be taken by any governmental authority, utility, or other entity under the power of eminent domain, or by voluntary conveyance in lieu of the exercise of such power, and Tenant shall not have the right to terminate this Lease, or having such right elects to continue in possession, this Lease shall continue and there shall be no abatement of the Rent; and Tenant, at its own expense, may restore the Improvements to tenantable condition, similar in physical appearance to that which existed immediately prior to the taking, pursuant to plans and specifications approved by Landlord, which approval shall not be unreasonably, conditioned, or delayed.
- c. Any award shall first be distributed to any Leasehold Mortgagee in the amount of the outstanding balance of such Leasehold Mortgagee's loan, and then as follows: Lessee shall be entitled to the costs and expenses incurred by Lessee to settle, adjust, appeal, and collect the award, next Lessee shall be entitled to the costs and expenses incurred by Lessee to stabilize the site (including any repairs and restoration undertaken by Lessee prior to the termination of this Lease), and then Lessee shall be entitled to an amount equal to the Fair Market Value of Lessee's interest in the Improvements and leasehold interest hereunder immediately prior to (and without giving effect to) the taking.
- d. Landlord shall be entitled to an award based on the taking of or injury to its interest in the Land and residual interest in the Improvements if any, provided such award does not reduce Tenant's award for its Improvements. Tenant shall be entitled to claim an award for loss of business, depreciation of fixtures and equipment, loss or damage to inventory, fixtures and equipment, removal and reinstallation costs and moving expenses and Landlord shall not be entitled to any

portion of such award, or to make a claim therefor. In the event Landlord actually receives an award belonging to Tenant and fails to pay said sums to Tenant within thirty (30) days following written demand by Tenant, together with supporting documentation showing the calculation of the amount of the award received by Landlord from such condemning authority, said amount may be set off and deducted by Tenant from the next or any succeeding installment payments of Rent or any other amounts due and payable hereunder by Tenant to Landlord.

### 13. ASSIGNMENT AND SUBLETTING.

Tenant may, without further consent from Landlord, assign, sublease or transfer Tenant's interest in this Lease and/or the Improvements (or any element or component thereof) to any Affiliate of Tenant, or to any Qualified Purchaser. Additionally, Landlord acknowledges that Tenant and IFF have entered into the IFF Sublease contemporaneously with the execution of this Lease, and Landlord consents to the same. Except as set forth above in this Article 13, Tenant shall not sublease the Property to any Subtenant (other than to IFF or to any of IFF's Affiliates) without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed to the extent that Tenant proposes a sublease to a Qualified Subtenant in the reasonable determination of the Landlord. Notwithstanding the foregoing, Landlord agrees to use commercially reasonable efforts in good faith to enter into an Affiliation Agreement with any Qualified Subtenant proposed by Tenant. Any assignment or transfer in breach or violation hereof shall be null and void. The foregoing shall not prevent Subtenant from entering into sub-subleases or licenses with vendors who operate within the Improvements to provide goods and/or services as part of Subtenant's standard business operations. An assignment or transfer by Tenant shall release Tenant from any obligations or liabilities under this Lease from and after such assignment, but shall not relieve, release or discharge Tenant from any obligation or liability hereunder arising prior to the date thereof unless the same are specifically assumed by the transferee. For the avoidance of doubt, Landlord and Tenant acknowledge that notwithstanding the foregoing or anything to the contrary contained herein, nothing in this Lease shall prohibit or require any Landlord consent to (i) a Leasehold Mortgage, (ii) a Leasehold Mortgage Transfer, or (iii) the sale, assignment, or other transfer of any direct or indirect ownership interests in or Control of Tenant.

### 14. REPAIR AND REHABILITATION; FACILITIES CONDITION REPORT.

Upon Substantial Completion of the initial Improvements based on the final plans and specifications, Tenant will develop and implement the Maintenance Schedule for the performance of asset management services for the Improvements. The Maintenance Schedule shall be prepared and implemented consistent with Good Industry Practice and describe the useful life of the major systems, fixtures and structural components of the Improvements (specifically excluding, however, any information technology systems), and the projected nature, scope and timing of foreseeable future maintenance and capital replacements throughout the Term of this Lease with respect to the Improvements consistent with the provisions of Paragraph 16.01(d) below. The Maintenance Schedule shall be amended from time to time by Tenant, as reasonably necessary.

During the fifteenth (15<sup>th</sup>) full year of the Term, and again during the twenty-fifth (25<sup>th</sup>) and thirty-fifth (35<sup>th</sup>) full years of the Term, as may be applicable, Tenant will, as an operating expense, cause a comprehensive facilities condition assessment report to be performed with respect to the Improvements by an independent engineer reasonably agreed upon by Tenant and Landlord. The cost of each facilities condition assessment report shall be paid by Tenant unless Landlord has requested any report in addition to the

scheduled reports identified above, in which event such additional report shall be at Landlord's cost and expense. The Landlord and Tenant will reasonably determine the nature and scope of services, the schedule and deliverables to be provided by the independent engineer in connection with the preparation of any comprehensive facilities condition assessment report. Following receipt and review of any such comprehensive facilities condition assessment report, Landlord and Tenant shall reasonably determine the budget for the implementation of any remedial action reasonably required to address any defects, non-compliances, or deficiencies identified by the independent engineer with respect to the Improvements or any component thereof, as may be necessary to bring the Improvements into accordance with the requirements of this Lease; provided, however, notwithstanding anything herein to the contrary, in no event shall Tenant be obligated to address any defects, non-compliances, or deficiencies identified in any applicable comprehensive facilities condition assessment report to the extent that the same (a) are otherwise scheduled to be addressed during the immediately following twelve (12) month period pursuant to the Maintenance Schedule, or (b) are reasonably deemed to be non-essential items (meaning that such items do not impact life safety, security, code compliance or essential building functionality). Except as otherwise provided above, Tenant shall, at its cost and expense, promptly fund and perform any work reasonably necessary to remedy any material defects, non-compliances, or deficiencies identified in any applicable comprehensive facilities condition assessment report (it being agreed that Tenant shall commence any such work within thirty (30) days after the date recommended in the applicable report, or otherwise by the date as may be agreed upon by Landlord and Tenant).

15. ACCESS; EASEMENTS.

Without limiting any of the utility-related easements granted to Tenant pursuant to Article 9 above, Landlord grants to Tenant the easements described below, which Landlord acknowledges and agrees are necessary for Tenant's development and use of the Project.

15.01 Permanent Easement. The Landlord hereby grants to Tenant for the duration of the Term of this Lease, for the use of Tenant, its Subtenants, invitees, licensees, suppliers, customers, employees, and successors and assigns, a perpetual nonexclusive easement, benefiting the Land, upon, over, across and through the land constituting the Florida Poly Campus for the purpose of providing pedestrian and vehicular ingress, egress and access between, from and to the Land.

15.02 Stormwater Easements. The following easements shall be granted by Landlord to Tenant for the uses set forth below, for the duration of the Term.

- a. Landlord hereby grants and conveys to Tenant, for the benefit of Tenant and the Land, a perpetual nonexclusive easement for constructing, maintaining and utilizing any Improvements reasonably necessary to discharge stormwater from the Land to the point of outfall into the public stormwater system and/or retention area generally serving the Florida Poly Campus (or the applicable portion thereof; such stormwater system and/or retention areas are referred to herein the "Outfall Improvements"), within the area legally described on **Exhibit G** attached hereto (the "Outfall Easement"). Tenant shall, at Tenant's expense, be responsible for the design and construction of any applicable Improvements necessary to make such connection from the Land to the Outfall Improvements within the Outfall Easement.

- b. Landlord shall inspect, repair and maintain the Outfall Improvements within the Outfall Easement as required to assure the proper function of the Outfall Improvements. In the event that Landlord shall fail or refuse to make any required repairs to the Outfall Improvements within thirty (30) days after Landlord's receipt of written notice from Tenant (provided that Landlord shall have such additional time as may be reasonably necessary to make such repair, provided that Landlord commences to cure such default within such thirty (30) day period and actively and diligently in good faith prosecutes such cure to completion), then Tenant may make such repairs to the Outfall Improvements, and Landlord shall reimburse Tenant for Tenant's reasonable, third-party, out-of-pocket costs and expenses in taking such action within thirty (30) days after receiving an invoice from Tenant setting forth such costs and expenses.

## 16. PROJECT DESIGN; CONSTRUCTION.

### 16.01 Project Design.

The following paragraphs shall be applicable to the original design and construction of the Improvements and any substantial repair, rehabilitation, replacement or renovation of the Improvements.

- a. Tenant shall select and contract with (or may use its in-house) architects, engineers, and other design personnel to perform design services and produce design and construction plans, drawings, specifications and documents necessary for the construction of the Improvements. Such persons shall have experience, expertise, training and applicable licenses, certifications and registrations necessary for the design work performed by them. All design work will be performed by an architect or firm of architects licensed by the State of Florida. The cost of all professional engineering, surveying, design, and architectural services required by Tenant to prepare construction plans, drawings and specifications and oversee construction of the Improvements in accordance with the plans and specifications will be paid by Tenant.
- b. The design of the Improvements will be subject to approval by Landlord (such approval not to be unreasonably withheld, conditioned or delayed). Tenant shall provide its design plans and specifications to Landlord for review. Tenant acknowledges that Landlord may reasonably withhold its consent to Tenant's design plans and specifications if Landlord reasonably determines that such plans and specifications do not comport with the following (collectively, the "Landlord Design Requirements"): (i) the University Design Standards, (ii) the Florida Poly Campus Master Plan goals and objectives attached hereto as **Exhibit F**, and/or (iii) the 50 year lifecycle requirement as expressly described in Section 16.01.d below. Notwithstanding the foregoing, Landlord shall not unreasonably withhold its consent with respect to any proposed variances to the Landlord Design Requirements to the extent that any applicable Landlord Design Requirements do not comport with the facility and/or operational needs of Subtenant. As designs and specifications are finalized, Landlord acknowledges that value-engineering will be necessary in order to reconcile budget and pricing, and may include reductions in the Project square footage defined in Recital G. However, the Tenant shall not reduce the total square footage of the Project by more than 4,000 square feet. Landlord's review of plans and specifications will occur during the periods specified in the Design Schedule attached hereto as **Exhibit M**. If Landlord does not notify Tenant in writing within ten (10) business days of any changes Landlord

desires to be made to Tenant's plans and specifications (in each instance that Tenant's proposed plans and specifications, and/or any revisions thereto, are delivered to Landlord for review), then Tenant may deliver a second notice to Landlord again requesting Landlord's approval of such plans and specifications and/or any revisions thereto. If Landlord does not notify Tenant in writing of any changes Landlord desires to be made to such plans and specifications, and/or any revisions thereto, within five (5) business days after Landlord's receipt of such second notice has been sent to Landlord, then, Landlord shall be deemed to have approved such plans and specifications, and/or any revisions thereto. The parties shall follow the foregoing procedures for approving changes and modifications to the plans and specifications, and/or any revisions thereto, until the final revised set of plans and specifications is approved by Landlord and Tenant in writing. Following completion of the final set of plans and specifications, the Tenant may submit in writing any proposed deviations from such final set of plans and specifications to the Landlord for approval, in the form of a substitution request. Landlord approval of substitution requests shall not be unreasonably withheld. If Landlord does not approve or deny the substitution request, or seek additional information from the Tenant regarding the request, within five (5) business days after Landlord's receipt of the substitution request, then, Landlord shall be deemed to have approved the substitution request. The aforementioned final revised set of plans and specifications, as may be further revised from time to time by any substitution request approved by Landlord and Tenant as contemplated in this Section 16.01.b, are hereinafter referred to as the "Approved Plans and Specifications".

- c. Notwithstanding anything herein to the contrary, if the Improvements are built in substantial conformance to the Approved Plans and Specifications, then (i) such Improvements shall be deemed to comply with applicable building codes, the University Design Standards, and the Florida Poly Campus Master Plan goals and objectives, and (ii) Tenant shall not be in default under this Lease if any of the Improvements are not LEED certified.
- d. The parties acknowledge and agree that the major systems, fixtures and structural components of the Improvements shall be designed (subject to Tenant's compliance with the Maintenance Schedule) with an expected lifecycle of at least 50 years from the Commencement Date. Notwithstanding anything herein to the contrary, once Landlord has approved (or is deemed to have approved) the Approved Plans and Specifications, as long as Tenant constructs the Improvements in accordance with such Approved Plans and Specifications, and provided that Tenant maintains the same substantially in accordance with the Maintenance Schedule, then such Improvements, as so constructed and maintained, shall be deemed in compliance with the aforementioned 50 year lifecycle requirement.

#### 16.02 Construction.

- a. All construction work for the Improvements will be performed by contractors selected by Tenant who are licensed by the State of Florida and that execute a construction contract with Tenant.
- b. Landlord shall reserve for the Property, and shall assign to Tenant, the necessary entitlements to allow Tenant to construct the Improvements.
- c. Prior to commencement of construction work on the Land, Tenant shall cause its

contractor to deliver to Landlord a waiver and release in the form of attached **Exhibit H** to this Lease.

- d. Tenant will commence initial site preparation of the Land and construction of the Improvements within ninety (90) days of receipt of all required Governmental Approvals (as set forth in Paragraph 25.03 below) and will endeavor to complete construction in accordance with the timeline to be agreed upon and attached as **Exhibit I** to this Lease (the “Timeline”), subject to any contingencies, Force Majeure and obtaining required permits. Prior to commencement of work on the Land Tenant shall deliver to Landlord documentation substantiating satisfaction of conditions precedent, insurance, waivers, releases and others required by this Lease for the commencement of such work. If COVID-19 remains an epidemic at the time of execution of this Lease, the Timeline should account for the epidemic’s impact on operations to the extent possible.
- e. No duties, obligations or responsibilities are or shall be imposed upon Landlord to monitor, inspect or test any work, service or activity by Tenant or its contractors relating to the design, construction, maintenance, repair or alteration of any Improvement. Except as expressly provided herein to the contrary, Landlord has no duty, obligation or responsibility to Tenant hereunder to perform maintenance or make any repairs whatsoever to the Improvements.
- f. Tenant shall take all reasonable action and precaution to avoid and minimize disruption to traffic, parking and activities on the Florida Poly Campus during performance of construction work relating to the Improvements. Landlord shall provide, for use by Tenant and Contractor and their employees and subcontractors, access to the Designated Staging Area depicted on **Exhibit J** to allow for access, storage, laydown and staging in connection with the construction, furnishing and equipping of the Improvements and hereby grants to the Tenant and Contractor and their employees and subcontractors a temporary license on, over, across, and through such portions of the Campus as are described in the Mobilization Plans attached as **Exhibit K** for the development and construction of the Improvements, for pedestrian and vehicular access, ingress and egress and for construction activities in connection with the construction of the Improvements, which rights and license shall expire automatically upon the earlier to occur of (A) the Commencement Date or (B) the final completion of the Improvements. Landlord shall cooperate with Tenant and Contractor to identify any adjustments to such area or areas promptly after the date hereof. During the course of the work, Tenant shall cause all personnel performing work on or making deliveries or pick-ups at the Property to park trucks and vehicles solely on the Land or in a Designated Staging Area. All tools, equipment, supplies, materials and other items used in the performance of the work shall be stored on the Land or the Designated Staging Area at Tenant’s cost and risk. Tenant shall also cooperate and coordinate with Landlord to minimize any interference with the use and enjoyment of areas of the Florida Poly Campus adjacent to or in the vicinity of the Land. Tenant shall promptly restore or pay for any and all damage done to any building, structure, roadway, sidewalk, curb, parking area or landscaping on the Florida Poly Campus as a result of Tenant’s activities on the Land or relating to the Improvements, and repair and restore all portions of the Florida Poly Campus damaged to a condition equal to or superior to the condition that existed immediately prior to the commencement of the construction



work. Tenant shall notify the Contractor that all construction workers on site are to be courteous and respectful to students and faculty of Landlord. Tenant and Tenant's contractors and subcontractors, and their contractors, employees, or agents must follow all Florida Poly rules, regulations, and policies including smoking on campus and any protocols regarding COVID-19.

#### 16.03 Coordination with other Florida Poly Projects.

- a. All design and construction work and activities by Tenant and its contractors and subcontractors relating to the Improvements shall be performed in a good and workmanlike manner and using new materials in accordance with (i) all applicable Laws and Governmental Authorizations; (ii) the Florida Poly rules, regulations (iii) University Design Standards, (iv) the Permitted Title Encumbrances; (v) the approved constructions plans and specifications; and (vi) Good Industry Practice. Tenant shall cooperate and shall cause its contractors to cooperate and coordinate with Landlord and any contractor engaged by Landlord in connection with other construction work at locations near the Land. Such cooperation shall potentially include the location of areas for parking, laydown and staging routes for access and egress to the project site, the alignment, capacity and installation of certain utility, stormwater and other infrastructure to support the Improvements and the other projects. The Timeline shall include detail regarding activities and work which require interfacing and coordinating with Landlord and its contractors. Tenant shall promptly notify Landlord in the event of the occurrence of any occurrence or circumstance reasonably likely to adversely impact the performance of work in accordance with the Timeline. Reclaimed materials may be used with express written permission of the Landlord.
- b. In order to facilitate the coordination of other work on the Florida Poly Campus, Tenant shall provide access, information and documents reasonably requested by Landlord to enable Landlord to monitor the performance and progress of the development and construction of the Improvements. Any access or provision of information or documents shall not in any way delay Tenant's construction, maintenance or operation of the Improvements. Additionally, Landlord acknowledges and agrees that: (i) any access by Landlord, or Landlord's consultants, employees or contractors shall be at such parties' own risk; and (ii) while on the Land, Landlord shall abide by any construction safety program of Tenant required for compliance with all local, state, and federal laws, rules, and regulations, including OSHA and NIOSH requirements.

#### 17. DEFAULTS; REMEDIES; LANDLORD TERMINATION RIGHT.

17.01 Tenant Default. Any one or more of the following events shall constitute an "Event of Default" under this Lease:

- a. Tenant fails to pay when due Rent, or any other amount to be paid under this Lease by Tenant, and the failure continues for ten (10) business days after receipt by Tenant of written notice from Landlord;
- b. Tenant gives Landlord any report or other information that is knowingly and materially false or misleading, and which false or misleading information causes a material adverse effect to Landlord;
- c. Tenant ceases doing business as a going concern; makes an assignment for the

benefit of creditors; is adjudicated an insolvent, files a petition (or files an answer admitting the material allegations of a petition) seeking relief under any state or federal bankruptcy or other statute, law or regulation affecting creditors' rights; all or substantially all of Tenant's assets are subject to judicial seizure or attachment and are not released within thirty (30) days, or Tenant consents to or acquiesces in the appointment of a trustee, receiver or liquidator for Tenant or for all or any substantial part of Tenant's assets; or

- d. Tenant fails, within sixty (60) days after the commencement of any proceedings against Tenant seeking relief under any state or federal bankruptcy or other statute, law or regulation affecting creditors' rights, to have such proceedings dismissed, or Tenant fails, within sixty (60) days after an appointment, without Tenant's consent or acquiescence, of any trustee, receiver or liquidator for Tenant or for all or any substantial part of Tenant's assets, to have such appointment vacated; or
- e. Tenant fails to fulfill any of the other covenants, agreements or obligations of the Lease, and such default continues for more than thirty (30) days after written notice but if the nature of such default is such that it cannot be cured within the thirty (30) day period, an Event of Default will not be deemed to have occurred if Tenant commences to cure within such thirty (30) day period and diligently proceeds to complete its cure as soon as reasonably possible.

#### 17.02 Landlord Remedies.

- a. If an Event of Default is not cured within the applicable cure period as stated in Paragraph 17.01, Landlord's remedies shall include the following remedies, subject to the provisions of Section 17.02 b. and Article 28 hereof related to the rights of any Leasehold Mortgagee: (i) the right, at its option, then or at any time while the Event of Default continues to give a written notice specifying a date on which this Lease shall terminate, and on that date, subject to any provisions of this Lease relating to the survival of Tenant's obligations, this Lease shall terminate and Landlord may re-enter and take complete and peaceful possession of the Property and, with process of law, remove all persons and all furniture, fixtures, equipment and other personal property located on the Property and owned or leased from third parties by Tenant, in which event Tenant shall peacefully and quietly yield up and surrender the Property to Landlord or (ii) the right, at Landlord's option, then or at any time while the Event of Default continues, subject to applicable Law, to enter the Property and re-let the same for Tenant's account. No notice from Landlord under this Lease will constitute an election by Landlord to terminate this Lease unless the notice specifically says so. Landlord may, in addition to other remedies hereunder or at Law, (w) commence proceedings against Tenant for damages and collect all sums or amounts with respect to which Tenant may then be in default and are accrued up to the date of termination of this Lease (including amounts due under the provisions which survive such termination, if Landlord elects to terminate the Lease); (x) commence proceedings against Tenant under the provisions of this Lease for holdover obligations of Tenant, if any; (y) bring an action for specific performance, including to require Tenant to document the conveyance and transfer set forth in Section 19.01 of this

Lease; or (z) exercise any other right or remedy available at law or in equity.

- b. Notwithstanding anything herein to the contrary, prior to exercising Landlord's right to terminate this Lease or recover possession of the Property upon the occurrence of an Event of Default Landlord agrees to mediate on the sole issue of whether, under the terms of this Lease, there existed the basis to declare that the Event of Default had occurred. The Parties shall appoint a neutral mediator with demonstrated subject matter expertise and experience within fifteen (15) days following the Landlord's notice to Tenant that an Event of Default has occurred. Both Parties shall participate in the mediation proceedings and conferences convened by a mediator until earlier of the resolution of the dispute or thirty (30) days after referral to the mediator. The mediator's fee shall be divided equally between the Parties. If the dispute is not resolved through mediation, either Party may request arbitration to resolve the dispute. If the Parties cannot agree on a single arbitrator within fifteen (15) days following a Party's request for arbitration, then each Party shall appoint one arbitrator and the two appointed arbitrators shall select the third arbitrator, who shall be the chairperson of the panel. Each arbitrator shall have demonstrated expertise and experience regarding the subject in dispute. Within ten (10) Business Days after appointment of the single arbitrator or third arbitrator, the Landlord shall provide a specific statement setting forth the basis for the declaration of an Event of Default and Tenant shall reply to the initial statement and assert any claims within ten (10) days after receipt of Landlord's statement. For a period of sixty (60) days after the single arbitrator or third arbitrator is selected, the Parties shall have an equal and fair opportunity to present their respective positions to the arbitrators, orally or in writing, as the arbitrators may specify. The arbitrators may require such testimony, materials and documentation during such sixty (60) day period as they may determine to be appropriate. The arbitrators shall provide a written resolution within thirty (30) days after the panel's receipt of requested testimony, materials and documents. The cost of the arbitrators shall be split between the Parties. In the event the Landlord prevails and Tenant fails to cure the Event of Default within thirty (30) days after receipt of such decision from the mediator or arbitrators, as applicable, Landlord shall have the right to terminate this Lease by written notice to Tenant and reenter the Project and take possession thereof as provided in Section 17.02 a. If Tenant prevails the Landlord agrees to rescind the declared Event of Default.

17.03 Landlord Default. If Landlord shall (i) fail to observe or perform any provision of this Lease and such failure shall continue for thirty (30) days after notice to Landlord of such failure, then a Landlord Event of Default shall exist under this Lease; provided, however, that in the case of any such failure that cannot with diligence be cured within such thirty (30) day period (expressly excluding any failure to pay money under this Lease), if Landlord shall commence promptly to cure the same and thereafter prosecute the curing thereof with diligence to completion, the time within which such failure may be cured shall be extended for such period as is necessary to complete the curing thereof with diligence but in no event longer than 180 days.

17.04 Tenant Remedies.

- a. If a Landlord Event of Default has occurred, Tenant shall have the following remedies (i) terminate this Lease by delivering notice to Landlord, and upon the date set forth in such

notice, this Lease shall terminate on such date as fully and completely and with the same effect as if such date were the date set herein for the expiration of the Term all obligations of Landlord and Tenant hereunder shall terminate, except for those that expressly survive termination, including surrender of the Property and Rent shall be apportioned as of such date and Landlord shall promptly refund to Tenant any Rent previously paid that is allocable to the period subsequent to such termination; (ii) cure such Landlord Event of Default for the account of Landlord, without waiving any claim for direct damages incurred by Tenant by virtue of such Event of Default, and any amount reasonably paid by Tenant in so doing shall be deemed paid or incurred for the account of Landlord, and Landlord agrees to reimburse Tenant such amount thereof within sixty (60) days following Tenant's written demand with detailed substantiations of all amounts; or (iii) enforce Landlord's obligations hereunder by (a) an action for specific performance; (b) an action for injunctive relief; (c) an action for mandamus; and/or (d) an action for declaratory judgment. Tenant may remedy any Landlord failure to perform prior to the expiration of the period within which Landlord may cure such failure if in its notice to Landlord of the Landlord Event of Default Tenant described that the cure of such failure prior to the expiration of said cure period is reasonably necessary to protect the Property or to prevent injury to persons, or to permit Tenant to conduct its usual business operations on the Property; provided, however, Tenant shall notify Landlord of its intention to commence to cure such failure during the cure period and set forth therein Tenant's good faith estimate of the cost, expense and fees and time required for the cure. Nothing in this Article 17 shall be deemed to modify, amend or limit other Tenant remedies that expressly are provided in this Lease, including, without limitation, all termination, reimbursement and offset rights.

- b. Except as provided in Paragraph 10.02 above, Landlord is not and shall not be liable for any claims for damage to the Property or damage to property or injuries to persons in, on or about the Property or elsewhere occurring during the Term. This limitation on liability shall apply without limitation to claims by Tenant, its lenders, affiliates, contractors, agents and representatives and its and their employees, agents, invitees, licensees, customers, guests, or related entities and successors or permitted assigns. Furthermore in no event shall Landlord or Tenant have any liability to other party or any of its lenders, affiliates, contractors, agents and representatives and its and their employees, agents, invitees, licensees, customers, guests, or related entities and successors or permitted assigns, on account of any consequential, incidental, special, punitive, exemplary or any other indirect damages, whether in contract, tort (including negligence and strict liability) or under any other legal or equitable principles whatsoever, or for any loss of profits, opportunity, reputation or revenue.

## 18. HOLDING OVER.

If Tenant remains in possession of the Property or any part thereof after the expiration or termination of the Term without any agreement in writing between Landlord and Tenant with respect thereto, then Tenant shall be deemed a tenant from month to month, and in addition to Landlord's other rights and remedies hereunder and Tenant's obligations, Tenant shall be subject to payment in advance for each month or part thereof that Tenant holds over, of an amount equal to \$125,000.00.

## 19. SURRENDER.

19.01 Surrender. At the expiration or earlier termination of the Term of this Lease, without notice, demand or action by Landlord (subject to the right of Landlord to require Tenant to

demolish the Improvements pursuant to Paragraph 19.03 below, as may be applicable), Tenant shall yield the Property to Landlord in the condition required by Article 14 above and the Maintenance Schedule, reasonable wear and tear and damage by casualty and/or condemnation excepted, without representation or warranty by Tenant, and the Improvements shall become the sole property of Landlord without any compensation to Tenant (except as otherwise may be expressly contemplated herein, including, without limitation, any requirement for Landlord to pay the Early Termination Purchase Price, as may be applicable), free and clear of any right, title, interest, claim or demand of Tenant or of anyone claiming through or under Tenant. Notwithstanding anything herein to the contrary, Tenant shall have the right, at any time during the Term, and up to thirty (30) days after the expiration or earlier termination of this Lease, to remove any or all of Tenant's and/or any Subtenant's trade fixtures, equipment, and property from the Property. Tenant shall repair any damage which may result to the Property from such removal, normal wear and tear excepted. If Tenant fails to remove any of those items, subject to applicable Laws, the items shall be deemed abandoned and shall at the election of Landlord in its sole discretion be the property of Landlord. On or before the expiration or termination of this Lease, Tenant shall cause any mortgages, deeds of trust, liens or encumbrances created by, through or under Tenant to be fully released and discharged. Subject to abandonment by Tenant more than thirty (30) days after the expiration or earlier termination of the Term, all trade fixtures, equipment, leasehold improvements and property of any nature which may be installed or placed in or upon the Property by Tenant shall remain the property of Tenant.

19.02 Improvement Documents. Upon the expiration or the earlier termination of this Lease, to the extent in Tenant's possession or control, Tenant shall provide to Landlord (unless Landlord exercises the right to require Tenant to demolish the Improvements pursuant to Paragraph 19.03 below, as may be applicable) copies of the design plans, as-builts, drawings and reports related to the Improvements to the extent the same are within the possession of Tenant (the "Improvement Documents"), and Tenant hereby authorizes Landlord's use of same for the sole purpose of the further use and maintenance of the Improvements, but for no other use whatsoever; provided however, Landlord acknowledges and agrees that Tenant does not make, and specifically disclaims, any representation, warranty, covenant or agreement of any kind or character regarding any aspect of the Improvement Documents furnished to Landlord by Tenant, including without limitation, the accuracy, completeness, compliance with Laws, or fitness for any particular purpose, of the Improvement Documents. Landlord further acknowledges and agrees that any Improvement Documents provided by Tenant are for Landlord's convenience only, that Landlord has no right to rely on the Improvement Documents or their accuracy, completeness or compliance, and by acceptance of the Improvement Documents Landlord expressly waives any and all claims or causes of action that it may have with regard to the reliance on, or use of, the Improvement Documents. To the extent reasonably required and at no cost or liability to Tenant, Tenant shall execute any instruments reasonably required to document the transfer and assignment of the Improvement Documents to Landlord or its designee.

19.03 Option to Demolish. Notwithstanding anything herein to the contrary, in the event that Tenant fails to maintain the Improvements in accordance with Article 14 above and the Maintenance Schedule, and if the reasonable estimated cost to bring the maintenance of the Improvements into compliance with Article 14 above and the Maintenance Schedule would be greater than the reasonable estimated cost to demolish the Improvements and remove all

debris resulting therefrom (the “Demolition Costs”), then Landlord, as its sole remedy, may elect, by written notice to Tenant delivered no later than the expiration or earlier termination of the Term, (i) to require Tenant to demolish the Improvements and remove all debris resulting therefrom at Tenant’s cost or (ii) to require Tenant to pay Landlord the amount equal to the Demolition Costs, and in such event, Tenant shall be relieved of any responsibility to so demolish and remove the Improvements.

## 20. TERMS SPECIFIC TO LANDLORD.

- 20.01 Release. Prior to the commencement of any construction on the Land, Tenant’s general or design/build contractor and all contractors, subcontractors and vendors contracted to provide services, products or supplies the value of which exceeds \$25,000 must deliver to Landlord a Waiver and Release, in the form of Exhibit H to this Lease.
- 20.02 Tenant’s Personalty. Tenant shall store its Personalty in the Property and Tenant shall occupy and use the Property at its own risk. Landlord and the Florida Board of Governors shall not be responsible or liable at any time and Tenant expressly releases them from any loss or damage to Tenant’s Personalty other than that due to Landlord’s gross negligence or willful misconduct. Tenant shall give prompt notice to Landlord in case of fire or accidents on the Property causing material damage thereto.
- 20.03 ADA. Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord) and hold Landlord harmless from and against any and all loss, cost, damage or claim arising during the Term out the failure of any portion of the Improvements to comply with all requirements of applicable Law (including, but not limited to, applicable terms of the Americans With Disabilities Act of 1990 (the “ADA”), as modified and supplemented from time to time) which shall impose any violation, order or duty upon Landlord or Tenant arising from, or in connection with, the Improvements, the Property, Tenant’s occupancy, use or manner of use of any portion of the Property or the Improvements (including, without limitation, any occupancy, use or manner of use that constitutes a “place of public accommodation” under the ADA), or any installations in the Property, Improvements, or required by reason of a breach of any of Tenant’s covenants or agreements under this Lease, whether or not such requirements shall now be in effect or hereafter enacted or issued. Tenant’s indemnification obligation hereunder shall not extend to the gross negligence or willful misconduct or intentional violation of any applicable laws by Landlord or its employees, trustees, and agents, or to any alterations, modifications or replacements to the Project performed by the Landlord or a third party contractor for the Landlord.
- 20.04 Board of Governors’ Consent. This Lease is subject to and conditioned upon the initial written consent of Board of Governors. If Landlord determines that a material change in the terms of this Lease has occurred after the form of this Lease that was reviewed by the Board of Governors’ the Tenant acknowledges that this Lease is subject to re-approval by the Board of Governors.
- 20.05 OFAC. Without limiting the general requirements under this Lease for the parties to comply with applicable laws, to the extent applicable to each party and/or its operations, each party shall comply with all (i) regulations promulgated by the Office of Foreign Assets Control, Department of the Treasury which are applicable to Tenant or any occupant of the Property, (ii) the International Emergency Economic Powers Act, 50 U.S.C. Section 1701 et seq., (iii) the Trading with the Enemy Act, 50 U.S.C.

App. I et seq., and (iv) the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism.

20.06 Sovereign Immunity. This Lease does not affect the immunities, exemptions and limitations of liability of Landlord under Florida Statute 768.28 and other Applicable Laws of the State of Florida. Nothing in this Lease shall be deemed to affect the rights, privileges and immunities afforded Landlord, the Board of Governors, and the State of Florida by law. Nothing herein shall be construed consent by Landlord to be sued by third parties in any manner arising out of this Lease or as consent of the State of Florida to be sued or named, joined or added as a party to any proceeding and no such consent is granted except as expressly provided by Florida Statutes or case law. Notwithstanding anything herein to the contrary, Landlord expressly consents to Tenant enforcing against Landlord the obligations of Landlord under this Lease pursuant to (a) an action for specific performance; (b) an action for injunctive relief; (c) an action for mandamus; and/or (d) an action for declaratory judgment.

## 21. QUIET ENJOYMENT AND TITLE.

Provided no Event of Default has occurred under this Lease, Tenant shall, during the Term, freely, peaceably, and quietly occupy and enjoy possession of the Property, together with the rights, privileges, easements, and appurtenances herein demised, without molestation or hindrance, lawful or otherwise. Landlord, at Landlord's sole cost and expense and without reimbursement from Tenant, shall pay all amounts required to protect and defend Landlord's title to and interest in the Leased Premises and Tenant's interest in the Leased Premises from any encumbrances, liens, easements or other title exceptions, which is not created or caused by Tenant and which adversely affects or impairs Tenant's or Subtenant's use or quiet enjoyment of or access to and from the Leased Premises, other than the Permitted Title Encumbrances. Landlord acknowledges that Landlord is not permitted by applicable Law to mortgage its fee interest in the Property.

## 22. NOTICES.

### 22.01 Notices.

- a. Notices and Payments. All payments of Rent or other amounts payable hereunder shall be delivered to the party entitled thereto at the addresses hereinafter set forth. Whenever notice is required or permitted in this Lease, it shall be in writing and shall be deemed to be properly given upon receipt or refusal on a business day or next business day after delivery if sent by U.S. Postal Service, postage prepaid, by certified or registered mail, return receipt requested, or if personally delivered by hand or sent by nationally recognized overnight courier service. All payments and notices required or permitted in this Lease shall be delivered to the party entitled thereto at the following addresses:

Landlord:

Florida Polytechnic University  
4700 Research Way  
Lakeland, Florida 33805  
Attn: Office of the President

With a copy to:

Florida Polytechnic University  
4700 Research Way  
Lakeland, Florida 33805  
Attn: Office of the General Counsel

Tenant:

HS Poly Research, LLC  
533 South Third Street, Suite 100  
Minneapolis, MN 55415

The foregoing addresses may be modified by delivery of written notice of such modification to the party entitled thereto, which written notice shall be delivered and deemed effective as set forth herein.

22.02 Reserved.

23. INSPECTION PERIOD; APPROVAL PERIOD.

23.01 Inspection Period. Tenant shall have a period of one hundred twenty (120) days, beginning on the Effective Date, within which to satisfy itself, in Tenant's sole discretion (for any reason or no reason), that the Property is suitable for Tenant's intended use (the "Inspection Period").

Commencing as of the Effective Date, Tenant shall have access to the Land to perform such testing, evaluation, and inspection of the Land as Tenant deems necessary to evaluate the Land for its use for the Improvements, including, but not limited to geotechnical review, sampling and analysis, environmental testing, and site work engineering. If during the Inspection Period Tenant determines that the Land is not suitable or feasible for the Improvements or for any reason or no reason, Tenant shall have the right to terminate this Lease provided such notice is delivered to Landlord prior to the expiration of the Inspection Period, and this Lease shall thereafter be of no further force or effect. With respect to any acts or omissions, during the Inspection Period, Tenant shall indemnify Landlord for any claims, liability or damages arising from Tenant's inspections on the Land, and if Tenant elects to terminate this Lease, Tenant shall at its cost restore the Land to substantially the same condition as it was in as of the beginning of the Inspection Period. The foregoing indemnity and restoration obligation shall not include any pre-existing conditions merely discovered and not exacerbated by Tenant, or any matters caused by the gross negligence or willful misconduct of Landlord.

If Tenant, prior to the expiration of the Inspection Period, is satisfied as to the condition and suitability of the Property, Tenant shall send written notice to Landlord that the



Inspection Period has ended as of a date certain and that date shall be the end of the Inspection Period. If Tenant fails to send such notice prior to the expiration of the Inspection Period or send notice of its election to terminate this Lease, then the Inspection Period shall be deemed to have expired.

23.02 Approval Period.

- a. Following the Inspection Period, Tenant shall have an additional two hundred seventy (270) days to obtain, in Tenant's satisfaction and at Tenant's sole cost and expense, the necessary Governmental Approvals (including permits and approvals required from Landlord, and Landlord's approval of Tenant's design and plans as described in Article 16 above) for Tenant's intended use of the Property (collectively, the "Approvals"). Landlord shall cooperate with Tenant (at no cost to Landlord) in the application for any Government Approvals that require Landlord's consent or approval. If despite its reasonable efforts Tenant has not obtained all Approvals by the end of the Approval Period, the Approval Period shall be extended for two (2) periods of thirty (30) days each. If Tenant has not obtained all Approvals by the end of the extended Approval Period, either party may elect to not proceed with the transaction contemplated by this Lease, in which event either party may terminate this Lease by notifying the other party in writing on or before the expiration of the extended Permitting Approval Period, and upon such notice the parties shall be released from all further obligations under this Lease. At Tenant's costs, to the extent that Tenant is required to obtain Governmental Approvals from governmental authorities and agencies other than Landlord, Landlord shall cooperate with, and reasonably support, Tenant in obtaining any building and development permits, curb cut permits, site plan approvals, and water and sanitary sewer tap permits or such other permits, licenses, or approvals as may be necessary for the development of the Improvements.
- b. With respect to Landlord's review and consideration of applications for Governmental Approvals and review and approval of the any design or construction plans, specifications or documents prepared by or for Tenant in connection with the construction, operation, maintenance and repair of the Improvements and review of their compliance with applicable building codes and any required inspections of the Improvements (including, state fire marshal inspections), Tenant shall reimburse Landlord within thirty (30) days after written notice for the reasonable actual, documented, out-of-pocket costs incurred by Landlord from (a) costs and administrative fees incurred related to building compliance and inspections; and (b) fees and expenses of a third party vendor retained by Landlord for such review and approval, including approval of building permits and monthly inspections. The parties agree that in connection with the original design and construction of the Improvements, Tenant shall pay Landlord sixty thousand dollars (\$60,000) for the ordinary course of conduct of processing applications for permits and Governmental Approvals issued by Landlord and making inspections required under applicable Florida Poly rules, regulations, policies, and standards.

- 23.03 No Guarantees. Tenant acknowledges that it will conduct due diligence with respect to the costs, risks, and uncertainties of developing, constructing, operating and maintaining the Improvements and its own evaluation of the demand for, and the financial prospects of the Improvements without reliance on any statement, description or information provided by Florida Poly, except as expressly provided herein. Florida Poly makes no representation,

warranty, or other undertaking with respect to enrollment size of undergraduates or graduate students or regarding the size of the faculty body.

## 24. CONTINGENCIES.

24.01 Contingencies. The lease of the Land under this Lease shall be contingent upon satisfaction of the following conditions:

- a. Testing/Inspections. Satisfaction by Tenant of the condition and suitability of the Property based on tests and inspections conducted pursuant to Article 23.
- b. Title Commitment/Permitted Title Encumbrances/Policy. Tenant may obtain a current title report, or leasehold title commitment (either the title report or the title commitment hereinafter the “Title Commitment”) and copies of all title exception documents indicated thereon, for Tenant’s review. Prior to the end of the Inspection Period, Landlord and Tenant shall agree to the Permitted Title Encumbrances to be listed on **Exhibit B** based on the current title report and survey. If Landlord and Tenant do not agree on the Permitted Title Encumbrances prior to the end of the Inspection Period, either party shall have the right to terminate this Lease at any time thereafter until such time as Landlord and Tenant reach agreement. Tenant may, at its sole cost and expense, obtain a leasehold owner’s title policy regarding the Property.
- c. Survey. During the Inspection Period, Tenant, at Tenant’s sole cost and expense, shall obtain a survey of the Land, certified to Landlord, Tenant, and Tenant’s title insurer, and showing any and all improvements located within the Property, if any, and all easement areas appurtenant thereto. Tenant may also require the surveyor to certify: (i) that the survey is an accurate survey of all of the real property legally described thereon; (ii) that the survey properly and accurately indicates and locates any improvements which are shown thereon; (iii) that the survey was prepared under the direct supervision and control of the surveyor from an actual survey made of the real property legally described thereon; (iv) that there are no encroachments either across property lines or zoning restrictions lines in effect as of the date of the survey other than as shown thereon; (v) that the survey properly designates and locates all visible or recorded, easements as shown on the Title Commitment; (vi) all established building and setback lines or restrictions of record (as disclosed by the Title Commitment), established by law, or known to the surveyor after inquiry are accurately indicated and located thereon; (vii) the location and existence of property for drainage, ingress or egress, or any other purpose except as is shown thereon; (viii) that utility services for electricity, water, sewer and telephone either enter the Land through adjoining public streets, or, if they pass through or are located on private land, do so in accordance with easements inuring to the owner of the property which are shown thereon; (ix) that ingress and egress to the Land is provided by [\_\_\_\_\_], upon which the property abuts, the same being paved and dedicated right-of-way maintained by Landlord, and [Polk County, Florida], respectively; (x) that the property is located in Flood Zone “\_\_\_” in accordance with the Federal Emergency Management Agency Flood Insurance Rate Map; and (xi) that the survey meets the requirements of the Minimum Technical Standards set forth by the Florida Board of Professional Land Surveyors in the Florida Administrative Code, pursuant to Section 472.027, Florida

Statutes.

- d. Prior to the end of the Inspection Period, Landlord and Tenant shall agree to the legal description to be listed on **Exhibit A** based on the legal description shown on the survey and the supporting documents provided with the current title report.
- e. **Memorandum of Lease.** Landlord shall execute a Memorandum of Lease in the form attached hereto as **Exhibit C** at the end of the Inspection Period and deliver same to Tenant. As of the Commencement Date, Tenant may, at its option and sole cost, record the Memorandum of Lease in the public records of Polk County, Florida.
- f. **Delivery of Documents.** All original documents referenced in Article 24 shall be delivered by the parties as of the Commencement Date.

24.02 **Failure to Satisfy Contingencies.** If the contingencies set forth in this Article 24 are not satisfied in accordance with the terms hereof, Tenant may notify Landlord in writing prior to the expiration of the Inspection Period of its election to terminate this Lease and upon giving such notice, this Lease shall be null and void and each party released and relieved of all liability under this Lease, except as specifically provided herein.

## 25. PRORATIONS.

25.01 **Proration; Security Deposits; Escrow Accounts.** To the extent applicable and except as otherwise provided herein, as of the Commencement Date, all Taxes and expenses shall be prorated between the Landlord and Tenant and shall include all Rent and expenses due monthly and annually.

25.02 **Impact Fees.** Tenant shall be responsible for all impact fees for the Improvements.

25.03 **Landlord Cooperation.** Landlord shall reasonably cooperate with Tenant with regard to coordination of construction activities and upon request by Tenant. Landlord shall execute all instruments necessary to facilitate such coordination of construction activities, including but not limited to applications for licenses and permits from applicable governmental authorities other than Landlord, provided Landlord shall not incur any obligation, liability, expense, cost or obligation in respect thereto.

## 26. MISCELLANEOUS.

26.01 **Entire Agreement.** This Lease and the Exhibits attached hereto and thereto contain all the agreements of the parties with respect to the subject matter herein. There have been no representations made by either party or understandings made between the parties express or implied with respect to the subject matter hereof other than those set forth in this Lease and the Exhibits attached hereto. This Lease (including the attached Exhibits) may not be modified except by a written instrument duly executed by the parties hereto. The parties have had an opportunity negotiate this Lease and to consult with counsel; accordingly, the rule of interpretation known as “construction against the drafter” will not apply to this Lease or the Exhibits.

26.02 **Waiver.** Failure by either party to enforce any of the provisions hereof for any length of time shall not be deemed a waiver of its rights set forth in this Lease. Such a waiver may be made only by an instrument in writing signed by the party sought to be charged with the waiver.

26.03 **Severability.** If any covenant or provision of this Lease is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity

- of the remaining covenants and provisions, it being the intention of the parties that this Lease be so construed as to render enforceable that portion of this Lease unaffected by such holding. The contractual provisions shall be deemed severable.
- 26.04 Counterparts. This Lease and any amendment made in accordance with the terms hereof may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.
- 26.05 Successors. It is agreed that the respective rights and obligations hereunder shall inure to, and be binding upon, the respective heirs, devisees, legal and personal representatives, assigns, grantees and successors in interest of Landlord, and shall inure to, and be binding upon the permitted assigns and successors in interest of Tenant.
- 26.06 No Third-Party Beneficiary. Except as otherwise expressly set forth in this Lease, the parties agree that no individual and/or entity is intended to have, nor shall any individual and/or entity be deemed to have, any rights, benefits, privileges, causes of action, rights of action or remedies as a third-party beneficiary to or under this Lease or otherwise.
- 26.07 Business Day. Should any due date hereunder fall on a Saturday, Sunday or legal holiday in the State of Florida, then such date shall be deemed timely if given on the first business day following such Saturday, Sunday or legal holiday.
- 26.08 Governing Law and Venue. This Lease shall be governed by the laws of the State of Florida without regard to its conflict of laws provision. The exclusive venue for any lawsuits, actions or proceedings arising in connection with this Lease shall be the state courts of Polk County, Florida.
- 26.09 Gender. Feminine, neuter and masculine pronouns, and the plural and the singular, shall be construed to be and shall be interchangeable in any place or places in which the context may require such interchange.
- 26.10 Authority. The execution and performance of this Lease by each party has been duly authorized by all applicable laws and regulations and all necessary corporate action, and this Lease constitutes the valid and binding obligation of such party, enforceable in accordance with its terms.
- 26.11 Appropriations. Landlord's performance of its obligations and covenants under this Lease shall be subject to the appropriation of funds sufficient for such purpose. Landlord shall be relieved of such obligations and covenants if funds are not appropriated and available to Landlord. Landlord shall provide Tenant notice of the non-availability of funds necessary for Landlord to perform and comply with its obligations and covenants under this Lease promptly after Landlord has actual knowledge thereof.
- 26.12 No Pledge. Tenant acknowledges and agrees that it has no right, power or authority under this Lease or otherwise to pledge the credit of the Landlord, the Board of Governors, the State of Florida or any subdivision or agency thereof or other governmental authority, or to obligate the Landlord, the Board of Governors, the State of Florida or any subdivision or agency thereof or any other governmental authority as a guarantor, indemnitor, surety or insurer of the Tenant's interest under this Lease or other agreement in any way arising out of, relating to or in connection with the Property or the Improvements. Tenant further acknowledges and agrees that this Lease does not constitute a pledge or the credit of the Landlord, the Board of Governors, the State of Florida or any subdivision or agency thereof or of any other governmental authority.

- 26.13 Captions. The captions of this Lease are for convenience only, are not a part of this Lease, and do not in any way limit or amplify the terms and provisions hereof.
- 26.14 Radon Gas. Pursuant to Section 404.056, Florida Statutes, Landlord is required to notify Tenant of the following: “Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health department.”
- 26.15 Force Majeure. Except as otherwise expressly set forth in this Lease, if either party hereto shall be delayed or hindered in, or prevented from, the performance of any act (other than the payment of money) required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, adverse weather conditions (including but not limited to tropical storms and hurricanes), epidemic, war or other reasons of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease (all of such reasons or causes referred to in this Lease as “Force Majeure”), then performance of such acts shall be excused for the period of the delay, and the period within which the performance of such act may be required hereunder shall be extended by a period equivalent to the period of such delay. In the event of a Force Majeure, Tenant shall use reasonable efforts to reduce material negative impacts to Florida Poly’s students, such as blocking pathways, or causing undue amounts of noise during critical time periods (such as after business hours or during weeks allocated for final exams (which dates are provided by Florida Poly)). The exclusive relief for a Force Majeure event will be receipt of an extension of the schedule for the performance of such act required hereunder by a period equivalent to the period of such delay.
- 26.16 Rights Cumulative. Unless expressly provided to the contrary in this Lease, each and every one of the rights, remedies, and benefits provided by this Lease shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.
- 26.17 Time is of the Essence. Time is of the essence of this Lease.
- 26.18 Sales Tax. Tenant agrees to pay any Florida sales and use tax levied upon the Rent and other amounts payable by Tenant under this Lease.
- 26.19 Brokers. Landlord and Tenant warrant to each other that they have not dealt with brokers in connection with this Lease and that no brokers are entitled to any commissions as it relates to this Lease, other than Tenant’s broker which will be paid by Tenant pursuant to separate agreement. Tenant hereby indemnifies the other against, and agrees to defend and hold the Landlord harmless from, any and all claims for any real estate commissions or similar fees arising out of or in any way connected with any claimed agency relationship with the indemnitor relating to the transaction contemplated by this Lease.
- 26.20 No Joint Venture or Partnership. Landlord and Tenant hereby acknowledge and agree that the relationship between the parties hereto is that of landlord and tenant, and that nothing contained in this Lease shall be deemed or construed as creating the relationship of principal and agent, or of partnership, or of a joint venture between Landlord and Tenant in respect to the Land or the Improvements.

## 27. LANDLORD’S AND TENANT’S MARKS.

- 27.01 Landlord's Marks. Tenant shall not use the name of Landlord or any of its symbols, logos, trademarks or other representations of those of its affiliated organizations ("Landlord's Marks") without the express written consent of Landlord and the applicable affiliated organization(s). Tenant shall not, during the Term of this Lease, change the name of the Project if such new name would include use of any Landlord's Marks, without the express written consent of Landlord, which consent may be granted or withheld in Landlord's sole and absolute discretion. Upon the expiration of, or earlier termination of, this Lease, Landlord may require that the name of the Project be changed to remove Landlord's Marks.
- 27.02 Tenant's Marks. Landlord shall not use the name of Tenant or any of its symbols, logos, trademarks or other representations of those of its affiliated organizations ("Tenant's Marks") without the express written consent of Tenant and the applicable affiliated organization(s). Landlord shall not, during the Term, change the name of the Project if such new name would include use of any Tenant's Marks, without the express written consent of Tenant, which consent may be granted or withheld in Tenant's sole and absolute discretion. Upon the expiration or early termination of this Lease, Tenant may require that the name of the Project be changed to remove Tenant's Marks.

## 28. LEASEHOLD ENCUMBRANCES

- 28.01 Leasehold Encumbrances. During the Term, subject to the terms of this Lease, Tenant has the right to pledge, hypothecate or otherwise encumber from time to time its leasehold interest under this Lease as security for one or more Funding Agreements the proceeds of which are used for the purpose of funding the performance and satisfaction by Tenant of its obligations under this Lease or refinancing any existing debt. Except to the extent expressly agreed to in writing by Landlord, no such Funding Agreement or any extension, renewal, re-financing or replacement thereof obtained by or on behalf of Tenant shall impose any obligation or liability whatsoever on Landlord or attach to, encumber or otherwise affect Landlord's interest in the fee simple interest in the Land or the Florida Poly Campus. The sole recourse of any Leasehold Mortgagee shall be against Tenant and Tenant's interest in the Improvements and Tenant's leasehold interest under this Lease. The underlying fee simple title to the Land and Landlord's reversionary interest in the Improvements shall not be mortgaged or encumbered by Tenant. All loans secured by Tenant's interest in the Improvements and this Lease shall be paid in full, and any Leasehold Mortgage shall be cancelled, released and discharged before the expiration or earlier termination of the Term.
- 28.02 Secured Party. If, from time to time, Tenant shall either encumber the leasehold estate created by this Lease and/or Tenant's interest in the Improvements with a Leasehold Mortgage and if the Leasehold Mortgagee delivers to Landlord an executed counterpart of such Leasehold Mortgage, together with each assignment thereof, together with written notice specifying the name and address of such holder and the pertinent recording data with respect to such Leasehold Mortgage, if applicable, Landlord agrees that, anything in this Lease to the contrary notwithstanding, from and after the date of receipt by Landlord of such notice and for the term (duration) of such Leasehold Mortgage the following provisions shall apply:
- a. Consent to Amendment. Except as provided below, there shall be no cancellation, surrender or modification of this Lease by Landlord or Tenant without the prior written consent of any Leasehold Mortgagee.
  - b. Notices to Secured Parties. Landlord, upon sending Tenant any notice of an

Event of Default, breach of a covenant or failure to perform, or termination of this Lease, shall send a copy of such notice to any Leasehold Mortgagee who has provided notice to Landlord thereof. In the event Landlord sends Tenant any such notice, the Leasehold Mortgagee shall then have the same period commencing after a copy of such notice is received by it (which period be contemporaneous with cure efforts by Tenant) as is given to Tenant hereunder, plus an additional forty-five (45) days thereafter (the "Extended Cure Period"), to remedy such failure, and Landlord and Tenant shall accept performances by or at the direction of any Leasehold Mortgagee as if it had been done by Tenant. If such failure or breach is remediable but not within such Extended Cure Period, then the Leasehold Mortgagee shall have such additional time as may be necessary to remedy the said failure or breach in question, provided that, (x) the Leasehold Mortgagee commences the remedying of such failure or breach no later than within the Extended Cure Period and thereafter proceeds with all due diligence to complete the remedying of such failure or breach, and (y) such additional time beyond the Extended Cure Period shall not exceed another forty-five (45) days. Any notice required to be given to any Leasehold Mortgagee hereunder shall be posted in the United States mail, postage prepaid, certified, return receipt requested or sent by recognized overnight courier or delivery service and addressed to the Leasehold Mortgagee at the address and to the attention of the person designated by such Leasehold Mortgagee by notice to Landlord to receive copies of such notices. Except with respect to the right of Landlord to temporarily step-in and cure any breach, default or delay or failure in performance by Tenant, inspect the Improvements and Tenant's books and records, all to the extent permitted by this Lease, Landlord shall not exercise any other rights or remedies granted to it under this Lease following an Event of Default by Tenant under this Lease which would interfere with Leasehold Mortgagees efforts to remedy an Event of Default until the expiration of all notice and cure periods in favor of Leasehold Mortgagee as set forth in this Paragraph 28, to the extent applicable; provided that Leasehold Mortgagee commences effort to remedy such Event of Default no later than within the Extended Cure Period or commences effort to obtain possession of the Improvements, if necessary, and Leasehold Mortgagee diligently pursues such remedy or effort to obtain possession, as applicable. Any continuing Events of Default which are not susceptible of being cured by such Leasehold Mortgagee shall, as to such Leasehold Mortgagee, be deemed waived by Landlord upon Leasehold Mortgagee obtaining Tenant's leasehold interest in the Improvements under this Paragraph 28.02(b), subject to the full reservation by Landlord of all claims, rights and remedies which Landlord may have against any other Person relating thereto.

c. Limitation Upon Termination Rights of Landlord. If Landlord elects to terminate this Lease or re-enter upon the occurrence of an Event of Default, the Leasehold Mortgagee shall also have the right to postpone and extend the date of termination or re-entry as fixed by the provisions of this Lease for a period of not more than twelve (12) months from the expiration of the applicable cure period specified in Paragraph 17.01, provided that the Leasehold Mortgagee (i) shall forthwith take steps necessary to acquire Tenant's interest and estate in this Lease by foreclosure of its Leasehold Mortgage, or otherwise, and shall prosecute such action to completion with due diligence and thereafter upon obtaining such possession or control, as applicable, commence the curing of the Event of Default with due diligence; or (ii) if applicable, shall cause Tenant to provide Landlord with a remedial plan acceptable to Landlord setting forth in reasonable detail how the Leasehold Mortgagee shall cure the Event of Default and thereafter perform Tenant's obligations, covenants and

agreements under this Lease. If at the end of the twelve (12) month period, the Leasehold Mortgagee is actively engaged in steps to acquire or sell Tenant's leasehold interest in this Lease and the Improvements or to replace the management of the Improvements, the time for Leasehold Mortgagee to comply with the provisions of this Paragraph 28.2I shall be extended for such period as shall be reasonably necessary to complete the acquisition or sale or the remedial plan with reasonable diligence and continuity.

d. Assignment. Landlord agrees that in the event of any foreclosure under any Leasehold Mortgage, either by judicial proceedings or under power of sale contained therein or transfer made in lieu of foreclosure (collectively, a "Leasehold Mortgage Transfer"), all right, title and interest encumbered by such Leasehold Mortgage may, without the consent of Landlord, be assigned to and vested in the purchaser at such foreclosure sale or transferee of a transfer made in lieu of foreclosure, subject and subordinate, however, to the rights, title and interests of Landlord under this Lease; and, notwithstanding that Landlord's consent to said assignment shall not have been obtained, any such assignee shall be vested by virtue of such assignment with any and all rights of the party whose estate was encumbered by such Leasehold Mortgage as though Landlord had consented thereto; provided, however, with respect to any continuing Event of Defaults which are susceptible of being cured, the assignee or purchaser at such foreclosure sale, shall be required to provide a remedial plan that sets out in reasonable detail such party's plan, schedule and budget to cure the Event of Default which caused the foreclosure and to perform Tenant's obligations, covenants and agreements under this Lease accruing after the date on which such assignee or purchaser obtains Tenant's leasehold interest in the Improvements and to execute an instrument in form and substance reasonably acceptable to Landlord assuming Tenant's obligations, covenants and agreements to Landlord under this Lease. Any continuing Events of Default which are not susceptible of being cured by such assignee or purchaser shall, as to such assignee or purchaser, be deemed waived by Landlord upon the assignee or purchaser obtaining Tenant's leasehold interest in the Improvements under this Paragraph 28.02(d), subject to the full reservation by Landlord of all claims, rights and remedies which Landlord may have against any other Person relating thereto.

e. Secured Party Leases. Landlord agrees that in the event of a rejection of this lease by Tenant in a bankruptcy proceeding or termination of this Lease or re-entry without termination by reason of any Event of Default, and subject to the rights herein granted to Leasehold Mortgagee, the Leasehold Mortgagee shall have the option, but not the obligation, to enter into a ground lease agreement directly with Landlord on the same terms and conditions for the remainder of the Lease Term (a "Secured Party Lease"); provided:

(D) the Leasehold Mortgagee shall enter into a Secured Party Lease within the required period specified in Paragraph 28.2I and all rights and interests of the Tenant shall vest in the Leasehold Mortgagee from the date of the execution of the Secured Party Lease to the fullest extent as if the Lease was never terminated in the first place;

(ii) the Leasehold Mortgagee shall pay, perform and observe all obligations, covenants and agreements contained in the Secured Party Lease on Tenant's part to be paid



and performed during such period of time commencing with the date of the execution of the Secured Party Lease and terminating upon the abandonment or surrender of possession of the Improvements under, or the assignment of, the Secured Party Lease;

(D) the Leasehold Mortgagee, as the tenant under the Secured Party Lease, shall have the same right, title and interest in and to the Improvements and the right to use the Improvements as Tenant had under this Lease, subject to the terms and conditions of this Lease.

f. Agreement Between Landlord and Secured Party. Landlord, upon reasonable written request by Leasehold Mortgagee, shall execute, acknowledge, and deliver to Leasehold Mortgagee an agreement (including any estoppel, subordination and non-disturbance agreement and/or direct agreement, as the case may be), in form reasonably satisfactory to the Leasehold Mortgagee and Landlord, by and among Landlord, Tenant, and the Leasehold Mortgagee (provided the same has been previously executed by Tenant and Leasehold Mortgagee) agreeing to the provisions of Article 28.

g. Limitation on Liability of Secured Party. Notwithstanding any other provision of this Lease, Landlord agrees that any Leasehold Mortgagee permitted under this Lease shall in no manner or respect solely as a result of such status be (i) liable or responsible for any of Tenant's obligations or covenants under this Lease (nor shall any rights of such Leasehold Mortgagee be contingent on the Tenant's satisfaction of such obligations or covenants); or (ii) required to cure any Event of Default, provided; however, that if such Leasehold Mortgagee becomes the owner of the leasehold estate created hereunder or becomes the tenant under a Secured Party Lease, then such Leasehold Mortgagee shall be responsible and liable for all obligations and covenants accruing during the period of time that the Leasehold Mortgagee is the owner of such leasehold estate or tenant under a Secured Party Lease, or obtains management or control of Tenant, as applicable. Notwithstanding the foregoing, the liability of a Leasehold Mortgagee with respect to its obligations under this Lease or any Secured Party Lease shall be "non-recourse" and, accordingly, Landlord's source of satisfaction of such obligations from the Leasehold Mortgagee shall be limited to Landlord's rights, all of which can be exercised by Landlord, to terminate this Lease as provided herein and execution upon, receipt and collection of and/or enforcement of all rights of Landlord or Tenant under or with respect to the Improvements, reserves, accounts, accounts, any insurance policy or surety bond or other payment or performance security proceeds and Landlord shall not seek to obtain payment through any judicial process or otherwise from such Leasehold Mortgagee or from any assets of such Leasehold Mortgagee other than the Improvements, reserves, accounts, insurance policy or surety bond or other payment or performance security proceeds and the Tenant's interest in the Improvements, the rents, issues and surplus related thereto, any insurance proceeds arising therefrom.

h. Notice to Landlord. Tenant shall request that each Leasehold Mortgagee provide Landlord notice of the occurrence of an event of default or other event, occurrence or circumstance under the related Leasehold Mortgage for which such Leasehold Mortgagee has commenced to exercise its remedies related thereto. For the avoidance of doubt, any foreclosure of a Leasehold Mortgage or any sale thereunder, whether by judicial

proceedings or otherwise, or any conveyance of the leasehold estate created hereby from Tenant to Leasehold Mortgagee by virtue or in lieu of foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord or constitute a breach of any provision of or a default under this Lease.

i. No Merger. There shall be no merger of the leasehold estate created by this Lease with the fee estate in the Property by reason of the fact that the same person or entity may own or hold (a) the leasehold estate created by this Lease or any interest in such leasehold estate, and (b) the fee estate in the Property or any interest in such fee estate; and no such merger shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in (i) the leasehold estate created by this Lease, or (ii) the fee estate in the Property, shall join in a written instrument effecting such merger and shall duly record the same.

## 29. TENANT TERMINATION OPTION.

Notwithstanding anything herein to the contrary, Tenant may terminate this Lease at any time upon written notice to Landlord, provided that Tenant's interest in this Lease and the Improvements shall not be encumbered by any debt as of the effective date of such early termination.

## 30. LANDLORD'S RIGHT TO TERMINATE 'FOR CONVENIENCE'.

- a. If Landlord reasonably and in good faith by a vote of a majority of the members of its Board of Trustees (or other governing body if a change from a Board of Trustees) determines that the use of the Property for the operation of a research laboratory is detrimental to Landlord's use of the Florida Poly Campus to further its mission as an institution for higher learning, then Landlord may, at its option, elect to terminate this Lease by delivering written notice of such election to Tenant ("Notice of Election to Terminate") at least two (2) years prior to the effective date of termination (the date that is two (2) years after Tenant's receipt of Landlord's written notice hereinafter referred to as the "Convenience Termination Date"). As of the Convenience Termination Date, this Lease shall be deemed terminated and of no further force or effect, except as otherwise expressly set forth herein, subject to the terms, conditions and requirements of this Article 30. Landlord acknowledges and agrees that in order for Tenant to meet its obligations under this Lease and Subtenant to meet its obligations under the Affiliation Agreement, (a) Tenant must, in reliance upon its rights under this Lease make a substantial investment in designing, permitting, developing, constructing and fixturing the Improvements, (b) Subtenant must make a substantial investment in hiring and training employees whose jobs are located at the Property, (c) Subtenant must make a substantial investment in marketing, developing and operating its business at the Property; and Landlord further acknowledges and agrees that if Landlord terminates this Lease pursuant to this Article 30, Tenant may lose the benefit of its substantial investment in and to the Property; and Subtenant may (x) incur significant expense due to relocating employees and other employee matters; (y) lose the benefit of its investment in marketing, developing and operating its business from the Property; and (z) suffer loss in profits during the time Tenant is unable to operate within the market area, if any. Therefore, Landlord acknowledges and agrees that Landlord's right to terminate this Lease (and the termination of this Lease) as set forth herein is expressly and strictly conditioned upon the following (the "Conditions Precedent"):

- i. Landlord paying to Tenant, at least one (1) year prior to the Convenience Termination Date, an amount equal to the sum of the following amounts:
  - A. the Early Termination Purchase Price in effect as of the Convenience Termination Date; plus
  - B. all rentals payable to Tenant in accordance with any sublease (or any similar agreement) then encumbering Tenant's leasehold interest under this Lease from the date immediately following the Convenience Termination Date through the scheduled expiration date of such sublease; plus
  - C. an amount equal to the value of Tenant's remaining leasehold interest in the Land (or any applicable portion thereof) for any period prior to the later of the Convenience Termination Date or the Initial IFF Sublease Expiration Date, to the extent that during such period the Land (or any applicable portion thereof) is not encumbered by a sublease, as may be applicable. Tenant's remaining leasehold interest in the Land shall be determined by an appraiser reasonably acceptable to Landlord and Tenant. If Landlord and Tenant are not able to agree on an appraiser, then each shall appoint an appraiser, and the value of Tenant's remaining leasehold interest shall be the average of the two appraisals; provided, however, if the two appraisals vary by more than ten percent (10%), the two appraisers shall appoint a third appraiser, and the value of Tenant's remaining leasehold interest shall be the average of the two closest values of the three appraisals; plus
  - D. any prepayment penalties, breakage fees and/or similar costs and expenses incurred (or scheduled to be incurred) by Tenant on account of Tenant's prepayment of any loan under any Funding Agreement and/or the early release of any Leasehold Mortgage, including, without limitation, any reasonable attorneys' fees incurred by Tenant in connection with the same.
- ii. Landlord paying to Subtenant Subtenant's Costs in accordance with the following provisions. Within nine (9) months of receipt of the Notice of Election to Terminate Subtenant shall provide Landlord Subtenant's budgetary estimate of Subtenant's Costs which shall include in reasonable detail the following:
  - A. whether Subtenant will relocate within 10 miles of the Premises, to determine if employee relocation costs may be payable, and if payable an estimate of the per employee relocation/termination costs;
  - B. the estimated cost difference in base rent between the Premises and the new potential location in accordance with the definition of Subtenant's Costs, with a letter from a nationally recognized brokerage company ("Broker's Letter") setting forth its evaluation of base rent at an equivalent building in the proposed relocation area;
  - C. the estimated brokerage fees or costs for the new lease, supported by

the Broker's Letter;

- D. the estimated replacement costs for trade fixtures, furnishings, equipment and personal property as specified in Subtenant's Costs;
- E. the estimated difference in tenant improvement allowance at the new location and cost of tenant improvements, supported by the Broker's Letter;
- F. an estimate of soft costs for the relocation with an allocation between the soft costs and any miscellaneous business expenses; and
- G. an estimate of the hard construction costs and application of the 3% administrative fee.

Within 60 days of the delivery of the budgetary estimate, Landlord shall remit directly to Subtenant, 90% of the budgetary estimate. Landlord shall also advise Subtenant of any costs for which Landlord requests additional reasonable supporting documentation of estimated costs.

Within 18 months after the delivery of the budgetary estimate, Subtenant shall submit a reconciliation of its actual Subtenant's Costs and the budgetary estimate, with reasonable documentation of any variances above the budgetary estimate.

Within 30 days thereafter, Landlord shall remit directly to the Subtenant, the difference between the amounts previously paid and the actual Subtenant's Cost. In the event of any dispute, Landlord shall pay any undisputed amounts and provide a detailed letter of explanation regarding disputed amounts. The parties shall meet and confer regarding resolution of the disputed amounts. If the parties are unable to resolve a disputed amount the dispute is subject to dispute resolution hereunder.

- b. Upon the failure of Landlord to satisfy each and all of the Conditions Precedent, provided that such failure with respect to any Condition Precedent is subject to dispute resolution hereunder, at Tenant's option, Landlord's notice of termination shall be null and void, and this Lease shall remain in full force and effect for the remainder of the Term. Notwithstanding the foregoing, in the event that Tenant does not elect to deem Landlord's notice of termination null and void in accordance with the foregoing, then this Lease shall expire upon the Convenience Termination Date and Landlord's obligation to comply with the Conditions Precedent shall survive such termination of this Lease.

31. Dispute Resolution. The Parties shall utilize the following process for the resolution of any claim, dispute or disagreement (each a "Dispute") hereunder.

- c. Direct Communication. Management-level representatives of the Parties shall meet in an attempt to resolve any Dispute within twenty (20) days after one Party sends notice to the other Party of the existence of such Dispute. If such management representatives of each Party are unable to resolve the Dispute within such twenty (20) days after the initial notice the Parties shall have the right to refer the Dispute to mediation.
- d. (b) Mediation. If the Dispute cannot be resolved through direct communication and meetings of representatives of the Parties as provided in paragraph (a) immediately above, either Party may request appointment of a neutral mediator with demonstrated subject matter expertise and experience mutually agreeable to the Parties. Both Parties shall participate in the mediation

proceedings and conferences convened by a mediator until earlier of resolution of the Dispute and twenty (20) days after the first mediation proceeding with the mediator. The mediator's fee shall be divided equally between the Parties. The mediator is to act impartially and independently in the consideration of facts and conditions surrounding any dispute presented by Landlord and Tenant; however, the mediator's recommendations concerning any such dispute are advisory only. The mediator's recommendations shall be based on the pertinent Lease provisions, and the facts and circumstances involved in the dispute.

- e. I Arbitration.
  - i. Method. If the Dispute is not resolved through mediation, either Party may request arbitration to resolve the Dispute. If the Parties cannot agree on a single arbitrator within ten (10) Business Days following a Party's request for arbitration, then each Party shall appoint one arbitrator and the two appointed arbitrators shall select the third arbitrator within ten (10) days following the appointment of the initial two arbitrators, who shall be the chairperson of the panel. Each arbitrator shall have demonstrated expertise and experience regarding the subject in dispute and shall not be presently or previously affiliated with either Party. The initiating Party shall give written notice of its decision to arbitrate by providing a specific statement setting forth the nature of the Dispute, the amount involved, and the remedy sought and the other Party shall reply to the initial statement and assert any claims within ten (10) days after receipt of the initial statement. For a period of sixty (60) days after the single arbitrator or third arbitrator is selected, the Parties shall have an equal and fair opportunity to present their respective positions to the arbitrators, orally or in writing, as the arbitrators may specify depending on the nature and scope of the Dispute and the amount in controversy. The arbitrators may require such testimony, materials and documentation during such sixty (60) day period as they may determine to be appropriate. The arbitrators shall provide a written resolution within thirty (30) days after the panel's receipt of requested testimony, materials and documents, which resolution shall be limited to resolution of the specific Dispute.
  - ii. Location. All alternative dispute resolution proceedings shall be held in Lakeland, Florida.
  - iii. Binding Nature; applicable Law. The consideration of the Parties to be bound by arbitration is not only the waiver of access to determination of a Dispute by a court and/or jury, but also the waiver of any rights to appeal the arbitration finding and award other than for the reasons set forth in § 682.20 of the Florida Statutes. A judgment upon an award rendered by the arbitrators may be entered in any court having jurisdiction.
- f. Upon conclusion of the alternative dispute resolution proceedings, Landlord and Tenant shall implement the agreement of the Parties or the arbitrator's award as the case may be.
- g. The alternate dispute resolution process set forth in this Section 30.1 shall not preclude a Party from seeking injunctive relief in order to maintain the status quo during the pendency of a Dispute resolution proceeding.
- 32. No Consequential Damages. Notwithstanding anything herein to the contrary, whenever, either party may seek or claim damages against the other party (whether by reason of a breach of this Lease by such party, in enforcement of any indemnity

obligation, for misrepresentation or breach of warranty, or otherwise), neither Landlord nor Tenant shall seek, nor shall there be awarded or granted by any court, arbitrator, or other adjudicator, any speculative, consequential, collateral, special, punitive, or indirect damages, whether such breach shall be willful, knowing, intentional, deliberate, or otherwise. The parties intend that any damages awarded to either party shall be limited to actual, direct damages sustained by the aggrieved party. Neither party shall be liable for any loss of profits suffered or claimed to have been suffered by the other.

LANDLORD:

TENANT:

The Florida Polytechnic University

\_\_\_\_\_

Board of Trustees, a public body corporate

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to form and legality:

BY: \_\_\_\_\_

Florida Poly Attorney

DATE: \_\_\_\_\_

Approved by University Board of Trustees

President on behalf of the  
University Board of Trustees

BY: \_\_\_\_\_

Dr. Randy Avent

DATE: \_\_\_\_\_

**EXHIBIT "A"**

LEGAL DESCRIPTION OF THE LAND

A parcel of land lying within Section 7, Township 27 South, Range 25 East, Polk County, Florida, being more particularly described as follows:

For a POINT OF REFERENCE commence at the Southwest corner of said Section 7; thence along the South boundary line of Section 7, Township 27 South, Range 25 East, Polk County, Florida, S.89°02'06"E., a distance of 1,948.56 feet; thence N.00°57'54"E., a distance of 1,298.20 feet to a non-tangent curve for a POINT OF BEGINNING; thence Northwesterly 195.17 feet along the arc of a curve to the right, said curve having a radius of 2,170.72 feet, a central angle of 05°09'06", and a chord bearing and distance of N.46°28'16"W., 195.11 feet; thence N.47°12'40"E., a distance of 343.35 feet; thence S.42°43'29"E., a distance of 195.10 feet; thence S.47°16'44"W., a distance of 330.61 feet to the POINT OF BEGINNING.

Containing 1.514 acres, more or less.

## **EXHIBIT "B"**

### PERMITTED TITLE ENCUMBRANCES

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Any rights, interests, or claims of parties in possession of the land not shown by the public records.
3. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the land.
4. Any lien or right to a lien for services, labor, material or equipment, unless such lien is shown by the Public Records at Date of Policy and not otherwise excepted from coverage herein.
5. Any dispute as to the boundaries caused by a change in the location of any water body within or adjacent to the land prior to Date of Policy, and any adverse claim to all or part of the land that is, at Date of Policy, or was previously under water.
6. Taxes or special assessments not shown as liens in the public records or in the records of the local tax collecting authority, at Date of Policy.
7. Any minerals or mineral rights leased, granted or retained by current or prior owners, without right of entry.
8. Taxes and assessments for the year 2021 and subsequent years, which are not yet due and payable.
9. Certificate of Establishing Water Basin Boundaries of the Southwest Florida Water Management District and the Green Swamp Area of Critical State Concern: Official Records Book 696, Page 63; Official Records Book 744, Page 649; Official Records Book 1701, Page 2055; Official Records Book 1833, Page 1383 and Official Records Book 2400, Page 109, Public Records of Polk County, Florida.
10. Easement Agreement in favor of the City of Lakeland, Florida recorded in Official Records Book 1621, Page 926, Public Records of Polk County, Florida.
11. Terms and Provisions of Utility Easement Agreement (Sewer and Water Lines) in favor of the City of Auburndale recorded in Official Records Book 3671, Page 1605, as amended by Amended Utility Easement Agreement (Sewer and Water Lines) recorded in Official Records Book 3828, Page 564, and affected by Certification and Release recorded in Official Records Book 7984, Page 498, Public Records of Polk County, Florida.
12. All rights of ingress, egress, light, air and view as set forth in Stipulated Order of Taking in favor of the State of Florida, Department of Transportation recorded in Official Records Book 3884, Page 2090, Public Records of Polk County, Florida.
13. Perpetual Drainage Easement as set forth in Stipulated Order of Taking in favor of the State of Florida, Department of Transportation recorded in Official Records Book 3884, Page 2090, Public Records of Polk County, Florida.
14. Ordinance No. 4249 recorded in Book 4723, Page 301, as duplicated by Book 4802, Page 214.
15. City of Lakeland/Williams Acquisition Holding Company, Inc. Preceding Development Agreement recorded in Official Records Book 4502, Page 1909, Public Records of Polk County, Florida.
16. Declaration of Restrictive Covenants recorded in Official Records Book 7246, Page 347, Public Records of Polk County, Florida.



17. Notice of Adoption of Amended and Restated Development Order for the Williams Development of Regional Impact recorded in Book 7469, Page 585, as affected by Ordinance No. 5790 recorded in Book 11061, Page 2308.
18. Campus Development Agreement between the City of Lakeland and the University of South Florida Board of Trustees recorded in Official Records Book 7558, Page 825, Public Records of Polk County, Florida.
19. Temporary Access Easement Agreement by and between Williams Acquisition Holding Company, Inc. and the University of South Florida Board of Trustees recorded in Official Records Book 7943, Page 1273, as affected by Subordination of Easement Rights in favor of the City of Lakeland recorded in Official Records Book 7991, Page 947, Public Records of Polk County, Florida.
20. Drainage Easement Agreement by and between Williams Acquisition Holding Company, Inc. and the University of South Florida Board of Trustees recorded in Official Records Book 7943, Page 1295, as affected by Subordination of Easement Rights in favor of the City of Lakeland recorded in Official Records Book 7991, Page 947, Public Records of Polk County, Florida.
21. Perpetual Slope Easement to the City of Lakeland recorded in Official Records Book 7984, Page 468, Public Records of Polk County, Florida.
22. Perpetual Slope Easement recorded in Book 7984, Page 533.
23. Partial release and Subordination(s), in Book 7988, Page 1020; Book 7988, Page 1028; Book 7988, Page 1042 and Book 7988, Page 1076.
24. Terms and conditions of the unrecorded Amended and Restated Agreement for Donation of Land dated March 1, 2007, as amended by First Amendment dated May 23, 2008, between Williams Acquisition Holding Company, Inc. and the University of South Florida Board of Trustees, as affected by Subordination of Easement Rights in favor of the City of Lakeland recorded in Official Records Book 7991, Page 947, Public Records of Polk County, Florida, adding Assignment and Declaration of Reverter recorded in Book 8891, Page 230.
25. East-West Road Right-Of-Way Donation and Concurrency Agreement recorded in Book 7996, Page 1693.
26. Drainage Easement Agreement recorded in Book 8225, Page 242.
27. Easement to Tampa Electric Company recorded in Official records Book 8433, Page 3, Public Records of Polk County, Florida.
28. Communication Easement to Verizon Florida LLC recorded in Official Records Book 8562, Page 864, Public Records of Polk County, Florida.
29. Cross Easement Agreement by and between Williams Acquisition Holding Company, Inc. and the University of South Florida Board of Trustees recorded in Official Records Book 8640, Page 1485, Public Records of Polk County, Florida.
30. Easement recorded in Book 8779, Page 1655.
31. Easement recorded in Book 9173, Page 1392.
32. Utility Easement to City of Lakeland, Florida, dated August 30, 2012, adding as disclosed in Special Warranty Deed recorded in Book 8791, Page 489.
33. Utility Easement to Orlando Utilities Commission (Parcel P-6C.02) dated October 18, 2012, adding as disclosed in Special Warranty Deed recorded in Book 8791, Page 489.

34. Terms and conditions of any existing unrecorded lease(s), and all rights of lessee(s) and any parties claiming through the lessee(s) under the lease(s).

*(End of Exhibit B)*

**EXHIBIT "C"**

MEMORANDUM OF LEASE

This instrument prepared by  
(and after recording return to):  
KENNETH ARTIN  
BRYANT MILLER OLIVE P.A  
255 SOUTH ORANGE AVENUE, SUITE 1350  
ORLANDO, FLORIDA 32801

## MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE is made and entered into as of the \_\_\_ day of [\_\_\_\_\_, 2022], by and between THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES, a public body corporate of the State of Florida (hereinafter referred to as "Landlord") and HS POLY RESEARCH, LLC, a Delaware limited liability company (hereinafter referred to as "Tenant"), with reference to the following facts:

- A. Landlord and Tenant have entered into a certain Ground Lease Agreement (hereinafter referred to as the "Lease") of even date herewith; and
- B. Landlord and Tenant desire to enter into this Memorandum of Lease to set forth certain terms and conditions of the Lease.

NOW, THEREFORE, for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00) in hand paid by Landlord and Tenant, each to the other, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant, intending to be legally bound, hereby set forth the following information with respect to the Lease:

1. **Landlord.** The name and address of Landlord are as follows:

Florida Polytechnic University  
4700 Research Way  
Lakeland, Florida 33805  
Attn: Office of the President

With a copy to:

Florida Polytechnic University  
4700 Research Way  
Lakeland, Florida 33805  
Attn: Office of the General Counsel

2. **Tenant.** The name and address of Tenant are as follows:

HS Poly Research, LLC  
533 South Third Street, Suite 100  
Minneapolis, MN 55415

3. **Date of Lease.** The Lease is dated as of the \_\_\_\_ day of [\_\_\_\_\_, 2022 ("Effective Date").

4. **Commencement Date.** The date that is the earlier of (i) the date International Flavors & Fragrances, Inc, as subtenant (“Subtenant”), commences regular business operations from the entire Property, or (ii) sixty (60) days after issuance of a temporary certificate of occupancy allowing Subtenant to install its trade fixtures and personal property

5. **Term.** The term of the Lease shall consist of the following:

(a) **Initial Period.** The Lease shall be in force and effect from the Effective Date for a term (“Term”) commencing on the Commencement Date and ending on the last day of the three hundred sixtieth (360th) full calendar month succeeding the Commencement Date; and

(b) **Extension Periods.** Tenant may, at its option, extend the Term beyond the initial Term for up to a maximum of four hundred eightieth (480th) full calendar months succeeding the Commencement Date upon the terms and conditions contained in the Lease.

6. **Property.** The Property consists of that certain real property as further described on as **Exhibit A** attached hereto and by reference incorporated herein (the “Land”) together with the Improvements, as defined in the Lease.

7. **Ownership of Improvements.** The Lease provides that the Improvements shall be and remain the property of Tenant during the term of this Lease and shall revert to Landlord at the expiration or earlier termination of the Lease, subject to Tenant’s right to make alterations, or remove Improvements as allowed under the Lease.

8. **No Liens on Fee Interest or Landlord’s Interest.** The Lease provides Tenant will not create or permit to be created or to remain, and will promptly discharge, at its sole cost and expense, any lien, encumbrance or charge upon the Property, any part thereof or upon Tenant’s leasehold interest, which arises out of the use or occupancy of the Property by Tenant or by reason of any labor or materials furnished or claimed to have been furnished to Tenant or by reason of any construction, addition, alteration or repair of any part of the Property.

*[Signatures on Following Page]*

LANDLORD:

TENANT:

The Florida Polytechnic University  
Board of Trustees, a public body corporate

HS POLY RESEARCH, LLC  
a Florida limited liability company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name Dr. Randy Avent, President

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date [\_\_\_\_\_, 2022

\_\_\_\_\_  
Date [\_\_\_\_\_, 2022]

[Signature Page | Memorandum of Ground Lease]

STATE OF FLORIDA

COUNTY OF POLK

The foregoing instrument was sworn to and subscribed before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2022, by Dr. Randy Avent, President of Florida Polytechnic University, on behalf of the university. Dr. Avent  is personally known to me or  produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_

Notary Public, State of \_\_\_\_\_

Print Name: \_\_\_\_\_

Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was sworn to and subscribed before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, \_\_\_\_\_ of HS Poly Research, LLC, a Delaware limited liability company, on behalf of the company. S/He  is personally known to me or  produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_

Notary Public, State of \_\_\_\_\_

Print Name: \_\_\_\_\_

Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## EXHIBIT "A"

### LEGAL DESCRIPTION OF THE LAND

A parcel of land lying within Section 7, Township 27 South, Range 25 East, Polk County, Florida, being more particularly described as follows:

For a POINT OF REFERENCE commence at the Southwest corner of said Section 7; thence along the South boundary line of Section 7, Township 27 South, Range 25 East, Polk County, Florida, S.89°02'06"E., a distance of 1,948.56 feet; thence N.00°57'54"E., a distance of 1,298.20 feet to a non-tangent curve for a POINT OF BEGINNING; thence Northwesterly 195.17 feet along the arc of a curve to the right, said curve having a radius of 2,170.72 feet, a central angle of 05°09'06", and a chord bearing and distance of N.46°28'16"W., 195.11 feet; thence N.47°12'40"E., a distance of 343.35 feet; thence S.42°43'29"E., a distance of 195.10 feet; thence S.47°16'44"W., a distance of 330.61 feet to the POINT OF BEGINNING.

Containing 1.514 acres, more or less.



## **EXHIBIT “D”**

### **INTELLECTUAL PROPERTY LICENSE AGREEMENT**

This INTELLECTUAL PROPERTY LICENSE AGREEMENT (the “Agreement”), is made and entered into by and between FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES, a public body corporate of the State of Florida (“Florida Poly”) and International Flavors & Fragrances, Inc, a New York corporation (“Respondent”), with reference to the following facts:

1. Respondent is a party to that certain Sublease Agreement dated \_\_\_\_\_ (the “Lease”), whereby Respondent subleases certain land and improvements from HS Poly Research, LLC.
2. Paragraph 2.04 of the Lease provides for Respondent to include Florida Poly’s name or logos on certain signage; and requires that the parties enter into this Agreement.
3. Florida Poly now desires to grant a license to Respondent for Respondent’s use of Florida Poly’s intellectual property as set forth in this Agreement.

NOW, THEREFORE, for the mutual consideration set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as set forth below.

4. License. Florida Poly hereby grants to Respondent a revocable, nonexclusive, non-transferable, worldwide license and right to use the intellectual property of Florida Poly as described in Exhibit A attached hereto and made a part hereof (“FPU Intellectual Property”). Respondent shall use the FPU Intellectual Property only under the terms and conditions described in this Agreement.
5. Ownership of Rights. The parties acknowledge and agree that:
  - a. The FPU Intellectual Property, is the property of Florida Poly, and not Respondent.
  - b. The FPU Intellectual Property shall only be used in the manner described in the “Permitted Uses” section of Exhibit A.
6. Agreement Personal. The benefit of this Agreement shall be personal to Respondent, which shall not, without the prior written consent of Florida Poly, assign the same, nor part with any of its rights or obligations hereunder, nor grant or purport to grant any sublicense in respect of the FPU Intellectual Property. Any such purported assignment shall be void.
7. Term and Termination. The license granted under this Agreement shall remain in full force and effect from the date of this Agreement until terminated in accordance with this Section.
  - a. Termination Upon Default. If Respondent is in material breach of one or more of its obligations under this Agreement, Florida Poly may, as its sole remedy, terminate all the rights granted by it hereunder upon thirty (30) days written notice

to Respondent. Upon termination pursuant to this Subsection (a), Respondent, at Respondent's expense, shall remove the FPU Intellectual Property from Respondent's signs, and such other property of Respondent upon which the FPU Intellectual Property has been affixed in reliance upon this Agreement.

- b. Termination Absent Default. Florida Poly may unilaterally terminate the license under this Agreement by giving at least sixty (60) days written notice to Respondent. If Florida Poly unilaterally terminates the license granted under this Agreement pursuant to this Section (b), Florida Poly shall reimburse Respondent for all costs associated with removing the FPU Intellectual Property from Respondent's signs, and such other property of Respondent upon which the FPU Intellectual Property has been affixed in reliance upon this Agreement, within thirty (30) days of receipt of Respondent's request therefor.
- c. Effect of Termination. Immediately after the expiration or termination of the license and rights granted under this Agreement (and the time periods described in (a) and (b) above), Respondent agrees to cease and discontinue completely and permanently all future use of the Respondent Intellectual Property. Upon termination of the license under this Agreement, pursuant to either Subsection (a) or (b) above, the parties acknowledge and agree that Respondent's obligation to incorporate Florida Poly's name and/or logo (or any other FPU Intellectual Property) pursuant to Paragraph 2.04 of the Lease shall terminate and be of no further force or effect.

8. Miscellaneous Provisions.

- a. Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by telecopy, electronic telephone line facsimile transmission or other similar electronic or digital transmission method; the day after it is sent, if sent by recognized expedited delivery service; and five days after it is sent, if mailed, first class mail, postage prepaid. In each case, notice shall be sent to:

If to Respondent:

Respondent

Attention: .....

If to Florida Poly:

Florida Polytechnic University

4700 Research Way

Lakeland, Florida 33805

Attn: Office of the President

With a copy to:

Florida Polytechnic University  
4700 Research Way  
Lakeland, Florida 33805  
Attn: Office of the General Counsel

or to such other address as either party may have specified in writing to the other using the procedures specified above in this Section.

- b. Assignment. This Agreement may not be assigned, in whole or in part, by either party without the written consent of the other provided, however, that Respondent shall be entitled to assign this Agreement in the event of a merger, a transfer of substantially all assets, or a similar reorganization.
- c. Waiver. The waiver by either party of a breach of any provisions of this Agreement shall not operate or be construed as a waiver of any subsequent breach thereof or the waiver of any breach of any other provision of this Agreement.
- d. Amendment. This Agreement may only be amended by an instrument in writing signed by both of the parties hereto.
- e. Choice of Law; Venue. This Agreement shall be construed in accordance with the laws of the State of Florida and venue of any legal proceedings shall be in Polk County, Florida.
- f. Survival. Florida Poly’s obligation to reimburse Respondent under Subsection 7(b) above shall survive termination of this Agreement until such reimbursement is made. The provisions of Subsection 4(c) above shall survive the expiration or earlier termination of this Agreement.

**LANDLORD:**

**RESPONDENT:**

The Florida Polytechnic University  
Board of Trustees, a public body corporate

International Flavors & Fragrances, Inc

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to form and legality:

BY: \_\_\_\_\_  
Florida Poly Attorney

DATE: \_\_\_\_\_

Approved by University Board of Trustees

President on behalf of the  
University Board of Trustees

BY: \_\_\_\_\_  
Dr. Randy Avent

DATE: \_\_\_\_\_

## **EXHIBIT A**

### **FPU INTELLECTUAL PROPERTY & PERMITTED USES**

#### **FPU INTELLECTUAL PROPERTY**

The following is the “FPU Intellectual Property” for the purposes of this Agreement:

The name “FPU” and logos derived therefrom; the use of the colors associated therewith (but only when used in conjunction with such name or logos (i.e., the use of such colors alone shall not be considered FPU Intellectual Property)).

#### **PERMITTED USES**

The following shall be the only use(s) for which International Flavors & Fragrances, Inc may use the FPU Intellectual Property:

For placement of the FPU name and/or logos alongside International Flavors & Fragrances, Inc’s name on the monument sign, or on such other surfaces as the parties agree.

EXHIBIT "E"

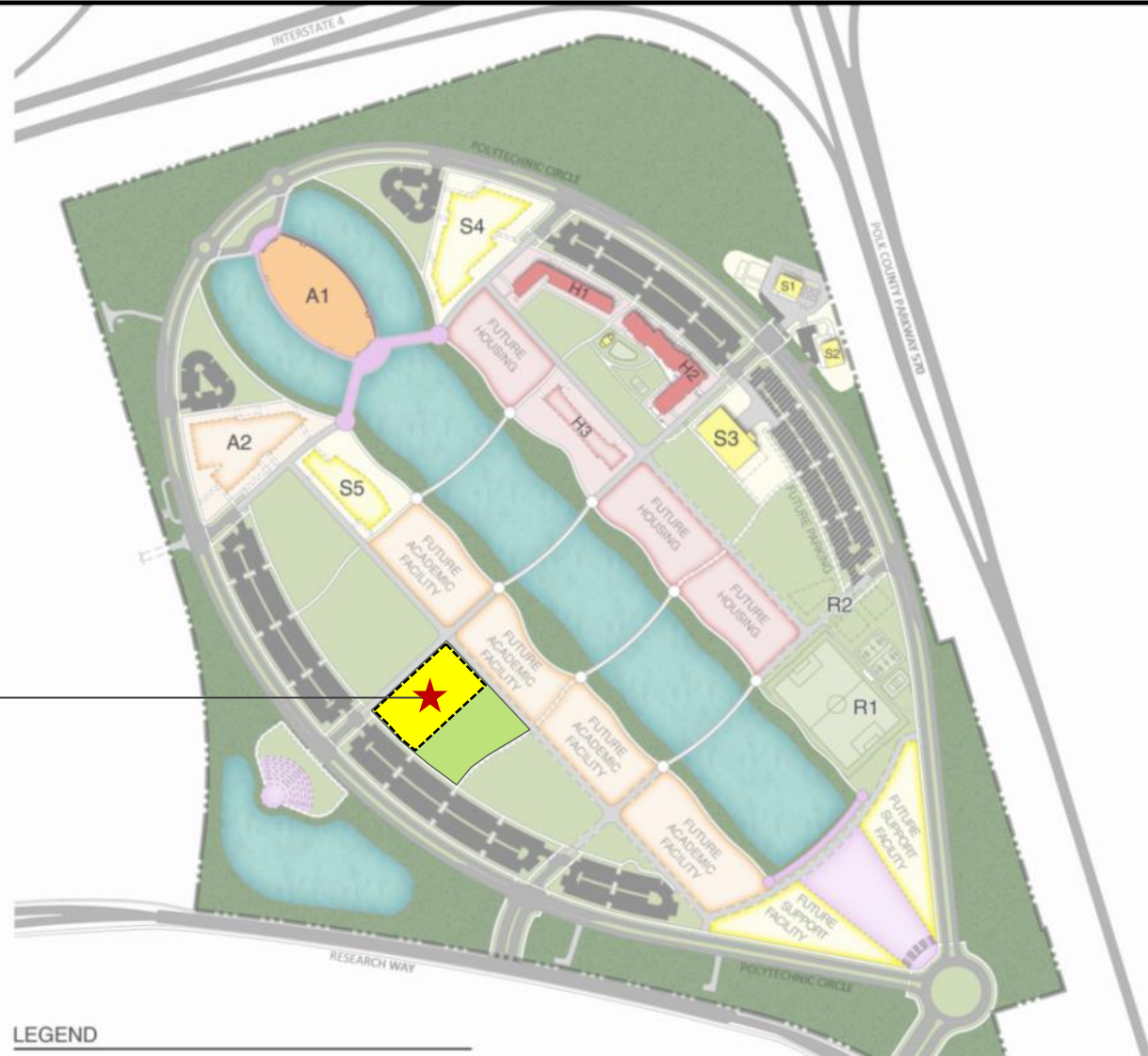
SITE PLAN



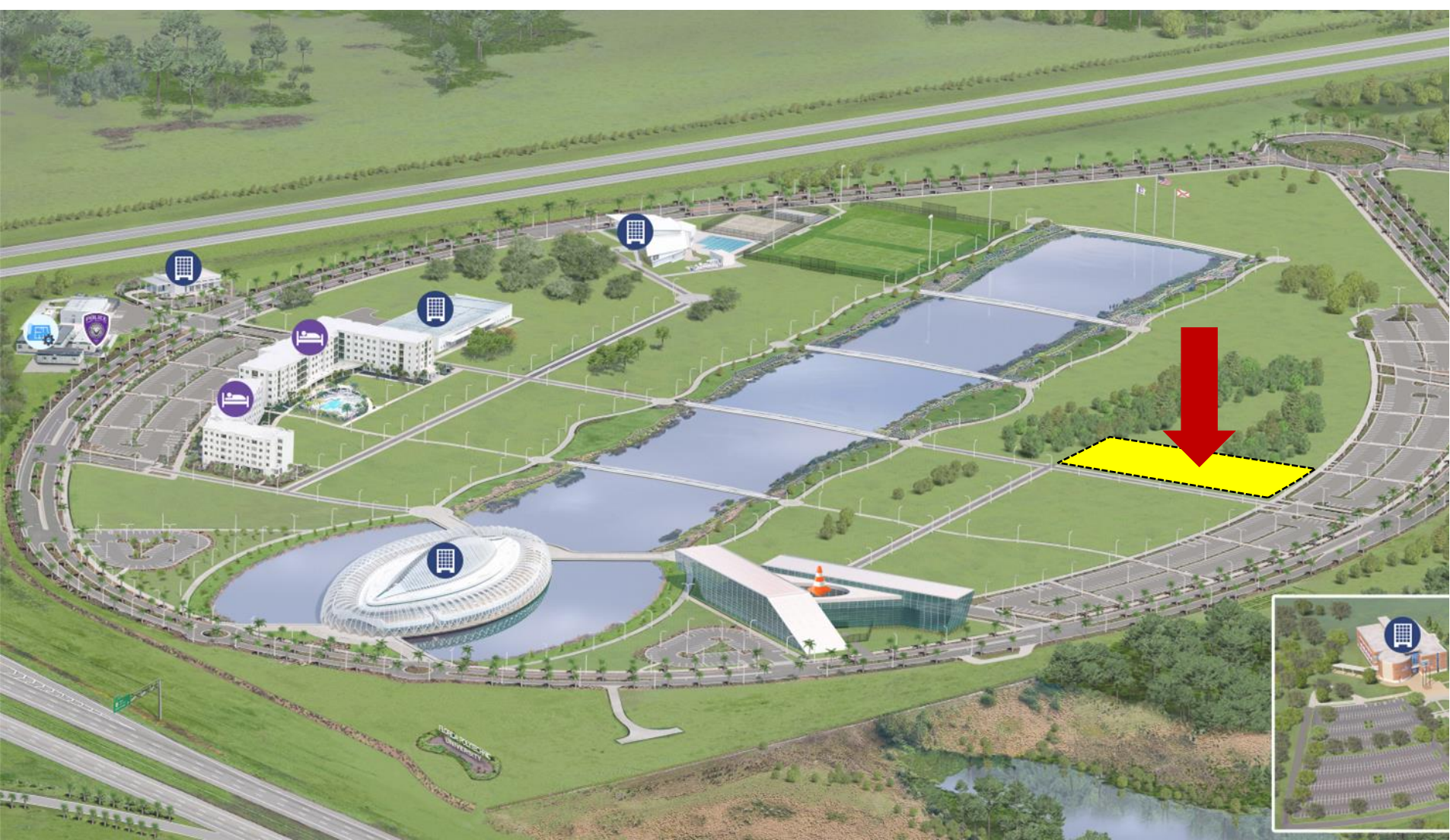
# Campus Context

- **Academic side**
- **Easiest/most accessible parking**
- **Closest area to research park**
- **Why on the parcel and configuration**

**Project Site**



# Campus Context







FLORIDAPOLY

# Site & Mass Diagram

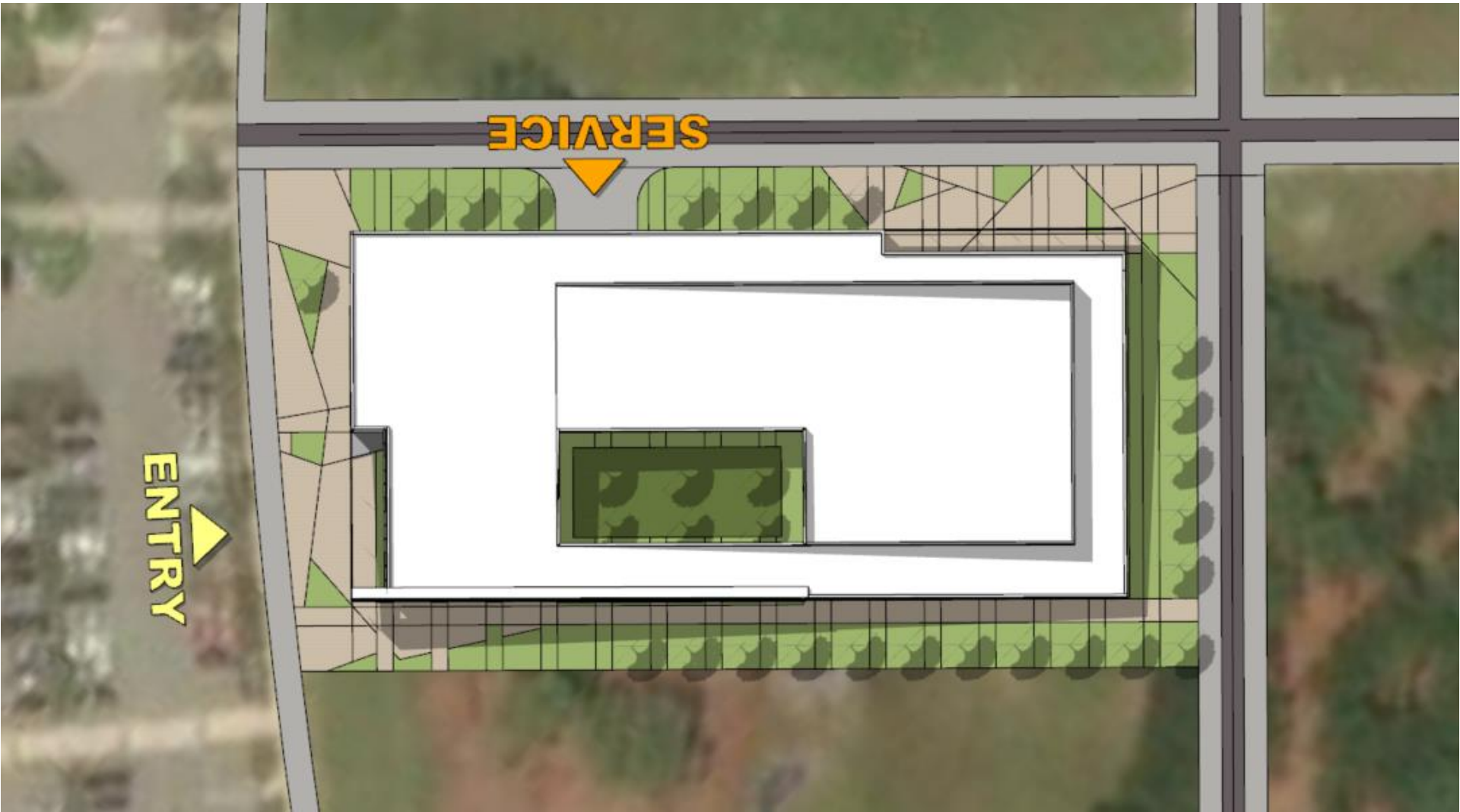


EXHIBIT “F”

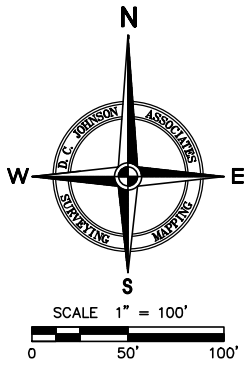
FLORIDA POLY CAMPUS MASTER PLAN GOALS AND OBJECTIVES

Florida Polytechnic University’s 2016 Campus Master Plan is incorporated herein by reference, as amended by Board of Trustees on May 25, 2021.

The 2016 Campus Master Plan can be found at the following link:

[https://floridapoly.edu/wp-content/uploads/FPU-Master-Plan\\_Adopted-9-7-16-2.pdf](https://floridapoly.edu/wp-content/uploads/FPU-Master-Plan_Adopted-9-7-16-2.pdf)

EXHIBIT "G"  
LEGAL DESCRIPTION FOR OUTFALL EASEMENT

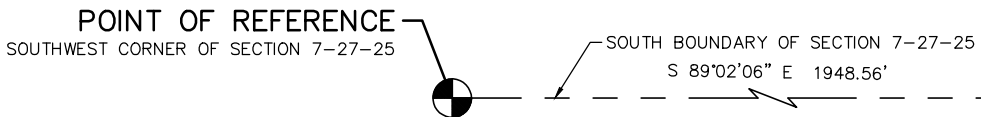
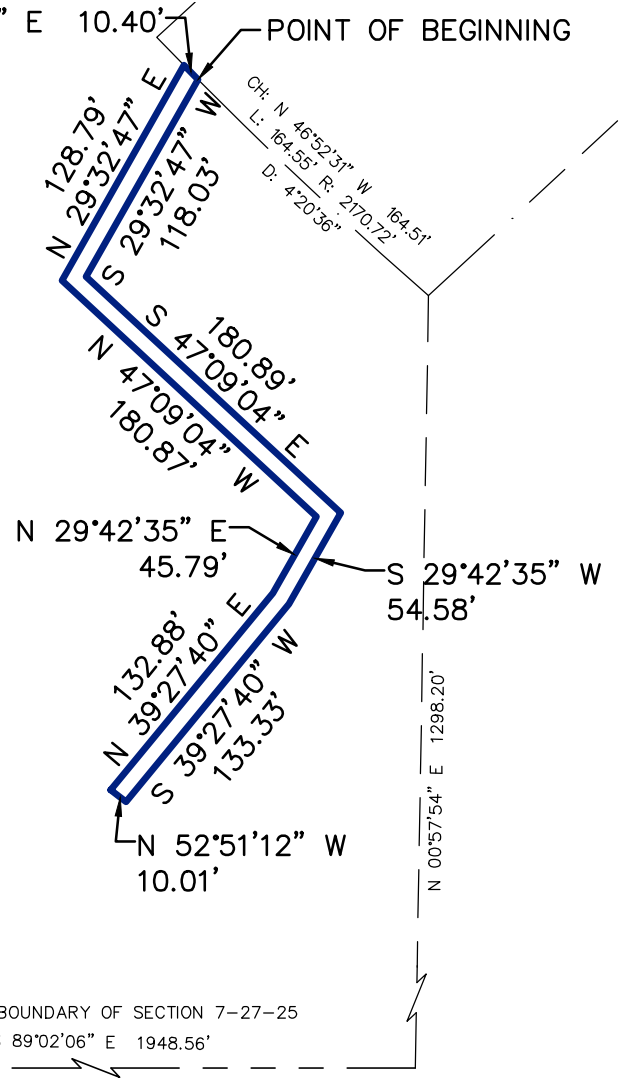


S 44°33'59" E 10.40' POINT OF BEGINNING

**DESCRIPTION:** (prepared per this survey)

A parcel of land lying within Section 7, Township 27 South, Range 25 East, Polk County, Florida, being more particularly described as follows:

For a POINT OF REFERENCE commence at the Southwest corner of said Section 7; thence along the South boundary line of Section 7, Township 27 South, Range 25 East, Polk County, Florida, S.89°02'06"E., a distance of 1,948.56 feet; thence N.00°57'54"E., a distance of 1,298.20 feet to a non-tangent point of curvature; thence Northwestwesterly 164.55 feet along the arc of a curve to the right, said curve having a radius of 2,170.72 feet, a central angle of 04°20'36", and a chord bearing and distance of N.46°52'31"W., 164.51 feet to the end of the curve, for a POINT OF BEGINNING; thence S.29°32'47"W., a distance of 118.03 feet; thence S.47°09'04"E., a distance of 180.89 feet; thence S.29°42'35"W., a distance of 54.58 feet; thence S.39°27'40"W., a distance of 133.33 feet; thence N.52°51'12"W., a distance of 10.01 feet; thence N.39°27'40"E., a distance of 132.88 feet; thence N.29°42'35"E., a distance of 45.79 feet; thence N.47°09'04"W., a distance of 180.87 feet; thence N.29°32'47"E., a distance of 128.79 feet; thence S.44°33'59"E., a distance of 10.40 feet to the POINT OF BEGINNING.  
Containing 0.112 acres, more or less.



**DESCRIPTION AND SKETCH  
NOT A BOUNDARY SURVEY**

Corner Monuments were not set in conjunction with the preparation of this sketch. Improvements, if any, have not been located in conjunction with the preparation of this sketch. This sketch is for graphic illustration only, and does not represent a field survey. Descriptions created per this sketch.

**Project Citrus @ Florida  
Polytech Drainage Easement**

PREPARED FOR  
**Ryan Companies US, Inc.**

JOB NO: 2021-193A01.BG00001 DRAWN BY: CAG

We hereby certify that the sketch and description shown hereon are true and correct to the best of our knowledge and belief, and were prepared in accordance with the Standards of Practice as set forth by the Florida Board of Land Surveyors in Chapter SJ-7, Florida Administrative Code, pursuant to Section 472.02, Florida Statutes.

STATE OF  
FLORIDA  
Professional Surveyor and Mapper  
*Andrew R. Getz*  
Date: 11/16/21  
Number 7043  
For D.C. Johnson & Associates, Inc.  
Not valid without the signature and raised seal of a Florida Licensed Surveyor

**EXHIBIT “H”**

**FORM OF CONTRACTOR RELEASE**

PROJECT: International Flavors & Fragrances, Inc Project at FPU Campus

The undersigned (“Contractor”) hereby acknowledges that HS Poly Research, LLC, a Delaware limited liability company, as “Tenant” under that certain Ground Sublease dated \_\_\_\_\_, 2022, with The Florida Polytechnic University Board of Trustees, a public body corporate of the State of Florida as “Landlord”, for certain land on the FPU campus in Polk County (the “Land”), has informed Contractor that the Sublease provides that:

- (a) Prior to commencement of construction work on the Land, Tenant shall cause Contractor to deliver to Landlord this waiver and release.
- (b) Tenant will not create or permit to be created or to remain any lien, encumbrance or charge upon the Land, any part thereof or upon Tenant’s leasehold interest, which arises out of any labor or materials furnished or claimed to have been furnished to Tenant or by reason of any construction, addition, alteration or repair of any part of the Land.
- (c) In no event shall the interest of Landlord in all or any part of the Land be subject to any construction, mechanics’, materialmen’s, laborers’ or other statutory or common law lien for improvements or work made or done by or at the instance of Tenant.
- (d) Pursuant to Florida Statutes §713.10, all persons dealing with or contracting with Tenant or any contractor of Tenant are hereby put on notice of the foregoing provision.

Contractor acknowledges the forgoing, and hereby waives and releases, for itself and its successors and assigns, its lien and right to claim a lien for labor, services, and materials performed and furnished on the Project on the job of HS Poly Research, LLC, with respect to the real property described in that certain Notice of Commencement recorded in Official Records Book \_\_\_\_, page \_\_\_\_, of the public records of Polk County, Florida.

Signed, sealed, and delivered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[CONTRACTOR ENTITY]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing was sworn to, subscribed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, on behalf of the entity.  
Such person is ( ) personally known to me, OR ( ) produced \_\_\_\_\_ as identification.

\_\_\_\_\_

Print name: \_\_\_\_\_

Notary Public, State of \_\_\_\_\_

(SEAL)

My Commission expires: \_\_\_\_\_

EXHIBIT "I"  
CONSTRUCTION TIMELINE



ID	Task Name	Duration	Start	Finish	S	N	Half 1, 2021	Half 2, 2021	Half 1, 2022	Half 2, 2022	Half 1, 2023	Half 2, 2023	Half 1, 2024	Half 2, 2024
0	International Flavors & Fragrances IFF	714 days	Fri 12/18/20	Fri 9/29/23										
1	Proposal Schedule	714 days	Fri 12/18/20	Fri 9/29/23										
2	PRECONSTRUCTION	714 days	Fri 12/18/20	Fri 9/29/23										
3	RFP PROCESS	1 day	Fri 12/18/20	Fri 12/18/20										
4	Developer Selection/ Letter Of Intent Executed	1 day	Fri 12/18/20	Fri 12/18/20										
5	FPU ITN Process	152 days	Mon 12/21/20	Fri 7/23/21										
6	Draft Response To FPU ITN	10 days	Mon 12/21/20	Tue 1/5/21										
7	FPU Approval Step	0 days	Fri 2/26/21	Fri 2/26/21										
8	Final FPU Board Of Governors Approval	0 days	Fri 6/25/21	Fri 6/25/21										
9	Executed Interim Agreement	0 days	Fri 7/23/21	Fri 7/23/21										
10	Milestones	713 days	Fri 12/18/20	Fri 9/29/23										
11	Team Selection/ GO	0 days	Fri 12/18/20	Fri 12/18/20										
12	Schematic Design	0 days	Mon 10/11/21	Mon 10/11/21										
13	Civil Design	0 days	Tue 12/21/21	Tue 12/21/21										
14	Building Construction Documents Completed	0 days	Fri 4/22/22	Fri 4/22/22										
15	Civil Site Approval/ Permit	0 days	Mon 5/9/22	Mon 5/9/22										
16	Mobilize/ Site Work Begins	0 days	Wed 8/3/22	Wed 8/3/22										
17	Building Construction Begins	0 days	Tue 8/30/22	Tue 8/30/22										
18	Building Dry In/ Weather Tight	0 days	Thu 2/9/23	Thu 2/9/23										
19	Operational	0 days	Fri 9/29/23	Fri 9/29/23										
20	TCO	0 days	Fri 9/1/23	Fri 9/1/23										
21	DESIGN & CONSTRUCTION	562 days	Fri 7/23/21	Fri 9/29/23										
22	CIVIL DESIGN AND PERMITTING	135 days	Fri 7/23/21	Mon 1/31/22										
23	Pre App. Mtgs. With DOT, County & City	1 day	Mon 7/26/21	Mon 7/26/21										
24	Phase 1 Environmental	25 days	Mon 7/26/21	Fri 8/27/21										
25	Site Boundary and Topo Survey	15 days	Mon 7/26/21	Fri 8/13/21										
26	Survey ALTA	15 days	Mon 8/16/21	Fri 9/3/21										
27	Tree Survey	15 days	Mon 7/26/21	Fri 8/13/21										
28	Geotechnical Field Work and Verbal Water	15 days	Fri 7/23/21	Thu 8/12/21										
29	Geotechnical Report Preparation	11 days	Fri 8/13/21	Fri 8/27/21										
30	Lighting Plan (N/A)	15 days	Tue 1/11/22	Mon 1/31/22										
31	Environmental Listed Species Survey	16 days	Tue 10/26/21	Tue 11/16/21										
32	Environmental Wetland Delineation (N/A)	18 days	Thu 7/29/21	Mon 8/23/21										
33	Environmental Wetland Report (N/A)	10 days	Tue 8/24/21	Tue 9/7/21										
34	Traffic Counts (N/A)	4 days	Fri 7/23/21	Wed 7/28/21										
35	Traffic Study (N/A)	19 days	Thu 7/29/21	Tue 8/24/21										
36	Review by Department of Transportation (N/A)	20 days	Wed 8/25/21	Wed 9/22/21										
37	Respond to Traffic Comments (N/A)	5 days	Thu 9/23/21	Wed 9/29/21										
38	Approval by Department of Transportation (N/A)	15 days	Thu 9/30/21	Wed 10/20/21										
39	Civil Design	204 days	Mon 7/26/21	Mon 5/9/22										
40	Civil Data Collection	15 days	Mon 7/26/21	Fri 8/13/21										
41	Civil Design & Submittal	20 days	Mon 11/22/21	Mon 12/20/21										
42	Permitting	100 days	Tue 12/21/21	Mon 5/9/22										
43	Approval Process	100 days	Tue 12/21/21	Mon 5/9/22										
44	County Civil Submittal Site Plan	15 days	Tue 12/21/21	Mon 1/10/22										
45	Civil Initial Review	20 days	Tue 1/11/22	Mon 2/7/22										
46	Civil Response	10 days	Tue 2/8/22	Mon 2/21/22										
47	Civil 2nd Review	20 days	Tue 2/22/22	Mon 3/21/22										
48	Civil 2nd Response	10 days	Tue 3/22/22	Mon 4/4/22										
49	Civil Final Review	15 days	Tue 4/5/22	Mon 4/25/22										
50	County Forward DEP Water & Sewer	5 days	Tue 4/5/22	Mon 4/11/22										
51	Site Plan Approval	10 days	Tue 4/26/22	Mon 5/9/22										
52	Stormwater Management	97 days	Tue 12/21/21	Wed 5/4/22										
53	Submittal of package	14 days	Tue 12/21/21	Fri 1/7/22										
54	First Review	21 days	Mon 1/10/22	Mon 2/7/22										
55	Respond to Comments	10 days	Tue 2/8/22	Mon 2/21/22										
56	Second Review	21 days	Tue 2/22/22	Tue 3/22/22										
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66	NOI	1 day	Mon 5/2/22	Mon 5/2/22										





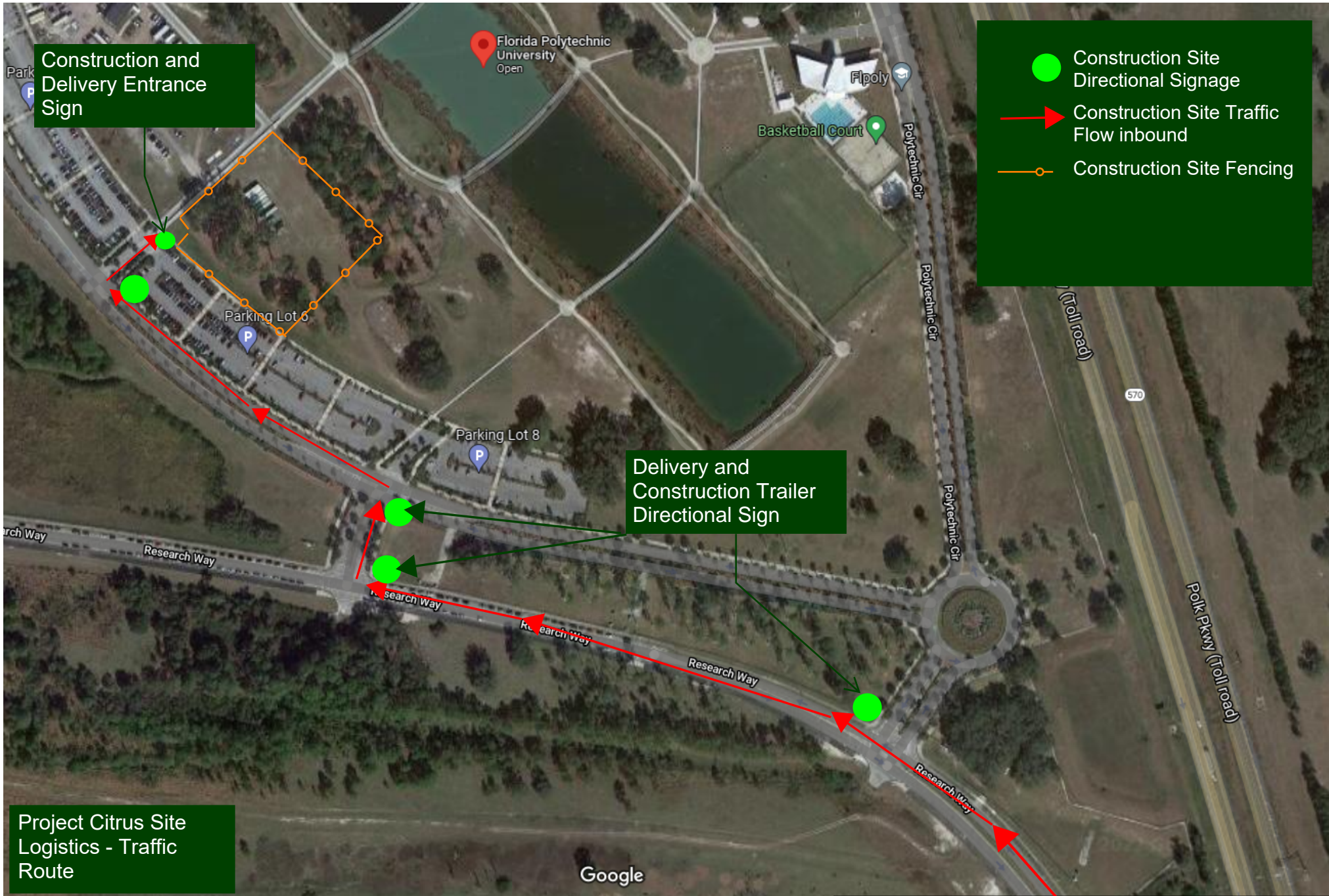
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117	<b>IFF</b>	<b>0 days</b>	<b>Mon 6/19/23</b>	<b>Mon 6/19/23</b>										
118	IFF Early Access For Fixturing	0 days	Mon 6/19/23	Mon 6/19/23										
119	<b>Final Inspections</b>	<b>94 days</b>	<b>Tue 4/4/23</b>	<b>Tue 8/15/23</b>										
120	<b>Mechanical Final Inspection</b>	<b>2 days</b>	<b>Tue 8/8/23</b>	<b>Wed 8/9/23</b>										
122	<b>Plumbing Final Inspections</b>	<b>2 days</b>	<b>Tue 8/8/23</b>	<b>Wed 8/9/23</b>										
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135	Certificate of Occupancy	0 days	Fri 9/1/23	Fri 9/1/23										
136	Operational	0 days	Fri 9/29/23	Fri 9/29/23										

EXHIBIT "J"  
DEPICTION OF STAGING AREA





EXHIBIT "K"  
MOBILIZATION PLAN



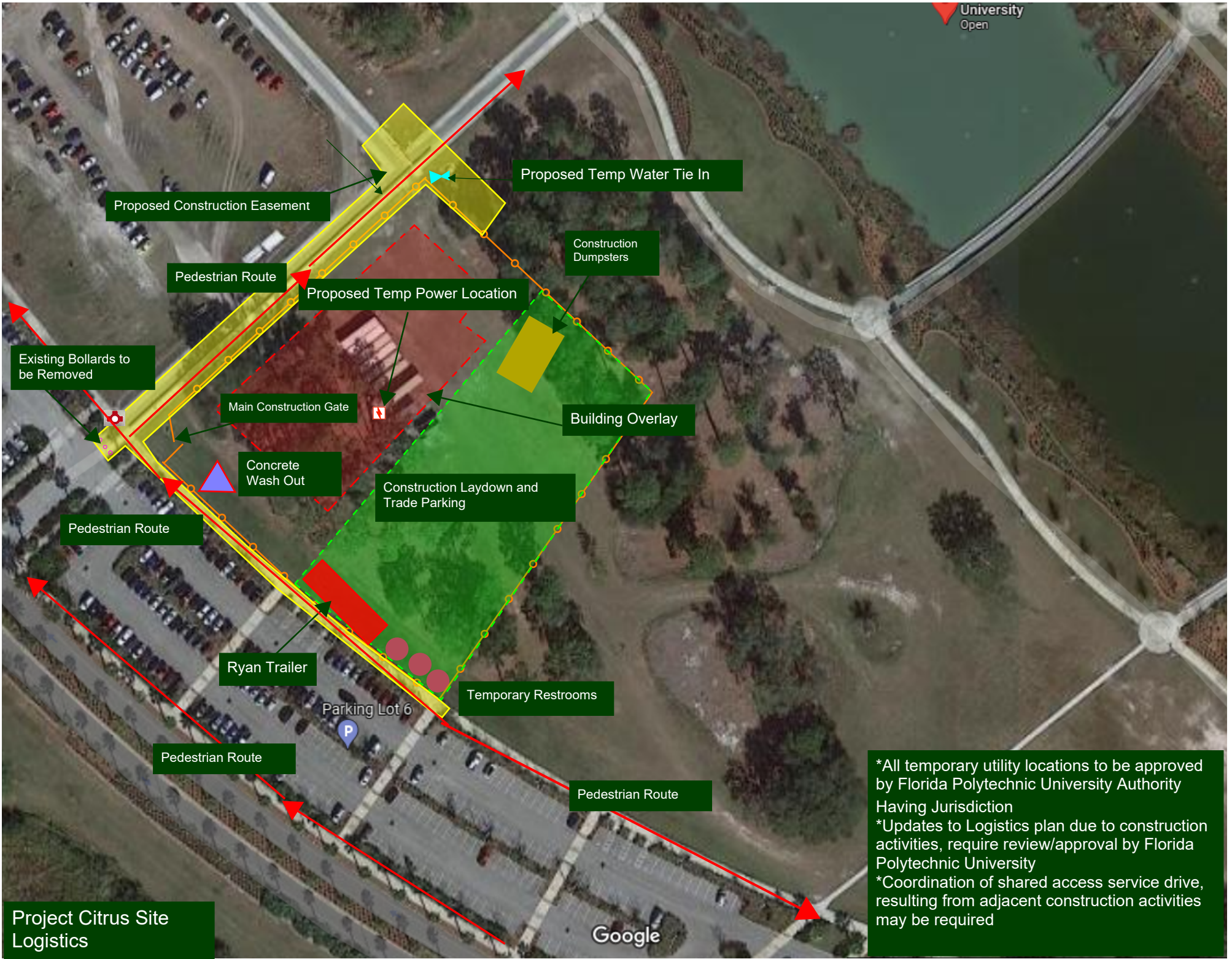
Construction and Delivery Entrance Sign

- Construction Site Directional Signage
- ➔ Construction Site Traffic Flow inbound
- Construction Site Fencing

Delivery and Construction Trailer Directional Sign

Project Citrus Site Logistics - Traffic Route

Google



Proposed Construction Easement

Proposed Temp Water Tie In

Pedestrian Route

Proposed Temp Power Location

Construction Dumpsters

Existing Bollards to be Removed

Main Construction Gate

Building Overlay

Concrete Wash Out

Construction Laydown and Trade Parking

Pedestrian Route

Ryan Trailer

Temporary Restrooms

Parking Lot 6

Pedestrian Route

Pedestrian Route

Project Citrus Site Logistics

Google

\*All temporary utility locations to be approved by Florida Polytechnic University Authority Having Jurisdiction  
\*Updates to Logistics plan due to construction activities, require review/approval by Florida Polytechnic University  
\*Coordination of shared access service drive, resulting from adjacent construction activities may be required

EXHIBIT “L”  
UNIVERSITY DESIGN STANDARDS  
University Design Standards

The University Design Standards, which include the Campus Design and Construction Standards (revised March 2018) and the Design Services Guidelines (revised March 2018), are included herein by reference.

The Campus Design and Construction Standards (2018) can be found at the following link:  
[https://floridapoly.edu/wp-content/uploads/Campus\\_Design\\_Standards\\_03.19.19.pdf](https://floridapoly.edu/wp-content/uploads/Campus_Design_Standards_03.19.19.pdf)

The Design Services Guidelines (2018) can be found at the following link:  
<https://bdsd.app.box.com/file/805791592500?s=eo309jfd39e6dqor3xnkegbv4vlbjm3>



EXHIBIT "M"  
DESIGN SCHEDULE



ID	Task Name	Duration	Start	Finish	S	N	Half 1, 2021	Half 2, 2021	Half 1, 2022	Half 2, 2022	Half 1, 2023	Half 2, 2023	Half 1, 2024	Half 2, 2024
0	International Flavors & Fragrances IFF	714 days	Fri 12/18/20	Fri 9/29/23										
1	Proposal Schedule	714 days	Fri 12/18/20	Fri 9/29/23										
2	PRECONSTRUCTION	714 days	Fri 12/18/20	Fri 9/29/23										
3	RFP PROCESS	1 day	Fri 12/18/20	Fri 12/18/20										
4	Developer Selection/ Letter Of Intent Executed	1 day	Fri 12/18/20	Fri 12/18/20										
5	FPU ITN Process	152 days	Mon 12/21/20	Fri 7/23/21										
6	Draft Response To FPU ITN	10 days	Mon 12/21/20	Tue 1/5/21										
7	FPU Approval Step	0 days	Fri 2/26/21	Fri 2/26/21										
8	Final FPU Board Of Governors Approval	0 days	Fri 6/25/21	Fri 6/25/21										
9	Executed Interim Agreement	0 days	Fri 7/23/21	Fri 7/23/21										
10	Milestones	713 days	Fri 12/18/20	Fri 9/29/23										
11	Team Selection/ GO	0 days	Fri 12/18/20	Fri 12/18/20										
12	Schematic Design	0 days	Mon 10/11/21	Mon 10/11/21										
13	Civil Design	0 days	Tue 12/21/21	Tue 12/21/21										
14	Building Construction Documents Completed	0 days	Fri 4/22/22	Fri 4/22/22										
15	Civil Site Approval/ Permit	0 days	Mon 5/9/22	Mon 5/9/22										
16	Mobilize/ Site Work Begins	0 days	Wed 8/3/22	Wed 8/3/22										
17	Building Construction Begins	0 days	Tue 8/30/22	Tue 8/30/22										
18	Building Dry In/ Weather Tight	0 days	Thu 2/9/23	Thu 2/9/23										
19	Operational	0 days	Fri 9/29/23	Fri 9/29/23										
20	TCO	0 days	Fri 9/1/23	Fri 9/1/23										
21	DESIGN & CONSTRUCTION	562 days	Fri 7/23/21	Fri 9/29/23										
22	CIVIL DESIGN AND PERMITTING	135 days	Fri 7/23/21	Mon 1/31/22										
23	Pre App. Mtgs. With DOT, County & City	1 day	Mon 7/26/21	Mon 7/26/21										
24	Phase 1 Environmental	25 days	Mon 7/26/21	Fri 8/27/21										
25	Site Boundary and Topo Survey	15 days	Mon 7/26/21	Fri 8/13/21										
26	Survey ALTA	15 days	Mon 8/16/21	Fri 9/3/21										
27	Tree Survey	15 days	Mon 7/26/21	Fri 8/13/21										
28	Geotechnical Field Work and Verbal Water	15 days	Fri 7/23/21	Thu 8/12/21										
29	Geotechnical Report Preparation	11 days	Fri 8/13/21	Fri 8/27/21										
30	Lighting Plan (N/A)	15 days	Tue 1/11/22	Mon 1/31/22										
31	Environmental Listed Species Survey	16 days	Tue 10/26/21	Tue 11/16/21										
32	Environmental Wetland Delineation (N/A)	18 days	Thu 7/29/21	Mon 8/23/21										
33	Environmental Wetland Report (N/A)	10 days	Tue 8/24/21	Tue 9/7/21										
34	Traffic Counts (N/A)	4 days	Fri 7/23/21	Wed 7/28/21										
35	Traffic Study (N/A)	19 days	Thu 7/29/21	Tue 8/24/21										
36	Review by Department of Transportation (N/A)	20 days	Wed 8/25/21	Wed 9/22/21										
37	Respond to Traffic Comments (N/A)	5 days	Thu 9/23/21	Wed 9/29/21										
38	Approval by Department of Transportation (N/A)	15 days	Thu 9/30/21	Wed 10/20/21										
39	Civil Design	204 days	Mon 7/26/21	Mon 5/9/22										
40	Civil Data Collection	15 days	Mon 7/26/21	Fri 8/13/21										
41	Civil Design & Submittal	20 days	Mon 11/22/21	Mon 12/20/21										
42	Permitting	100 days	Tue 12/21/21	Mon 5/9/22										
43	Approval Process	100 days	Tue 12/21/21	Mon 5/9/22										
44	County Civil Submittal Site Plan	15 days	Tue 12/21/21	Mon 1/10/22										
45	Civil Initial Review	20 days	Tue 1/11/22	Mon 2/7/22										
46	Civil Response	10 days	Tue 2/8/22	Mon 2/21/22										
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136	Operational	0 days	Fri 9/29/23	Fri 9/29/23										

EXHIBIT “N”

RULES AND REGULATIONS

The current rules and regulations applicable to the Florida Poly campus are included here by reference.

The University’s Policies, Regulations, and Rules can be found at the following link:

<https://floridapoly.edu/university-policies-regulations-rules.php>

**Florida Polytechnic University  
Finance and Facilities Committee  
Board of Trustees  
February 9, 2022**

**Subject: Advancement and Foundation Update**

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**Proposed Committee Action**

Information only – no action required.

**Background Information**

Kathy Bowman, VP of Advancement and Foundation CEO, will present an update from the Advancement Division.

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**Supporting Documentation:** PowerPoint Presentation

**Prepared by:** Kathy Bowman, VP of Advancement and Foundation CEO



**FLORIDA POLYTECHNIC  
UNIVERSITY**

## **Advancement Update**

**Kathy Bowman, Vice President  
Advancement**

**February 9, 2022**

# Quarterly Updates



## Advancement

### Stewardship

Holiday Reception for donors giving for >\$500 and Faculty/Staff donors

Impact Reports for endowments & major gifts completed

### Alumni Engagement

Applied Research Center Tours – October 26

Cob & Pen Trivia Night – November 15

Ugly Sweater Holiday Party – December 2



## Corporate Impact Network

First ever KnowBe4 at Florida Poly held October 5

Inaugural Impact Summit & Presidential Speaker Series held November 16

# Annual Giving



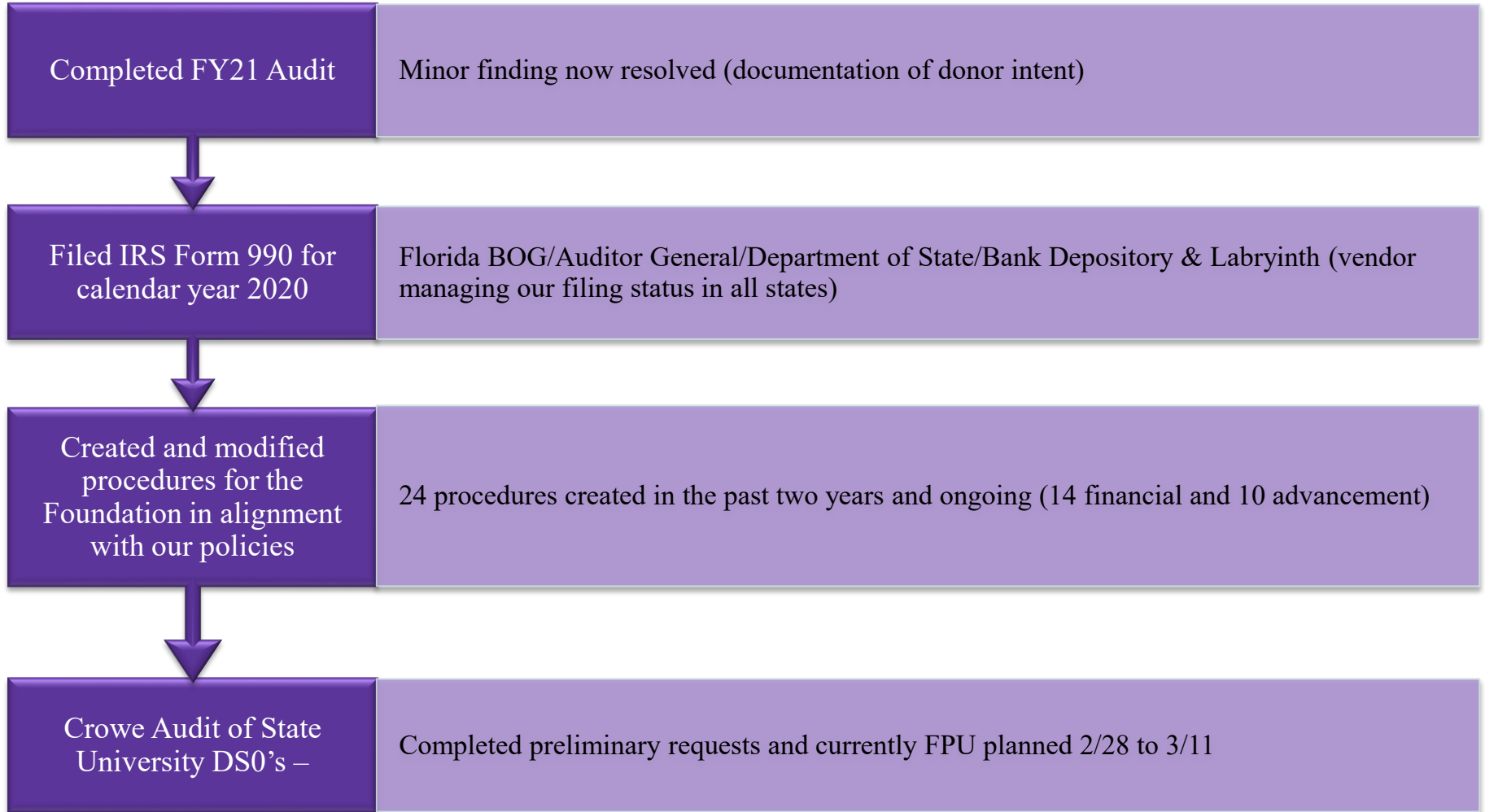
## First ever day of giving for Florida Polytechnic – Pi Day

Social media driven/peer to peer fundraising/student clubs & orgs/FI Poly community – one big day.



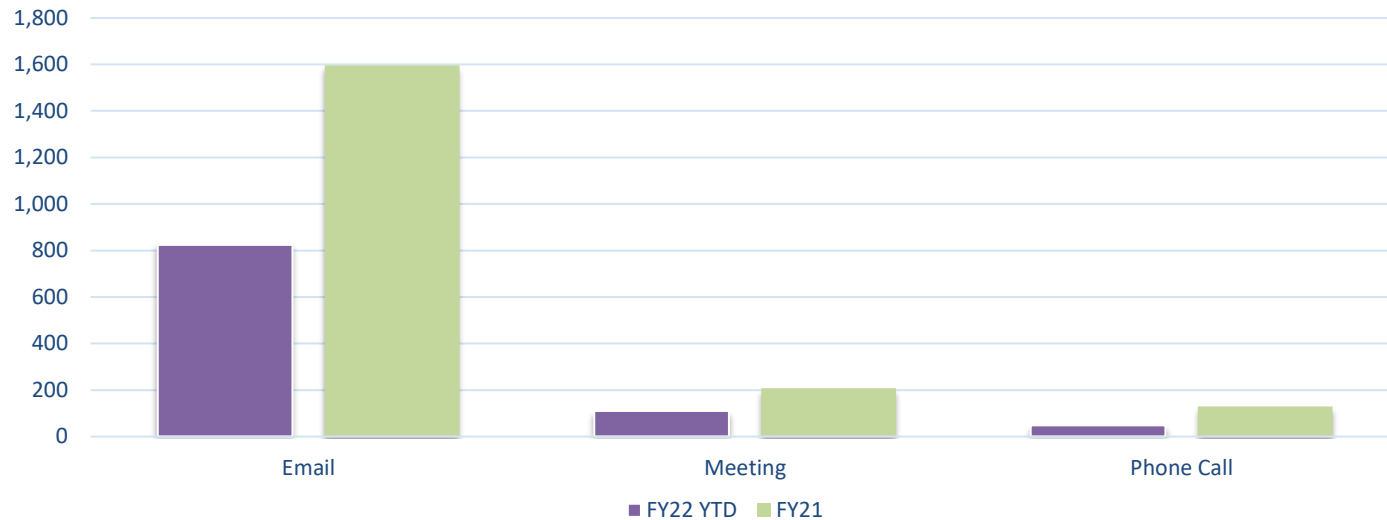


# Foundation Updates

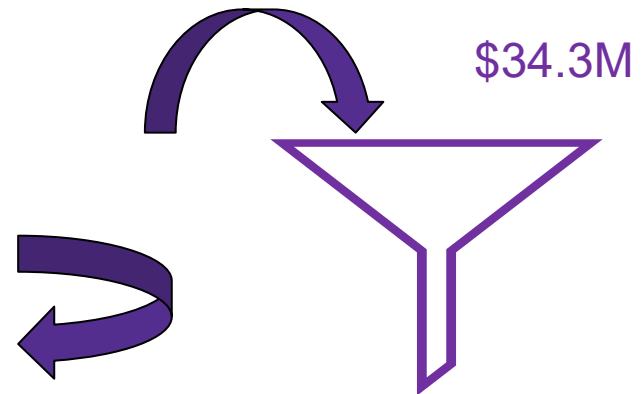


# Fundraising Update

## Constituent Action



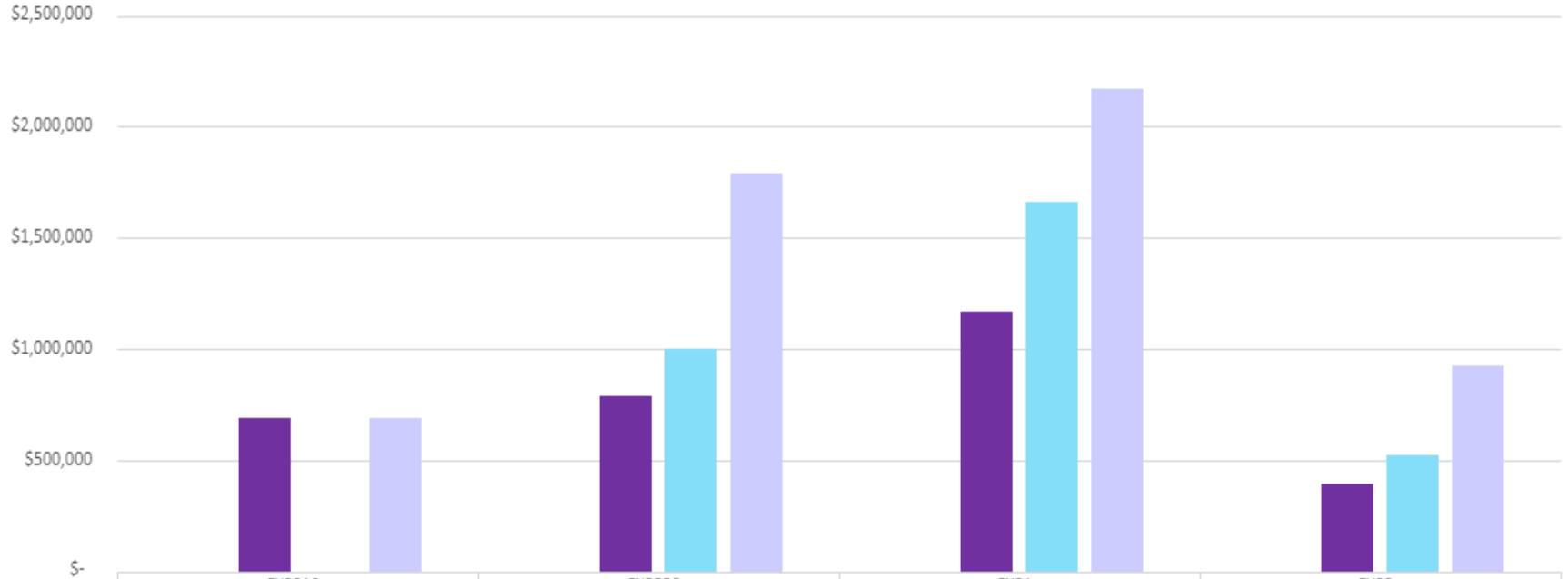
**Constituent actions fill the pipeline**  
 ~\$1.5M Revenue YTD  
 ~\$2.5M Pledges YTD





# Net Production

## GIVING HISTORY



	FY2019	FY2020	FY21	FY22
Total Planned Gifts	\$-	\$-	\$-	\$-
Current Gifts/GIK/GIS	\$692,382	\$790,109	\$1,168,760	\$397,476.10
Current FY Pledges	\$-	\$1,000,000	\$1,658,376	\$525,000.00
Net Production	\$692,382	\$1,790,109	\$2,168,760	\$922,476.10

■ Total Planned Gifts     
 ■ Current Gifts/GIK/GIS     
 ■ Current FY Pledges     
 ■ Net Production



# Advancement Updates

February 15 Innovation Speaker Series Adrian Muhammad	February 17 Synapse Summit Tampa	February 23 Disney Day on Camps Corporate Impact Network
March 7-9 IEEE Conference	March 10 Women in STEM Awards Ceremony Lone Palm	March 14 Florida Poly Giving Day
April 18-19 eMerge Americas Conference Miami	April 27 Florida Poly Capstone Showcase Applied Research Center	May 6 Alumni Social (New Alumni Welcome Party) TBD

**May 8 Commencement**

**June 7 Applied Research Center Opening**

# Questions/Comments



**Florida Polytechnic University  
Finance and Facilities Committee  
Board of Trustees  
February 9, 2022**

**Subject: Foundation Board of Directors Appointment**

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**Proposed Committee Action**

Recommend approval of the following appointment to the Florida Polytechnic University Foundation Board by the Board of Trustees:

Appointment

- Ana Wood

**Background Information**

The candidacy of Ana Wood was approved by the Foundation Nomination Committee on January 25, 2022, and (will be approved by) the full Board on February 4, 2022. This nominee now comes before the Board of Trustees for final confirmation.

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**Supporting Documentation:** Ana Wood Biography

**Prepared by:** Kathy Bowman, VP of Advancement and Foundation CEO



## Ana Wood

Ana currently serves as the waste and recycling director of Polk County Board of County Commissioners. Ana is responsible for all field operations, including the environmental and social impact of waste management activities. She has held several leadership positions in the solid waste industry during her career in private and public enterprises.

Prior to her appointment as waste and recycling director, Ana held senior positions at Waste Management Inc. and the City of Jacksonville. In 2007, She founded Ana Wood & Company – an international company that provided industry insights to public and private companies.

Ana has devoted her career to developing and executing business strategies targeting innovation, customer relations, people, the environment, and profitability. She has represented the waste industry in public forums as a keynote speaker in South, Central, North America, and the Pacific Rim.

Ana earned her bachelor's degree from Lynn University and a master's in international business from the University of Miami. As a perennial student, she also completed several executive education studies at Harvard, Cornell, University of Florida, and Florida State. In 2019, Ana was the recipient of the Lakeland Chamber of Commerce Athena Award.



**Florida Polytechnic University  
Finance and Facilities Committee  
Board of Trustees  
February 9, 2022**

**Subject: Foundation Q2 Financial Review**

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**Proposed Committee Action**

Information only – no action required.

**Background Information**

Larry Locke, Director of Finance and Development Operations and Foundation COO, will provide the Committee with an update on the Foundation's second quarter financials.

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**Supporting Documentation:**

1. FY22 Statement of Activities – Q2 Budget to Actuals
2. FY22 Statement of Activities – Q2 Year Over Year
3. FY22 Statement of Financial Position – Q2 Year Over Year

**Prepared by:** Larry Locke, Director of Finance and Development Operations, Foundation COO



**Florida Polytechnic University Foundation Inc.**

**SUMMARY - FY22 Statement of Activities Budget to Actuals**

*July 1, 2021 - December 31, 2021 2nd Quarter FY22*

	Unrestricted	Temporarily Restricted	Permanently Restricted	Total	Budget to Actuals	Variance
<b>Revenue</b>	<b>\$63,636.97</b>	<b>\$165,701.47</b>	<b>\$794,114.06</b>	<b>\$1,023,452.50</b>	<b>\$512,790.00</b>	<b>99.59%</b>
<b>Expenses</b>						
<b>Operations</b>	\$122,092.38	\$0.00	\$0.00	\$122,092.38	\$72,499.96	68.40%
<b>Advocate</b>	\$80,000.00	\$0.00	\$0.00	\$80,000.00	\$90,540.00	-11.64%
<b>Scholarships</b>	\$0.00	\$108,058.14	\$0.00	\$108,058.14	\$115,000.00	-6.04%
<b>Salaries/Benefits/Initiatives</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
<b>Total Expenses:</b>	<b>\$202,092.38</b>	<b>\$108,058.14</b>	<b>\$0.00</b>	<b>\$310,150.52</b>	<b>\$278,039.96</b>	<b>11.55%</b>
<b>FY22 Net Asset Gain/Loss:</b>	<b>-\$138,455.41</b>	<b>\$57,643.33</b>	<b>\$794,114.06</b>	<b>\$713,301.98</b>	<b>\$234,750.04</b>	<b>203.86%</b>

**Revenue: Doubled Budget proj.; 1st Week in January - Total Revenue = \$1.4 mm**

**Operations Exp - 68.4% increase due to Consultant fees for upcoming fundraising Campaign**

**FY22 2nd Qrt. Net Asset Gain = 203.86%**

## Florida Polytechnic University Foundation Inc.

### SUMMARY - FY22 Statement of Activities YOY

*July 1, 2021 - December 31, 2021 2nd Quarter FY22*

	Unrestricted	Temporarily Restricted	Permanently Restricted	Total	Year over Year	Variance
<b>Revenue</b>	<b>\$63,636.97</b>	<b>\$165,701.47</b>	<b>\$794,114.06</b>	<b>\$1,023,452.50</b>	<b>\$1,159,063.91</b>	<b>-11.70%</b>
<b>Expenses</b>						
<b>Operations</b>	\$122,092.38	\$0.00	\$0.00	\$122,092.38	\$129,960.96	-6.05%
<b>Advocate</b>	\$80,000.00	\$0.00	\$0.00	\$80,000.00	\$69,000.00	15.94%
<b>Scholarships</b>	\$0.00	\$108,058.14	\$0.00	\$108,058.14	\$116,845.86	-7.52%
<b>Salaries/Benefits/Initiatives</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
<b>Total Expenses:</b>	<b>\$202,092.38</b>	<b>\$108,058.14</b>	<b>\$0.00</b>	<b>\$310,150.52</b>	<b>\$315,806.82</b>	<b>-1.79%</b>
<b>FY22 Net Asset Gain/Loss:</b>	<b>-\$138,455.41</b>	<b>\$57,643.33</b>	<b>\$794,114.06</b>	<b>\$713,301.98</b>	<b>\$843,257.09</b>	<b>-15.41%</b>

\* FY22 totals are slightly behind FY21 totals

\* FY21 Rev - strong month in Dec; FY22 Rev - strong month in January \$400K-\$500K expected in Jan.

\* FY22 Revenue total (January 11, 2022): \$1.4 mm

**Florida Polytechnic University Foundation Inc.**  
**SUMMARY - FY22 Statement of Financial Position Year over Year**

*December 31, 2021*

	Unrestricted	Temporarily Restricted	Permanently Restricted	Total	FY21 YOY	Variance
<b>TOTAL ASSETS</b>	<b>\$1,158,355.13</b>	<b>\$3,859,980.24</b>	<b>\$3,990,087.64</b>	<b>\$9,008,423.01</b>	<b>\$8,247,478.57</b>	<b>9.23 %</b>
<b>TOTAL LIABILITIES</b>	\$6,636.79	\$2,753,995.00	\$0.00	\$2,760,631.79	\$2,753,584.65	0.26%
<b>TOTAL FUND BALANCE</b>	\$1,151,718.34	\$1,105,985.24	\$3,990,087.64	\$6,247,791.22	\$5,493,893.92	13.72%
<b>TOTAL LIABILITIES &amp; FUND BALANCE</b>	<b>\$1,158,355.13</b>	<b>\$3,859,980.24</b>	<b>\$3,990,087.64</b>	<b>\$9,008,423.01</b>	<b>\$8,247,478.57</b>	<b>9.23 %</b>
<b>BEGINNING BALANCE WITH CURRENT YEAR ADJUSTMENTS</b>	\$1,271,358.26	\$880,970.77	\$3,568,738.74	\$5,721,067.77	\$4,047,970.23	41.33%
<b>NET SURPLUS/(DEFICIT) &amp; TRANSFER IN/OUT</b>	(\$119,639.92)	\$225,014.47	\$421,348.90	\$526,723.45	\$1,445,923.69	(63.57%)
<b>ENDING FUND BALANCE</b>	<b>\$1,151,718.34</b>	<b>\$1,105,985.24</b>	<b>\$3,990,087.64</b>	<b>\$6,247,791.22</b>	<b>\$5,493,893.92</b>	<b>13.72%</b>

\* Increase in Net Assets by 9.23%  
 \* Increase in Fund Balance by 13.72%