



September 8, 2015

TO: The Board of Trustees of the University of Oregon

FR: Angela Wilhelms, Secretary

RE: Updated - Notice of Finance and Facilities Committee Meeting

The Finance and Facilities Committee of the Board of Trustees of the University of Oregon will hold a public meeting on the date and at the location set forth below. Subjects of the meeting will include: quarterly financial and treasury reports, capital projects, FY16 budget and expenditure authorization, an e-commerce agreement for Oregon Athletics, the tuition-setting process, and the concept of a tuition guarantee.

The meeting will occur as follows:

Thursday, September 10, 2015 at 10:00 am
Ford Alumni Center, Room 403

The Ford Alumni Center is located at 1720 East 13th Avenue, Eugene, Oregon. If special accommodations are required, please contact Amanda Hatch at (541) 346-3013 at least 72 hours in advance.

BOARD OF TRUSTEES

6227 University of Oregon, Eugene OR 97403-1266 T (541) 346-3166 trustees.uoregon.edu

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**Board of Trustees of the University of Oregon
Finance and Facilities Committee Meeting
September 10, 2015**

10:00 am: Public Meeting Ford Alumni Center, Room 403

Convene

- Call to order
- Roll call

1. Approval of June 2015 FFC minutes (Action)

2. Public comment

3. Quarterly reports

- 3.1 Q4 financial report, *Vice President for Finance and Administration Jamie Moffitt*
- 3.2 Q4 treasury report, *Director of Treasury Operations Karen Levear*

4. Capital projects

- 4.1 Capital improvement agreement: Marcus Mariota Sports Performance Center, *Phit, LLC representative Howard Slusher* (Action)
- 4.2 Capital improvement agreement: Hayward Field, *University of Oregon Foundation President and CEO Paul Weinhold* (Action)
- 4.3 Academic building projects: Chapman Hall, College & Careers Building, Klamath Hall, *AVP for Campus Planning and Real Estate Chris Ramey* (Action)

5. Fiscal Year 2016 budget, Vice President for Finance and Administration Jamie Moffitt
(Action)

6. Tuition and fees

- 6.1 Earlier student input in the tuition-setting process, *Vice President for Finance and Administration Jamie Moffitt* (Action)
- 6.2 Tuition guarantee concept, *Vice President for Finance and Administration Jamie Moffitt and Vice President for Enrollment Management Roger Thompson*

7. E-Commerce agreement, Executive Sr. Assoc. Athletic Director Eric Roedl (Action)

Meeting Adjourns



Agenda Item #1

Approval of June 2015 Meeting Minutes

Draft minutes for June 2015 were emailed to the Finance and Facilities Committee on August 26, 2015.



Agenda Item #2

Public Comment

There are no materials for this section

Agenda Item #3

Quarterly Reports

- #3.1 - Q4 Financial Report
- #3.2 – Q4 Treasury Report



Agenda Item #3.1

Q4 Financial Report

FY15 Actual's Quarter 4 (July - June) Report - All Funds except Agency and Clearing

	Education and		Designated	Restricted Gift		Other Funds		Plant Funds	Internal Bank	Total
	General	Service Center	Auxiliaries	Grant Funds	Funds					
State Appropriation	\$ 56,111,454	\$ 1,216,016	\$ 440,000	\$ 60,000	\$ -	\$ -	\$ -	\$ -	\$ 31,448	\$ 57,858,918
Tuition and Fees	\$ 372,366,154	\$ 12,267,619	\$ 38,787,466	\$ 211	\$ (27,981)	\$ -	\$ -	\$ -	\$ 3,288,507	\$ 426,681,976
Gifts Grants & Contracts	\$ 336,508	\$ 5,796,236	\$ 103,974	\$ 107,381,539	\$ 57,096,891	\$ 2,000	\$ 11,954,359	\$ -	\$ -	\$ 182,671,506
ICC Revenue	\$ 19,185,870	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,311,975	\$ -	\$ -	\$ 20,497,845
Federal Student Aid	\$ -	\$ -	\$ -	\$ 24,381,695	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 24,381,695
Interest and Investment	\$ 5,186,262	\$ 12,827,784	\$ 481,532	\$ 13,596	\$ 1,315,306	\$ (611,780)	\$ 617,793	\$ 2,341,526	\$ -	\$ 22,172,019
Internal Sales	\$ 24,075	\$ 34,989,109	\$ 13,087,757	\$ 18,413	\$ 2,250	\$ -	\$ -	\$ 21,701,056	\$ -	\$ 69,822,660
Sales & Services	\$ 2,561,521	\$ 11,134,093	\$ 133,642,285	\$ 1,082,146	\$ 1,736,593	\$ -	\$ -	\$ -	\$ -	\$ 150,156,639
Other Revenues	\$ 2,394,119	\$ 2,255,718	\$ 2,004,119	\$ -	\$ 352,716	\$ -	\$ 105,605	\$ -	\$ -	\$ 7,112,277
Transfers From Ore State Agencies	\$ 259,292	\$ -	\$ -	\$ 7,615,280	\$ -	\$ -	\$ 14,588,911	\$ 4,902,962	\$ -	\$ 27,366,445
Total Revenue	\$ 458,425,256	\$ 80,486,575	\$ 188,547,133	\$ 140,552,879	\$ 60,475,776	\$ (609,780)	\$ 28,578,643	\$ 32,265,499	\$ 988,721,980	
Salaries and Wages	\$ 239,906,266	\$ 23,301,395	\$ 54,105,857	\$ 37,363,520	\$ 13,278,157	\$ -	\$ -	\$ 149,508	\$ -	\$ 368,104,702
OPE Health Benefits	\$ 50,044,694	\$ 5,281,566	\$ 11,872,839	\$ 7,521,017	\$ 1,307,960	\$ -	\$ -	\$ 16,169	\$ -	\$ 76,044,245
OPE Retirement	\$ 39,273,259	\$ 3,975,510	\$ 7,788,454	\$ 5,432,711	\$ 1,711,493	\$ -	\$ -	\$ 18,061	\$ -	\$ 58,199,488
OPE Other	\$ 22,381,290	\$ 2,045,247	\$ 4,132,984	\$ 2,454,131	\$ 2,342,573	\$ -	\$ -	\$ 12,202	\$ -	\$ 33,368,427
OPE GTF Remissions	\$ 21,621,966	\$ 372,311	\$ 115,807	\$ 1,808,500	\$ 203,086	\$ -	\$ -	\$ -	\$ -	\$ 24,121,669
Total Personnel Services	\$ 373,227,474	\$ 34,976,028	\$ 78,015,942	\$ 54,579,879	\$ 18,843,269	\$ -	\$ -	\$ 195,940	\$ 559,838,531	
Service & Supplies	\$ 90,732,899	\$ 26,176,026	\$ 70,915,276	\$ 26,066,897	\$ 17,186,820	\$ 633,491	\$ 4,215,015	\$ 28,309,519	\$ -	\$ 264,235,942
Merchandise-Resale/Redistribution	\$ 3,030	\$ 14,925,166	\$ 13,260,827	\$ 4,000	\$ 145	\$ -	\$ -	\$ -	\$ -	\$ 28,193,168
Internal Sales Reimbursements	\$ (17,059,355)	\$ (2,194,983)	\$ (1,229,573)	\$ (26,102)	\$ (68,913)	\$ -	\$ -	\$ -	\$ -	\$ (20,578,926)
Indirect Costs	\$ 473,595	\$ 2,234,456	\$ 5,904,975	\$ 20,541,869	\$ 4	\$ 271,341	\$ -	\$ -	\$ -	\$ 29,426,240
Depreciation/Amortization Expense	\$ -	\$ 4,374,360	\$ 23,292,735	\$ -	\$ -	\$ -	\$ 26,815,394	\$ -	\$ -	\$ 54,482,489
Student Aid	\$ 4,527,042	\$ 363,710	\$ 7,813,201	\$ 36,277,777	\$ 17,435,672	\$ 159,177	\$ -	\$ -	\$ -	\$ 66,576,579
Total General Expense	\$ 78,677,211	\$ 45,878,735	\$ 119,957,441	\$ 82,864,441	\$ 34,553,727	\$ 1,064,009	\$ 31,030,409	\$ 28,309,519	\$ 422,335,491	
Net Transfers Out/(In)	\$ 7,290,091	\$ (3,139,405)	\$ 1,865,515	\$ 1,440,188	\$ 4,822,572	\$ 4,472	\$ (12,283,433)	\$ -	\$ -	
Total Expense	\$ 459,194,776	\$ 77,715,358	\$ 199,838,898	\$ 138,884,508	\$ 58,219,567	\$ 1,068,481	\$ 18,746,976	\$ 28,505,458	\$ 982,174,022	
Net	\$ (769,520)	\$ 2,771,217	\$ (11,291,765)	\$ 1,668,371	\$ 2,256,208	\$ (1,678,261)	\$ 9,831,668	\$ 3,760,041	\$ 6,547,958	
Beginning Fund Balance	\$ 77,280,262	\$ 52,768,061	\$ 247,107,718	\$ 434,738	\$ 14,427,227	\$ 58,942,402	\$ 344,037,133	\$ 19,512,241	\$ 814,509,783	
Capital Expenditures	\$ (5,776,409)	\$ (68,273)	\$ (2,208,910)	\$ (1,617,697)	\$ (451,246)	\$ -	\$ (89,309,964)	\$ -	\$ (99,432,498)	
Net (from above)	\$ (769,520)	\$ 2,771,217	\$ (11,291,765)	\$ 1,668,371	\$ 2,256,208	\$ (1,678,261)	\$ 9,831,668	\$ 3,760,041	\$ 6,547,958	
Fund Additions/Deductions*	\$ (4,068,255)	\$ 4,640,687	\$ 51,939,129	\$ (558,418)	\$ 2,590,046	\$ (31,405,723)	\$ 211,327,518	\$ 4,025,797	\$ 238,490,781	
Ending Fund Balance	\$ 66,666,078	\$ 60,111,693	\$ 285,546,172	\$ (73,006)	\$ 18,822,236	\$ 25,858,418	\$ 475,886,355	\$ 27,298,079	\$ 960,116,024	
Year-End Accounting Entries **	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	
Net Capital Assets	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	
Other Restricted Net Assets	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	
Unrestricted Net Assets	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	
Total Net Assets	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	

* - Due to Capital Improvements and Debt Accounting entries, Includes Elimination of State Paid Debt from UO Books

** - Year-End Accounting - e.q. Allocate Pension Liability, Reclass Cash to Investments, Allocate Debt

FY15 UO BOT Quarter 4 - Education and General

	FY15 Updated Projection Q3	FY15 Actual Q4	FY15 Q4 Actual as percent of projection	FY14 Actual Q4	FY15 Q4 inc/(dec) from FY14 Q4	FY14 Total Actual	FY15 Q4 Projection compared to FY14 Total as percent	FY15 Updated Projection Q4
State Appropriation	\$ 56,000,889	\$ 56,111,454	100.2%	\$ 49,104,143	14.3%	\$ 49,104,143	14.0%	\$ 56,000,889
Tuition and Fees	\$ 372,648,973	\$ 372,366,154	99.9%	\$ 371,310,700	0.3%	\$ 371,310,700	0.4%	\$ 372,648,973
Gifts Grants & Contracts	\$ 500,000	\$ 336,508	67.3%	\$ 360,994	-6.8%	\$ 360,994	38.5%	\$ 500,000
ICC Revenue	\$ 19,750,000	\$ 19,185,870	97.1%	\$ 18,354,414	4.5%	\$ 18,354,414	7.6%	\$ 19,750,000
Federal Student Aid	\$ -	\$ -		\$ -		\$ -		\$ -
Interest and Investment	\$ 4,254,098	\$ 5,186,262	121.9%	\$ 4,224,202	22.8%	\$ 4,224,202	0.7%	\$ 4,254,098
Internal Sales	\$ 50,000	\$ 24,075	48.2%	\$ 61,839	-61.1%	\$ 61,839	-19.1%	\$ 50,000
Sales & Services	\$ 2,323,000	\$ 2,561,521	110.3%	\$ 2,406,902	6.4%	\$ 2,406,902	-3.5%	\$ 2,323,000
Other Revenues	\$ 700,000	\$ 2,394,119	342.0%	\$ 1,184,293	102.2%	\$ 1,184,293	-40.9%	\$ 700,000
Transfers From Ore State Agencies	\$ 130,000	\$ 259,292		\$ 4,578		\$ 4,578	2739.7%	\$ 130,000
Total Revenue	\$ 456,356,960	\$ 458,425,256	100.5%	\$ 447,012,065	2.6%	\$ 447,012,065	2.1%	\$ 456,356,960
Salaries and Wages	\$ 239,650,000	\$ 239,906,266	100.1%	\$ 222,608,462	7.8%	\$ 222,608,462	7.7%	\$ 239,650,000
OPE Health Benefits	\$ 50,625,000	\$ 50,044,694	98.9%	\$ 47,882,280	4.5%	\$ 47,844,892	5.8%	\$ 50,625,000
OPE Retirement	\$ 39,450,000	\$ 39,273,259	99.6%	\$ 36,644,925	7.2%	\$ 36,488,423	8.1%	\$ 39,450,000
OPE Other	\$ 20,440,000	\$ 22,381,290	109.5%	\$ 19,528,383	14.6%	\$ 19,722,274	3.6%	\$ 20,440,000
OPE GTF Remissions	\$ 21,700,000	\$ 21,621,966	99.6%	\$ 20,511,551	5.4%	\$ 20,511,551	5.8%	\$ 21,700,000
Total Personnel Services	\$ 371,865,000	\$ 373,227,474	100.4%	\$ 347,175,602	7.5%	\$ 347,175,602	7.1%	\$ 371,865,000
Service & Supplies	\$ 89,000,000	\$ 90,732,899	101.9%	\$ 88,132,382	3.0%	\$ 88,132,382	1.0%	\$ 89,000,000
Merchandise-Resale/Redistribution	\$ -	\$ 3,030		\$ 1,821	66.4%	\$ 1,821	-100.0%	\$ -
Internal Sales Reimbursements	\$ (15,100,000)	\$ (17,059,355)	113.0%	\$ (16,399,583)	4.0%	\$ (16,399,583)	-7.9%	\$ (15,100,000)
Indirect Costs	\$ 413,201	\$ 473,595	114.6%	\$ 408,552	15.9%	\$ 408,552	1.1%	\$ 413,201
Depreciation/Amortization Expense	\$ -	\$ -		\$ -		\$ -		\$ -
Student Aid	\$ 2,360,000	\$ 4,527,042	191.8%	\$ 2,524,270	79.3%	\$ 2,524,270	-6.5%	\$ 2,360,000
Total General Expense	\$ 76,673,201	\$ 78,677,211	102.6%	\$ 74,667,443	5.4%	\$ 74,667,442	2.7%	\$ 76,673,201
Net Transfers Out(In)	\$ 7,000,000	\$ 7,290,091	104.1%	\$ 6,419,081	13.6%	\$ 6,419,081	9.0%	\$ 7,000,000
Total Expense	\$ 455,538,201	\$ 459,194,776	100.8%	\$ 428,262,126	7.2%	\$ 428,262,125	6.4%	\$ 455,538,201
Net	\$ 818,759	\$ (769,520)	-94.0%	\$ 18,749,939	-104.1%	\$ 18,749,940	-95.6%	\$ 818,759
Beginning Fund Balance	\$ 77,280,262	\$ 77,280,262	100.0%	\$ 62,875,481	22.9%	\$ 62,875,481	22.9%	\$ 77,280,262
Capital Expenditures	\$ (5,000,000)	\$ (5,776,409)	115.5%	\$ (4,345,158)	32.9%	\$ (4,345,158)	15.1%	\$ (5,000,000)
Net (from above)	\$ 818,759	\$ (769,520)	-94.0%	\$ 18,749,939	-104.1%	\$ 18,749,939	-95.6%	\$ 818,759
Fund Additions/Deductions*	\$ -	\$ (4,068,255)		\$ -		\$ -		\$ -
Ending Fund Balance	\$ 73,099,021	\$ 66,666,078	91.2%	\$ 77,280,262	-13.7%	\$ 77,280,262	-5.4%	\$ 73,099,021
Year-End Accounting Entries **	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Net Capital Assets	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Other Restricted Net Assets	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Unrestricted Net Assets	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Total Net Assets	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD

* - Due to Capital Improvements and Debt Accounting entries

** - Year-End Accounting - e.q. Allocate Pension Liability, Reclass Cash to Investments, Allocate Debt



Agenda Item #3.2

Q4 Treasury Report



UNIVERSITY OF OREGON

Quarterly Treasury Update

September 10, 2015

Presenter: Karen Levear, Director of Treasury Operations

Finance and Facilities Committee
Board of Trustees of the University of Oregon



UNIVERSITY OF OREGON

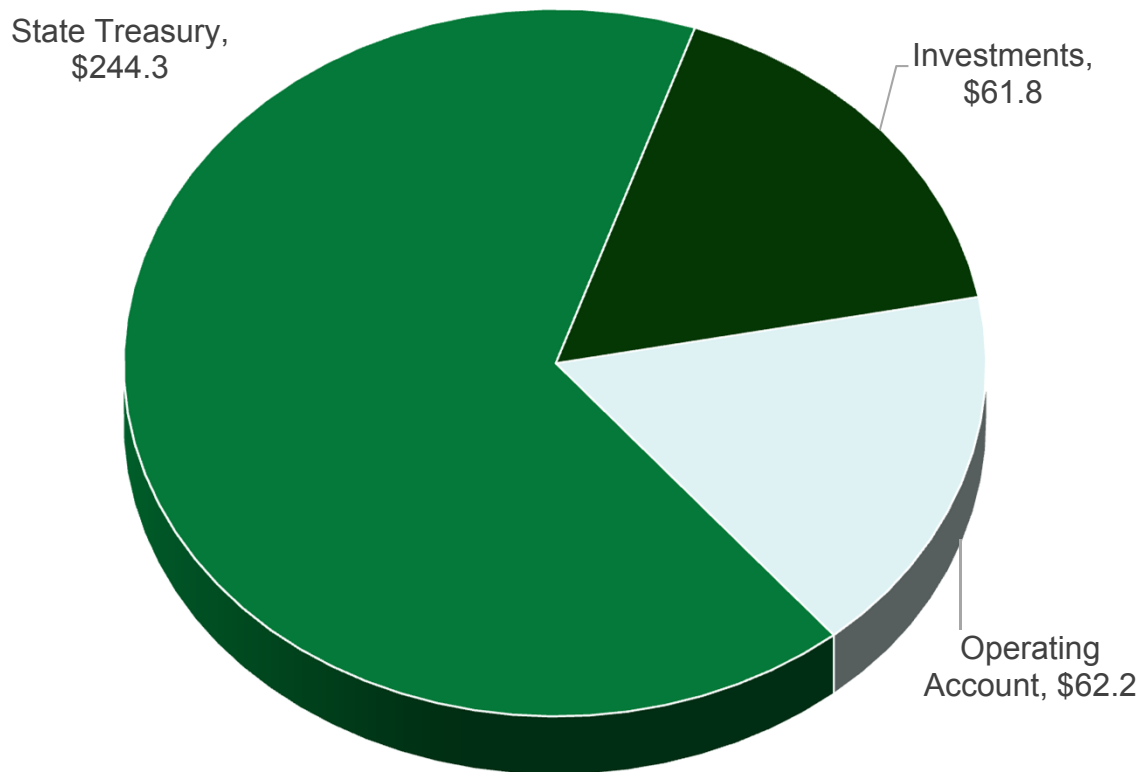
The cash and investment pool continues to follow cyclical trends.



Cash & Investment Pool Holdings

\$348.8 million as of 8/4/15

Estimated Weighted Avg.
Accounting Yield in FY15 was 1.25%



Portfolio Targets

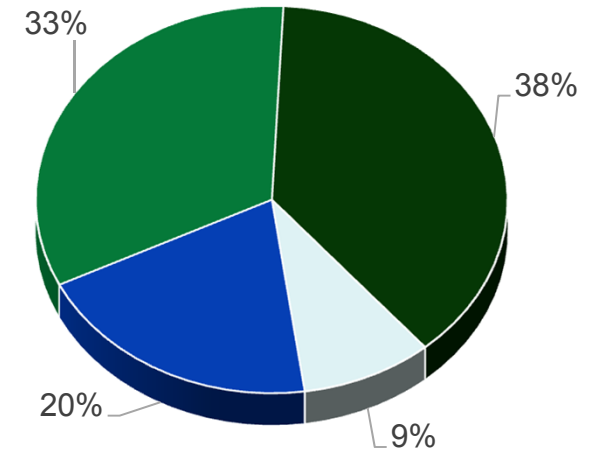
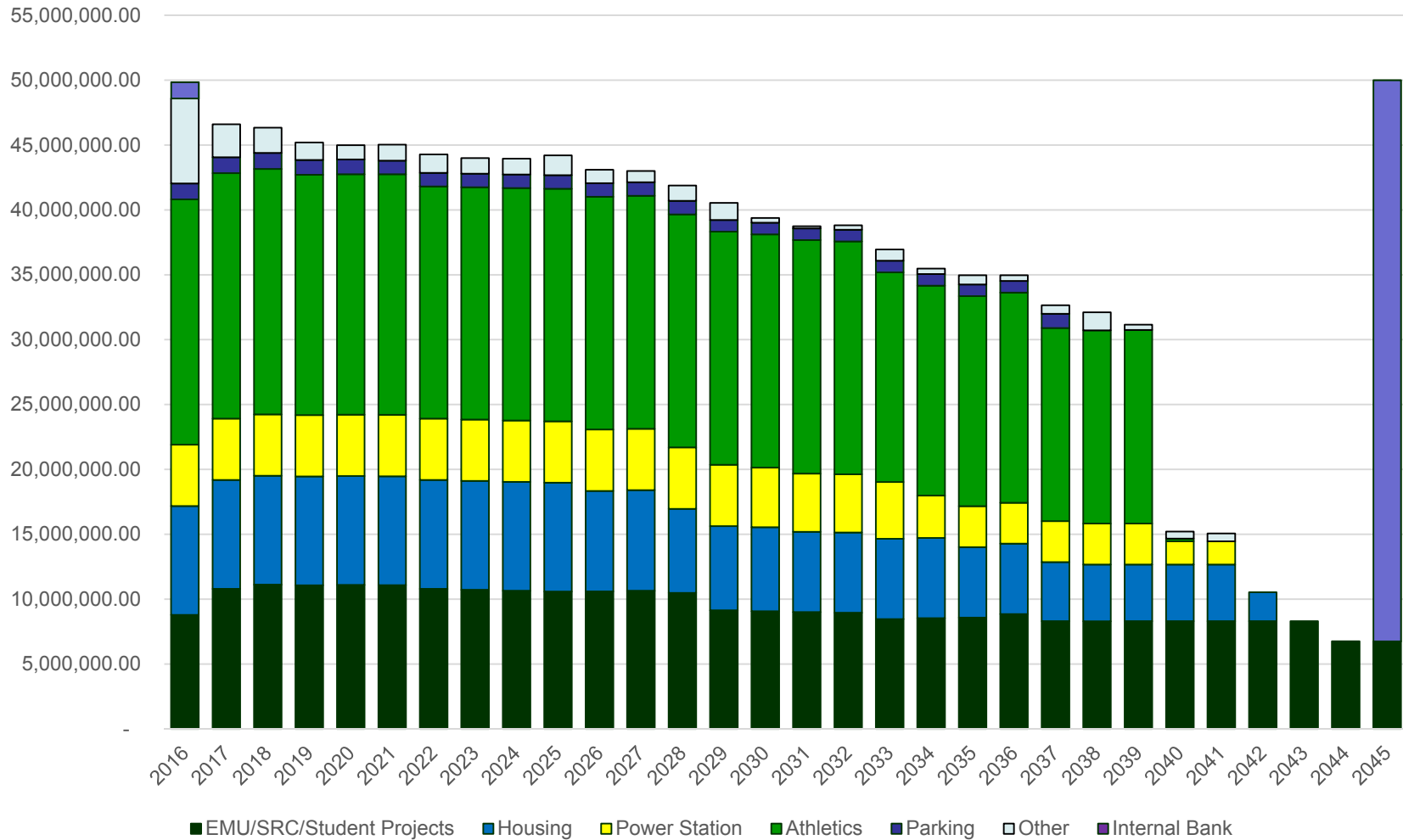


Chart shows average daily balances May 1, 2015 through July 31, 2015

Update on Activities

- Alignment of Cash and Investment Pool
 - Allocated existing investments to the investment tiers
 - Sold certain investments
 - UOF to manage a portion of Tier 3 cash allocation
- Processes now in place for state-backed bond sales
 - Sales completed for 2013-2015 authorized bonds
 - New bonds authorized for 2015-2017 biennium
- Transition of banking activity – completed!
- Next UO revenue bond sale probably 10-16 months
- Treasury function now fully staffed
- December's update is expected to include the more in-depth annual treasury report

There are various debt-paying entities across campus.



Agenda Item #4

- #4.1: Capital Improvement License Agreement: Marcus Mariota Sports Performance Center
- #4.2: Capital Improvement License Agreement: Hayward Field
- #4.3: Legislatively-backed projects overview: Klamath Hall, Chapman Hall, College and Careers Building Projects



Agenda Item #4.1

Capital Improvement License Agreement: Marcus Mariota Sports
Performance Center

The Board of Trustees is asked to consider approval of a license agreement with PHIT, LLC, for purposes of planning and constructing the “Marcus Mariota Sports Performance Center”. The project is funded entirely through private philanthropy. The nature of the agreement, the resulting gift to the University, and the ongoing operational needs (funded by Athletics) are such that Board approval is required for the project.

The attached resolution includes a copy of the license agreement and related exhibits (see Exhibit “A” to the resolution). Spiral bound materials will be provided by SRG with (1) an executive summary and the agreement and (2) a schematic design report. Below is the copy from that executive summary as provided by SRG and PHIT.

Executive Summary

What: A 29,000 sf Sport Performance Center and “all sports” Equipment Room.

Where: Casanova Center (Floor One)

PHIT to License described space from the University of Oregon (see license agreement, exhibit “A”).

Who: PHIT contracts with Hoffman Construction Company who in turn contracts with selected Architects (SRG) and other sub-contractors, vendors and suppliers. In rare situations, PHIT will contract directly with a vendor.

When: The optimistic and aggressive schedule is as follows:

November 1, 2015	Complete drawings
December 15, 2015	Bids opened/rolling awards
January 10, 2016	Start construction
August 10, 2016	Substantial completion
September 15, 2016	Final completion/turn over to University

Why:

- To utilize relevant known scientific data in order to maximize well-being and performance of student-athletes at the University of Oregon. Testing and analysis of student-athlete performance is a major ingredient for pre and post competition training and recovery.
- To develop a state-of-the-art equipment facility that will provide operational capability that does not presently exist, more than double storage space and facilitate a merchandising element that will be consistent with the care and safety of the University’s student-athletes.

How: (i) The University of Oregon and PHIT will enter into a License Agreement (see resolution Exhibit “A”) wherein the University will grant a license to PHIT to use identified portions

**Finance and Facilities Committee
Board of Trustees of the University of Oregon**

Resolution: Authorization to Enter into License Agreement

Whereas, private philanthropists wish to donate to student-athletes at the University of Oregon (the “UO” or “University”) with a 29,000 square foot state-of-the-art sports performance center and equipment room within the Casanova Center;

Whereas, the new performance center will utilize relevant known scientific data in order to maximize well-being and performance of student-athletes at the UO while also providing increased operational capability and storage space;

Whereas, the renovation of the Casanova Center to create the sports performance center will be supported by private philanthropy with no impact on the University’s operating budget;

Whereas, Phit, LLC (“Phit”) wishes to enter into a License Agreement (the “Agreement”), attached hereto as Exhibit A, with the University for the space described therein for the purpose of designing and constructing the sports performance center;

Whereas, the Agreement stipulates that the license will commence on November 1, 2015 and will cease on the earlier of August 31, 2016 or when the performance center is completed and the licensed area is turned over for the benefit of the University;

Whereas, the Agreement stipulates that sub-contracts will be open for bid as appropriate and that prevailing wages applicable to UO will apply;

Whereas, Sections 1.7.2 and 1.9 of the University of Oregon’s Policy on the Retention and Delegation of Authority requires approval by the Board of Trustees (the “Board”) for the execution of instruments relating to real property where the anticipated value exceeds \$5,000,000 and for the acceptance of a gift of real estate and/or gifts that create obligations on the part of the University for which there is no established funding source, respectively; and,

Whereas, the Board’s Policy on Committees authorizes the Finance and Facilities Committee to refer matters to the full Board as a seconded motion;

Now, therefore, the Finance and Facilities Committee hereby refers to the Board of Trustees as a seconded motion, recommending passage:

1. RESOLVED, the Board authorizes the President or his designee(s) to take all actions necessary and proper to enter into the License Agreement, attached hereto as Exhibit A, with Phit, LLC for purposes of managing the construction of a sports performance center within the Casanova Building;

2. RESOLVED, the Board authorizes acceptance of any gift of property (real or personal) to the University from Phit, LLC which would come in the form of any increased value to the leased property; and
3. RESOLVED, the Board authorizes all prior actions taken on behalf of the University related to the acceptance and use of the aforementioned property.

Moved: _____

Seconded: _____

Trustee	Yes	No
Bragdon		
Colas		
Gary		
Gonyea III		
Kari		
Schill		

Dated: _____ of _____, 2015.

Initials: _____

of Casanova for intended purposes and for the benefit of the University and its student-athlete population.

- (ii) Consistent with previous projects, PHIT contributes needed funds to the University of Oregon Foundation. PHIT draws against a specified account established by the Foundation to compensate Hoffman Construction (HCC) and all entities in privity to HCC, approved by PHIT.
- PHIT is responsible for financial payments and obligated to the University of Oregon for adherence to its rules and regulations (e.g. prevailing wage). Further, PHIT is responsible for establishing schedule with HCC as approved by the Athletic Department of the University of Oregon.
- Upon completion, the facility will be operated by the Department of Athletics of the University of Oregon. Pending approval of this facility by the Board of Trustees a search will be completed by the Athletic Director for the Managing Director of this facility (see Exhibit "C" to the license agreement attached to the resolution). The Athletic Department is responsible for this individual's compensation as well as the operation of this facility.
- Further, statistical analysis is key to data compilation and interpretation, in a meaningful way, to specified staffs. This position has been funded. At the time of writing this memo an offer has been made to a candidate. The goal is to involve this person and the Director in "fine-tuning" the development of this facility.

Requested Action: Your approval is needed to move forward. Thank you for your consideration.

EXHIBIT A

License Agreement

This License Agreement (this **"Agreement"**) is entered into by the University of Oregon (**"Licensor"**) and Phit, LLC (**"Licensee"**).

WHEREAS, Licensor is the owner of the building known as the Casanova Center (the **"Casanova Center"**) and the other property on the University of Oregon campus in Eugene, Oregon (**"Premises"**).

WHEREAS, Licensee wishes to secure from Licensor and Licensor is willing to grant to Licensee a license to use the those portions of the Casanova Center and adjacent areas necessary for the Project and its construction, (the **"Licensed Area"**) for the installation and construction of alterations and improvements to the Licensed Area, which alterations and improvements will be given to the Licensor as a gift-in-kind for the benefit of the Licensor and to assist Licensor's student / athletes.

WHEREAS, the design, installation and construction of alterations and improvements to the Licensed Area may be referred to herein as the Marcus Mariota Sports Performance Center (**"Project"**).

For good and valuable consideration, the parties agree as follows:

1. Licensor grants to Licensee a non-revocable license (**"License"**) to use the Licensed Area. The License will commence on November 1, 2015. The License will end on August 31, 2016, or when the Licensed Area is turned over to the Licensor for the benefit of Licensor's Athletic Department (**"Term"**), whichever is earlier. The Term may be extended for reasonable cause subject to the approval of both parties, which approval shall not be unreasonably withheld. Licensor grants to Licensee a non-revocable right of ingress and egress over and through the Premises and the Licensor's property immediately adjacent to the Premises reasonably necessary for the purposes set forth in this Agreement. Provided, however, nothing in this Agreement shall be construed to prohibit access by Licensor to the Hatfield / Dowlin Complex, the Moshofsky Center or Autzen Stadium. This License does not convey an interest in real property, but rather is a privilege granted to Licensee for the purposes stated in this Agreement. It is not the intent of the parties that this License Agreement will result in any property tax liability to Licensee. In the event Licensee is assessed any property tax liability as a result of this License, Licensor will pay all taxes and defend and indemnify Licensee and its representatives from all costs, expenses, and other liabilities arising out of such assessment. Licensee shall pay a license fee of one dollar, which shall be due at the start of the Term.
2. Licensor acknowledges that Licensee intends to design, install and construct alterations

and improvements to the Licensed Area that will benefit student / athletes. The anticipated scope and location for the Project will be as generally described in materials presented to Licensor's Board of Trustees. Licensor has reviewed and approved the preliminary design documents for the Project. Licensor agrees the design and construction of the Project shall be done in the sole discretion of Licensee so long as it is generally consistent with Licensee's presentation to Licensor's Board. Any material changes (additive or deductive) to the scope of the Project will be subject to the approval of the President of the University of Oregon, which consent shall not be unreasonably withheld. The President of the University of Oregon will have full authority to agree to any such changes. Licensee must provide Licensor with record drawings upon termination of this Agreement or completion of the work, whichever occurs first. Licensee will consider high performance building standards for energy efficiency and environmental sustainability, provided, however, and notwithstanding anything to the contrary in this Agreement, since this is a private project that will result in a gift, Licensee will have no affirmative obligation to incorporate any such items into the Project including, without limitation, any level of LEED design, registration, documentation, modeling, construction, evaluation, certification and commissioning or its equivalent. Licensee will participate in the Oregon Department of Energy State Energy Efficiency Design (SEED) process for the Project. The work under this Agreement includes certain connections and other work to the Casanova Center that may result in the necessity for repairs to the Casanova Center. Licensee, in its sole discretion, may perform such connections and other work as is required for the work to be performed by Licensee under this Agreement. Licensee agrees to make whatever repairs are necessary and appropriate, in its sole discretion, to the Casanova Center so that the condition of the skins of the Casanova Center is equal to or better than its condition as of the date of this Agreement. Licensor will provide Licensee reasonable access to the Casanova Center for any such repairs and be responsible for any resulting moving of persons or property and relocation expenses. Subject to the requirements of Licensor, Licensee may propose the names and the duration of the names for the Project, and Licensor will not unreasonably object to Licensee's proposal.

3. Licensor and Licensee understand that Licensee will undertake the design, installation and construction of alterations and improvements to the Licensed Area as a private project and Licensee will give the alterations and improvements made to the Licensed Area as a gift-in-kind to Licensor upon completion. Licensor agrees that neither it nor its development office will charge any fee or administration costs of any kind relating to the funds donated for these gifts. Licensor shall use best efforts to assist and expedite all permitting processes. Licensee shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by or for Licensee. Any work performed, materials furnished or obligations incurred shall be at Licensee's sole request and not at the instance of or as agent for Licensor. Licensee shall be solely responsible for obtaining any and all permits and licenses and shall use only

contractors and subcontractors that are properly licensed in Oregon. Licensee shall ensure that its contractor and subcontractors of all tiers pay applicable prevailing wages as required by law for the Project. It is understood that the Project is subject to Oregon's prevailing wage law, and Licensee shall comply with all applicable prevailing wage statutes, regulations, and other requirements set forth in Exhibit A. Licensee agrees that it shall require its contractor to competitively bid or procure the work as appropriate. The procurement may include, without limitation, bidding of the intended scope of work, interviewing selected bidders, negotiating with selected bidders, and awarding to the bidders, in Licensee's sole discretion, that are best able to perform the work, based on price and other relevant factors. The selection will not be based solely on price. Licensee reserves the right to not competitively procure any aspect of the Project if, in Licensee's sole discretion, it is in the best interest of the Project. Licensee has the right to purchase directly and as a sole source any aspects of the Project that are not competitively procured. Licensee's contractor will use good faith efforts in the solicitation of minority, women, and emerging small businesses for the Project and will maintain records of such efforts and the actual usage of such businesses. Notwithstanding anything to the contrary herein, it is agreed that the Project is not and shall not be deemed a public project or public improvement, and Licensee will not, in any way, be acting as a public agency with respect to the Project nor will any provision herein be deemed to result in Licensee acting as a public agency. However, the parties understand that the prevailing wage requirements in ORS 279C.800 to 279C.870 apply to agreements entered into by Licensor in which a private entity constructs, reconstructs, renovates or paints an improvement on real property owned by Licensor, and that for purposes of prevailing wage requirements, this may be considered a "public work."

4. Licensor will, during the construction of the Project, designate, at no cost to Licensee, service vehicle parking spaces for a minimum of twelve (12) vehicles, reasonably acceptable to Licensee, for Licensee's exclusive use plus necessary and reasonable trailer space and laydown areas. Licensor understands that representatives of Licensor use part of the Premises for parking and that it will be necessary for Licensor to make arrangements for alternative parking during the term of this Agreement.
5. Licensee's contractor shall, consistent with the construction, keep any public areas affected by the construction clean and consistent with public use.
6. Licensee is not responsible for the existence of hazardous waste in the Licensed Area. If requested by Licensee, Licensor will arrange and pay for an environmental assessment to be conducted with respect to the Licensed Area or any other portion of the Casanova

Center that will be impacted by the Project. Licensee is also not responsible for any easements and other encumbrances including, without limitation, those exceptions on the May 20, 2010 title report attached as Exhibit B that relate to the Premises and will adversely affect the Project ("**Encumbrances**"). Licensors, at its sole expense, will take all action necessary to remove or relocate any such Encumbrances so that they do not delay or otherwise affect the Project. Licensors will commence such removal or relocation within thirty (30) days of receipt of written notice requesting such removal or relocation. In the event Licensors does not use Licensee's contractor for the Project for such removal or relocation, Licensors and Licensee will, before Licensors commences such work, negotiate a completion date consistent with the overall Project Schedule and liquidated damages to be paid Licensee by Licensors in an equitable amount but not less than \$500 per day in the event such work is not completed in a timely manner. In lieu of removal or relocation of Encumbrances, Licensors may obtain the necessary consent so that Encumbrances do not delay or otherwise affect the Project. Except as otherwise provided, Licensee accepts its license herein to use the Licensed Area in its "AS-IS" condition with all faults, including both latent and patent defects and Licensors and Licensors's agents are not making, have not made and expressly disclaim any representations or warranties, express or implied, with respect to the Licensed Area. Notwithstanding the non-revocable nature of the License, in the event Licensee subsequently determines that there were latent defects which substantially and materially change the construction anticipated or substantially and materially change the cost of the construction anticipated, Licensee may immediately, upon notice to Licensors, terminate this Agreement. If any such termination is due to hazardous waste issues or Encumbrances, Licensee will have no responsibility to restore the Licensed Area and Licensors will be responsible for any required restoration of the Licensed Area.

7. Before Licensors vacates the Licensed Area, Licensors will, upon ten days' notice from Licensee, provide access to Licensee for environmental testing of the Licensed Area. Licensors will totally, at its cost, vacate the Licensed Area within thirty (30) days of receipt of written notice by Licensee and leave the Licensed Area in such condition that it is ready for commencement of construction of the Project.
8. Licensee agrees to indemnify and hold harmless Licensors from and against any and all liability, damages, expenses, judgments, proceedings and causes of action based solely on claims by third parties for injury to or death of any person or damage to or destruction of any property and arising out of Licensee's use or occupancy of the Licensed Area, provided, however, such obligation only applies to the extent of any negligent act or omission of Licensee or its employees or authorized agents. Licensee's indemnification obligations under this paragraph shall survive the expiration or termination of this Agreement.
9. Licensee or its contractor shall maintain the insurance specified on Exhibit C on the Licensed Area until this Agreement is terminated or the Licensed Area is turned over to the Athletic Department of Licensors, whichever is earlier.

10. Licensee may not assign this Agreement or sublicense the whole or any part of the Licensed Area without the prior written approval of Licensors, which approval Licensors may grant or withhold in Licensors' sole and absolute discretion.
11. During the term of this Agreement, all obligations of Licensee under this Agreement and actions taken by Licensee pursuant to this Agreement shall comply with all applicable statutes and other legal requirements of all federal, state, county and municipal authorities having jurisdiction of the Licensed Area.
12. Licensee shall, prior to the date of expiration of the License, remove from the Licensed Area Licensee's personal property not affixed to the Licensed Area. At the end of the Term, Licensors shall have sole responsibility for all maintenance and repair of the Licensed Area and Licensee is completely released by Licensors for any responsibility under this Agreement, except for Licensee's surviving indemnification obligations under Paragraph 8. At the end of the Term, Licensee shall return the Licensed Area and donate all improvements, as a gift-in-kind, to Licensors, free of all liens and encumbrances created by Licensee. At the end of the Term, Licensors acknowledges that on behalf of its Athletic Department, Licensors will have fee title to the Casanova Center (including the Licensed Area) and the Athletic Department of the Licensors will have exclusive control, in the sole discretion of the Athletic Department of the Licensors, over the use, staffing and all other operational aspects of the Licensed Area. Provided, however, such use, staffing and operation shall not be below Licensors' own minimum standards.
13. Licensors, at least ninety (90) days prior to the expected date of Substantial Completion of the Project shall employ and pay for the following: Director of Center; Data Analyst and at times for no less than two (2) years thereafter, maintain these full-time positions. The current expected date of Substantial Completion for the Project is August 1, 2016.
14. No later than September 1, 2016, Licensors and Licensee shall meet to discuss reaching a firm agreement on the following: (i) how the operation of the Licensed Area will be funded for five (5) years after completion and (ii) who will be responsible for operating the Licensed Area including, without limitation, public access to the Licensed Area and related issues, and under what conditions. If Licensors and Licensee fail to reach such an agreement on all issues by November 1, 2016, this Agreement, in the sole discretion of Licensee, may be suspended until such time as such issues are resolved or terminated by Licensee. In the event of such suspension or termination, Licensors will reimburse Licensee for direct costs up to \$100,000 incurred by Licensee as of the date of such suspension or termination unless Licensee, in its sole discretion, waives such right in writing.
15. Licensors agrees to waive any and all labor and service fees, interdepartmental charges, mark ups, service charges, etc. for any and all Licensors services related to the Project

including, without limitation, facility management, IT services, security services, lock shop, etc. Provided, however, Licensee will, in its sole discretion, pay for the actual cost of any materials (but not installation) such as locks required and provided by Licensors or Licensee.

16. Licensee may, at any time and without cause terminate this Agreement and return the Licensed Area to Licensors in substantially the same or better condition than it presently exists as of the date hereof. Notwithstanding the non-revocable nature of the License, in the event of a material breach of this Agreement by Licensee or Licensors, the party not in breach may terminate this Agreement and pursue all remedies available under the law.
17. After obtaining Licensee's consent, which shall not be unreasonably withheld or delayed, Licensors and Licensors's agents may enter the Licensed Area to (i) inspect the general condition of the Licensed Area and (ii) perform such duties as Licensors is obligated to perform under applicable law or policy. Licensors's Police Department may enter the Licensed Area at all times without Licensee's consent in order to enforce the laws of the State of Oregon and the rules and regulations of Licensors. In the event of an emergency arising within the Licensed Area which endangers property or persons, the consent requirement is waived by Licensee. All of the provisions contained in this Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, agency, or any other similar relationship between the parties. Failure of Licensors or Licensee to enforce any provision of the Agreement shall not constitute a waiver or relinquishment of the right of performance in the future nor of the right to enforce any other provision of this Agreement. This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
18. In the event of any dispute arising out of or relating to this Agreement, the prevailing party will be entitled to reasonable attorney's fees at trial and on appeal.
19. Each party represents it has full authority to sign this Agreement.
20. All obligations of Licensors which, by their nature, are continuing, shall survive expiration or termination of this Agreement.
21. This constitutes the entire agreement of the parties with respect to the matters set forth in this Agreement, supersedes all prior or contemporaneous oral or written agreements with respect to the matters set forth in this Agreement, and shall not be modified except in writing and signed by the parties.

22. Licensor reasonably believes and will use its best efforts to ensure that Licensor will have sufficient funds to perform its duties and obligations under this Agreement. It is Licensor's intention, agreement and obligation to perform its duties and obligations under this Agreement and will use its best efforts to make certain that funds are legally available therefor, and, in that regard, Licensor represents and warrants to Licensee that this Agreement is important to the operation of the Athletic Department. If, despite the above, Licensor is not allotted sufficient funds by appropriation, limitation, grant, or other fund source lawfully available to it for purposes of continuing to perform its duties and obligations under this Agreement, Licensor shall notify Licensee in writing of the unavailability of funds to perform this Agreement. Licensee may elect to authorize and require Licensor to perform, at the Licensee's expense, some or all of Licensor's duties and obligations under this Agreement. In such an event, Licensee reserves its right to recover such expenses from any funds of Licensor that are or become lawfully available, including, without limitation, any general operating funds. In the alternative, Licensee may elect to terminate this Agreement by written notice to Licensor.
23. In the event Licensor fails to perform any of its obligations hereunder, Licensee has all rights and remedies under the law including, without limitation, the right to suspend or terminate this Agreement.
24. This Agreement is subject to the approval of the University of Oregon Board of Trustees prior to September 15, 2015.

LICENSOR
University of Oregon

LICENSEE – PHIT, LLC

By: _____
Name: _____
Title: _____

Date: _____

By: _____
Name: Philip H. Knight
Title: _____

Date: _____

Exhibit A

(Prevailing Wage Rate Law Compliance)

As more particularly described in this Exhibit D, the Licensee shall comply and shall require all Licensee's construction contractors and subcontractors to comply with ORS 279C.800 through 279C.870. The Oregon Bureau of Labor and Industries ("BOLI") prevailing wage rates that will apply to the Project under the Agreement (and the construction contract that Licensee will enter into with Licensee's construction contractor) shall be those in effect at the time the construction contract is executed, or if no construction work is authorized to be performed in the initial form of the construction contract, then those prevailing wage rates in effect at the time the construction contractor is under a contractual obligation to perform construction work on the Project. Once established, the prevailing wage rates will then be in effect for the remainder of the Agreement and the construction contract between Licensee and Licensee's construction contractor. The prevailing wage rates that will apply will be those set forth in the then current version of the following BOLI booklet, together with any amendments to that booklet: **"PREVAILING WAGE RATES for Public Works Constricts in Oregon."**

Licensee shall pay construction workers at not less than the specified minimum hourly rate of wage, and shall include that requirement in all construction contracts and subcontracts pertaining to construction of the Project.

In accordance with ORS 279C.845, every contractor and Subcontractor performing work on the Project shall submit written certified statements to the Licensee and Licensors, on the form prescribed by the Commissioner of BOLI, certifying the hourly rate of wage paid each worker which the Licensee's contractors or subcontractors have employed on the Project, and further certifying that no worker employed on the Project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Agreement, which certificate and statement shall be verified by the oath of the contractors or subcontractors that each contractor or subcontractor has read the certified statement, that the contractor or subcontractor knows the contents of the certified statement and that the contractor's or subcontractor's best knowledge and belief the certified statement is true.

In order to comply with statutory requirements and administrative rules promulgated by the Commissioner of BOLI, the fee required by ORS 279C.825(1) will be paid by Licensee to the Licensors, so the Licensors can pay the fee to the Commissioner of BOLI as required.

Before starting construction work on the Project, the Licensee shall require its construction contractor to file with the Construction Contractors Board and maintain in full force and effect the separate public works bond required by ORS 279C.836 and OAR 839-025-0015, unless otherwise exempt under those provisions. The Licensee's construction contractor shall also include in every subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting construction work on

the Project, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting the Subcontractor to start work on the Project.

Exhibit B

Title Report

(Attached)

Exhibit C

Licensee's Insurance Requirements

During the Term, Licensee shall provide and maintain commercial general liability (Occurrence Basis) insuring it against claims for personal injury, bodily injury or death, and property damage. Such insurance shall be written with an insurer licensed to do business in the state of Oregon, shall name Licensor as additional insured, and contain a waiver of subrogation endorsement in favor of Licensor. The initial limits of liability of all such insurance shall be not less than \$3,000,000 per occurrence and \$5,000,000 general aggregate. Licensee, at Licensee's sole cost and expense, shall purchase and maintain Causes of Loss-Special Form (formerly "all risk") builder's risk insurance in the amount of the prime contractor's contract price for the construction of alterations, additions or improvements to the Licensed Area and the cost of materials furnished by others, comprising the total value of such alterations, additions or improvements on a replacement cost basis. The insurance shall contain a waiver of subrogation in favor of Licensor. Licensee, at Licensee's sole cost and expense, shall carry Workers' Compensation Insurance as required by Oregon law. No "alternative" forms of workers' compensation self-insurance coverage will be allowed. Licensee, at Licensee's sole cost and expense, shall carry Commercial Business Automobile Liability Insurance (Occurrence Basis) with a \$1,000,000 combined single limit coverage and shall name Licensor as additional insured. Such insurance shall be endorsed with a waiver of subrogation endorsement in favor of Licensor and include coverage for owned, hired and non-owned vehicles. All policies of insurance required hereunder shall provide that the insurance represented by the certificates shall not be cancelled, without the giving of thirty (30) days' prior written notice to the holders of the insurance required hereunder, Licensor may obtain the same and keep the insurance in effect, and Licensee shall pay Licensor the cost thereof plus a ten percent (10%) service charge to cover Licensor's administration costs within ten (10) days after receipt of an invoice. No policy (with the exception of earthquake and flood) will contain a deductible or self-insured retention in excess of \$25,000 without Licensor's prior written approval. If requested by Licensor, Licensee will promptly deliver to Licensor a certified copy of any certificate of insurance and insurance policies required by this License. The insurance carried by Licensee hereunder shall be primary and not contributory with any other insurance which is maintained by Licensor. All insurance which Licensee is required to maintain hereunder may be provided under a blanket policy provided such policy otherwise complies with the requirements of this License and is endorsed with an Aggregate Limits of Insurance (Per Location) endorsement.

The insurance required of Licensee above may be provided by Licensee or its contractor.

Exhibit B



RANDY GELLER
EMAIL: RGELLER@UOREGON.EDU

MAY 20, 2010

WHAT YOU SHOULD KNOW ABOUT YOUR PRELIMINARY TITLE REPORT

THE ATTACHED PRELIMINARY TITLE REPORT ("REPORT") WAS PREPARED BY CASCADE TITLE COMPANY AFTER RESEARCHING THE LANE COUNTY OREGON REAL PROPERTY DEED RECORDS. THE REPORT PROVIDES INFORMATION ABOUT TITLE TO THE REAL PROPERTY THAT IS THE SUBJECT OF THE PENDING TRANSACTION. PLEASE REVIEW THE REPORT CAREFULLY.

- THE REPORT SHOULD DESCRIBE ALL OF THE REAL PROPERTY THAT IS THE SUBJECT OF THE TRANSACTION.
- THE REPORT SHOULD CORRECTLY IDENTIFY THE OWNER OF THE SUBJECT REAL PROPERTY AND IDENTIFY THE PURCHASERS IF THE REAL PROPERTY IS BEING SOLD.
- THE REPORT SHOULD SET FORTH ALL 'SPECIAL EXCEPTIONS' TO TITLE TO THE REAL PROPERTY INCLUDING MONETARY LIEN ITEMS AND EASEMENTS; IF YOU KNOW OF ANY SPECIAL EXCEPTIONS NOT LISTED IN THE REPORT PLEASE CONTACT US.
- SOME SPECIAL EXCEPTIONS WILL REMAIN AFTER CLOSE OF ESCROW AND OTHERS WILL BE REMOVED AT CLOSE OF ESCROW. SOME SPECIAL EXCEPTIONS, SUCH AS TAXES OR MONETARY LIEN ITEMS, ARE TYPICALLY ELIMINATED AT CLOSE OF ESCROW. OTHER SPECIAL EXCEPTIONS, SUCH AS COVENANTS & RESTRICTIONS AND EASEMENTS, TYPICALLY REMAIN AS SPECIAL EXCEPTIONS IN THE TITLE INSURANCE POLICY, PLEASE REVIEW THE SPECIAL EXCEPTIONS AND ADVISE US WHICH ARE TO BE REMOVED - THIS WILL ASSIST IN CLOSING YOUR TRANSACTION IN A TIMELY MANNER.

AFTER YOUR REVIEW OF THE PRELIMINARY TITLE REPORT PLEASE CONTACT US SHOULD YOU HAVE ANY QUESTIONS OR IF WE CAN BE OF FURTHER ASSISTANCE. THANK YOU FOR THE OPPORTUNITY TO ASSIST YOU IN THIS TRANSACTION.

CASCADE TITLE CO.

811 Willamette Street ♦ Eugene, Oregon 97401
phone: (541) 687-2233 ♦ fax: (541) 485-0307 ♦ email: info@cascadetitle.com
1901 Hwy 101 – Suite 2 ♦ Florence, Oregon 97439
phone: (541) 997-8417 ♦ fax: (541) 997-8246 ♦ email: florence@cascadetitle.com



STATUS OF RECORD TITLE REPORT

UNIVERSITY OF OREGON
ATTN: DEB DONNING
1226 UNIVERSITY OF OREGON
EUGENE, OR 97403
EMAIL: DJM@UOREGON.EDU

Our No: CT-0266473
Date: MAY 20, 2010
Charge: \$300.00

As requested, Cascade Title Co. has searched our tract indices as to the following described real property:

(A T T A C H E D)

and as of: MAY 17, 2010 AT 8:00 A.M., we find the following:

Vestee:

THE STATE OF OREGON
acting by and through its STATE BOARD OF HIGHER EDUCATION
on behalf of the UNIVERSITY OF OREGON

Said property is subject to the following on record matters:

1. City liens, as levied by the City of Eugene for sewer, Account No. DM - 2009001181030, in the amount of \$4,742.18, plus interest.
2. Any improvement located upon the insured property which is described or defined as a mobile home under the provisions of Chapters 803 and 820, Oregon Revised Statutes and is subject to registration as provided therein. (Account No. 4085682, Assessed to Bartzat Leasing Co.)
3. Power line easement, including the terms and provisions thereof, as granted to City of Eugene, by instrument recorded December 30, 1924, in Book 141, Page 512, Lane County Oregon Deed Records.
4. Power line easement, including the terms and provisions thereof, as granted to City of Eugene, by instrument recorded October 24, 1937, in Book 194, Page 35, Lane County Oregon Deed Records.
5. Pipe line and power line easement, including the terms and provisions thereof, as granted to City of Eugene, by instrument recorded October 2, 1947, in Book 359, Page 341, Lane County Oregon Deed Records, and modified by Partial Reconveyance of Easement, including the terms and provisions thereof, recorded June 4, 2002, Reception No. 2002-043028, Lane County Deeds and Records.
6. Reservations, including the terms and provisions thereof, as set forth in instrument from the State Land Board to the State of Oregon, by and through its State Highway Commission, recorded June 21, 1955, Reception No. 59325, Lane County Oregon Deed Records.

continued-

MAIN OFFICE * 811 WILLAMETTE ST. * EUGENE, OREGON 97401 * PH: (541) 687-2233
FLORENCE * 1901 HWY 101 - S. 2 * FLORENCE, OREGON 97439 * PH: (541) 997-8417
EUGENE FAX: 485-0307 * E-MAIL: info@cascadetitle.com * FLORENCE FAX: 997-8246

7. Access restrictions, including the terms and provisions thereof, contained in Deed from State of Oregon, by and through its State Highway Commission, to State of Oregon, acting by and through its State Board of Higher Education, on behalf of the University of Oregon, as set forth in instrument recorded June 29, 1960, Reception No. 3334, Lane County Oregon Deed Records, to-wit:

"Provided, however, there is reserved to the Grantor, and waived by the Grantee, all right of access between the above described real property and the right of way of the relocated Eugene-Springfield Highway and its connecting interchange legs abutting on the Northerly side of said Parcel 2, which public highway is further identified as State Highway No. 227. This reservation shall run with the land and shall not be subject to modification, cancellation or destruction by adverse user or estoppel, no matter how long continued. Nothing in this conveyance contained shall be construed as conveying any estate, right, title or interest in and to the public highway right of way or any rights of reversion therein or thereto."
8. The conditions and restrictions, including the terms and provisions thereof, contained in deed to The State of Oregon, acting by and through its State Board of Higher Education, recorded June 29, 1960, Reception No. 3334, Lane County Oregon Deed Records, as follows:

"To have and to hold the said premises, with their appurtenances, unto the said Grantee, its successors and assigns, only so long as said property shall be used and continued to be used for public purposes, and in the event said property or any part thereof is used for purposes other than public, all of said property shall revert to the Grantor herein. Provided however, that the Grantee shall have the right and privilege at any time within five (5) years from the date hereof to convey all of the above described real property back to the Grantor, free and clear of any encumbrances placed thereof by the Grantee, and have refunded to it, the consideration paid herein; at which time all agreements between the parties conveying said real property shall be null and void. It is understood that if said property shall remain inactive, such inactivity shall not be construed as a violation of the condition that the property be used for public purposes."
9. Notice of site review agreement, including the terms and provisions thereof, recorded April 17, 1997, Reception No. 9725907, Lane County Official Records.
10. Restriction of access, including the terms and provisions thereof, contained in deed to Lane County, recorded July 13, 1965, Reception No. 10755, Lane County Oregon Deed Records.
11. Easement, including the terms and provisions thereof, granted Lane County, recorded February 26, 1982, Reception No. 8206123, Lane County Official Records.

The interest of Lane County was released and quit claimed to the City of Eugene, by instrument recorded July 2, 2001, Reception No. 2001-040836, Lane County Deeds and Records.
12. Easement, including the terms and provisions thereof, granted The City of Eugene, recorded February 23, 1983, Reception No. 8305799, Lane County Official Records.
13. Notice of agreement, including the terms and provisions thereof, with the City of Eugene, recorded November 20, 1987, Reception No. 8751048, Lane County Official Records.

continued-

14. Revocable permit, including the terms and provisions thereof, granted by the City of Eugene, recorded August 5, 1991, Reception No. 9136909, Lane County Official Records.
15. Access restrictions, including the terms and provisions thereof, contained in deed from Lane County, to the State of Oregon, recorded July 13, 1965, Reception No. 10754, Lane County Oregon Deed Records.
16. Conditions and restrictions, including the terms and provisions thereof, contained in deed from Lane County to the State of Oregon, recorded July 13, 1965, Reception No. 10754, Lane County Oregon Deed Records.
17. Restrictions, including the terms and provisions thereof, to State of Oregon, set forth by instrument recorded December 12, 1961, Reception No. 53067, Lane County Oregon Deed Records, to-wit:

"Subject, however, to such rights of way for ditches, canals, and reservoir sites for irrigation purposes as may have been reserved by the United States or otherwise, Reserving to the State of Oregon, all coal, oil, gas and other minerals including sand, gravel, and rock, in said above described lands, together with the right to prospect for, mine and remove the same. This deed is executed and delivered by the grantor and title is acquired by the grantee subject to the expressed condition that said premises described herein shall at all times be used for public purposes and benefit only. Failure on the part of the grantee, its successors and assigns to comply with this provisions shall cause the title hereby conveyed to revert to the grantor immediately and unconditionally and without act of re-entry by the grantor and without any right of grantee for reclamation or compensation for money paid."
18. Conditions and restrictions, including the terms and provisions thereof, imposed by instrument recorded February 27, 1961, Reception No. 24438, Lane County Oregon Deed Records, to-wit:

"It is made a provision herein that the above described property is to be used for public purposes."
19. Easement for transmission lines, including the terms and provisions thereof, as granted by F. B. Chase, et al., to City of Eugene, Oregon, a municipal corporation, by and through the Eugene Water Board, dated September 16, 1937, recorded October 5, 1937, in Book 194, Page 5, Reception No. 55055, Lane County Oregon Deed Records.
20. Easement for transmission lines, including the terms and provisions thereof, as granted by the State of Oregon, acting by and through its State Land Board, to the City of Eugene, Oregon, a municipal corporation of Lane County, Oregon, for the use and benefit of the Eugene Water & Electric Board, dated October 18, 1957, recorded November 7, 1957, Reception No. 25337, Lane County Oregon Deed Records.
21. Reservations, conditions and restrictions, including the terms and provisions thereof, contained in deed from the State of Oregon, by and through the State Land Board, to Lane County, recorded December 12, 1961, Reception No. 53067, Lane County Oregon Deed Records.

continued-

22. Easement, including the terms and provisions thereof, granted Lane County, recorded September 25, 1995, Reception No. 9553680, Lane County Official Records.
The interest of Lane County was released and quit claimed to the City of Eugene by instrument recorded July 2, 2001, Reception No. 2001-040835, Lane County Deeds and Records.
23. Easement, including the terms and provisions thereof, granted the City of Eugene, recorded January 15, 1960, Reception No. 88375, Lane County Oregon Deed Records.
24. Intergovernmental agreement, including the terms and provisions thereof, dated January 12, 1982, as disclosed by deed recorded April 1, 1982, Reception No. 8209537, Lane County Official Records.
25. Restriction of access, including the terms and provisions thereof, contained in deed to State of Oregon, recorded April 26, 1957, Reception No. 11480, Lane County Oregon Deed Records.
26. Conditions, restrictions and reversion, including the terms and provisions thereof, contained in Deed from the State of Oregon, active by and through its State Highway Commission, to the State of Oregon acting by and through its Board of Higher Education on behalf of the University of Oregon, recorded March 20, 1963, Reception No. 3791, Lane County Oregon Deed Records.
27. Notice of Willamette Greenway Agreement, including the terms and provisions thereof, between the University of Oregon, and the City of Eugene, recorded June 4, 2001, Reception No. 2001-033632, Lane County Deeds and Records.
28. Conditions and restrictions, including the terms and provisions thereof, as contained in Deed from Lane County, a political subdivision of the State of Oregon, to the City of Eugene, a municipal corporation of the State of Oregon, recorded July 2, 2001, Reception No. 2001-040835, Lane County Deeds and Records, to-wit:
"This grant is conditioned upon the herein-conveyed parcel being used for public purposes for a period not less than 20 years from the date of this conveyance. Should this property be used for other than public purposes during said 20 year period, the interest of the recipient shall automatically terminate and ownership shall revert to Lane County."
29. Conditions and restrictions, including the terms and provisions thereof, as contained in Deed from Lane County, a political subdivision of the State of Oregon, to the City of Eugene, a municipal corporation of the State of Oregon, recorded July 2, 2001, Reception No. 2001-040836, Lane County Deeds and Records, to-wit:
"This grant is conditioned upon the herein-conveyed parcel being used for public purposes for a period not less than 20 years from the date of this conveyance. Should this property be used for other than public purposes during said 20 year period, the interest of the recipient shall automatically terminate and ownership shall revert to Lane County."

continued-

30. Financing Statement recorded May 30, 2000, Reception No. 2000-030572, Lane County Deeds and Records, lists the State of Oregon acting by and through its State Board of Higher Education, as Debtor, and Associates Commercial Corporation, as Creditor, with security information obtainable from creditor.
Said Financing Statement was amended by instrument recorded October 24, 2003, Reception No. 2003-104578, Lane County Deeds and Records.
Said Financing Statement was extended by continuation statement recorded April 14, 2005, Reception No. 2005-026683, Lane County Deeds and Records.
Said Financing Statement was duly assigned of record to Citicapital Commercial Corporation, by instrument recorded May 16, 2005, Reception No. 2005-035093, Lane County Deeds and Records.
31. Easement, including the terms and provisions thereof, granted the City of Eugene, Lane County, Oregon, by and through the Eugene Water & Electric Board (EWEB), by instrument recorded April 17, 2002, Reception No. 2002-030137, Lane County Deeds and Records.
32. Notice of Operations and Maintenance Plan, including the terms and provisions thereof, recorded September 12, 2008, Reception No. 2008-051468, Lane County Deeds and Records.
33. Notice of Willamette Greenway Permit Approval, including the terms and provisions thereof, recorded April 2, 2009, Reception No. 2009-016840, Lane County Deeds and Records.
34. Notice of Willamette Greenway Permit Approval, including the terms and provisions thereof, recorded April 23, 2009, Reception No. 2009-021292, Lane County Deeds and Records.
35. Notice of Variance Approval, including the terms and provisions thereof, recorded February 25, 2010, Reception No. 2010-009348, Lane County Deeds and Records.
36. Power line easement, including the terms and provisions thereof, granted Mountain States Power Company, by instrument recorded August 7, 1952, Reception No. 81933, Lane County Oregon Deed Records.

NOTE: Taxes, Account No. 0248896, Assessor's Map No. 17 03 29 4 0, #301, Code 4-00, 2009-2010, EXEMPT.

Taxes, Account No. 1543691, Assessor's Map No. 17 03 29 4 0, #301, Code 4-00, 2009-2010, in the amount of \$4,365.65, PAID IN FULL.

Taxes, Account No. 1449048, Assessor's Map No. 17 03 28 3 0, #1102, Code 4-00, 2009-2010, EXEMPT.

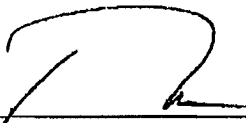
Taxes, Account No. 1386406, Assessor's Map No. 17 03 28 3 0, #1500, Code 4-00, 2009-2010, EXEMPT.

continued-

This report is to be utilized for information only. This report is not to be used as a basis for transferring, encumbering or foreclosing the real property described.

The liability of Cascade Title Co. is limited to the addressee and shall not exceed the premium paid hereunder.

CASCADE TITLE CO., by:



ar/Title Officer: KURT BEATY

Cc: RANDY GELLER
EMAIL: RGELLER@UOREGON.EDU

PROPERTY DESCRIPTION

PARCEL 1:

A parcel of land lying in Sections 28 and 29, Township 17 South, Range 3 West, Willamette Meridian, Lane County, Oregon, and being a portion of that property described in that certain deed to State of Oregon, by and through its State Highway commission, recorded on Reel No. 58-55d, Reception No. 55609, Lane County Oregon Deed Records; the said parcel being described as follows: Beginning at the most Westerly corner of said property at a point which is 1001.03 feet South and 389.49 feet West of the Southwest corner of County Survey No. 1781, and running thence South 51' 23' 10" East, 205.33 feet; thence South 47' 07' 10" East, 251.46 feet; thence South 68' 45' 10" East, 207.24 feet; thence South 68' 56' 20" East, 330.85 feet; thence South 63' 57' 10" East, 376.04 feet; thence South 62' 57' 30" East, 331.04 feet; thence South 62' 48' 30" East, 570.23 feet to a 3/4 inch galvanized iron pipe; thence North 2' 36' 30" East, 77.85 feet; thence South 63' 15' East, 153.20 feet; thence South 52' 15' East, 55.44 feet; thence South 31' 15' East, 86.46 feet; thence South 30' 15' East, 207.24 feet; thence South 45' 45' West, 36.30 feet to the South line of Section 29, thence along said section line, South 87' 51' East, 268.41 feet to a concrete monument set by Simon Kloydahl; thence North 63' 45' East, 1164.90 feet; thence North 17' 30' West, 569.67 feet; thence North 87' 26' 50" West, 521.81 feet to a concrete monument; thence North 60' 22' 30" West, 314.40 feet to a concrete monument; thence North 88' 55' West, 630.63 feet to a concrete monument; thence North 1' 22' 10" East, 492.68 feet; thence South 88' 57' 30" West, 1486.93 feet; thence South 81' 31' 50" West, 222.69 feet; thence South 47' 29' 20" West, 437.46 feet to the place of beginning, in Lane County, Oregon;

(Bearings used herein are based upon the Oregon Co-ordinate System, South Zone.)

EXCEPT all that portion described in deed to Lane County, a political subdivision of the State of Oregon, recorded July 13, 1965, Reception No. 10755, Lane County Oregon Deed Records, in Lane County, Oregon;

ALSO EXCEPT that portion described in deed to Lane County, a political subdivision of the State of Oregon, recorded July 14, 1977, Reception No. 7743615, Lane County Official Records, in Lane County, Oregon;

ALSO EXCEPT that portion described in deed to Lane County, a political subdivision of the State of Oregon, recorded February 26, 1982, Reception No. 8206122, Lane County Official Records, in Lane County, Oregon;

ALSO EXCEPT that portion described in deed to Lane County, a political subdivision of the State of Oregon, recorded September 25, 1995, Reception No. 9553678, Lane County Official Records, in Lane County, Oregon;

ALSO EXCEPT that portion described in deed to Lane County, a political subdivision of the State of Oregon, recorded September 25, 1995, Reception No. 9553679, Lane County Official Records, in Lane County, Oregon.

continued-

PROPERTY DESCRIPTION continued-

PARCEL 2:

Beginning at a point which is 1244.31 feet North and 287.09 feet West from the concrete monument set (in survey by Simon Klovdahl) on the South line of Section 28, Township 17 South, Range 3 West, Willamette Meridian, 71.16 feet South 87° 51' East from the point for the Southwest corner of said Section 28, from said beginning monument running thence North 1° 22' 10" East 462.63 feet; thence North 88° 57' 30" East 610.68 feet; thence South 84° 37' 30" East 276.11 feet; thence South 14° 00' 30" East 648.01 feet; thence North 87° 26' 50" West 414.59 feet; thence North 60° 22' 30" West 314.40 feet; thence North 88° 53' West 366.03 feet to the place of beginning, in Lane County, Oregon;

EXCEPT THEREFROM that portion lying within the bounds of that tract conveyed to the City of Eugene by instrument recorded October 27, 1947, in Book 359, Page 339, Lane County Oregon Deed Records, described as: "Beginning at a point 60.49 chains South and 3.40 chains North 88° 45' East from the Northeast corner of Section 29, Township 17 South, Range 3 West, Willamette Meridian; thence running North 88° 45' East 11.00 chains to the West edge of the slough; thence South 19° 15' East along the bank of said slough 50.5 feet to the true point of beginning; thence continuing South 19° 15' East along the bank of said slough 114.5 feet; thence West 204.0 feet along the South boundary of a two acre tract conveyed to E. B. Oldham, et ux., as described and recorded in Book 161, Page 263, Lane County Oregon Deed Records; thence North 57° 13' East 198.3 feet to the true point of beginning, together with all rights which may have accrued to lands owned by E. B. Oldham, et ux., to a strip of land 60 feet in width extending North 56° 58' East from the Easterly boundary of the above described parcel of land into or across the meandered channel formerly channel formerly occupied by the Willamette River," in Lane County, Oregon,

(Bearings used herein are based upon the Oregon Co-ordinate System, South Zone.)

PARCEL 3:

Beginning at a concrete monument which is 1249.47 feet North and 551.64 feet West from the concrete monument set (in survey by Simon Klovdahl) on the South line of Section 28, Township 17 South, Range 3 West of the Willamette Meridian, 71.16 feet South 87° 51' East from the point for the Southwest corner of said Section 28, from said beginning monument, running thence North 1° 22' 10" East 452.66 feet; thence North 88° 57' 30" East 264.83 feet; thence South 1° 22' 10" West, 462.63 feet; thence North 88° 53' West 264.60 feet to the point of beginning, in Lane County, Oregon.

continued-

PROPERTY DESCRIPTION continued-

PARCEL 4:

Beginning at a point on the South line of Section 28, Township 17 South, Range 3 West, Willamette Meridian, 71.16 feet South, 87' 51' East from the point for the Southwest corner thereof (said beginning point being marked by a concrete monument set in a survey by Simon Klov Dahl), and running thence North 63' 45' East, 1024.23 feet along the southeasterly line of the tract of land conveyed by that certain deed to the State of Oregon, acting by and through its State Board of Higher Education on behalf of the University of Oregon, recorded on Reel 155-60D, Reception No. 3334, Lane County Oregon Deed Records; thence South 14' 00' 30" East, 504.97 feet to the South line of said Section 28; thence North 07' 58' West 1041.50 feet to the place of beginning, all in Lane County, Oregon;

(Bearings used herein are based upon the Oregon co-ordinate System South Zone.)

EXCEPT all that portion lying Southerly of the Northerly right of way line of the Leo Harris Parkway described in deed to Lane County, a political subdivision of the State of Oregon, recorded September 25, 1995, Reception No. 9553678, Lane County Official Records, in Lane County, Oregon.

PARCEL 5:

A parcel of land lying in the Southwest one-quarter of Section 28 and the Southeast one-quarter of Section 29, Township 17 South, Range 3 West of the Willamette Meridian, and being a portion of the tract of land conveyed to Lane County, a political subdivision of the State of Oregon, by that certain deed recorded on Reel No. 855-R, Reception No. 7743615, Lane County Official Records, said parcel being described as follows: Beginning at the corner common to Sections 28, 29, 32 and 33, in Township 17 South, Range 3 West of the Willamette Meridian; thence run South 87' 51' East 71.16 feet to a concrete monument set by Simon Klov Dahl; thence South 87' 58' 00" East 978.90 feet; thence North 14' 00' 30" West 314.16 feet; thence South 62' 04' 32" West 390.44 feet; thence along the arc of a 356.97 foot radius curve right (the long chord of which bears North 89' 48' 51" West 336.39 feet) a distance of 350.26 feet; thence North 61' 42' 14" West 445.09 feet; thence South 292.90 feet; thence South 87' 51' East 100.00 feet to the point of beginning, all in Lane County, Oregon;

EXCEPT all that portion lying Southerly of the Northerly right of way line of the Leo Harris Parkway described in deed to Lane County, a political subdivision of the State of Oregon, recorded September 25, 1995, Reception No. 9553678, Lane County Official Records, in Lane County, Oregon.

continued-

PROPERTY DESCRIPTION continued-

PARCEL 6:

A parcel of land lying in the Southwest one-quarter of Section 28, Township 17 South, Range 3 West, Willamette Meridian, and being a portion of the tract of land conveyed to Lane County, Oregon, by that certain deed recorded on Reel No. 269, Reception No. 10754, Reel No. 168, Reception No. 24438, Reel No. 269, Reception No. 10755, Reel No. 184, Reception No. 53067, Reel No. 137, Reception No. 74415, and Reel No. 40, Reception No. 32563, Lane County Oregon Deed Records, said parcel being described as follows: Beginning at a point on the Southerly right-of-way of Centennial Blvd. (County Road No. 1304) said point being South 695.22 feet and East 2789.73 feet of the Southwest corner of County Survey No. 1781, said beginning point being further described as being South 01' 02' 30" East 80 feet and South 84' 32' 30" East 276.69 feet of Centennial Blvd. Engineers Centerline Station L551+39.24 P.T., thence from said point of beginning continuing along said right-of-way South 84' 32' 30" East 93.42 feet to a point Southerly and 80 feet opposite Centennial Blvd. Engineers Centerline Station L547+39.24 P.C.S.; thence along the arc of a 492.96 feet radius curve right (the chord of which bears South 52' 32' 23" East 313.03 feet) a distance of 318.62 feet East to a point Southerly and 80 feet opposite Engineers Centerline Station L543+68.91 P.S.C.; thence along the arc of a spiral curve right, the chord of which bears South 20' 25' 05" East 370.10 feet (said spiral curve being Southerly and 80 feet opposite and parallel to the 400 foot centerline spiral curve having an 'a' value of 2.5) to a point Southerly and 80 feet opposite Engineers Centerline Station L5 39+68.91 P.S.; thence South 14' 00' 30" East 465.81 feet, to a point Southerly and 80 feet opposite Engineers Centerline Station L535.03.10 P.T.; thence along the arc of a spiral curve left, the chord of which bears South 16' 19' 5" East 242.43 feet (said spiral curve being Southerly and 80 feet opposite and parallel of the centerline 400 foot spiral curve having an 'a' value of 2.5) to a point Southerly and 80 feet opposite Engineers Centerline Station L5 32+70 P.O.S.; thence South 62' 04' 32" West 344.33 feet to the Easterly boundary of a tract of land; thence along the Easterly line of said tract of land North 14' 00' 30" West 1434.63 feet to the point of beginning, in Lane County, Oregon;

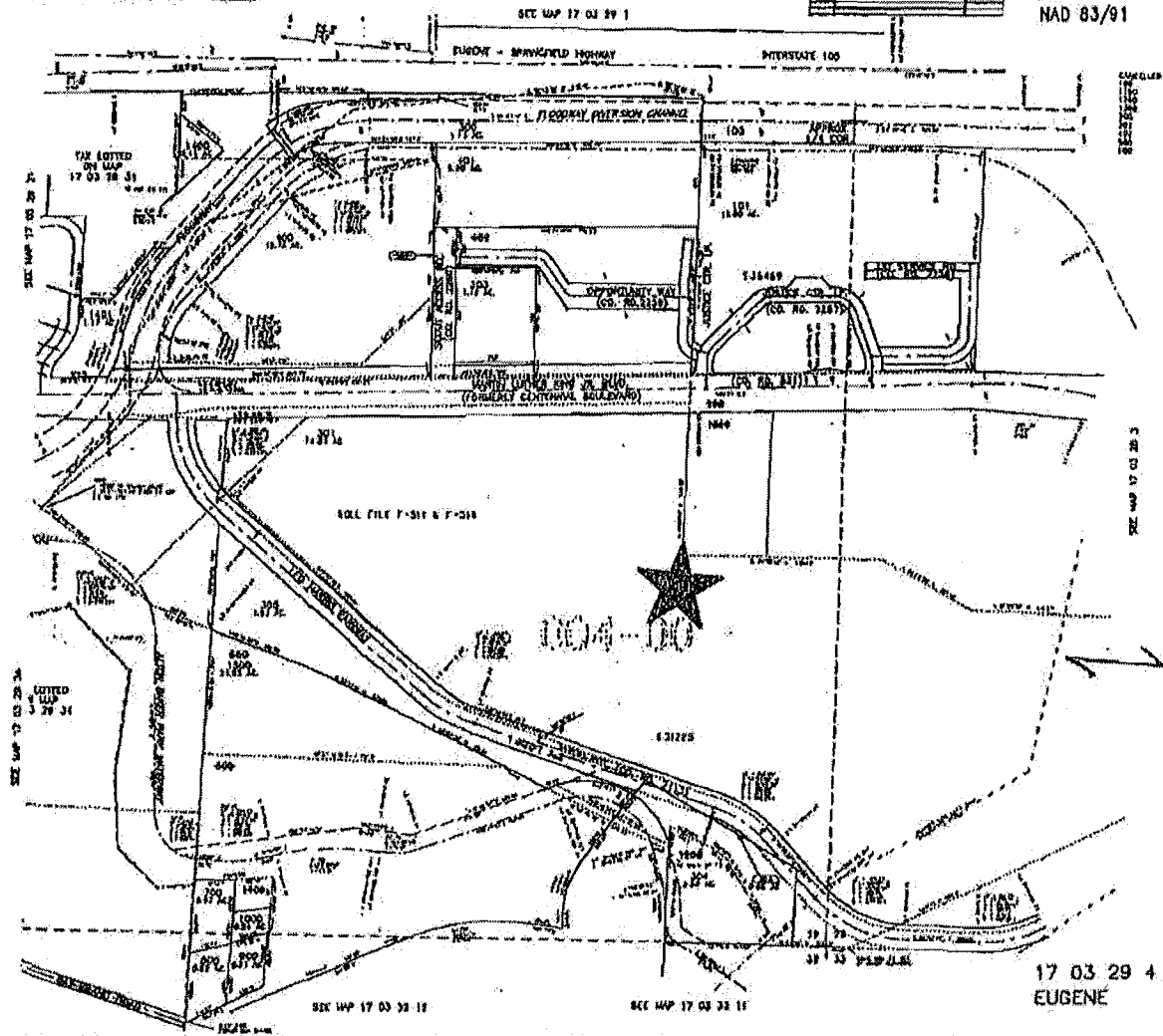
(Bearings used herein are based upon the Oregon co-ordinate System South Zone.)

EXCEPT all that portion described in deed to Lane County, a political subdivision of the State of Oregon, recorded September 25, 1995, Reception No. 9553678, Lane County Official Records, in Lane County, Oregon;

ALSO EXCEPT all that portion described in deed to Lane County, a political subdivision of the State of Oregon, recorded September 25, 1995, Reception No. 9553679, Lane County Official Records, in Lane County, Oregon;

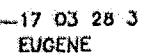
ALSO EXCEPT that portion lying within the bounds of that tract conveyed to the City of Eugene, by instrument recorded October 27, 1947, in Book 359, Page 339, Lane County Oregon Deed Records, described as: "Beginning at a point 60.49 chains South and 3.40 chains North 88' 45' East from the Northeast corner of Section 29, Township 17 South, Range 3 West, Willamette Meridian; thence running North 88' 45' East 11.00 chains to the West edge of the slough; thence South 19' 15" East along the bank of said slough 50.5 feet to the true point of beginning; thence continuing South 19' 15" East along the bank of said slough 114.5 feet; thence West 204.0 feet along the South boundary of a two acre tract conveyed to E. B. Oldham, et ux., as described and recorded in Book 161, Page 263, Lane County Oregon Deed Records; thence North 57' 13' East 198.3 feet to the true point of beginning, together with all rights which may have accrued to lands owned by E. B. Oldham, et ux., to a strip of land 60 feet in width extending North 56' 58" East from the Easterly boundary of the above described parcel of land into or across the meandered channel formerly channel formerly occupied by the Willamette River," all in Lane County, Oregon.

17 03 29 4
EUGENE
NAD 83/91



FOR ASSESSMENT
AND TAXATION
ONLY

17 03 28 3
EUGENE
NAD 83/91





Agenda Item #4.2

Capital Improvement License Agreement: Hayward Field

Introduction

In the annals of American sport, one community is recognized as the heart and soul of track and field—and one iconic venue embodies its spirit and sustains its traditions. That community is Eugene, Oregon, and the venue is the legendary Hayward Field.

Hayward Field, initially constructed for football in 1919, has hosted 13 NCAA Outdoor Championships, more than any venue in modern history, and will hold its sixth U.S. Olympic Team Trials in 2016. In fact, Hayward Field is slated to host the NCAA Outdoor Championships through 2021 and is in consideration to host its seventh Olympic Team Trials in 2020. Also home to international competition, Hayward Field drew more than 1,500 athletes from 175 countries for the 2014 IAAF World Junior Championships, draws international athletes for the world-renowned Prefontaine Classic, and, in 2021, we anticipate that TrackTown Inc. will use Hayward Field to host the first IAAF World Outdoor Championships on American soil.

To continue this unparalleled track and field experience, Hayward Field requires extensive renovation. The renovation will be supported by private philanthropy, with no impact on the university operating budget.

As an independent, non-profit organization responsible for receiving, investing and distributing gifts to benefit the university, the UO Foundation created a single-member limited liability corporation for the purpose of renovating Hayward Field, Hayward Field Enhancement, LLC.

To effectively manage the renovation and its accompanying costs, the Board is asked to authorize UO's President to enter into a license or lease agreement with Hayward Field Enhancement, LLC so that Hayward Field renovations may be completed.

Project Overview

Renovation would begin in July 2016, following the U.S. Olympic Track and Field Trials. The renovation would be substantially complete prior to the 2017 NCAA Championships.

Preliminary plans and designs are underway. Hayward Field Enhancement, LLC anticipates working with Hoffman Construction and SRG Partnership, Inc. Hayward Field Enhancement, LLC intends to release plans and designs before the end of 2015.

Once construction begins, contracts will be open for bid. Prevailing wage rules applicable to UO and construction on UO owned or controlled property will apply.

The Hayward Field renovation will significantly enhance two major functions: spectating and training. The renovation will provide flexibility to increase seating up to 30,000 and will ensure the decades-old grandstands are updated for spectators. Preliminary renderings include a new west grandstand, removal of the Bowerman Building, and a new – larger, more modern – home for the Bowerman Sports Science Clinic that would triple the available academic research space.

Related Materials

A preliminary rendering is enclosed.



**Finance and Facilities Committee
Board of Trustees of the University of Oregon**

Resolution: Authorization to Enter into License or Lease Agreement

Whereas, Hayward Field is one of the most iconic track and field venues in sports history and serves as host to significant state, national and international events on the University of Oregon's (the "UO" or "University") campus;

Whereas, Hayward Field is in need of extensive renovation to enhance spectating and training;

Whereas, the renovation of Hayward Field will be supported by private philanthropy with no impact on the University's operating budget;

Whereas, the University of Oregon Foundation – an independent, non-profit organization responsible for receiving, investing and distributing gifts for the benefit of the University – has created a single-member limited liability corporation for the purpose of renovating Hayward Field known as Hayward Field Enhancement, LLC;

Whereas, Hayward Field Enhancement, LLC seeks to enter into a license or lease agreement with the University through which it would assume control of Hayward Field and associated campus property (collectively "Hayward Field") for purposes of managing the renovation and costs associated with enhancing Hayward Field;

Whereas, the specific license or lease agreement would be negotiated between the University and Hayward Field Enhancement, LLC when more certainty exists surrounding the design and overall project;

Whereas, that license agreement will stipulate that the license or lease agreement will be made available to the public, and that controlling public contracting laws and prevailing wage rules will apply to the project where appropriate;

Whereas, Sections 1.7.2 and 1.9 of the University of Oregon's Policy on the Retention and Delegation of Authority requires approval by the Board of Trustees (the "Board") for the execution of instruments relating to real property where the anticipated value exceeds \$5,000,000 and for the acceptance of a gift of real estate and/or gifts that create obligations on the part of the University for which there is no established funding source, respectively; and,

Whereas, the Board's Policy on Committees authorizes the Finance and Facilities Committee to refer matters to the full Board as a seconded motion;

Now, therefore, the Finance and Facilities Committee hereby refers to the Board of Trustees as a seconded motion, recommending passage:

1. RESOLVED, the Board authorizes the President or his designee(s) to take all actions necessary and proper to enter into a license or lease agreement with Hayward Field Enhancement, LLC for purposes of managing the completion of renovations to Hayward and associated costs;
2. RESOLVED, the Board authorizes acceptance of the gift of real property to the University from Hayward Field Enhancement, LLC which comes in the form of renovations to Hayward Field and any increased value to the licensed or leased property; and
3. RESOLVED, the Board authorizes all prior actions taken on behalf of the University related to the acceptance and use of the aforementioned real property.

Moved: _____

Seconded: _____

Trustee	Yes	No
Bragdon		
Colas		
Gary		
Gonyea III		
Kari		
Schill		

Dated: _____ of _____, 2015.

Initials: _____



Agenda Item #4.3

Academic building projects: Chapman Hall, College and Careers Building, Klamath Hall.

During the 2015 session, the Legislative Assembly approved for state bonding support for three University of Oregon projects.

1. Chapman Hall Renovation
2. Construction of a new College and Careers Building
3. Klamath Hall Renovation

The attached resolution now asks for Board approval to execute those projects. Board approval is required for each given that project costs will exceed \$5 million. Attached to the resolution as an exhibit is a high-level overview of each project, including estimated cost, state support, the required match, and funds raised to date.

The FFC will receive information about these projects during its committee meeting, and the full BOT will tour Chapman Hall and Klamath Hall to get a firsthand look at the projects and anticipated improvements.

Note: The BOT first heard about these projects in May 2014, prior to governance authority, so the information may be familiar.

**Finance and Facilities Committee
Board of Trustees of the University of Oregon**

**Resolution: Approval for Capital Construction Projects
(Chapman Hall, Klamath Hall, College & Careers Building)**

Whereas, the University of Oregon (“University”) seeks to create and maintain a 21st-century teaching and learning environment for faculty and students;

Whereas, the University wishes to modernize Chapman Hall, home to the nationally-recognized and historic Robert D. Clark Honors College, to provide greater accessibility, improve technological capabilities, address deferred maintenance and seismic upgrades, and increase study and learning space;

Whereas, the University wishes to build a new College and Careers Building to add much-needed classroom seating, house a re-envisioned UO career center, increase student retention and graduation rates, and support the College of Arts and Sciences College Scholars program;

Whereas, the University wishes to renovate Klamath Hall, home to much of the UO’s Department of Chemistry and Biochemistry – one of the fastest growing departments on campus, to address deferred maintenance, provide lab and learning space, help recruit and retain top-tier faculty, mitigate risks associated with 50-year old research facilities, and create space for enhanced innovation;

Whereas, ORS 352.107(1)(j)-(k) grant the University of Oregon the authority to engage in the construction, development, furnishing, equipping, and other actions relating to buildings and structures;

Whereas, the University received legislative support through the issuance of XI-G and XI-Q bonds for the three aforementioned capital construction projects during the 2015 legislative session; and,

Whereas, the Policy on the Retention and Delegation of Authority requires the Board of Trustees (the Board) to approve a capital project budget that is anticipated to exceed \$5,000,000, and the Policy on Committees authorizes the Finance and Facilities Committee to refer matters to the full Board as a seconded motion;

Now, therefore, the Finance and Facilities Committee of the Board of Trustees of the University of Oregon hereby refers the following to the Board of Trustees as a seconded motion, recommending passage:

- 1) APPROVAL of the capital construction projects listed above and outlined in attached Exhibits A, B and C;
- 2) RATIFICATION AND APPROVAL of all prior actions taken on behalf of the University related to the planning, design and construction of these projects; and,
- 3) AUTHORIZATION of the President of the University or his designee(s) to take all actions necessary and appropriate to execute these projects.

--Vote recorded on the following page --

Moved: _____

Seconded: _____

Trustee	Yes	No
Bragdon		
Colas		
Gary		
Gonyea III		
Kari		
Schill		

Dated: ____ of _____, 2015.

Initials: _____

Exhibit A



Artist's concept of the renovated Chapman Hall interior

Support the Modernization of Chapman Hall

Creating a 21st-century learning environment for Oregon's future leaders

This project will

- prepare students for 21st-century jobs by modernizing the technological capabilities of the building
- create a more functional learning environment by redesigning classrooms to be more accessible and capable of fostering collaborative work
- add more study and learning spaces to enhance student opportunities
- address critical issues such as deferred maintenance and overdue seismic upgrades
- increase the energy efficiency of the building to increase the longevity of the building

Chapman Hall is home to the UO's Robert Donald Clark Honors College, which serves about 700 students, 80 percent of whom are Oregonians. The honors college prides itself on offering many of Oregon's best students (3.91 average GPA or higher) a modern, high-quality, and affordable education here at home.

Chapman Hall has changed little since its construction in 1939, with only piecemeal updates to accommodate new technologies and adapt to modern student needs. This renovation will help work toward Oregon's 40-40-20 goals and attract and retain Oregon's top-tier students.

ESTIMATED COST: \$10.67 MILLION

DONOR AND OTHER FUND MATCH: \$2.55 MILLION

FUNDS RAISED TO DATE: \$2.55 MILLION

CAPITAL APPROVED: \$2.55 MILLION IN BONDS \$5.57 MILLION IN XI-Q BONDS

"The Chapman Hall renovation will answer the needs of new generations of students who enter our doors seeking the best, most affordable education they can find."

— Terry L. Hunt, Dean
Robert Donald Clark Honor College

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Exhibit B



The UO College and Careers Building

Build a new space to connect Oregon students with Oregon jobs

The College and Careers Building will

- add 450 much-needed classroom seats, supporting student access and course availability
- link UO students to high paying jobs and Oregon industry by serving as the home for a new, reenvisioned UO career center
- help recruit and retain top tier faculty members, offering high-quality teaching spaces and research offices at the core of campus
- increase recruitment, retention, and graduation rates for a diverse range of students
- support Oregon's best and brightest as home to the College of Arts and Sciences College Scholars program

The College and Careers Building project will enhance student recruitment, retention, graduation, and future success by merging core academic activities with advising on career opportunities. The 50,000-square-foot building will provide much-needed classrooms at the core of campus, a home for the University of Oregon's College of Arts and Sciences, and a home for the Career Center. Co-locating the UO Career Center with the main core of UO's largest undergraduate college, the College of Arts and Sciences, will provide students direct access to career advising, preparation workshops, and Oregon employers. It will also provide Oregon employers greater access to UO talent.

"The College and Careers Building will create new connections between UO students and Oregon employers, while helping more students to succeed and graduate on time."

— Scott Coltrane, Provost, University of Oregon

ESTIMATED COST: \$34.55 MILLION
DONOR AND OTHER FUND MATCH: \$17.275 MILLION
FUNDS RAISED TO DATE: \$11 MILLION
CAPITAL APPROVED: \$17.275 MILLION G-BONDS

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UNIVERSITY OF
OREGON

Exhibit C



Current lab space (left) is often small and requires students to work in cramped quarters, causing safety concerns. The Klamath Hall renovation will provide students state-of-the-art new labs and learning spaces. (Artist's rendering above.)

Renovate Klamath Hall

Provide a modern, safe space for innovation and learning

This modernization of Klamath Hall will

- address deferred maintenance in a critical research facility that houses UO's award-winning and innovative chemistry and biochemistry departments
- provide lab and learning space to equip students with skills for jobs in science and technology
- help the UO recruit talented new researchers in the sciences
- mitigate the risks associated with 50-year-old research facilities
- create space for innovation, leading to economic development, licensing activity, and company formation

The University of Oregon Department of Chemistry and Biochemistry is one of the most productive and fastest growing departments on the UO campus. Since the mid-2000s, undergraduate enrollment has increased by 30–40 percent and graduate numbers are up about 20 percent. This growth requires new faculty offices and research space. This project converts all of the lab space on the third floor of Klamath Hall into state-of-the-art laboratories and builds a new fourth floor of Klamath Hall for faculty and student offices, classrooms, and study spaces. It will provide space for this growing demand in the sciences, while helping to keep Oregon students safe by addressing critical deferred maintenance.

ESTIMATED COST: \$18.65 MILLION

DONOR AND OTHER FUND MATCH: \$6.325 MILLION

FUNDS IDENTIFIED TO DATE: \$6.325 MILLION-REVENUE

BONDS

CAPITAL APPROVED: \$6.325 MILLION XI-G, \$6 MILLION XI-Q

“Oregon needs these spaces to continue to grow its high-tech workforce and to produce groundbreaking research that translates into companies and jobs.”

— Darren Johnson, UO researcher and entrepreneur, cofounder of SupraSensor LLC



Agenda Item #5

FY16 Budget

The Board of Trustees has the responsibility for approving a budget and related expenditure authorizations for each fiscal year. The fiscal year (FY) began on July 1, 2015. In June, the Board approved a budget and related expenditure authorizations for both operating and capital costs at a level equal to FY2015 with an expectation of revisiting a more final budget and authorizations vote in September.

The flat authorization request was due to the fact that, as of the June meeting, there were certain unknown factors that will impact a final budget proposal. These included items such as the final determination of state appropriation, approval of legislatively-authorized bonds for capital projects, FY16 PEBB rates, and the completion of collective bargaining.

Some, but not all, of these items have since become known or resolved. However, still uncertain (at the time of this writing) are final labor costs, which cannot be determined until the completion of a collective bargaining agreement with SEIU Local 503.

As a result, the Vice President for Finance and Administration/CFO recommends passage of an updated FY2016 budget and related authorizations, with an understanding that additional modifications may be requested in December. Due to the timing of a September 8-9 bargaining session with SEIU Local 503, the attached resolution does not yet contain recommended amounts. The resolution is included for your general review; recommended numbers will be provided as soon as possible following the September 9 session (likely the morning of September 10).

This updated recommendation will be based on all known cost factors for FY2016 plus management's latest offer in the current bargaining session.

**Finance and Facilities Committee
Board of Trustees of the University of Oregon**

Motion Adopting FY2016 Budget and Expenditure Authorizations

Whereas, ORS 352.102(1) provides that, except as set forth within ORS 352.102, the Board of Trustees may authorize, establish, collect, manage, use in any manner and expend all revenue derived from tuition and mandatory enrollment fees;

Whereas, ORS 352.107(1)(a) provides that the Board of Trustees may acquire, receive, hold, keep, pledge, control, convey, manage, use, lend, expend and invest all moneys, appropriations, gifts, bequests, stock and revenue from any source;

Whereas, ORS 352.107(1)(i) provides that the Board of Trustees may, subject to limitations set forth in that section, spend all available moneys without appropriation or expenditure limitation approval from the Legislative Assembly;

Whereas, ORS 352.107(2) requires, and the Board of Trustees finds, that the budget of the University of Oregon be prepared in accordance with generally accepted accounting principles;

Whereas, 352.107(1)(c) provides that the Board of Trustees may perform any other acts that in the judgment of the Board of Trustees are required, necessary or appropriate to accomplish the rights and responsibilities granted to the Board and the University by law;

Whereas, the Board of Trustees cannot approve a final fiscal year 2016 budget and expenditure authorization until all relevant information is available regarding FY16 expenses (e.g. the completion of collective bargaining, finalized employment costs), but wishes to update the temporary FY16 budget approved in June 2015; and

Whereas, the Policy on Committees authorizes the Finance and Facilities Committee to refer matters to the full Board of Trustees as a seconded motion.

Now, therefore, the Finance and Facilities Committee of the Board of Trustees of the University of Oregon refers the following to the Board as a second motion, recommending their adoption:

1. RESOLVED, an operating budget in the sum of \$_____ is adopted for fiscal year 2016. During fiscal year 2016, the Treasurer of the University may expend or authorize the expenditure of this sum plus three percent, subject to applicable law. In the event that such expenditure authority is insufficient, the Treasurer may seek additional expenditure authority from the Executive and Audit Committee of the Board of Trustees.
2. RESOLVED, a capital budget in the sum of \$_____ is adopted for fiscal year 2016. During fiscal year 2016, the Treasurer of the University may expend or authorize the expenditure of this sum plus three percent, subject to applicable law. In the event that such expenditure authority is insufficient, the Treasurer may seek additional expenditure authority from the Executive and Audit Committee of the Board of Trustees.

3. RESOLVED, the Treasurer may provide for the further delegation of the authority set forth in paragraphs 1 and 2.

Moved: _____

Seconded: _____

Trustee	Yes	No
Bragdon		
Colas		
Gary		
Gonyea III		
Kari		
Schill		

Dated this____day of _____, 2015.

Initials: _____

Agenda Item #6

Tuition and Fees

- #6.1: Earlier student input in the tuition-setting process
- #6.2: Tuition Guarantee Concept



Agenda Item #6.1

Tuition and Fees

Earlier student input in the tuition-setting process

Summary of Proposed Action

In December 2011, pursuant to ORS 352.102(2), the Board of Trustees established process by which the University of Oregon will establish tuition and fees each year. This board policy included five key process points: use of an advisory group, specific considerations, opportunity for public review and comment, student input through a forum, and a recommendation submitted to the Board of Trustees.

Tuition and fees for the upcoming academic year were set in March 2015. Following the process used throughout the fall of 2014 and winter of 2015 to accomplish this, several stakeholders offered feedback – and the administration agreed – that student input should have been far earlier in the process, prior to the establishment of any recommendations.

The attached resolution is a change proposed by the administration to the board policy passed in December. Proposed changes are only in the student forum section of the policy. The intent of these edits (shown in redline below) is to ensure that student feedback is solicited early in the process and is thus available to the advisory group as it generates recommendations for the President.

The changes below were posted online and distributed to the president of the ASUO so that she could, in turn, seek input from her respective leadership team and membership.

Original language, adopted December 11, 2015:

3. Student Forum. The President or his/her designee shall hold an open forum with students to discuss recommended tuition and mandatory fees. ASUO shall have the opportunity to participate in the planning and convening of this public meeting.

Proposed amendments to the original language:

3. Student Forum. The President or his/her designee shall hold an open forum with students early in the tuition and fee development process each year such that students are given an opportunity to provide input into the process before recommendations are developed. ~~to discuss recommended tuition and mandatory fees.~~ The ASUO shall have the opportunity to participate in the planning and convening of this public meeting.

**Finance and Facilities Committee
Board of Trustees of the University of Oregon**

Resolution: Amendment to the Tuition- and Fee-Setting Process (Earlier Student Input)

Whereas, ORS 352.102(2) requires the Board of Trustees of the University of Oregon (the “Board”) to establish a process for determining tuition and mandatory enrollment fees pursuant to the authority granted in ORS 352.102(1);

Whereas, the Board of Trustees first adopted such a process in December 2014 and now wishes to make adjustments to ensure that student input is solicited and available earlier in the process so that it can be taken into consideration as the advisory group develops recommendations;

Whereas, this resolution amends only part three (3) of the process components and does not alter any other section or language;

Whereas, the Board’s Policy on Committees authorizes the Finance and Facilities Committee to refer matters to the full Board of Trustees as a seconded motion;

Now, therefore, the Finance and Facilities Committee of the Board of Trustees of the University of Oregon hereby refers to the Board of Trustees as a seconded motion, and recommends its approval, the following:

RESOLVED, that the University shall annually establish tuition and mandatory enrollment fees pursuant to a process specified and managed by the President and that such a process must include the following components:

1. Advisory Group. The University President (the “President”) or his/her designee shall convene an advisory group comprised of faculty, students (including both undergraduate and graduate representation), and staff. This advisory group shall make a recommendation to the President regarding tuition and mandatory fee rates for each academic year, and it may generally advise the President on matters relating to tuition and fees. The President will consider the advisory group’s recommendations, along with other information the President deems relevant, when preparing his/her recommendations to the Board. Membership of the group is at the discretion of the President or his/her designee, however the President shall include two students nominated by the Associated Students of the University of Oregon (ASUO).
2. Considerations. In making recommendations to the President, the advisory group shall consider (i) historical tuition and fee trends; (ii) comparative data for peer institutions; (iii) the University’s budget and projected cost increases; and (iv) anticipated state appropriation levels.
3. Student Forum. The President or his/her designee shall hold an open forum with students early in the tuition and fee development process each year such that students are given an opportunity to provide input into the process before recommendations are developed. The ASUO shall have the opportunity to participate in the planning and convening of this public meeting.
4. Opportunity for Review and Comment. The President shall provide an opportunity for public review of and comment about the tuition and mandatory fees recommendation prepared for the Board. Based on information received from the public review and comment, and other information the President

deems relevant, the President may modify his/her recommendations before submitting them to the Board.

5. Recommendations Submitted to the Board. The President shall submit to the Board a written report outlining recommended tuition and mandatory enrollment fees. The report must be submitted with sufficient time for analysis and feedback prior to the meeting at which the Board will consider tuition and fees each year. "Sufficient time" shall be determined by the University Secretary.

FURTHER RESOLVED, the Board hereby resolves that the President and the president of the ASUO shall submit to the Board a joint written report recommending the authorization, establishment, use or elimination of any incidental fee as proscribed in statute. For purposes of conducting an analysis authorized under ORS 352.102(3) and ORS 352.105, the report required by this resolution shall include: (i) the mandatory incidental fees the ASUO requested to be collected; (ii) the process by which the ASUO establishes such fees; (iii) a statement of whether the requested fee amount is different than the previous year, and if so by how much; (iv) the use of such fees; and (v) if requested by the President, an explanation of how the fees are advantageous to the cultural or physical development of students. The report due to the Board pursuant to this resolution must be submitted with sufficient time for analysis and feedback prior to the meeting at which the Board will consider tuition and fees each year. "Sufficient time" shall be determined by the University Secretary, in consultation with the ASUO President and the University President. If the President and ASUO do not jointly agree to the recommendations prior to the date recommendations are to be submitted to the Board, the President and ASUO may separately submit the recommendations to which the parties agree and the recommendations to which the parties do not agree, along with the underlying basis for agreement and disagreement. Nothing in this resolution is intended to affect the appeal rights granted in ORS 352.105(4).

Moved: _____

Seconded: _____

Trustee	Yes	No
Bragdon		
Colas		
Coltrane		
Gary		
Gonyea III		
Kari		

Dated: _____ of _____, 2015.

Initials: _____



Agenda Item #6.2

Tuition Guarantee Concept



UNIVERSITY OF OREGON

Guaranteed Tuition Program

September 10, 2015

Presenters: V.P. for Enrollment Management Dr. Roger J. Thompson

V.P. for Finance and Administration Jamie Moffitt

Finance & Facilities Committee

Board of Trustees of the University of Oregon

Key Topics

- What is a guaranteed tuition program? How does it differ from our current tuition program?
- What are the advantages and risks to the university?
- What other schools use it?
- What key issues need to be resolved?
- What steps would we take to vet the concept?

Guaranteed Tuition Program

- Provides undergraduate students with a flat tuition schedule for four years
- During that time period, the institution guarantees that the undergraduate tuition rate will not increase
- Program could also include mandatory fees

Advantages & Risks

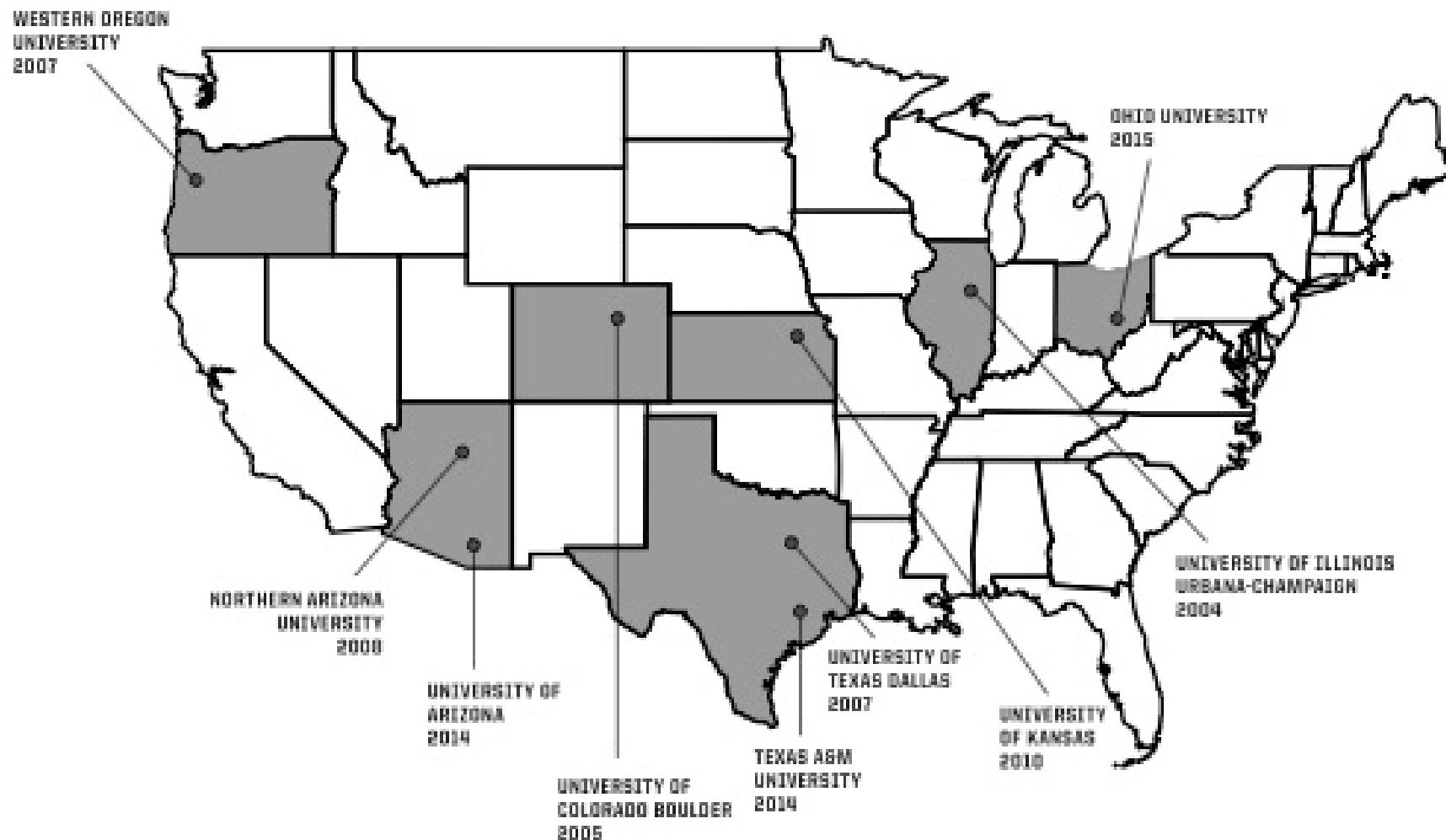
Advantages

- Provides certainty about cost of education
- Helpful recruiting tool
- Incentivizes retention and graduate rates

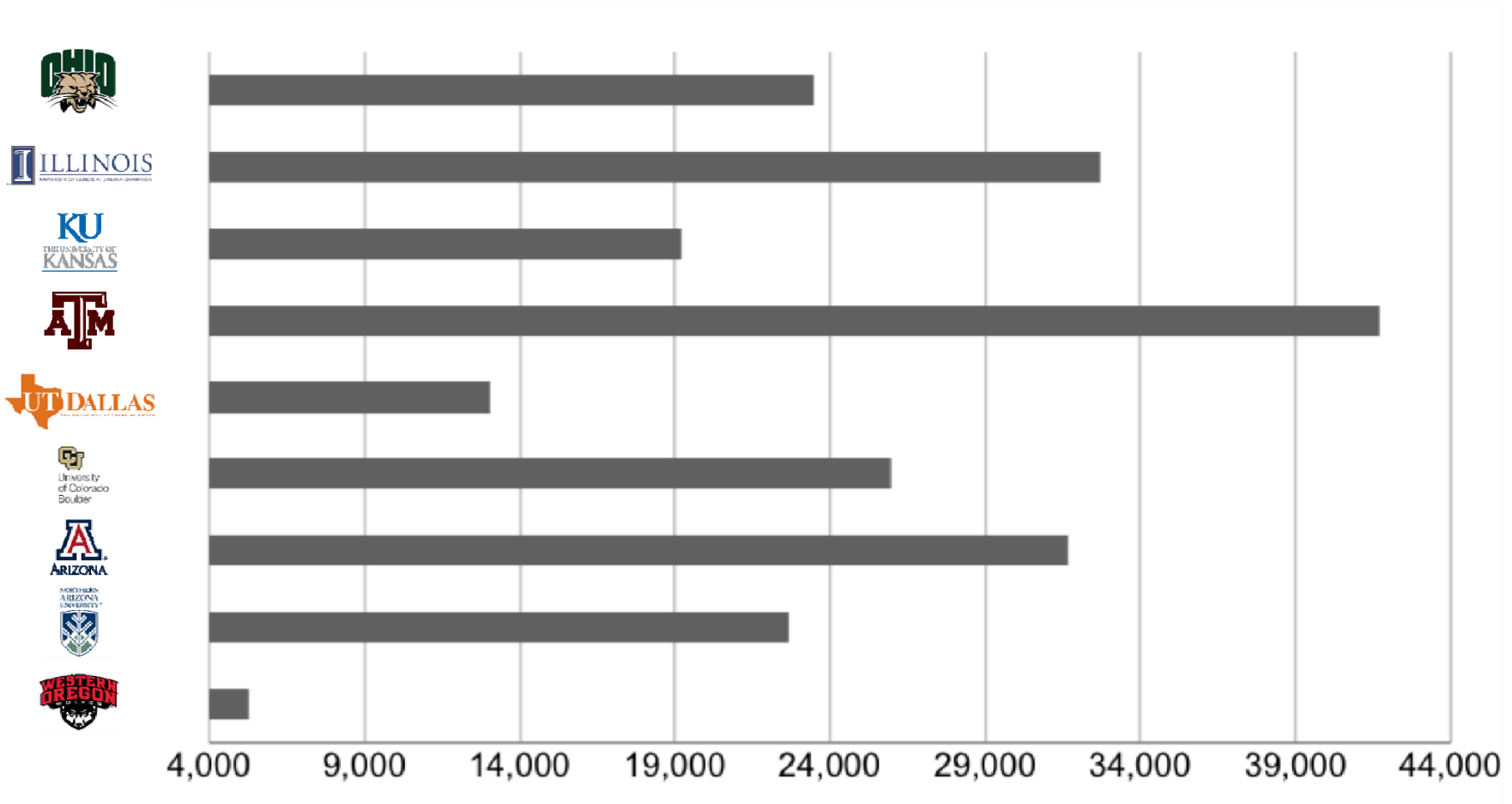
Risks

- If financial disruption occurs:
 - Lose ability to adjust tuition quickly
 - Current programs could be cut
- “Sticker shock” of fixed rate

Geographic Distribution of Guaranteed Tuition Programs



Undergraduate Enrollment Comparison



Eligibility Policy Comparison

- Resident freshmen eligible
Yes, except Colorado Boulder
- Nonresident freshmen eligible
Yes, except Western Oregon
- Transfer students eligible
6 out of 9 schools
Exceptions: Colorado Boulder, Kansas, and Western Oregon

Program Comparison

University	Program Type	Mandatory Fees	Tuition After 4 Years
Arizona	Mandatory	Guaranteed	Rate of next cohort
Colorado Boulder	Mandatory	Not guaranteed	Rate of next cohort
Illinois	Mandatory	Not guaranteed	Rate of next cohort
Kansas	Opt in	Not guaranteed	Rate of next cohort
Northern Arizona	Opt out	Not guaranteed	Rate of next cohort
Ohio	Mandatory	Guaranteed	Rate of next cohort
Texas A&M	Mandatory	Guaranteed	Rate of next cohort
Texas Dallas	Opt in	Guaranteed	Non-guaranteed rate
Western Oregon	Opt out	Not guaranteed	Rate of next cohort

Current Students

- Tuition rates would NOT be increased to higher guaranteed rate
- An appropriate annual rate would be set for the next several years
- After full transition into the program, we will no longer be setting annual rate increases for undergraduate students

Issues to Resolve

- Would the guaranteed program include mandatory fees (e.g., incidental fee)?
- How would the program affect student financial aid?
- Should a tuition plateau be introduced as part of the program?
- How would tuition for students in five-year programs (e.g., AAA Architecture) be treated?
- Would transfer students be incorporated in the program?
- Could other graduate programs be included?
- How would part-time students be affected?
- What if a student takes time off / leave of absence?
- What other issues do we need to consider?

Fall Process to Vet Concept

- Decision necessary – December Board Meeting
- Tuition and Fee Advisory Board would need to accelerate regular meetings (September, October, November) to develop *More* recommendations
- Meetings with other groups to present idea and hear feedback (e.g., student forums, Senate Budget Committee, parent advisory counsels, ELT/ALT, etc.)



UNIVERSITY OF OREGON

Guaranteed Tuition Program

September 10, 2015

Presenters: V.P. for Enrollment Management Dr. Roger J. Thompson

V.P. for Finance and Administration Jamie Moffitt

Finance & Facilities Committee

Board of Trustees of the University of Oregon



UNIVERSITY OF
OREGON



Agenda Item #7

E-Commerce Agreement

Introduction

The University of Oregon Athletic Department wishes to enter into an extension of its e-commerce agreement with Fanatics Retail Group (“Fanatics”). The agreement grants Fanatics exclusive e-commerce rights for Oregon Athletics for purposes of managing the official online team store. Oregon Athletics’ previous agreement with Fanatics (a 5-year agreement) expired on July 31, 2015. The Policy on the Retention and Delegation of Authority requires Board of Trustees’ approval for instruments exceeding \$5M in value; the minimum revenue share per this agreement is \$5.2M, thus Board approval is necessary.

This item was not included in the Finance and Facilities Committee’s pre-reading material because terms of the agreement were not finalized until after materials had been distributed and posted. Materials were made available as soon as practical thereafter.

The agreement itself is attached to the resolution as Exhibit A. Certain trade secret information has been redacted from the document provided and made public.

Key Provisions

Duration: Ten years (August 1, 2015-July 31, 2025)

Financial Terms:

- Minimum revenue share of \$5.2M to UO Athletics over the 10-year term
- UO Athletics receives 5% of Net Merchandise Sales on UO Online Store and on Fanatics Network as “Revenue Share Payments”
- UO Athletics receives 3% of Net Merchandise Sales on UO Online Store and on Fanatics Network as “Marketing Payments”

Requested Action

The Board of Trustees is asked to approve this e-commerce agreement and authorize the president, or his designee, to enter into the agreement.

**Finance and Facilities Committee
Board of Trustees of the University of Oregon**

Resolution: Approval of E-Commerce Agreement for Oregon Athletics

Whereas, the University of Oregon Department of Intercollegiate Athletics ("Oregon Athletics") wishes to enter into an e-commerce agreement with Fanatics Retail Group ("Fanatics") for purposes of exclusive management of the official online team store;

Whereas, the proposed agreement (attached hereto as Exhibit AA) is for a duration of ten (10) years and stipulates certain financial terms such as a minimum revenue share (\$5.2 million) and set percentages for Revenue Share Payments and Marketing Payments from Fanatics to Oregon Athletics;

Whereas ORS 352.107(c) authorizes the Board of Trustees of the University of Oregon ("the Board") to make any and all contracts and agreements that it deems necessary or appropriate;

Whereas, section 1.7.8 the Policy on the Retention and Delegation of Authority requires the Board to approve the execution of an instrument where anticipated value to the University of Oregon exceeds \$5,000,000;

Whereas, the Policy on Committees authorizes the Finance and Facilities Committee to submit matters to the full Board as a seconded motion;

Now, therefore, the Finance and Facilities Committee of the Board of Trustees of the University of Oregon hereby submits the following to the Board of Trustees as a seconded motion, recommending passage:

- 1) Authorization of the President, or his designee, to enter into the e-commerce agreement between Oregon Athletics and Fanatics Retail Group attached hereto as Exhibit A; and
- 2) Ratification of all prior actions taken on behalf of the University related to the aforementioned e-commerce agreement.

--Vote recorded on the following page--

Moved: _____

Seconded: _____

Trustee	Yes	No
Bragdon		
Colas		
Gary		
Gonyea		
Kari		
Schill		

Dated: _____ of _____, 2015.

Initials: _____



E-Commerce Agreement

This E-Commerce Agreement, dated as of the last date of execution by a Party hereto, is made and entered into by and between the Fanatics Retail Group entity in the signature block below ("**Operator**") and the college, university or other entity in the signature block below ("**Institution**"). Each of Operator and Institution are hereinafter sometimes referred to as a "**Party**" and collectively as the "**Parties**". In consideration of the agreements herein, Operator and Institution, intending to be legally bound, hereby agree as follows and, commencing on the Launch Date, as set forth in the attached General Provisions, which are incorporated herein by reference (collectively, the "**Agreement**"):

1. Definitions. Capitalized terms will have the meanings set forth herein or in the General Provisions.

2. Term. The term of this Agreement ("**Term**") will commence on August 1, 2015 (the "**Effective Date**") and, unless earlier terminated in accordance herewith, will end on July 31, 2025. "**Launch Date**" means August 1, 2015. Notwithstanding the foregoing, if the Aggregate Payments to Institution (which, for sake of clarity, exclude any payments for the Licensing Rights) do not equal or exceed Three Million Dollars (\$3,000,000) prior to August 1, 2020, then Institution may terminate this Agreement effective July 31, 2021 if Institution notifies Operator in writing on or before August 31, 2020 of its intent to terminate. In the event of such a termination, notwithstanding anything to the contrary in this Agreement, no Minimum Guarantee Benchmark amount shall apply for the sixth Contract Year.

3. Sites. The Online Store shall be delivered through the shop.goducks.com URL (or any successor or replacement URL) ("**Designated URL**") and shall be accessible via a URL link on the Institution Sites including, without limitation, goducks.com.

4. Revenue Share and Marketing Payments. Commencing on the Launch Date, subject to Institution complying with its obligations under this Agreement, Operator shall pay Institution, on a calendar quarterly ("**Payment Period**") basis during the Term:

(a) five percent (5%) of the Net Merchandise Revenue received by Operator for Orders of Licensed Merchandise sold by Operator to a Customer and placed through the Online Store or other E-Commerce Site within the Fanatics Network, other than Orders for Game Used or Team Issued Items ("**Revenue Share Payments**");

(b) for Game Used or Team Issued Items, (i) fifty percent (50%) of the Net Merchandise Revenue received by Operator for Orders of Game Used or Team Issued Items that Institution has provided to Operator at no cost to Operator, less (ii) Operator's costs associated with manufacturing any Game Used or Team Issued Items, if applicable ("**Game Used or Team Issued Payments**"); and

(c) subject to Institution complying with its marketing and promotional obligations as set forth in this Agreement (including, without limitation, those set forth in Section 2 of the General Provisions and Exhibit A), [REDACTED] percent [REDACTED] of the Net Merchandise Revenue received by Operator for Orders of Licensed Merchandise sold by Operator to a Customer and placed through the Online Store or other E-Commerce Site within the Fanatics Network, other than Orders for Game Used or Team Issued Items ("**Marketing Payments**" and, collectively with the Revenue Share Payments and Game Used or Team Issued Payments, the "**Total Payments**"), in each case to the extent received by Operator for Orders during the immediately preceding calendar quarter. All payments due to Institution pursuant to this Agreement shall be made by check payable to Institution and remitted to Institution's address set forth below and be accompanied by a report that shows, in reasonable detail, Operator's calculation of such payment amount. Except as expressly otherwise set forth in this Agreement, each Party will be responsible for all costs and expenses incurred by such Party in performing its obligations under this Agreement.

5. Game Used or Team Issued Items. During the Term, Institution will provide to Operator no fewer than three hundred (300) Game Used or Team Issued Items per Contract Year (with "Game Used Items" to be defined as and consist solely of shoes, football gloves, uniforms, footballs, and basketballs that are worn or used by Institution players or coaches during a game and "Team Issued Items" to be defined as and consisting solely of shoes, football gloves, uniforms, footballs, and basketballs that are issued but not used in competition by Institution players or coaches during a game), for sale by Operator throughout the Fanatics Network. Commencing on the Launch Date and continuing throughout the Term, the Institution will not, directly or indirectly, sell, transfer, assign or dispose of any Game Used or Team Issued Items other than to Operator pursuant to this Agreement; provided that, Institution may directly (but not through any third party) sell or auction Game Used or Team Issued Items for charitable or other similar purposes (including, without limitation, donor gifts, fundraising events, its "surplus sale", etc.) or, upon Operator's written consent, other purposes. Operator further acknowledges and agrees that Institution may provide its trading card licensee(s) with Game Used or Team Issued Items and similar items so they can be inserted in certain licensed trading cards. Institution shall cooperate with Operator to authenticate all Game Used or Team Issued Items for which Operator requests authentication pursuant to a reasonable tagging and coding procedure established by Operator from time to time. Institution may provide Operator with on-field and locker room access to collect and authenticate Game Used or Team Issued Items when

such access does not interfere with Institution's operations. Institution authorizes Operator to affix a tamper-proof, serial-numbered hologram or similar tag on any Game Used or Team Issued Items, as deemed appropriate by Operator.

6. Licensing Rights. Upon Operator's request, Institution shall grant or extend, or cause its licensing agent to grant or extend, Box Seat, Inc. and/or Fanatics Mounted Memories, Inc., a non-exclusive license to use certain Institution Trademarks (upon prior approval from Institution's licensing agent or Institution) in connection with the design, manufacture, production, marketing, promotion, distribution, offering for sale, sale and other exploitation of approved merchandise in mutually-agreed product categories on commercially reasonable terms and conditions, which shall include, at a minimum, a license term at least coterminous with the Term of this Agreement (collectively, the "**Licensing Rights**"). Nothing in this section is intended to grant Operator any licensing rights that would cause a conflict with those previously conveyed (prior to the Effective Date) to a different party. Operator's use of Institution's marks must be approved by Institution, and such approval shall not be unreasonably withheld.

7. Minimum Guarantee. Within sixty (60) days after the end of each Contract Year, Operator will calculate the actual aggregate Total Payments paid or then payable to Institution hereunder for the preceding Contract Years on a cumulative basis (collectively, the "**Aggregate Payments**"). Subject to Section 2, in the event that the Aggregate Payments are less than the Minimum Guarantee Benchmark (as such amount may be adjusted hereunder), then Operator will pay to Institution the difference between the Aggregate Payments and the Minimum Guarantee Benchmark amount within thirty (30) Business Days thereafter. For the sake of clarity, in the event that the Aggregate Payments are equal to or exceed the Minimum Guarantee Benchmark for the applicable Contract Year, no additional payment will be due to meet the applicable Minimum Guarantee Benchmark. "**Contract Year**" means each twelve (12) month period during the Term beginning on August 1st and ending on July 31st of the following year. "**Minimum Guarantee Benchmark**" means:

Contract Year	Minimum Guarantee Benchmark
Contract Year ending July 31, 2016	\$520,000
Contract Year ending July 31, 2017	\$1,040,000
Contract Year ending July 31, 2018	\$1,560,000
Contract Year ending July 31, 2019	\$2,080,000
Contract Year ending July 31, 2020	\$2,600,000
Contract Year ending July 31, 2021	\$3,120,000
Contract Year ending July 31, 2022	\$3,640,000
Contract Year ending July 31, 2023	\$4,160,000
Contract Year ending July 31, 2024	\$4,680,000
Contract Year ending July 31, 2025	\$5,200,000

Notwithstanding anything to the contrary in this Agreement, (a) in the event of any material breach of this Agreement by Institution, on one hand, and Operator or any of its Affiliates, on the other hand, in any calendar year during the Term, (b) if, with respect to any of Institution's football or basketball athletic teams, such athletic team plays in fewer than the regularly scheduled number of season games, (c) in the event that Institution or any of its Affiliates (including any division or department thereof) is sanctioned, fined or penalized for a major infraction, loses accreditation or status as a member of any league or conference, or becomes ineligible to participate in post-season games, (d) in the event that Box Seat, Inc. or Fanatics Mounted Memories, Inc. (or their successors) do not possess Licensing Rights as set forth in Section 6 (except if such event occurs as a result of the termination of such rights due to default by one or both of those entities), or (e) if Institution's sideline provider decides to cease providing Institution product to Operator for sale through the Fanatics Network, then the Parties will agree upon an equitable reduction to the Minimum Guarantee Benchmark amounts, taking into consideration the impact of such event(s). In addition, if there is any "death penalty" sanction imposed by the NCAA or any similar or successor organization, or if Institution's football team or men's basketball team no longer plays at a Division I level for any reason, then the Parties will agree upon an equitable reduction to the Minimum Guarantee Benchmark amounts. Further, in the event that this Agreement is terminated due to Institution's default, the Minimum Guarantee Benchmark amounts shall not apply to any amounts not yet earned.

8. Yearly Credit. For each Contract Year, Operator shall provide to Institution a credit of Ten Thousand Dollars (\$10,000) (the "**Yearly Credit**"), to be used toward the purchase by Institution of Licensed Merchandise through the Online Store. Any unused Yearly Credit for will expire at the end of such Contract Year. Notwithstanding anything in this Agreement to the contrary, Orders placed using the Yearly Credit shall be excluded from the definition of Net Merchandise Revenue and from the calculation of Revenue Share Payments and the amount of any redeemed Yearly Credit shall be included when determining whether the Minimum Guarantee Benchmark has been met.

IN WITNESS WHEREOF, intending to be legally bound, the Parties hereby execute this Agreement on the date(s) set forth below.

OPERATOR
FANATICS RETAIL GROUP FULFILLMENT, INC.

By: _____

Name: Brian Swallow

Title: Senior Vice President

Address: 5245 Commonwealth Avenue
Jacksonville, Florida 32254

Date: _____

INSTITUTION
THE UNIVERSITY OF OREGON ATHLETIC DEPARTMENT

By: _____

Name: _____

Title: _____

Address: _____

Date: _____



GENERAL PROVISIONS

1. Online Store. Operator shall create and establish the Online Store. The Online Store shall have a “look and feel” substantially consistent in all material respects with that of the Institution Sites. The Online Store shall include Institution Trademarks and Operator-related branding as the Parties may mutually agree. Operator will operate and maintain the Online Store in a professional manner and will be responsible for providing and obtaining all required technology (other than the Designated URL and any Secondary URLs, which will be registered by Institution), order processing, fulfillment, customer service (which shall be branded to the Online Store) and related services necessary for the Online Store to be and perform, at a minimum materially comparable, when taken as a whole, with then-prevailing industry standards for other e-commerce operations of similar size and that sell similar merchandise. Operator may, from time to time, make such changes and alterations to the Online Store as may be reasonably necessary for Operator to comply with applicable laws, rules, regulations and policies of any governmental authority, licensor or other third party or any contractual obligation. Operator will be the seller of record for all goods and services sold through the Online Store, and, as such, Operator will be solely responsible for establishing the selling price and for determining, reporting, remitting and paying all sales and similar taxes on such goods and services. Operator will have the exclusive right to create, offer, distribute, and redeem stored payment tender methods issued solely for use at the Online Store (e.g., Online Store e-gift certificates). Operator will provide Institution with access to the online reporting portal(s) for the Online Store that generally are made available by Operator to its other similarly situated clients.

2. Marketing; Promotions.

(a) Except with respect to Institution’s obligations hereunder, Operator shall be responsible for and coordinate marketing and promotions with respect to the Online Store. Operator will use commercially reasonable efforts to actively promote the sale of Licensed Merchandise through the Fanatics Network. Commencing on the Launch Date and continuing throughout the Term, Institution shall establish and maintain on the Institution Sites a navigation “shop” tab (which shall be at least an above-the-fold tab/link in such site’s global navigation displayed no less prominently than any other tab/link then included in such global navigation) and other applicable promotional links that, in each case, link directly to the Online Store. Institution shall not use a “no follow” attribute tag or any re-directs on any outbound links to the Online Store without Operator’s prior written consent. Throughout the Term, no other online “shop”, “store” or similar tabs or links shall be included on the Institution Sites.

(b) In addition to its other obligations hereunder, throughout the Term, Institution will cooperate with Operator with respect to marketing and promoting the Online Store and will engage in such marketing and promotional activities as Operator may reasonably request from time to time. Without limiting the foregoing, (i) Institution will continue to market and promote the Online Store, and the sale of Licensed Merchandise through the Fanatics Network, in no less than the same manner (in quality and quantity) as marketed and promoted during the two (2) year period prior to the Effective Date, (ii) Institution will provide to Operator the marketing assets set forth in Exhibit A, and (iii) Institution shall integrate Institution owned and/or controlled assets with the Online Store, including at a minimum implementing the reasonable Institution Site integration, e-mail integration, mobile integration, social media integration, video/print/radio integration and stadium integration activities requested by Operator from time to time during the Term (such

integration requests to be set forth in an Institution Asset Integration plan prepared by Operator and presented to Institution periodically throughout the Term). Institution will provide and make available to Operator such Institution Furnished IP as Operator may reasonably request in connection with marketing and promotion of the Fanatics Network, including the Online Store. Throughout the Term, Institution’s obligations under this Section 2 shall be deemed to apply to the Online Store, and all method(s) of E-Commerce or Methods of Access then provided by Operator with respect thereto. To the extent an obligation references a Web Site or Methods of Access currently applicable to a Web Site, Institution’s obligations shall be comparable with respect to other forms of E-Commerce and Methods of Access commonly used by Institution. Upon the reasonable request of Operator from time to time during the Term, Institution will provide Operator with information regarding Institution’s activities pursuant to this Section 2.

(c) Throughout the Term, as reasonably requested by Operator from time to time, and consistent with the marketing assets detailed in Exhibit A, Institution will provide Operator with access to such Institution owned and/or controlled customer lists and data as the Parties shall mutually agree, including the name, email address, social media data, and telephone/cell numbers, for purposes of permitting Operator the ability to contact and otherwise market to such customers to promote the sale of Licensed Merchandise. Institution shall be responsible for confirming and verifying any such customer lists and obtaining any necessary consents or approvals in order to provide such customer lists to Operator for the intended purpose. Nothing in this Agreement is intended to require Institution to provide any information that is confidential or private and that Institution is prohibited from sharing under applicable state or federal law.

3. Merchandising. Operator shall be responsible for obtaining and maintaining a commercially reasonable assortment of Licensed Merchandise for sale on and through the Online Store. Notwithstanding the foregoing, Operator shall not be obligated to offer any Licensed Merchandise to the extent prohibited by applicable law or other restriction (whether imposed by any licensor, manufacturer or any other third party). Institution shall use best efforts to, and shall use best efforts cause all distributors, manufacturers and other licensees of Licensed Merchandise to, (a) make available and sell all Licensed Merchandise to Operator for resale through Operator and its Affiliates, and (b) otherwise assist Operator and its Affiliates, at their reasonable request, in working with such distributors, manufacturers and licensees.

4. Ownership; IP License.

(a) **Ownership.** As between the Parties, Institution reserves all right, title and interest in and to the Institution Furnished IP along with all Intellectual Property Rights associated therewith, and no title to or ownership of any of the foregoing is transferred or, except as expressly set forth in this Agreement, licensed to Operator or any other Person hereunder. Operator hereby assigns to Institution all right, title and interest in and to such items and all associated Intellectual Property Rights, and Operator will take, at Institution’s expense, any actions (including execution and delivery of affidavits and other documents) reasonably requested by Institution to effect, perfect or confirm Institution’s or its designee’s right, title and interest therein. Upon the expiration or earlier termination of this Agreement, Operator will return all Institution Furnished IP to Institution, and Operator will have no further rights thereto. As between the Parties, Operator reserves all right, title and interest in and to the Operator Furnished IP along with all Intellectual Property Rights associated with any of the foregoing, and no title to or ownership of any of the foregoing is transferred or licensed to Institution or any other Person hereunder. Institution hereby assigns to Operator all right, title and interest in and to such items and all associated Intellectual Property Rights, and Institution will take, at Operator’s expense, any actions (including execution and delivery of affidavits and

other documents) reasonably requested by Operator to effect, perfect or confirm Operator's or its designee's right, title and interest therein. Upon expiration or earlier termination of this Agreement, Institution will return all Operator Furnished IP to Operator and Institution will have no further rights thereto.

(b) **Institution Furnished IP License.** Institution hereby grants to Operator, during the Term, a worldwide, royalty free and fully paid up, sublicensable (but solely in connection with Operator's rights and obligations under this Agreement), non-transferable (except as otherwise set forth herein) license to use the Institution Furnished IP in connection with all of Operator's rights and obligations under this Agreement. The foregoing grant shall include the right of Operator to use the Institution Trademarks and other Institution Furnished IP in connection with marketing, promoting, advertising, selling, offering for sale and/or displaying Licensed Merchandise through the Fanatics Network. Institution will take commercially and legally reasonable and permissible actions, as may be reasonably requested by Operator from time to time, to enforce against or limit the unauthorized and infringing use of Institution Trademarks, including in connection with counterfeit Institution merchandise. Operator shall not use Institution IP in any manner inconsistent with Institution's instructions or in a manner that brings disrepute or negative publicity to Institution.

5. Customer Information. As between Institution and Operator, the seller of record hereunder, (a) Operator shall have sole ownership of Customer Information obtained from Customers of the E-Commerce Sites within the Fanatics Network other than the Online Store, (b) the Parties shall have joint ownership of Customer Information obtained from Customers of the Online Store, and (c) subject to applicable laws, rules and regulations, and any applicable restrictions (e.g., contractual restrictions), during the Term, Operator shall provide the Institution with access to Customer Information obtained from Customers of the Fanatics Network during the Term, but only if and to the extent such Customers purchase Licensed Merchandise. By way of example only, if a Customer purchases merchandise other than Licensed Merchandise from an E-Commerce Site within the Fanatics Network, then the Institution shall not be entitled to Customer Information for such Customer. Institution may use Customer Information described in Section 5(c) above, but solely for operation of the Institution's businesses (e.g., ticket sales, fan clubs, etc.), and not, either during or after the Term, in connection with the sale, offer for sale, marketing or promotion of the sale of Licensed Merchandise. In no event shall the Institution sell, rent or license any such Customer Information described in Section 5(c) above, and Institution shall not share such Customer Information with any third party, including, without limitation, any sponsor of the Institution or other seller of Licensed Merchandise. Each Party agrees to treat all Customer Information as Confidential Information. Each Party agrees to use all Customer Information in accordance with the applicable privacy policy and all applicable laws, rules and regulations. Operator shall establish, maintain and update the privacy policy and the terms of use/terms and conditions for the Online Store in a manner designed to reflect the Parties' rights and obligations, be factually accurate and comply with applicable law. Upon request, Operator shall provide Institution with a copy of the privacy policy and terms of use/terms and conditions for the Online Store and shall make modifications to them as may be suggested by Institution and mutually agreed upon by the Parties. Each Party will abide by the privacy policy and terms of use/terms and conditions for the Online Store, as may be amended from time to time.

6. Audit. During the Term and for two (2) years thereafter, Operator will keep complete and accurate books and records sufficient to verify the amounts paid or owed under this Agreement. Operator will, upon at least thirty (30) days' prior written request by Institution, allow Institution, or a representative of Institution, to audit such books and records at Operator's premises to the extent necessary to verify the amounts paid or owed pursuant to this Agreement; provided that (a) any

such audit is conducted during normal business hours and in a manner designed to not unreasonably interfere with Operator's ordinary business operations, (b) audits may not occur more frequently than once every twelve (12) months, (c) each such audit may only cover the period commencing after the period covered by the last audit conducted pursuant to this Section 6, if any, (d) audits may not occur during the months of November, December or January of any year. Any information learned or disclosed in connection with any such audit is Confidential Information of Operator.

7. Other Rights.

(a) During the Term, (i) Operator and its Affiliates shall have the exclusive right to act as the official E-Commerce provider for Institution and offer, market and sell Licensed Merchandise by or on behalf of Institution, on or through the Internet or any successor thereto, any other computer networks, including but not limited to proprietary computer networks (such as mobile carrier networks, cable networks, electronic data exchange networks, intranets), non-proprietary networks (such as peer-to-peer network or other public networks), or any other electronic or digital forms of distribution, whether or not such forms now exist, and through any Methods of Access (and any successors or replacements of any such electronic digital forms of distribution and Methods of Access) (collectively, "**E-Commerce**"), (ii) Operator shall have the right, in its sole reasonable discretion, to determine, from time to time, through which forms of E-Commerce it will sell Licensed Merchandise throughout the Term, (iii) such exclusivity shall be worldwide, (iv) subject to the terms of this Section 7, Institution will not directly sell, market, or offer for sale Licensed Merchandise through E-Commerce, other than by Operator, including through the Fanatics Network and the Online Store, (v) the Online Store shall be the official E-Commerce Site of Institution and Operator shall have the exclusive right to operate and brand the Online Store as such, and (vi) Institution shall not expressly authorize any other E-Commerce Site to state or imply that such E-Commerce Site is an official, sponsored, or endorsed E-commerce store or site of Institution. Without limiting the foregoing, from and after the Effective Date, (x) Operator shall have the exclusive right to brand its stores in third party marketplaces (e.g., eBay, Amazon, etc.) ("**Marketplaces**") as the "official" Marketplace store(s) of Institution, (y) Operator may use, and may provide such Marketplace operators and participants with, the Institution Trademarks in connection with such Marketplaces, and (z) all Operator sales of Licensed Merchandise generated through Marketplaces will be deemed Orders for purposes of calculating the Net Merchandise Revenue hereunder and the applicable Revenue Share Payments.

(b) During the Term, Institution will not, (i) license or authorize any Person other than Operator and its Affiliates in offering, marketing or selling Licensed Merchandise to consumers through any E-Commerce Site which states that it is an "official" E-Commerce Site of Institution,; (ii) post or serve, or permit to be posted or served, on any page of any Institution Site, any buttons, banners, links or other promotional or advertising material that (A) offers, promotes, advertises or otherwise references the sale of, through any other Person, the sale of Licensed Merchandise with the exception of institutional sideline provider information deemed necessary to place on Institution site(s) , (B) links directly to any E-Commerce Site (other than a location within the Online Store and/or other E-Commerce Sites within the Fanatics Network) which offers, promotes, advertises or otherwise references the sale of Licensed Merchandise, or (C) links directly to any E-Commerce Site that is primarily in the business of selling Licensed Merchandise; or (iv) engage in any marketing, promotional or advertising activities with respect to sale of Licensed Merchandise through E-Commerce, other than as expressly contemplated by this Agreement, including the purchasing of search terms. (v) With reference to (b)(i), (b) (ii) and b(iii), institution sideline provider shall be permitted where necessary to promote the relationship between institution and sideline provider.

8. Termination.

(a) **Termination for Breach.** Without limiting any other rights or remedies (including any right to seek damages and other monetary relief) that either Party may have in law or otherwise, either Party may terminate this Agreement if the other Party fails to perform any obligation hereunder, provided that (i) the non-breaching Party sends written notice to the breaching Party describing in reasonable detail the breach and stating its intention to terminate this Agreement unless such breach is cured, and (ii) the breaching Party does not cure the breach within thirty (30) days following its receipt of such notice; provided that, if the breaching Party has diligently attempted to cure the breach during such thirty (30) day period but has not cured the breach by the end of such thirty (30) day period, the non-breaching Party may not terminate this Agreement so long as the breaching Party continues to diligently attempt to cure the breach. If the breach is not cured by the breaching party within 60 days of receiving notice of such breach, the non-breaching party may terminate this agreement.

(b) **Effect of Termination.** Upon the expiration or earlier termination of this Agreement, each Party in receipt, possession or control of the other Party's intellectual or proprietary property, information and materials or Confidential Information pursuant to this Agreement must return to the other Party (or at the other Party's written request, destroy) such property, information and materials. Sections 6, 8(a)-(b), 9, 10, 11 and 13 (together with all other provisions that reasonably may be interpreted as surviving the expiration or earlier termination of this Agreement) will survive any such expiration or termination. Notwithstanding the foregoing, the expiration or earlier termination of this Agreement will not relieve either Party from its obligation to pay any monies due to the other Party for any period prior to the effective date of such expiration or termination.

(c) Exclusive Negotiation.

(i) From and after the Effective Date and continuing until the date that is twelve (12) months prior to the end of the Term (the "**Restricted Period**"), Institution shall not, and shall cause its Affiliates not to, directly or indirectly, (A) initiate, solicit, discuss, communicate or negotiate any proposal, offer, or business terms from any third party(ies) ("**Third Party Discussions**") with respect to the E-Commerce business of Institution or any of its Affiliates (an "**E-Commerce Transaction**"), (B) provide any Confidential Information to any third party in connection therewith, or (C) commit any act or omission that is intended or designed to avoid or circumvent Institution's obligations, or cancel, nullify or otherwise adversely affect Operator's rights and privileges, under this Section 8(c). Institution shall not, and shall cause its Affiliates not to, directly or indirectly, enter into any agreement or consummate any E-Commerce Transaction with any Person other than Operator and its Affiliates (a "**Third-party Transaction**"), except in compliance with the terms and conditions of this Section 8(c). From the date that is twelve (12) months prior to the end of the Term and continuing for a period of ninety (90) days (the "**Exclusive Negotiation Period**"), the Parties shall negotiate in good faith regarding a renewal of this Agreement (the "**Proposed Renewal**"). If, at the end of the Exclusive Negotiation Period, the Parties have not reached agreement with respect to a Proposed Renewal, then from and after the end of the Exclusive Negotiation Period and continuing until the end of the Term, Institution shall have the right to enter into a Third-party Transaction..

9. Representations; Indemnification.

(a) **Representations.** Each Party represents and warrants to the other that: (i) it has the full right, power and authority to enter into this Agreement and perform its obligations hereunder; (ii) its execution, delivery and performance of this Agreement, and the other Party's exercise of such other Party's rights under this Agreement, will not

conflict with or result in a breach or violation of any of the terms or provisions or constitute a default under any material agreement by which it is bound; and (iii) when executed and delivered, this Agreement will constitute its legal, valid and binding obligation enforceable against it in accordance with the terms of this Agreement.

(b) Indemnification.

(i) Operator will defend, indemnify and hold harmless Institution and its Affiliates (and their respective employees, officers, directors and representatives) from and against any and all losses, damages, judgments, costs and expenses (including reasonable attorneys' fees) arising out of any third party claim, demand, action, suit or proceeding ("**Claim**"), to the extent based on (A) any breach of this Agreement by Operator or any breach of Operator's representations, warranties or obligations as set forth in this Agreement, (B) infringement, product liability, personal injury or death relating to any Licensed Merchandise (other than (1) Claims related to marketing provided by Institution or its Affiliates, (2) Claims that the Institution Trademarks in or on such Licensed Merchandise infringe upon a third party's Intellectual Property Rights, or (3) Claims related to any Licensed Merchandise purchased from Institution), (C) the Operator Furnished IP, including any infringement of any Intellectual Property Rights with respect thereto, (D) any failure of Operator to comply with any applicable law, rule or regulation, (E) any agreement or purported agreement entered into by Operator to effectuate the terms of this Agreement, (F) Operator's operation of the Online Store or other E-Commerce Site within the Fanatics Network, or (G) any consumer related claims or complaints related to the Online Store or other E-Commerce Site within the Fanatics Network including, but not limited to, claims related to the loss, theft, or exposure (or alleged loss, theft or exposure) of consumer data, in each case other than due to Institution's acts or omissions.

(ii) To the extent permitted by the Oregon Tort Claims Act, Institution will defend, indemnify and hold harmless Operator and its Affiliates (and their respective employees, officers, directors and representatives) from and against any and all losses, damages, judgments, costs and expenses (including reasonable attorneys' fees) arising out of any Claim, to the extent based on (A) the creation, operation or content of any Web Site or E-Commerce Site operated by Institution other than the Online Store, but including any Institution Site, (B) any breach of Institution's representations, warranties or obligations as set forth in this Agreement, (C) the Institution Furnished IP, including any infringement of any Intellectual Property Rights with respect thereto, (or (D) any failure of Institution to comply with any applicable law, rule or regulation, in each case other than due to Operator's acts or omissions.

(c) In case any Claim is at any time brought against a Party or its Affiliates (or any of their respective employees, officers, directors or representatives) (each an "**Indemnified Party**") and such Indemnified Party is entitled to indemnification pursuant to Section 9(b) with respect thereto, the Party obligated to provide such indemnification (the "**Indemnifying Party**") will defend such Claim, at the sole expense of the Indemnifying Party, using counsel selected by the Indemnifying Party but subject to the Indemnified Party's reasonable approval. If the Indemnifying Party fails to take timely action to defend such Claim after having received written notice from the Indemnified Party of such failure, the Indemnified Party may defend such Claim at the Indemnifying Party's expense. The Indemnifying Party will keep the Indemnified Party fully advised with respect to such Claim; provided, however, that the Indemnifying Party shall be under no obligation to advise the Indemnified Party with respect to any Claim to the extent that doing so could, in the Indemnifying Party's reasonable opinion, compromise attorney-client or other privilege or violate any confidentiality obligations of the Indemnifying Party or any of its Affiliates. The Indemnified Party will have the right to participate, at the Indemnified Party's expense, in any Claim instituted against it and to select attorneys to defend it, which attorneys

will be independent of any attorneys chosen by the Indemnifying Party relating to such Claim or any related claim. The Indemnified Party and the Indemnifying Party shall cooperate in all reasonable respects with the investigation, disclosure and defense of any Claim. The Indemnifying Party will not settle, compromise or otherwise enter into any agreement regarding the disposition of any Claim against the Indemnified Party without the prior written consent and approval of the Indemnified Party, unless such settlement, compromise or disposition of any Claim against the Indemnified Party (i) provides for a complete and unconditional release of the Indemnified Party in respect of the Claim, (ii) does not include a statement as to, or an admission of, fault, culpability or failure to act by or on behalf of, the Indemnified Party, and (iii) does not impose any ongoing operational, financial, or other obligation on the Indemnified Party.

10. DISCLAIMER OF WARRANTIES; LIMITATIONS OF LIABILITY. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES, AND EACH PARTY HEREBY WAIVES AND DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES REGARDING THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OR IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. EXCEPT TO THE EXTENT (A) AWARDED TO A THIRD PARTY IN A JUDGMENT AGAINST WHICH A PARTY IS ENTITLED TO INDEMNIFICATION PURSUANT TO SECTION 9(B), OR (B) RESULTING FROM WILLFUL MISCONDUCT OR WRONGFUL TERMINATION: (I) NEITHER PARTY WILL BE LIABLE (WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHER THEORY) TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR COST OF COVER OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR DAMAGES FOR LOSS OF PROFIT, REPUTATION, BUSINESS OR DATA ARISING OUT OF THIS AGREEMENT, AND (II) NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY IN CONNECTION WITH ANY OR ALL CLAIMS FOR AN AMOUNT IN EXCESS OF THE AGGREGATE AMOUNTS PAID TO INSTITUTION DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD.

11. Account Management; Dispute Resolution.

(a) **Account Managers.** Each Party will assign an account manager to oversee the performance of its obligations under this Agreement. Each Party's account manager will be the other Party's primary contact with respect to transactions contemplated hereunder. Each Party's account manager may be subject to change from time to time by the assigning Party upon written notice to the other Party. The account managers will meet as frequently as may be necessary during the Term to review the implementation of this Agreement and to address applicable matters related hereto.

(b) **Dispute Resolution.**

(i) If any dispute arises relating to either Party's rights or obligations under this Agreement, and the Parties are unable to resolve the dispute in the ordinary course of business, Institution and Operator will use good-faith efforts to resolve the matter in accordance with this Section 11(b). Within five (5) Business Days following the written request of either Party (which will describe the nature of the dispute and other relevant information), the Parties' account managers will meet or otherwise communicate to resolve the dispute at a mutually convenient time and place. If the account managers are unable to resolve the dispute within three (3) Business Days following their initial meeting/communication, such account managers will refer the matter to the extent unresolved to the Parties' divisional executives ("Executive Sponsors") who are responsible for the administration of this Agreement. Within five (5) Business Days following the referral of the matter to the Executive Sponsors, the Executive Sponsors will meet or otherwise

communicate to resolve the dispute at a mutually convenient time and place. Within five (5) Business Days following the initial meeting/communication of the Executive Sponsors, the Parties shall submit any unresolved dispute to non-binding mediation. If the Parties cannot mutually agree upon a mediator within seven (7) days of such notice, then a mediator shall be designated by the American Arbitration Association ("AAA") at the request of either Party. The mediation shall be conducted at a mutually convenient location in the State of Oregon or at such other location as the Parties may agree. Each Party will bear its own costs in the mediation, and the fees and expenses of the mediator will be borne equally by the Parties.

(ii) If the Parties do not resolve a dispute within forty-five (45) days following the date of any mediation, the dispute shall be finally resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the AAA, and judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitration shall be conducted by a panel of three (3) neutral persons experienced in intellectual property licensing and E-Commerce and shall be held in the State of Oregon, or in a place otherwise mutually agreed by the Parties. Either Party may apply to the arbitrators for interim injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved and may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any injunctive or provisional relief necessary to protect the rights or property of that Party pending the arbitration award. The arbitrators shall have no authority to award damages prohibited hereunder. Unless otherwise awarded by the arbitrators, each Party shall bear its own costs and expenses and an equal share of the arbitrators' and any administrative arbitration fees. Except to the extent necessary to confirm an award or as may be required by applicable laws, rules and regulations (including the State or Oregon's public records laws), neither a Party nor an arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of the other Party. In no event shall arbitration be initiated after the applicable Oregon statute of limitations. In any action, suit, arbitration or proceeding arising out of or related in any way to this Agreement, each Party, by execution and delivery of this Agreement, expressly and irrevocably consents to the service of any complaint, summons, notice or other process by delivery thereof to it by hand or by any other manner provided for in Section 13(c). IN ADDITION, EACH PARTY HEREBY EXPRESSLY AND IRREVOCABLY WAIVES ANY CLAIM OR DEFENSE IN ANY SUCH ARBITRATION OR PROCEEDING BASED ON ANY ALLEGED LACK OF PERSONAL JURISDICTION, IMPROPER VENUE, FORUM NON CONVENIENS OR ANY SIMILAR DOCTRINE OR THEORY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12. Defined Terms

(a) **"Affiliate"** means, as to any Person, any other Person that, directly or indirectly, is controlled by, is under common control with, or controls such Person, but only as long as such control exists. For this purpose, "control" means ownership or voting rights over at least fifty percent (50%) of the outstanding voting or equity securities of the Person in question or the power to direct or cause the direction of management or policies of such Person, whether through voting securities, by contract, or otherwise. For the sake of clarity, in the case of Operator, "Affiliate" shall not include any entity that is not also a subsidiary of Fanatics, Inc.

(b) **"Business Day"** means any day which is not a Saturday, Sunday or official federal holiday in the United States.

(c) **"Confidential Information"** means all nonpublic information relating to a Party or its Affiliates that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as

confidential. Confidential Information includes (i) all nonpublic information relating to a Party's or its Affiliates' technology, customers, business plans, agreements, promotional and marketing activities, finances and other business affairs, and (ii) all third party information that a Party or its Affiliates is obligated to keep confidential. Confidential Information may be contained in tangible materials, such as drawings, data, specifications, reports and computer programs, or may be in the nature of unwritten knowledge. Confidential Information does not include any information that (w) has become publicly available without breach of this Agreement, (x) can be shown by documentation to have been known to the receiving Party at the time of its receipt from the disclosing Party or its Affiliates, (y) is received from a third party who did not acquire or disclose such information by a wrongful or tortious act, or (z) can be shown by documentation to have been independently developed by the receiving Party without reference to any Confidential Information.

(d) **"Customer"** means a Person who accesses the Online Store or any other E-Commerce Site within the Fanatics Network through any one or more Methods of Access, whether or not a purchase is made.

(e) **"Customer Information"** means name, mailing address, telephone number, e-mail address, and any other personally identifying information obtained through an E-Commerce Site within the Fanatics Network, including the Online Store; provided that, Customer Information does not include any information that either Operator or Institution otherwise owns or to which Operator or Institution has the rights and which is obtained from Customers other than through transactions contemplated under this Agreement.

(f) **"E-Commerce Site"** means any point of presence maintained for the purpose of E-Commerce, whether through any public data network or platform or otherwise, including Web Sites. References to an E-Commerce Site shall be deemed to include (i) all electronic pages (or similar unit of information presented in any relevant data protocol) that a user reasonably would conclude are part of an integrated information or service offering related to the sale of merchandise, and (ii) all versions or iterations of an E-Commerce Site that may be established from time to time to allow for one or more Methods of Access (e.g., the mobile version of a Web Site).

(g) **"Fanatics Network"** means the E-Commerce Sites owned and operated by Operator and its Affiliates from time to time during the Term, but only to the extent that such E-Commerce Sites are then owned or operated by Operator and/or its Affiliates. As of the Effective Date, the Fanatics Network includes the following the Web Sites: *fanatics.com*, *fanaticsoutlet.com*, *fansedge.com*, *nflshop.com*, *yahoosports.teamfanshop.com*, *shop.cbssports.com*, *shop.nbcsports.com* and *shop.foxsports.com*.

(h) **"Institution Content"** means the content or information owned or controlled (e.g., by license or otherwise) by Institution or its Affiliates, including text, graphics, photographs, video, audio and/or other data or information, and e-mail addresses provided by or on behalf of Institution to Operator in connection with this Agreement or the Online Store.

(i) **"Institution Furnished IP"** means the Designated URLs and all applicable Secondary URLs, and the Institution Content and Institution Trademarks that are furnished by Institution for use in connection with the activities contemplated by this Agreement. As used herein, Institution Furnished IP also includes any adaptation, modification, improvement or derivative work of any Institution Furnished IP that is developed by either Party or jointly by the Parties. Notwithstanding the foregoing, Institution Furnished IP do not include any Operator Furnished IP or any adaptation, modification, improvement or derivative work of any Operator Furnished IP that is developed by either Party or jointly by the Parties (provided that

such does not include the Institution Furnished IP).

(j) **"Institution Sites"** means each Web Site owned, operated or controlled, directly or indirectly, by Institution's Athletic Department (and any successors or replacements thereto) including, without limitation, all social media Web Sites controlled by Institution's Athletic Department.

(k) **"Institution Trademarks"** means all Trademarks owned or controlled by Institution and/or its Affiliates.

(l) **"Intellectual Property Rights"** means any and all now known or hereafter known tangible and intangible (i) rights associated with works of authorship throughout the universe, including copyrights, moral rights, and mask-works, (ii) trademark, trade dress and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property rights of every kind and nature throughout the universe and however designated (including domain names, logos, "rental" rights and rights to remuneration), whether arising by operation of law, contract, license, or otherwise, and (vi) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

(m) **"Licensed Merchandise"** means any goods (including photographs and memorabilia) bearing Institution Trademarks and, with respect to the Online Store, services (including auction) bearing the Institution Trademarks.

(n) **"Methods of Access"** means, with respect to any E-Commerce Site, the means through which such E-Commerce Site is accessed by a Customer, including, with respect to a Web Site, a desktop computer, mobile phone, tablet, television, or other portable device.

(o) **"Net Merchandise Revenue"** means the amount equal to all cash consideration from the applicable Orders during the applicable period pursuant to this Agreement, less all taxes, shipping and handling charges, payment tender processing fees, direct out of pocket expenses (e.g., framing, encasing, etc.), wrapping and other value-added service charges and expenses, returns, chargebacks and uncollectable credit card charges. Net Merchandise Revenue shall not include any consideration received from applicable Orders that have been discounted by forty percent (40%) or more. For the sake of clarity, the sale of gift certificates or other stored payment tender will not be included in the calculation of Net Merchandise Revenue hereunder and no revenue share will be payable to Institution hereunder unless or until such gift certificates or other stored payment tender are redeemed through the Online Store.

(p) **"Online Store"** means the official E-Commerce Site of Institution as operated by Operator pursuant to this Agreement. As of the Effective Date, the Online Store is operated as a Web Site on the Internet, the primary home page for which is identified by the applicable Designated URL and the Secondary URLs, if any.

(q) **"Operator Content"** means any and all content or information owned or controlled (e.g., by license or otherwise) by Operator or its Affiliates, including (i) text, graphics, photographs, video and audio, and (ii) data or information collected through or in connection with operating the E-Commerce Sites within the Fanatics Network, including the Online Store (e.g., data regarding page views, patterns, performance, traffic, transactions and usage) except for any personally-identifying Customer Information.

(r) **"Operator Furnished IP"** means any Operator Content, Trademark, or Technology that, as between the Parties, is owned or controlled (e.g., by license or otherwise) by Operator or its Affiliates, as the case may be. As used herein, Operator Furnished IP will also include any adaptation, modification, improvement or derivative work of any

Operator Furnished IP that is developed by either Party or jointly by the Parties. Notwithstanding the foregoing, Operator Furnished IP does not include any Institution Furnished IP or any adaption, modification, improvement or derivative work of any Institution Furnished IP that may be developed by either Party or jointly by the Parties.

(s) **"Order"** means a completed order for (i) Licensed Merchandise or Game Used or Team Issued Items sold by Operator or its Affiliates to a Customer placed through the Online Store, or (b) Licensed Merchandise or Game Used or Team Issued Items sold by Operator or its Affiliates to a Customer and placed through any other E-Commerce Site within the Fanatics Network during the Term.

(t) **"Person"** means, whether or not capitalized, any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union, or other entity or governmental body.

(u) **"Secondary URLs"** means uniform resource locators used by Institution, other than the Designated URLs, that Institution or its Affiliates identify(ies) as being intended to point to the same Web page as the applicable Designated URL, and that include one or more Trademarks or other references used by Institution or its Affiliates or any variant of such Trademarks or other references to Institution or Institution's business.

(v) **"Technology"** means any design, specification, data, database, process, system, method of operation, concept, software, code, template, user interface, protocol, format, technique, algorithm, method, process, device, procedure, functionality, or other technology or similar item.

(w) **"Trademark"** means any trademark, service mark, trade name, URL, domain name, trade dress, proprietary logo or insignia, or other source or business identifier.

(x) **"URL"** means the uniform resource locator of a Web Site and any similar type of locator of an E-Commerce Site.

(y) **"Web Site"** means any point of presence maintained on the Internet or on any other public data network. With respect to any Web Site maintained on the World Wide Web or any successor public data network, such Web Site includes all HTML pages (or similar unit of information presented in any relevant data protocol) that either (i) are identified by the same second-level domain by the same equivalent level identifier in any relevant address scheme, or (ii) contain branding, graphics, navigation or other characteristics such that a user reasonably would conclude that the pages are part of an integrated information or service offering. For purposes of this Agreement, "Web Site" shall also be deemed to refer to any similar point of presence maintained on any successor, replacement or similar Technology to that of the Internet or other public data network that may exist during the Term.

13. Miscellaneous.

(a) **Press Releases; Confidentiality.** Unless required by law, neither Institution nor Operator will make any public announcement or issue any press release concerning the transactions contemplated by this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, (i) each Party may reference that Institution is an entity with which Operator has an agreement and for which Operator operates an E-commerce business; (ii) Operator may reference Institution in Operator's marketing materials, (iii) after the initial public announcement of a specific matter or transaction has been approved in writing by the Parties, either Party's subsequent reference to that specific matter or transaction will not require another approval from the other Party, and (iv) each Party may make any public announcement

or issue any press release that it is required by law or rule or regulation of any governmental authority or self-regulatory organization to issue, provided such Party gives reasonable prior notice of such announcement or press release to the other Party. Each Party will protect and keep confidential the Confidential Information of the other Party from misappropriation and unauthorized use or disclosure, and at a minimum, will take precautions at least as great as those taken to protect its own confidential information of a similar nature. Without limiting the foregoing, the receiving Party will disclose such Confidential Information only to those of its or its Affiliates' employees, agents, consultants, investors, potential investors, advisors and others who have a need to know the same and who are subject to confidentiality duties or obligations. The receiving Party may also disclose Confidential Information of the disclosing Party to the extent necessary to comply with applicable law or legal process, provided that the receiving Party provides the disclosing Party reasonable advance notice thereof so it can obtain a protective order if it so desires. Upon request of the other Party, or in any event upon the expiration or earlier termination of this Agreement, each Party will return to the other all materials, in any medium, which contain, embody, reflect or reference all or any part of any Confidential Information of the other Party; provided, however that the receiving Party may retain copies of the disclosing Party's Confidential Information for the receiving Party's files to the extent required by the receiving Party's record retention policies or necessary for the receiving Party to comply with legal and/or regulatory requirements. Notwithstanding the return of Confidential Information, each Party will continue to be bound by its obligations of confidentiality under this Agreement.

(b) **Force Majeure; Compliance with Laws.** If either Party is unable to perform any of its obligations under this Agreement due to an event beyond the control of that Party, including natural disaster, acts of God, fire, actions or decrees of governmental bodies, act of war, terrorism, failure or discontinuance of the Internet or failure of communications lines or networks, that Party will use commercially reasonable efforts to resume performance of its obligations but will have no liability to the other Party for failure to perform its obligations under this Agreement for so long as it is unable to do so as a result of such event. Each party shall comply, in all material respects, with all applicable laws and rules and regulations with respect to the performance of its obligations pursuant to this Agreement.

(c) **Notices; Approvals.** Unless otherwise provided, all notices, consents or other communications required or permitted to be given under this Agreement must be in writing and will be deemed to have been duly given (i) when delivered personally, (ii) three (3) Business Days after being mailed by first class mail, postage prepaid, or (iii) one (1) Business Day after being sent by a reputable overnight delivery service, postage or delivery charges prepaid, to the Parties at their respective addresses stated on the signature page of this Agreement. Notices may also be given by electronic mail and will be effective on the date transmitted if confirmed within twenty-four (24) hours thereafter by a signed original sent in the manner provided in the preceding sentence. Notices to Operator will be sent to its address stated on the signature page of this Agreement to the attention of its Executive Vice President, Business Affairs, with a copy sent simultaneously to the same address to the attention of its General Counsel. Notices to Institution will be sent to its address stated on the signature page of this Agreement, with a copy sent simultaneously to its General Counsel. Either Party may change its address for notice and the address to which copies must be sent by giving notice of the new addresses to the other Party in accordance with this Section 13(c), except that any such change of address notice will not be effective unless and until received. References in this Agreement to approval, authorization or consent of Institution shall mean (x) that Institution shall have the right to authorize, approve or consent to such referenced matter, which authorization, approval or consent, as the case may be, shall not be unreasonably withheld, conditioned or delayed, and (y) without limiting the foregoing, Institution shall provide written notice

to Operator with respect to the decision regarding any such authorization, approval or consent, as the case may be, within a reasonable period of time.

(d) **Amendment; Waiver; Assignment.** This Agreement may be amended, modified or supplemented by the Parties but only in a writing that is signed by a duly authorized representative of each Party. No waiver by a Party with respect to this Agreement will be effective or enforceable against a Party unless in writing and signed by that Party. Except as otherwise expressly provided herein, no failure to exercise, delay in exercising, or single or partial exercise of any right, power or remedy by a Party, and no course of dealing between or among any of the Parties, will constitute a waiver of, or will preclude any other or further exercise of the same or any other right, power or remedy. Neither Party may assign this Agreement or any of its rights or obligations hereunder without the other Party's prior written consent. Notwithstanding the foregoing, either Party, without the consent of the other Party, may assign this Agreement (and its rights and obligations hereunder) to any Affiliate or successor of such Party. Subject to the foregoing, this Agreement will be binding on and enforceable by the Parties and their respective successors and permitted assigns.

(e) **Counterparts and Transmitted Copies; Severability; Choice of Law.** This Agreement may be executed in any number of counterparts, each of which when executed and delivered (which can be by email (.pdf) or other electronic means) will be deemed an original, but all of which taken together will constitute but one and the same instrument, and it will not be necessary in making proof of this Agreement to produce or account for more than one original counterpart hereof. If any provision of this Agreement is construed to be invalid, illegal or unenforceable, then the remaining provisions hereof will not be affected thereby and will be enforceable without regard thereto. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon applicable to contracts entered into and performed entirely within that state, without giving effect to any choice or conflict of law provision or rule (whether of the State of Oregon or any other jurisdiction) that would cause application of the laws of any jurisdiction other than the State of Oregon.

(f) **Headings; References; Construction.** The headings in this Agreement are for convenience of reference only and are not intended to restrict, affect or otherwise influence the interpretation or construction of any provision. All words used in this Agreement will be construed to be of such number and gender as the context requires or permits. Unless a particular context clearly provides otherwise (i) the words "hereof" and "hereunder" and similar references refer to this Agreement in its entirety and not to any specific section hereof, and (ii) the word "include" or "including" will mean "include without limitation" or "including without limitation". Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party will not be applied in the construction or interpretation of this Agreement or any other agreements or documents delivered in connection herewith.

(g) **Independent Contractors; Affiliates and Subcontractors.** The Parties are entering into this Agreement as independent contractors, and this Agreement will not be construed to create a partnership, joint venture or employment relationship between them. Neither Party will represent itself to be an employee or agent of the other or enter into any agreement or legally binding commitment or statement on the other's behalf or in the other's name. Each Party (i) shall, to the extent any rights granted by such Party hereunder are owned or controlled by any other Person, obtain the necessary rights to provide the other Party such rights or cause such other Person to provide such rights to the other Party, (ii) in performance of its obligations hereunder, may utilize one or more Affiliates and/or subcontractors and provide such Affiliate or subcontractor with any materials or information necessary to perform any obligation (except that subcontractors and Affiliates shall not receive Confidential Information unless necessary to perform its obligation to a

Party and, in such event, such subcontractors and Affiliates shall be subject to confidentiality duties or obligations similar to those set forth in this Agreement); provided that such Party shall remain liable to the other Party for the performance of such obligations, and (iii) may elect to have such Party's rights under this Agreement exercised by such Party or by an Affiliate of such Party.

(h) **Further Assurances; Entire Agreement.** Each of the Parties hereto shall, and shall cause its respective Affiliates to, from time to time at the reasonable request of the other Party, without any additional consideration, furnish the other Party such further information or assurances, execute and deliver such additional documents, instruments and conveyances, and take such other reasonable actions and do such other things, as may be reasonably necessary or appropriate to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby. This Agreement represents the entire understanding between the Parties with respect to the specific subject matter hereof and supersedes all previous oral or written communications or agreements, and all contemporaneous oral communications and agreements, between the Parties and their respective Affiliates regarding such subject matter. No breach of this Agreement by either Party will affect the rights or obligations of either Party under any other agreement between the Parties, except the consumer products trademark license agreement referenced in Section 6 of this Agreement.



Exhibit A

Marketing Assets

Institution will provide the following marketing assets to Operator [REDACTED]

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