# BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM

### **FACILITIES PLANNING COMMITTEE**

June 22, 2023

**Item I.13. University of Louisiana at Monroe's** request for approval to demolish two buildings located on the campus of the University.

#### **EXECUTIVE SUMMARY**

The University is requesting Board approval to demolish Talent Search house located at 3815 Bon Aire Drive. The building is approximately 30 years old. The building is approximately 2,300 square feet and is constructed of wood framing, brick siding, and an asphalt shingle roof. The building is losing structural integrity and is no longer a viable location to house any type of program. Modifications and repairs to the structure are not cost effective for the location. The building has major ADA issues and plumbing issues that would not be cost effective to address and house another program at this location.

The University is also requesting Board approval to demolish Delano House located at 108 Bayou Drive. The building is approximately 30 years old. The building is approximately 3,100 square feet and is constructed of wood framing, vinyl siding, and an asphalt shingle roof. The building is losing structural integrity and is no longer a viable location to house any type of program. Modifications and repairs to the structure are not cost effective for the location. The house consists of three apartments that can no longer be used as it does not meet fire marshal approval and is not ADA compliant.

Please refer to the attached photos for multiple views of the buildings.

### RECOMMENDATION

It is recommended that the following resolution be adopted.

**NOW, THEREFORE, BE IT RESOLVED,** that the Board of Supervisors for the University of Louisiana System hereby approves the University of Louisiana at Monroe's request to demolish the Talent Search house located at 3815 Bon Aire Drive and the Delano House located at 108 Bayou Drive on the campus of the University.

**AND FURTHER**, that ULS staff and legal counsel ensure that all documents conform to statutory and administrative requirements.



### Office of the President

University Library 632 | 700 University Avenue | Monroe, LA 71209 P 318.342.1010 | F 318.342.1019

June 22, 2023

Dr. James B. Henderson University of Louisiana System 1201 North Third Street, Suite 7-300 Baton Rouge, LA 70802

RE: University of Louisiana at Monroe (ULM)

Request to Approve Demolition of the Delano House

June 22, 2023 ULS Board Meeting

Dear Dr. Henderson,

The University of Louisiana at Monroe is requesting approval to proceed with demolition of the Delano House located at 108 Bayou Dr., Monroe, LA 71209 on campus of ULM with the state ID # S28494. The building has been vacated and is no longer in use. I have enclosed an executive summary providing detailed information on the building. Please include ULM's request for approval on the June 22, 2023 Board meeting agenda.

Should you have any questions or need further information, please contact Michael Davis, ULM Director of Facilities. Mr. Davis may be reached by phone at 318-342-5171 or by email at <a href="mailto:mdavis@ulm.edu">mdavis@ulm.edu</a>. Thank you for your consideration of this request.

Sincerely,

Ronald L. Berry, DBA.

President

cc: Dr. William Graves, Vice President for Business Affairs Michael Davis, ULM Director of Facilities

Bruce Janet, UL System Director of Internal and External Audit







#### Office of the President

University Library 632 | 700 University Avenue | Monroe, LA 71209 P 318.342.1010 | F 318.342.1019

June 22, 2023

Dr. James B. Henderson University of Louisiana System 1201 North Third Street, Suite 7-300 Baton Rouge, LA 70802

RE: University of Louisiana at Monroe (ULM)

Request to Approve Demolition of the Talent Search House

June 22, 2023 ULS Board Meeting

Dear Dr. Henderson,

The University of Louisiana at Monroe is requesting approval to proceed with demolition of the Talent Search House 3815 Bon Aire Dr., Monroe, LA 71209 on campus of ULM with the state ID # S08906. The building has been vacated and is no longer in use. I have enclosed an executive summary providing detailed information on the building. Please include ULM's request for approval on the June 22, 2023 Board meeting agenda.

Should you have any questions or need further information, please contact Michael Davis, ULM Director of Facilities. Mr. Davis may be reached by phone at 318-342-5171 or by email at <a href="mailto:mdavis@ulm.edu">mdavis@ulm.edu</a>. Thank you for your consideration of this request.

Sincerely,

Ronald L. Berry, DBA.

President

cc: Dr. William Graves, Vice President for Business Affairs

Michael Davis. ULM Director of Facilities

Bruce Janet, UL System Director of Internal and External Audit







# BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM

### **FACILITIES PLANNING COMMITTEE**

June 22, 2023

**Item I.14. University of Louisiana at Monroe's** request for approval for the execution of a Ground and Buildings Lease Agreement and an Agreement to Lease with Option to Purchase between the Board, on behalf of the University, and the University of Louisiana at Monroe Facilities, Inc., a private 501(c)(3) not-for-profit corporation, in connection with the lease and leaseback of a portion of the University's campus to finance athletic improvements on campus and related facilities.

### **EXECUTIVE SUMMARY**

The University, through the University of Louisiana at Monroe Facilities, Inc. (ULMFI), whose purpose is to support and benefit the educational, scientific, research, and public service missions of the University, proposes to (i) finance the cost of the development, design, construction, and equipping athletic improvements, including but not limited to, artificial turf at the University's football stadium, a football video board, a basketball video board, LED lighting for football, baseball, and softball, and beach volleyball upgrades and related facilities, including equipment, furnishings, fixtures, facilities, and infrastructure incidental or necessary in connection therewith on the main campus of the University (the "*Project*") and (ii) refund all or a portion of the Prior Bonds (hereinafter defined).

On June 30, 2014, the Louisiana Local Government Environmental Facilities and Community Development Authority (the "Authority") issued its \$1,845,000 Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Facilities Project) Series 2014 (the "Prior Bonds") on behalf of the Corporation to provide financing for (i) refunding on a tax-exempt basis, the outstanding balance of an existing taxable loan previously issued by Regions Bank in the original amount of \$2,000,000 to finance the installation of scoreboards at the football, baseball, soccer, and softball fields, replacement of chair-back seating at the football stadium, and the construction of dug-outs at the soccer and softball fields at the University, and (ii) financing improvements to Malone Stadium football field in preparation of the installation of a new artificial turf system.

The University, through ULMFI, proposes to use proceeds of tax-exempt revenue and refunding Bonds issued through the Authority to finance the Project. The total principal amount of the Bonds will not exceed \$6,000,000 which will be sufficient to pay the Project costs, refund all or a portion of the Prior Bonds, fund any necessary reserve funds and capitalized interest, and pay the costs of issuance of the Bonds. The net interest cost of the transaction is not expected to exceed 6.0%.

Executive Summary June 22, 2023 Page 2

In order to accomplish construction of the Project, the land will be leased to ULMFI by the Board, on behalf of the University, pursuant to the Ground and Buildings Lease Agreement (the "Ground Lease"). ULMFI will complete the Project and lease the completed Project back to the Board pursuant to an Agreement to Lease with Option to Purchase (the "Facilities Lease") in the forms provided herewith.

Annual debt service for the proposed Bonds will be secured and payable from lease payments paid by the Board, on behalf of the University, to ULMFI pursuant to the Facilities Lease. The payments will be derived from the revenues collected by the University from a variety of self-assessed student fees.

The Board and University have not and will not pledge its full faith and credit or State appropriated funds to make any debt service payments on the Bonds. The University's land and property will not be used as security for the Bonds.

### RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves University of Louisiana at Monroe's request for approval of the form of and authorization to enter into a Ground and Buildings Lease Agreement and an Agreement Lease with Option to Purchase, each between the Board, acting on behalf of the University, and University of Louisiana at Monroe Facilities, Inc., in connection with the issuance of the Bonds described herein to finance the Project.

**BE IT FURTHER RESOLVED**, that the University of Louisiana at Monroe shall obtain final review from University of Louisiana System staff and legal counsel to the Board, and shall secure all other appropriate approvals from agencies/parties of processes, documents, and administrative requirements prior to execution of documents.

**BE IT FURTHER RESOLVED,** that the President of the University of Louisiana at Monroe, and his or her designee, are hereby authorized and directed to execute the leases described herein and any and all documents necessary in connection with the issuance of the Bonds described herein.

**AND FURTHER**, that the University of Louisiana at Monroe will provide the University of Louisiana System office with copies of all final executed documents for the Board's files.



#### Office of the President

University Library 632 | 700 University Avenue | Monroe, LA 71209 P 318.342.1010 | F 318.342.1019

June 1, 2023

Dr. James B. Henderson University of Louisiana System 1201 North Third Street, Suite 7-300 Baton Rouge, LA 70802

Dear Dr. Henderson:

The University of Louisiana at Monroe is requesting approval to enter into a Ground and Buildings Lease Agreement and an Agreement to Lease with Option to Purchase between the Board, on behalf of the University, and the University of Louisiana at Monroe Facilities, Inc., a private 501(c)(3) not-for-profit corporation, in connection with the lease and lease-back of a portion of the University's campus to finance athletic improvements on campus and related facilities.

The University, through the University of Louisiana at Monroe Facilities, Inc. (ULMFI), whose purpose is to support and benefit the educational, scientific, research and public service missions of the University, proposes to (i) finance the cost of the development, design, construction and equipping athletic improvements, including but not limited to, artificial turf at the University's football stadium, a football video board, a basketball video board, LED lighting for football, baseball and softball, and beach volleyball upgrades and related facilities, including equipment, furnishings, fixtures, facilities and infrastructure incidental or necessary in connection therewith on the main campus of the University (the "Project") and (ii) refund all or a portion of the Prior Bonds (hereinafter defined).

Please include ULM's request for approval on the June 2023 Board meeting agenda.

Should you have any questions or need further information please contact Michael Davis, ULM Director of Facilities. Mr. Davis may be reached by phone at 318-342-5171 or by email at <a href="mailto:mdavis@ulm.edu">mdavis@ulm.edu</a>. Thank you for your consideration of this request.

Sincerely,

Ronald L. Berry, DBA

President

cc: Dr. William Graves, Vice President for Business Affairs

Mr. Michael Davis, ULM Facilities Planning Officer

Mr. Bruce Janet, UL System Director of Internal and External Audit

#### BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM

The following resolution was offered	d upon motion by	:
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### RESOLUTION

A RESOLUTION APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION OF AN AGREEMENT TO LEASE WITH OPTION TO PURCHASE AND A GROUND AND BUILDINGS LEASE AGREEMENT IN CONNECTION WITH THE LEASE AND LEASE BACK OF PORTIONS OF THE CAMPUS OF THE UNIVERSITY OF LOUISIANA AT MONROE TO UNIVERSITY OF LOUISIANA MONROE FACILITIES, INC., AND THE DEVELOPMENT, DESIGN, CONSTRUCTION AND EQUIPPING OF ATHLETIC IMPROVEMENTS AND RELATED FACILITIES TO BE CONSTRUCTED THEREON; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

**WHEREAS**, the Board of Supervisors for the University of Louisiana System (the "*Board*") will, pursuant to La. R.S. 17:3361 through 17:3365 (the "*Act*"), and other constitutional and statutory authority supplemental thereto, lease portions of the campus of University of Louisiana at Monroe (the "*University*") to University of Louisiana Monroe Facilities, Inc. (the "*Corporation*"), in order to enable the Corporation to develop, construct, and renovate campus facilities;

WHEREAS, the Board desires to approve and authorize the execution of (a) a Ground and Buildings Lease Agreement by and between the Board and the Corporation (the "Ground Lease") and (b) an Agreement to Lease with Option to Purchase (the "Facilities Lease"), by and between the Board and the Corporation, relative to the lease and lease-back of a portion of the University's campus to the Corporation for the purpose of (i) financing the development, design, construction and equipping of athletic improvements, including but not limited to, artificial turf at the University's football stadium, a football video board, a basketball video board, LED lighting for football, baseball and softball, and beach volleyball upgrades and related facilities, including equipment, furnishings, fixtures, facilities and infrastructure incidental or necessary in connection therewith on the main campus of the University, as further described on Exhibit A to the Facilities Lease (the "Project") and (ii) refunding all or a portion of the Prior Bonds (hereinafter defined);

**WHEREAS**, the Corporation intends to finance the Project using the proceeds of revenue and refunding bonds issued in one or more series by the Louisiana Local Government Environmental Facilities and Community Development Authority (the "Authority") and other funds available to the University;

WHEREAS, on June 30, 2014 the Authority issued its \$1,845,000 Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Facilities Project) Series 2014 (the "*Prior Bonds*") on behalf of the Corporation to provide financing for (i) refunding on a tax-exempt basis, the outstanding balance of an existing taxable loan previously issued by Regions Bank in the original amount of \$2,000,000 to finance the installation of scoreboards at the football, baseball, soccer and softball fields, replacement of chair-back seating at the football stadium and the construction of dug-outs at the soccer and softball fields at the University and (ii) financing improvements to Malone Stadium football field in preparation of the installation of a new artificial turf system;

**WHEREAS**, the Corporation has requested that the Authority issue its Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Improvements Project), taxable or tax-exempt, in one or more series (the "Bonds"), for the purpose of: (i) financing the cost of the Project; (ii)

refunding all or a portion of the Prior Bonds, (iii) funding a deposit to a debt service reserve fund, if necessary; (iv) funding capitalized interest on the Bonds, if necessary and (v) paying costs of issuance of the Bonds;

**WHEREAS**, in connection with the development of the Project and the issuance of the Refunding Bonds, it is necessary to enter into the Ground Lease and the Facilities Lease to provide for the lease and lease-back of a portion of the University's campus to the Corporation for the Project; and

**WHEREAS**, the Board now desires to authorize the execution of the Ground Lease and the Facilities Lease.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors for the University of Louisiana System, as follows:

**SECTION 1**. The Ground Lease and the Facilities Lease, each substantially in the forms attached hereto as Exhibit A and Exhibit B, respectively, are hereby approved, subject to such changes as may be approved by counsel to the Board.

**SECTION 2.** The Chairman, Vice Chairman, Secretary of the Board, the System President, or the President of the University shall be authorized to execute the Ground Lease, the Facilities Lease, attached hereto as <u>Exhibit A</u> and <u>Exhibit B</u>, respectively, and any certificates, documents, agreements, or other items necessary in connection with the issuance of the Bonds, subject to approval by counsel to the Board.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

<b>SECTION 3</b> . This res	olution shall take effect immediately.
This resolution having b	een submitted to a vote, the vote thereon was as follows:
YEAS:	
NAYS:	
ABSENT:	
ABSTAINING:	
The Resolution was decl	ared to be adopted on the 22 <sup>nd</sup> day of June, 2023.
	****
(C	Other items not pertinent hereto are omitted)
Upon motion duly made	, seconded and unanimously carried, the meeting was adjourned.
	Certified to be a true copy.
	Secretary
	[SEAL]

#### STATE OF LOUISIANA

### PARISH OF EAST BATON ROUGE

I, the undersigned Assistant to the Board of the Board of Supervisors for the University of Louisiana System (the "Board"), do hereby certify that the foregoing constitutes a true and correct copy of a resolution adopted by the Board on June 22, 2023 captioned as follows:

A RESOLUTION APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION OF AN AGREEMENT TO LEASE WITH OPTION TO PURCHASE AND A GROUND AND BUILDINGS LEASE AGREEMENT IN CONNECTION WITH THE LEASE AND LEASE BACK OF PORTIONS OF THE CAMPUS OF THE UNIVERSITY OF LOUISIANA AT MONROE TO UNIVERSITY OF LOUISIANA MONROE FACILITIES, INC., AND THE DEVELOPMENT, DESIGN, CONSTRUCTION AND EQUIPPING OF ATHLETIC IMPROVEMENTS AND RELATED FACILITIES TO BE CONSTRUCTED THEREON; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

which resolution was duly adopted by the Board at a meeting duly called, noticed and held and at which meeting a quorum was present and voting.

IN FAITH WHEREOF, wit	ness my official si	gnature and the impre	ess of the official seal of	said
Board on this the day of	, 2023.			
		Secretary		
[SEAL]				

### EXHIBIT A

FORM OF GROUND LEASE

### EXHIBIT B

# FORM OF FACILITIES LEASE

### GROUND AND BUILDINGS LEASE AGREEMENT

by and between

BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM, on behalf of UNIVERSITY OF LOUISIANA AT MONROE (as Lessor)

and

UNIVERSITY LOUISIANA MONROE FACILITIES, INC. (as Lessee)

Dated as of \_\_\_\_\_\_ 1, 2023

in connection with:

\$

Louisiana Local Government Environmental Facilities and Community Development Authority Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Improvements Project) Series 2023

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#### GROUND AND BUILDINGS LEASE AGREEMENT

This GROUND AND BUILDINGS LEASE AGREEMENT (the "Ground Lease") dated as of \_\_\_\_\_\_\_ 1, 2023, is entered into by and between the BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM, a public constitutional corporation organized and existing under the laws of the State of Louisiana (the "Board"), represented herein by the President of the University of Louisiana at Monroe and Board Representative, Ronald Berry, and UNIVERSITY OF LOUISIANA MONROE FACILITIES, INC., a Louisiana nonprofit corporation represented herein by its Chairman of the Board of Directors, Dan W. Robertson (the "Corporation").

#### WITNESSETH:

WHEREAS, the Board is a public constitutional corporation organized and existing under the laws of the State of Louisiana and the University of Louisiana at Monroe (the "*University*") is a university under its management pursuant to Louisiana Revised Statutes 17:3217;

WHEREAS, the Corporation is a private, nonprofit corporation organized and existing under the Louisiana Nonprofit Corporation Law (La. R.S. 12:201 *et seq.*), to acquire, construct, develop, manage, lease as lessor or lessee, mortgage and/or convey facilities on the campus of the University;

WHEREAS, pursuant to La. R.S. 17:3361 through 17:3365, the Board is authorized to lease to a nonprofit corporation, such as the Corporation, any portion of the campus of the University or other immovable property under its supervision and management;

WHEREAS, in order to further the functions of the Board, the Corporation shall cause the development, design, construction, upgrades and equipping of athletic improvements, including but not limited to, artificial turf at the University's football stadium, a football video board, a basketball video board, LED lighting for football, baseball and softball, and beach volleyball upgrades in connection therewith (the "Facilities") on the Land (as defined herein), and the Corporation shall lease the Facilities to the Board pursuant to that certain Agreement to Lease with Option to Purchase (the "Facilities Lease") by and between the Board and the Corporation dated as of even date herewith;

WHEREAS, the Board, with and on behalf of the University, owns the ground on which the Corporation proposes to construct the Facilities;

WHEREAS, pursuant to a Trust Indenture dated as of1, 2023 (the "Indenture"),
between Louisiana Local Government Environmental Facilities and Community Development Authority
(the "Issuer" or the "Authority") and, as trustee (the "Trustee"), the Issuer has authorized the
issuance of its \$ Louisiana Local Government Environmental Facilities and Community
Development Authority Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc
Athletic Improvements Project) Series 2023 (the "Bonds"), to fund a loan to the Corporation pursuant to a
Loan and Assignment Agreement dated as of 1, 2023 between the Authority and the
Corporation (the "Agreement");

WHEREAS, the Corporation shall use the proceeds of the loan made pursuant to the Agreement to finance the construction of the Facilities on the Land;

WHEREAS, in order to secure repayment of the Bonds the Corporation will assign to the Trustee the Corporation's interest in the Facilities obtained under this Ground Lease pursuant to an Assignment of Agreements and Documents by the Corporation in favor of the Trustee dated as of \_\_\_\_\_\_\_1, 2023 (the

1

ULM Athletic- Ground Lease

"Assignment"); and

WHEREAS, in connection with the refunding of the \$1,845,000 Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Facilities Project), Series 2014 (the "*Refunded Bonds*") and in order to provide for the lease of the Property (as defined herein) by the Board to the corporation, the Board and the Corporation now desire to enter into this Ground Lease.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and agreements which follow, the parties hereby agree as follows:

### ARTICLE I LEASE OF PROPERTY - TERMS OF LEASE

Section 1.01. <u>Lease of Property</u>. The Board does hereby lease, let, demise, and rent to the Corporation, and the Corporation does hereby rent and lease from the Board, the Property and the right of uninterrupted access to and from all streets and roads now or hereafter adjoining the Property for vehicular and pedestrian ingress and egress. The Corporation, by execution of this Ground Lease, accepts the leasehold estate herein demised subject only to the permitted encumbrances described on <u>Exhibit B</u> attached hereto.

Section 1.02. <u>Habendum</u>. The Board hereby grants the right to have and to hold the Property, together with all and singular the rights, privileges, and appurtenances thereto attaching or anywise belonging, exclusively unto the Corporation, its successors and assigns, for the term set forth in Section 1.03 below, subject to the covenants, agreements, terms, provisions, and limitations herein set forth.

### ARTICLE II DEFINITIONS

Section 2.01. <u>Definitions</u>. All capitalized terms not otherwise defined herein shall have the meanings assigned thereto in the preamble hereto, the Indenture, or the Agreement. In addition to such other defined terms as may be set forth in this Ground Lease, the following terms shall have the following meanings:

"Affiliate" means, with respect to a designated Person under this Ground Lease, any other Person that, directly or indirectly, controls, is controlled by, or is under common control with such designated Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person.

"Agreement" shall mean the Loan and Assignment Agreement dated as of \_\_\_\_\_\_\_ 1, 2023, between the Corporation and the Authority, including any amendments and supplements thereof and thereto as permitted thereunder.

"Assignment" means the Assignment of Agreements and Documents by the Corporation in favor of the Trustee dated as of \_\_\_\_\_\_\_1, 2023, together with any amendments or supplements thereto or thereof as permitted thereunder.

"Applicable Laws" means all present and future statutes, regulations, ordinances, resolutions, and orders of any Governmental Authority which are applicable to the parties performing their obligations under this Ground Lease.

"Architect" means the architect employed by the Corporation to design the Facilities.

"Award" means any payment or other compensation received or receivable as a consequence of a Taking from or on behalf of any Governmental Authority or any other Person vested with the power of eminent domain.

"Board" means the Board of Supervisors for the University of Louisiana System, a public constitutional corporation organized and existing under the laws of the State of Louisiana, or its successor, acting herein on behalf of the University.

"Board Representative" means the President of the University of Louisiana at Monroe and one or more of the persons designated and authorized in writing from time to time by the Board to represent the Board in exercising the Board's rights and performing the Board's obligations under this Ground Lease; the Board Representative shall be the President of the Board of Supervisors for the University of Louisiana System, or his or her designee, the Facilities Planning Coordinator, the Vice President for Business and Finance of the Board of Supervisors for the University of Louisiana System, or his or her designee, or the University Representative, or any other representative designated by resolution of the Board, of whom the Corporation has been notified in writing.

"Board's Interest" means the Board's ownership interest in and to the Property.

"Bond" or "Bonds" means, collectively, the Series 2023 Bonds and any Additional Bonds or Refunding Bonds issued pursuant to a supplemental Indenture as authorized by the Indenture.

"Bond Documents" shall mean, collectively, the Indenture, the Assignment, and the Agreement.

"Business Day" means any day other than (i) a Saturday, (ii) a Sunday, (iii) any other day on which banking institutions in New York, New York, Baton Rouge, Louisiana, or Monroe, Louisiana are authorized or required not to be open for the transaction of regular banking business, or (iv) a day on which the New York Stock Exchange is closed.

"Commencement Date" means the date on which the Bonds are delivered and payment therefor is received by the Issuer.

"Commencement of Construction" means the date on which the design, construction and equipping of the Facilities is begun.

"Contractor" means the contractor employed by the Corporation to design the Facilities.

"Corporation" means University of Louisiana Monroe Facilities, Inc., a Louisiana nonprofit corporation, qualified as a federally designated 501(c)(3) organization, organized exclusively to promote, assist and benefit the mission of the University by engaging in any lawful activity in which a nonprofit corporation meeting the requirements of Section 501(c)(3) of the Internal Revenue Code of 1986 may

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engage, specifically including but not limited to acquiring, constructing, developing, managing, leasing, as lessor or lessee, mortgage and/or conveying facilities on the campuses of the University or its successor or assigns.

"Corporation Representative" means the Chairperson or Vice Chairperson of the Corporation.

"Date of Opening" means the date all buildings of the Facilities which are financed by the Loans are placed in use.

"Effective Date" means the date on which this Ground Lease, the Facilities Lease, and the Agreement have been executed and the proceeds of the Loans are available to the Corporation.

"Environmental Requirements" shall mean all State, federal, local, municipal, parish, and regional environmental laws, statutes, rules, regulations, ordinances, codes, permits, approvals, plans, authorizations, concessions, investigation results and guidance documents; all legislative, judicial, and administrative environmental judgments, decrees, orders, rules, rulings, and regulations; and all agreements and other restrictions and requirements relating to environmental matters, whether in effect on, prior to or after the Commencement Date, of any Governmental Authority, including, without limitation, federal, state, and local authorities, relating to the regulation or protection of human health and safety, natural resources, conservation, the environment, or the storage, treatment, disposal, processing, release, discharge, emission, use, remediation, transportation, handling, or other management of industrial, gaseous, liquid or solid waste, hazardous waste, hazardous or toxic substances or chemicals, pollutants, petroleum, petroleum wastes, petroleum-based materials, asbestos, radioactive materials, polychlorinated biphenyls, pesticides, biohazards or other materials that are potentially harmful to humans or the environment or the release of which could trigger any reporting or remediation obligations and including without limitation the following environmental laws: The Clean Air Act (42 U.S.C.A. §7401); the Federal Water Pollution Control Act (33 U.S.C. §1251); the Resource Conservation and Recovery Act of 1976, (42 U.S.C. §6901); CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub.L. 99-499, 100 Stat. 1613); the Toxic Substances Control Act (15 U.S.C. §2601); the Clean Water Act (33 U.S.C. §1251); the Safe Drinking Water Act (42 U.S.C. §3007); the Occupational Safety and Health Act (29 U.S.C. §651); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136); the Louisiana Environmental Quality Act (La. R.S. 30:2001); and the Louisiana Air Quality Regulations (La. C. 33:III.2595) including any amendments or extensions thereof and any rules, regulations, standards or guidelines issued pursuant to or promulgated under any of the foregoing.

"Event of Default" means any matter identified as an event of default under Section 11.01 hereof.

"Expiration Date" means the earlier of \_\_\_\_\_\_\_1, 20\_\_ or the date that all amounts owed under the Indenture have been paid.

"Facilities" shall mean the facilities described in Exhibit A to the Facilities Lease and the Agreement, as amended and supplemented in accordance therewith, that are to be designed, constructed, renovated, and rehabilitated with the proceeds of the Bonds in accordance with this Ground Lease.

"Facilities Lease" means that certain Agreement to Lease with Option to Purchase dated the date hereof by and between the Board, as Lessee, and the Corporation, as Lessor, whereby the Corporation will lease the Property to the Board, on behalf of the University, including any amendments and supplements thereof and thereto as permitted thereunder.

"Force Majeure" means any (a) act of God, landslide, lightning, earthquake, hurricane, tornado, blizzard and other adverse and inclement weather, fire, explosion, flood, act of public enemy, act of

terrorism, war, blockade, insurrection, riot, or civil disturbance; (b) labor dispute, strike, work slowdown, or work stoppage; (c) order or judgment of any Governmental Authority, if not the result of willful or negligent action of the Corporation; (d) adoption of or change in any Applicable Laws after the date of execution of this Ground Lease; (e) any actions by the Board which may cause delay; or (f) any other similar cause or similar event beyond reasonable control of the Corporation.

"Governmental Authority" means any federal, State, parish, regional, or local government, political subdivision, any governmental agency, department, authority, instrumentality, bureau, commission, board, official, or officer, any court, judge, examiner, or hearing officer, any legislative, judicial, executive, administrative, or regulatory body or committee or official thereof or private accrediting body.

"Governmental Regulation" shall mean all present and future statutes, regulations, ordinances, resolutions, and orders of any Governmental Authority that are applicable to the parties performing their obligations under this Ground Lease.

"Ground Lease" means this Ground and Buildings Lease Agreement by and between the Board, as lessor, and the Corporation, as lessee, together with all exhibits attached hereto and any amendments and supplements hereof and hereto as permitted hereunder.

"Indenture" shall have the meaning set forth in the recitals of this Ground Lease, including any amendments and supplements thereof and thereto as permitted thereunder.

"Hazardous Substance" means any substance or material that is described as a toxic or hazardous substance, waste, or material or a pollutant or contaminant or infections waste, or words of similar import, in any case of the Environmental Requirements, and includes, without limitation, asbestos, petroleum, or petroleum products (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), polychlorinated biphenyls, pesticides, urea formaldehyde, radon gas, radioactive matter, and medical waste and any other substance or waste that is potentially harmful to human health, natural resources, or the environment or the presence of which the environment could trigger a remediation obligation or liability under Environmental Requirements or any constituent of the foregoing.

*"Issuer"* or *"Authority"* means the Louisiana Local Government Environmental Facilities and Community Development Authority, a political subdivision of the State of Louisiana created by the provisions of the Act (as defined in the Indenture), or any agency, board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Issuer by said provisions shall be given by law.

"Land" means the real property and the existing structures thereon more particularly described on Exhibit A attached hereto, upon which the Facilities are to be located, together with all other rights and interests leased pursuant to Section 1.01 hereof.

"Loan" or "Loans" shall have the same meaning given such term under the Agreement.

"Person" means an individual, a trust, an estate, a Governmental Authority, partnership, joint venture, corporation, company, firm or any other entity whatsoever.

"Property" shall mean the Land and all improvements now or thereafter located thereon, including the Facilities as they are constructed and located thereon, together with all other rights and interests leased pursuant thereto.

"Refunded Bonds" shall mean the \$1,845,000 Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Facilities Project), Series 2014.

"Refunding Bonds" shall mean parity bonds, if any, issued in one or more series pursuant to the Indenture.

*"Remediation"* shall mean any and all costs and expenses incurred directly or indirectly due to any investigation of the Facilities or the Property or any remediation, response, cleanup, removal, or restoration required by any Governmental Regulation or Governmental Authority by Environmental Requirements.

"Rent" means the annual rent paid by the Corporation as set forth in Section 3.01 hereof.

"*RFP*" means the Request for Proposals relating to the selection of the design-build team that will construct the Facilities, in the form approved by the Corporation.

"Series 2023 Bonds" shall mean the \$\_\_\_\_\_ Louisiana Local Government Environmental Facilities and Community Development Authority Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Improvements Project) Series 2023, and such bonds issued in exchange for those issued pursuant to the Indenture, or in replacement for those issued pursuant to the Indenture, which bonds have been mutilated, destroyed, lost, or stolen.

"Taking" means the actual or constructive condemnation, or the actual or constructive acquisition by condemnation, eminent domain, or similar proceeding by or at the direction of any Governmental Authority or other Person with the power of eminent domain.

"Term" means the term of this Ground Lease as set forth in Section 1.03 hereof.

"Trustee" means the state banking corporation or national banking association with corporate trust powers qualified to act as Trustee under the Indenture which may be designated (originally or as a successor) as Trustee for the owners of the Bonds issued and secured under the terms of the Indenture, initially \_\_\_\_\_\_\_.

"University" means the University of Louisiana at Monroe, in Monroe, Louisiana.

"University Representative" means the President of the University or his or her designee, of whom the Corporation has been notified in writing.

#### ARTICLE III RENT

Section 3.01. <u>Rent</u>. Commencing on the Commencement Date and continuing throughout the Term, the Corporation shall pay to the Board, at the address set forth in Section 18.02 or such other place as the Board may designate from time to time in writing, as annual rent for the Leased Property ("*Rent*"), the sum of \$1.00 per year. Rent shall be due and payable annually in advance, with the first such payment of Rent being due on the Commencement Date and a like installment due on each anniversary thereafter during the Term.

Section 3.02. <u>Additional Obligations</u>. As further consideration for the entering into of this Ground Lease by the Board, the Corporation agrees to perform its construction obligations as set forth in Article V herein, and to execute and perform its obligations under the Facilities Lease and all other documents

contemplated by and ancillary to this Ground Lease and the Facilities Lease.

### ARTICLE IV USE OF PROPERTY

- Section 4.01. <u>Purpose of Lease</u>. The Corporation enters into this Ground Lease for the purpose of leasing the Property from the Board and constructing the Facilities for the Board, and, for so long as the Facilities Lease remains in full force and effect, leasing the Facilities to the Board in accordance with the Facilities Lease.
- Section 4.02. <u>Benefit of the Board and the University</u>. The Board shall own the Facilities, subject to the Corporation's rights under this Ground Lease, and for so long as the Facilities Lease remains in full force and effect, the Board shall lease back the Facilities from the Corporation for the support, maintenance, and benefit of the Board in accordance with the Facilities Lease.
- Section 4.03. <u>Compliance with Statutory Requirements</u>. Section 3361, *et seq.* of Title 17 of the Louisiana Revised Statutes of 1950, as amended, prescribes rules and regulations for leases of any portion of the campus by a college or university. By execution of this Ground Lease, the Board represents that it has complied with applicable statutory requirements of such Title 17 including, without limitation:
- (A) the waiver by written consent of the formulation and adoption of rules, regulations and requirements, if any, relative to the erection, construction and maintenance of the Facilities referenced in Section 3362 A of Title 17 of the Louisiana Revised Statutes, other than those set forth in this Ground Lease or specifically referenced in this Ground Lease; and
- (B) the waiver by written consent of the Board's right to require removal of the Facilities referenced in Section 3362 B of Title 17 of the Louisiana Revised Statutes, except as set forth in this Ground Lease; and
- (C) the waiver by written consent of the Board's right to adopt such rules or regulations as it deems necessary or desirable relative to the conduct and social activities of people in structures erected on the leased grounds referenced in Section 3364 of Title 17 of the Louisiana Revised Statutes of 1950, as amended, except as may be specified in this Ground Lease.
- Section 4.04. Oversight by the Office of Facility Planning and Control. Pursuant to La. R.S. 17:3361(A)(2) (1950), this Ground Lease is subject to design and construction oversight by the Office of Facility Planning and Control within the State's Division of Administration. As used in this Section 4.04, the phrase "design and construction oversight" means (a) the right to review and approve plans and specifications prior to the commencement of construction and to require such changes as may be necessary to comply with the applicable building codes, space standards, where appropriate, and standards ensuring quality of construction, and (b) the right to conduct periodic inspections during construction to ensure that work is being performed in compliance with the approved plans and specifications.

### ARTICLE V CONSTRUCTION, RENOVATION, IMPROVEMENT AND EQUIPPING OF THE FACILITIES

Section 5.01. <u>The Corporation's Obligations</u>. The Corporation will develop, design, renovate, construct, rehabilitate, and equip as well as repair and maintain the Facilities on the Property at its own cost and expense. During the term of this Ground Lease, the Facilities shall be owned by the Board. The Corporation shall lease the Facilities and sublease the Property to the Board pursuant to the Facilities Lease.

The Board shall not have any financial obligation or other obligation of any kind under this Ground Lease except to review and approve the Corporation's activities and as specifically set forth herein.

- (A) The Corporation shall furnish or cause to be furnished all supervision, tools, implements, machinery, labor, materials, and accessories such as are necessary and proper for the construction of the Facilities, shall pay all applicable permit and license fees, and shall construct, build, and complete the Facilities in a good, substantial, and workmanlike manner all in accordance with this Ground Lease and all documents executed pursuant hereto and thereto. The Corporation and the Board agree to cooperate fully to the end that fee and permit exemptions available with respect to the Facilities under applicable law are obtained by the party or parties entitled thereto.
- (B) The Corporation shall select all design and construction professionals and contractors. All construction, alterations, or additions to the Facilities undertaken by the Corporation shall be in conformance with all Governmental Regulations and amendments thereto, including the International Building Code, ANSI A117.1 1986 Edition, and NFPA 101 Life Safety Code and all local and state building codes. The Corporation shall have the right to contest any such codes for reasonable grounds by ordinary and proper procedures.
- (C) Subject to Force Majeure, the Corporation covenants that the Corporation shall substantially complete construction of the Facilities. Notwithstanding anything to the contrary contained herein, a breach by the Corporation of the covenant set forth in this Section 5.01(C) shall not be an Event of Default hereunder. The Board shall be entitled to institute an action seeking specific performance of this covenant by the Corporation.
- (D) The Corporation shall take the action specified by La. R.S. 9:4802(C) to be taken by an Owner to protect the premises from any liens related to the design or construction of the Facilities.
- (E) Prior to the Commencement of Construction of the Facilities, any architect whose services have been retained with respect to the construction of the Facilities hall provide a standard errors and omissions policy, with such additional provisions as may be approved by counsel to the Corporation.
- (F) Any performance bond, labor and material payment bond, or completion bond provided by any contractor hired by the Corporation shall be for 100% of the amount of the contract with such contractor, and shall contain a dual obligee rider in favor of the Board; subject, however, to the reasonable underwriting guidelines of the surety of issuing the bond and rules of the governmental authorities regulating the surety.
- (G) The Corporation shall, upon written request of the Board, make, in such detail as may reasonably be required, reports in writing as to the actual progress of the construction of the Facilities. During such period, the construction work shall be subject to inspection by the Board in order to verify reports of construction, determine compliance with safety, fire, and building codes, determine compliance with construction plans.
- (H) The Corporation shall inspect the Property and arrange for any necessary boundary surveys, topographical surveys, soil borings, and other site investigations at its expense to the extent these things have not been done by the Board. The Board does not guarantee that the Property is suitable for the Facilities. The Corporation accepts the Property in its present condition. However, the Board represents that there are no Hazardous Substances or other materials on or under the Property that would materially impact the construction of the Facilities. If the Board fails to comply with any of the foregoing warranties, representations, and covenants, and removal or Remediation of any Hazardous Substances found on the Property or the Facilities is required by Environmental Requirements or Governmental Authority, the Board

shall promptly undertake the removal or Remediation of such Hazardous Substances, at the Board's sole cost and expense and in strict compliance with the Environmental Requirements and directions of Governmental Authority. In the event the Board fails or refuses to undertake such removal or Remedial actions, the Corporation may cause the removal or Remediation (or other cleanup reasonable acceptable to the Corporation) of any such Hazardous Substances from the Property or the Facilities. The reasonable costs of removal, Remediation, or any other cleanup (including transportation and storage costs) will be considered as Additional Rental under the Facilities Lease, whether or not a court has ordered the cleanup, and those costs will become due and payable within ninety (90) days of written demand by the Corporation. In connection therewith, the Board will give the Corporation, its agents, and employees access to the Property and the Facilities to remove, remediate, or otherwise clean up any Hazardous Substances. The Corporation, however, has no affirmative obligation to remove, remediate, or otherwise clean up any Hazardous Substances, and the Facilities Lease will not be construed as creating any such obligation. The Board hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage, presence, release, disposal, removal or Remediation of any Hazardous Substances located in or about the Facilities whether occurring before or during the Term or otherwise arising from the acts or omissions of the Board.

- (I) Except as provided in Section 4.03 hereof, the cost of construction and renovation of the Facilities shall include all costs necessary for any contractor or applicable utility company to bring lines for all such utilities to the Facilities so that such utilities will be available when required for construction and operation of the Facilities.
- (J) The obligations and liabilities of the Corporation undertaken in this Ground Lease do not give rise to any personal obligation or liability of the officers, directors, members or other persons or entities affiliated with the Corporation.

### ARTICLE VI ENCUMBRANCES

Section 6.01. <u>Mortgage of Leasehold or the Facilities</u>. Except for the Assignment required by the Agreement and as set forth in the Facilities Lease or the Indenture, the Corporation shall not mortgage, lien, or grant a security interest in the Corporation's interest in the Property or any other right of the Corporation hereunder without the prior written consent of the Board except as may be necessary, in the sole discretion of the Corporation, to secure the Loans.

### ARTICLE VII MAINTENANCE AND REPAIRS

#### Section 7.01. Maintenance and Repairs.

- (A) For so long as the Facilities Lease has not been terminated, the Board shall maintain and repair the Facilities in accordance with Section 7 of the Facilities Lease.
- (B) In the event that the Facilities Lease has been terminated, the Corporation will: (1) maintain or cause to be maintained the Facilities, and will keep the Facilities in good repair and in good operating condition and make from time to time all necessary repairs thereto and renewals and replacements thereof; and (2) make from time to time any additions, modifications, or improvements to the Facilities the Corporation may deem desirable for its business purposes that do not materially impair the effective use of the Facilities, provided that all such additions, modifications, and improvements will become a part of the Facilities.

(C) For so long as the Facilities Lease has not been terminated, neither the Board nor the University will be under any obligation to renew, repair or replace any item of inadequate, obsolete, worn out, unsuitable, undesirable, unprofitable, or unnecessary equipment or other property not required for the sound operation and maintenance of the physical condition of the Facilities. In any instance where the Board, in its sound discretion, determines that any items of Facilities have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary, the Board, for so long as the Facilities Lease has not been terminated, may remove such items of Facilities and sell, trade in, exchange, donate, throw away, or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the Trustee or the Bondholders.

### ARTICLE VIII CERTAIN LIENS PROHIBITED

Section 8.01. No Mechanic's Liens. Except as permitted in Section 8.02 hereof, the Corporation shall not suffer or permit any mechanics' liens or other liens to be enforced against the Board's ownership interest in the Property nor against the Corporation's leasehold interest in the Property by reason of a failure to pay for any work, labor, services, or materials supplied or claimed to have been supplied to the Corporation or to anyone holding the Property or Facilities or any part thereof through or under the Corporation.

Section 8.02. Release of Recorded Liens. If any such mechanics' liens or materialmen's liens shall be recorded against the Property or Facilities because of the Corporation's activities described in Section 8.01 hereof, the Corporation shall cause the same to be released of record or, in the alternative, if the Corporation in good faith desires to contest the same, the Corporation shall be privileged to do so, but in such case the Corporation hereby agrees to indemnify and save the Board harmless from all liability for damages occasioned thereby and shall in the event of a judgment of foreclosure on said mechanics' lien, cause the same to be discharged and released prior to the execution of such judgment. In the event the Board reasonably should consider the Board's Interest endangered by any such liens and should so notify the Corporation and the Corporation should fail to provide adequate security for the payment of such liens in the form of a surety bond, cash deposit or cash equivalent, or indemnity agreement reasonably satisfactory to the Board within thirty (30) days after such notice, then the Board, at the Board's sole discretion, may discharge such liens and recover from the Corporation immediately as additional Rent under this Ground Lease the amounts paid by the Board until repaid by the Corporation, plus interest at the rate of ten percent (10%) per annum from the date paid by the Board.

Section 8.03. <u>Memorandum of Recitals</u>. The memorandum of lease to be filed pursuant to Section 18.04 of this Ground Lease shall state that any third party entering into a contract with the Corporation for improvements to be located on the Property, or any other party claiming under said third party, shall be on notice that neither the Board nor the Board's property shall have any liability for satisfaction of any claims of any nature in any way arising out of a contract with the Corporation.

### ARTICLE IX OPERATION AND MANAGEMENT OF FACILITIES

Section 9.01. <u>Management of Facilities</u>. The Board shall operate and manage the Facilities or cause the Facilities to be operated and managed in accordance with Section 7 of the Facilities Lease. In the event the Facilities Lease is terminated, neither the Board nor the University shall operate or manage the Facilities.

Section 9.02. <u>Audits</u>. The Board may, at its option and at its own expense, and during customary business hours, conduct internal audits of the books, bank accounts, records and accounts of the Corporation. Audits may be made on either a continuous or a periodic basis or both, and may be conducted

by employees of the Board, by the Louisiana Legislative Auditor or by independent auditors retained by the Board desiring to conduct such audit, but any and all such audits shall be conducted without materially or unreasonably or unnecessarily interrupting or interfering with the normal conduct of business affairs by the Corporation.

### ARTICLE X INDEMNIFICATION

Section 10.01 <u>Indemnification by the Corporation</u>. Excluding the acts or omissions of the Board, its employees, agents or contractors, the Corporation shall and will indemnify and save harmless the Board, its agents, officers, and employees, from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions, and causes of action of any and every kind and nature arising or growing out of or in any way connected with the Corporation's construction of the Facilities. This obligation to indemnify shall include reasonable fees of legal counsel and third-party investigation costs and all other reasonable costs, expenses, and liabilities from the first notice that any claim or demand has been made; however, the Corporation and the Board shall use the same counsel if such counsel is approved by the Board, which approval shall not be unreasonably conditioned, withheld, or delayed. If the Board does not approve such counsel then the Board may retain independent counsel at the Board's sole cost and expense. It is expressly understood and agreed that the Corporation is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that the Board shall in no way be responsible therefor.

Section 10.02 <u>Contributory Acts</u>. Whenever in this Ground Lease any party is obligated to pay an amount or perform an act because of its negligence or misconduct (or that of its agents, employees, contractors, guests, or invitees), such obligations shall be mitigated to the extent of any comparative fault or misconduct of the other party (or that of its agents, employees, contractors, guests, or invitees) as determined by a court of law, and in any disputes damages shall be apportioned based on the relative amounts of such negligence or willful misconduct as determined by a court of law.

Section 10.03 Indemnification by the Board. To the extent permitted by law, the Board shall indemnify the Corporation, the Trustee, and the Issuer and shall hold the Corporation, the Trustee, and the Issuer harmless from and shall reimburse the Corporation, the Trustee, and the Issuer for any and all claims, demands, judgments, penalties, liabilities, whether based on strict liability or otherwise, fines, costs, damages, and expenses, including court costs and attorneys' fees directly or indirectly incurred by the Corporation, the Trustee, or the Issuer and the payee and holder of any Bond (prior to trial, at trial, and on appeal) in any action against or involving the Corporation, the Trustee, or the Issuer, resulting from any breach of the representations, warranties, or covenants of the Board relating to Hazardous Substances or from the discovery of Hazardous Substances in, upon, under or over, or emanating from, the Property or the Facilities, whether or not the Board is responsible therefor and regardless of when such Hazardous Substances come to be present at or were Released from the Property or the Facilities, it being the intent of the Board that the Corporation, the Trustee, and the Issuer shall have no liability or responsibility for damage or injury to human health, the environment or natural resources caused by, for abatement and/or clean-up of, or with respect to Hazardous Substances by virtue of their interests, if any, in the Property and the Facilities created by the Agreement or otherwise, or hereafter created, or as the result of the Corporation, the Trustee, or the Issuer exercising any instrument, including but not limited to becoming the owner thereof by foreclosure or conveyance in lieu of foreclosure.

### ARTICLE XI TERMINATION, DEFAULT AND REMEDIES

Section 11.01. Events of Default. Any one of the following events shall be deemed to be an "Event

of Default" by the Corporation under this Ground Lease.

- (A) The Corporation shall fail to pay any sum required to be paid to the Board under the terms and provisions of this Ground Lease and such failure shall not be cured within thirty (30) days after the Corporation's receipt of written notice from the Board of such failure.
- (B) The Taking by execution of the Corporation's leasehold estate for the benefit of any Person, except for any Person exercising remedies due to a default by the Board under the Facilities Lease or a default due to non-payment of the Bonds.
- (C) The Corporation shall fail to perform any other covenant or agreement, other than the payment of money, to be performed by the Corporation under the terms and provisions of this Ground Lease and such failure shall not be cured within ninety (90) days after receipt of written notice from the Board of such failure; provided that if during such ninety (90) day period, the Corporation takes action to cure such failure within such period and continues such work thereafter diligently and without unnecessary delay, such failure shall not constitute an Event of Default hereunder until the expiration of a period of time after such ninety (90) day period as may be reasonably necessary to cure such failures.
- (D) A court of competent jurisdiction shall enter an order for relief in any involuntary case commenced against the Corporation, as debtor, under the Federal Bankruptcy Code, as now or hereafter constituted, or the entry of a decree or order by a court having jurisdiction over the Facilities appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of or for the Corporation or any substantial part of the properties of the Corporation or ordering the winding up or liquidation of the affairs of the Corporation, and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days.
- (E) The commencement by the Corporation of a voluntary case under the federal bankruptcy code, as now or hereafter constituted, or the consent or acquiescence by the Corporation to the commencement of a case under such Code or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of or for the Corporation or any substantial part of the properties of the Corporation.
- (F) The Corporation, after Commencement of Construction but prior to substantially completing construction of the Facilities, abandons (with no intent to continue) construction for a period of forty-five (45) consecutive days.
- Section 11.02. <u>The Board's Rights Upon Default</u>. Upon the occurrence and during the continuance of an Event of Default, the Board may at its option seek any and all damages occasioned by the Event of Default or may seek any other remedies available at law or in equity, including specific performance.

Section 11.03 <u>Termination of Right of Occupancy</u>. Notwithstanding any provision of law or of this Ground Lease to the contrary, except as set forth in Section 1.03 hereof, the Board shall not have the right to terminate this Ground Lease prior to the Expiration Date hereof. However, in the event there is an Event of Default by the Corporation hereunder, and subject to the provisions of Article 6 hereof, the Board shall have the right to terminate the Corporation's right to occupancy of the Property, except that the Facilities, at the option of the Board, shall remain thereon. The Board shall have the right to take possession of the Property and to re-let the Property or take possession in its own right for the remaining Term of this Ground Lease upon such terms and conditions as the Board is able to obtain. Upon such re-letting, the Corporation hereby agrees to convey all of its right, title and interest in and to the Facilities and all of its rights under this Ground Lease and the Facilities Lease to the new lessee of the Property or to the Board, if the Board wishes to remain in possession on its own behalf, in consideration for the new lessee (or the Board as

applicable) agreeing to assume all of the Corporation's obligations under this Ground Lease, the Facilities Lease and under any debt incurred by the Corporation in connection with the construction of the Facilities.

Section 11.04. Rights of the Board Cumulative. All rights and remedies of the Board provided for and permitted in this Ground Lease shall be construed and held to be cumulative, and no single right or remedy shall be exclusive of any other which is consistent with the former. The Board shall have the right to pursue any or all of the rights or remedies set forth herein as well as any other consistent remedy or relief which may be available at law or in equity, but which is not set forth herein. No waiver by the Board of a breach of any of the covenants, conditions or restrictions of this Ground Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or of any other covenant, condition or restriction herein contained. The failure of the Board to insist in any one or more cases upon the strict performance of any of the covenants of this Ground Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment of future breaches of such covenant or option.

### ARTICLE XII TITLE TO THE FACILITIES

Section 12.01. <u>Title to Facilities</u>. Title to the newly acquired and constructed Facilities as they are constructed and upon completion thereof shall be vested in the Board during the Term of this Ground Lease. The Board's right to obtain title to the Facilities unencumbered by the leasehold interest of the Corporation granted hereunder, shall be as set forth in the Facilities Lease and in this Ground Lease, respectively. The Facilities and all furniture, fixtures, equipment and furnishings permanently affixed to the Facilities shall be the property of the Board upon termination of this Ground Lease whether such termination is by expiration of the Term or an earlier termination under any provision of this Ground Lease.

Section 12.02. <u>Insurance Proceeds</u>. Notwithstanding the fact that title to the Facilities is vested in the Board, if the Facilities Lease is no longer in force and effect, and all or any portion of the Facilities is damaged or destroyed by acts of God, fire, flood, natural disaster, the elements, casualties, thefts, riots, civil strife, lockout, war, nuclear explosion, or otherwise (collectively "*Casualty*"), the proceeds of any insurance received on account of any such Casualty shall be disbursed in accordance with the provisions of the Bond Documents, or if the Bond Documents are no longer in effect shall be disbursed to the Corporation as though the Corporation were the owner of the Facilities.

Section 12.03. The Board's Option to Require Demolition. Upon the Expiration Date of the Term or earlier termination hereof, in the event the Facilities are no longer suitable for the Board's purposes, the Board in its sole discretion may require the Corporation to demolish the Facilities and remove the Facilities from the Property, and restore the Property to substantially the same condition as it existed on the date of this Ground Lease, to be accomplished within one hundred eighty (180) days of such Expiration Date or earlier Termination hereof. However, such demolition and removal of the Facilities shall be at the Board's sole cost and expense. In the event of such election upon the expiration of the Term, the Board shall notify the Corporation no later than six (6) months prior to the expiration of the Term. If this Ground Lease is terminated earlier, the Board shall notify the Corporation within thirty (30) days after the termination.

Section 12.04. <u>Termination of Facilities Lease</u>. Upon the termination of the Facilities Lease as a result of the Board's exercise of its option to purchase the Corporation's leasehold interest in the Facilities granted under the Facilities Lease, all right and interest of the Corporation in and to this Ground Lease, the Facilities Lease and the Facilities shall be transferred to the Board, and the Corporation hereby agrees to execute any documents necessary to effectuate such transfer, or the Board may require the demolition of the Facilities as set forth in Section 12.03 above.

### ARTICLE XIII CONDEMNATION

Section 13.01. <u>Condemnation</u>. Upon the permanent Taking of all the Property and the Facilities, this Ground Lease shall terminate and expire as of the date of such Taking, and both the Corporation and the Board shall thereupon be released from any liability thereafter accruing hereunder except for Rent and all other amounts secured by this Ground Lease owed to the Board apportioned as of the date of the Taking or the last date of occupancy, whichever is later. The Corporation shall receive notice of any proceedings relating to a Taking and shall have the right to participate therein.

### Section 13.02. Partial Condemnation.

- (a) Upon a temporary Taking or a Taking of less than all of the Property and the Facilities and if the Facilities Lease is no longer in effect, the Corporation, at its election, may terminate this Ground Lease by giving the Board notice of its election to terminate at least sixty (60) days prior to the date of such termination. Upon any such termination, the Rent accrued and unpaid hereunder shall be apportioned to the date of termination. In the event there is a partial condemnation of the Property and the Corporation decides not to terminate this Ground Lease, the Board and the Corporation shall either amend this Ground Lease or enter into a new lease so as to cover an adjacent portion of property, if necessary to restore or replace any portion of the Property and/or Facilities.
- (b) If this Ground Lease is terminated under Section 13.1 or in the event of a Taking of less than all of the Property and the Facilities while the Facilities Lease is in force and effect, and the Board decides to restore or replace the Facilities in accordance with the Facilities Lease, the Board and the Corporation agree to enter into a new lease (in form and substance substantially the same as this Ground Lease) of a portion of property necessary to place thereon the Facilities and to enter into a new Facilities Lease (in form and substance substantially the same as the Facilities Lease) covering such replacement Facilities.

Section 13.03. <u>Payment of Awards</u>. Upon the Taking of all or any portion of the Property and the Facilities while the Facilities Lease remains in full force and effect (a) the proceeds of the Award allocable to the value of the Facilities shall be disbursed in accordance with the provisions of the Facilities Lease and the Bond Documents, and (b) the Board shall be entitled (free of any claim by the Corporation) to the Award for the value of the Board's Interest (such value to be determined as if this Ground Lease were in effect and continuing to encumber the Board's Interest); and (c) the Corporation shall be entitled to the Award for the value of the Corporation's interest in the Property under this Ground Lease that is subject to the Taking.

Section 13.04. <u>Effect on Ground Lease</u>. Any termination of this Ground Lease pursuant to the provisions of this Article XIII shall be subject to the provisions of Section 1.03 hereof.

# ARTICLE XIV ASSIGNMENT, SUBLETTING, AND TRANSFERS OF THE CORPORATION'S INTEREST

Section 14.01. <u>Assignment of Leasehold Interest</u>. Except as expressly provided for in Article VI and in this Article XIV, the Corporation shall not have the right to sell or assign the leasehold estate created by this Ground Lease, its fee interest in the Facilities or the other rights of the Corporation hereunder to any Person without the prior written consent of the Board.

Section 14.02. <u>Subletting</u>. The Corporation is not authorized to sublet the leasehold estate to any entity other than the Board or the Foundation; provided, however that if the Facilities Lease terminates, the Corporation shall have the right to sublease the Facilities in accordance with the provisions of the Facilities Lease, except as provided in Article VI.

Section 14.03. <u>Transfers of the Corporation's Interest</u>. Except as otherwise expressly provided herein, any Person succeeding to the Corporation's interest as a consequence of any permitted conveyance, transfer or assignment shall succeed to all of the obligations of the Corporation hereunder and shall be subject to the terms and provisions of this Ground Lease.

Section 14.04. <u>Assignment to Trustee</u>. The Corporation shall, concurrently with the execution hereof, assign all of its right, title, and interest in and to this Ground Lease to the Trustee pursuant to the Indenture and the Agreement (each as defined in the Facilities Lease). The parties hereto further agree to execute any and all documents necessary and proper in connection therewith.

### ARTICLE XV COMPLIANCE CERTIFICATE

Section 15.01. The Corporation's Compliance. The Corporation agrees, at any time and from time to time upon not less than thirty (30) days prior written notice by the Board, to execute, acknowledge, and deliver to the Board or to such other party as the Board shall request, a statement in writing certifying (a) that this Ground Lease is unmodified and in full force and effect (or if there have been modification, that the same is in full force and effect as modified and stating the modifications), (b) to the best of its knowledge, whether or not there are then existing any offsets or defenses against the enforcement of any of the terms, covenants, or conditions hereof upon the part of the Corporation to be performed (and if so specifying the same), (c) the dates to which the Rent and other charges have been paid, (d) during the construction period, the status of construction of the Facilities and the estimated date of completion thereof; and (e) the dates of commencement and expiration of the Term, it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser of the Board's Interest or by any other Person.

Section 15.02. The Board's Compliance. The Board agrees, at any time and from time to time, upon not less than thirty (30) days prior written notice by the Corporation, to execute, acknowledge and deliver to the Corporation a statement in writing addressed to the Corporation or to such other party as the Corporation shall request, certifying (a) that this Ground Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications); (b) the dates to which the Rent and other charges have been paid; (c) to the best of its knowledge after due inquiry, whether an Event of Default has occurred and is continuing hereunder (and stating the nature of any such Event of Default); and (d) the dates of commencement and expiration of the Term, it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective (and permitted) assignee, or sublessee or mortgage of this Ground Lease or by any assignee or prospective assignee of any such permitted mortgage or by any undertenant or prospective undertenant

of the whole or any part of the Facilities, or by any other Person, as approved by the Board.

### ARTICLE XVI TAXES AND LICENSES

Section 16.01. Payment of Taxes. The Board shall pay, and, upon request by the Corporation, shall provide evidence of payment to the appropriate collecting authorities of, all federal, state and local taxes and fees, which are now or may hereafter be, levied upon the Corporation's interest in the Land or upon the Board or the Board's Interest. The Board may pay any of the above items in installments if payment may be so made without penalty other than the payment of interest. The obligations of the Board to pay taxes and fees under this Section 16.01 shall apply only to the extent that the Board is not exempt from paying such taxes and fees and to the extent that such taxes and fees are not otherwise abated. The Board and the Corporation agree to cooperate fully with each other to the end that tax exemptions available with respect to the Property and the Facilities under applicable law are obtained by the party or parties entitled thereto.

Section 16.02. <u>Contested Tax Payments</u>. The Board shall not be required to pay, discharge, or remove any such taxes or assessments so long as the Board is contesting the amount or validity thereof by appropriate proceeding which shall operate to prevent or stay the collection of the amount so contested. The Corporation shall cooperate with the Board in completing such contest and the Corporation shall have no right to pay the amount contested during the contest. The Corporation, at the Board's expense, shall join in any such proceeding if any law shall so require.

### ARTICLE XVII FORCE MAJEURE

Section 17.01. <u>Discontinuance During Force Majeure</u>. Whenever a period of time is herein prescribed for action to be taken by the Corporation, the Corporation shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to Force Majeure. The Board shall not be obligated to recognize any delay caused by Force Majeure unless the Corporation shall, within ten (10) days after the Corporation is aware of the existence of an event of Force Majeure, notify the Board thereof.

### ARTICLE XVIII MISCELLANEOUS

Section 18.01. <u>Nondiscrimination</u>, <u>Employment and Wages</u>. Any discrimination by the Corporation or its agents or employees on account of race, color, sex, age, religion, national origin, or handicap, in employment practices or in the performance of the terms, conditions, covenants, and obligations of this Ground Lease, is prohibited.

Section 18.02. <u>Notices</u>. Notices or communications to the Board or the Corporation required or appropriate under this Ground Lease shall be in writing, sent by (a) personal delivery, or (b) expedited delivery service with proof of delivery, or (c) registered or certified United States mail, postage prepaid, or (d) prepaid telecopy if confirmed by expedited delivery service or by mail in the manner previously described, addressed as follows:

If to the Board: Board of Supervisors for the University of Louisiana System

Claiborne Building, Suite 7-300

1201 North Third Street

Baton Rouge, Louisiana 70802

Attention: Vice President for Business and Finance

with copies to: University of Louisiana at Monroe

Library 6<sup>th</sup> Floor, Suite 623 700 University Avenue

Monroe, Louisiana 71209-2000

Attention: Vice President for Business Affairs

If to the Corporation: University of Louisiana Monroe Facilities, Inc.

c/o University of Louisiana at Monroe

Library 6<sup>th</sup> Floor, Suite 623 700 University Avenue Monroe, Louisiana 71209

Attention: Vice President for Business Affairs

or to such other address or to the attention of such other person as hereafter shall be designated in writing by such party. Any such notice or communication shall be deemed to have been given at the time of personal delivery or, in the case of delivery service or mail, as of the date of deposit in the mail in the manner provided herein, or in the case of telecopy, upon receipt.

Section 18.03. <u>Relationship of Parties</u>. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the parties hereto. It is understood and agreed that no provision contained herein nor any acts of the parties hereto creates a relationship other than the relationship of the Board and the Corporation.

Section 18.04. <u>Memorandum of Lease</u>. Neither the Board nor the Corporation shall file this Ground Lease for record in Ouachita Parish, Louisiana or in any public place without the written consent of the other. In lieu thereof, the Board and the Corporation agree to execute in recordable form a memorandum of this Ground Lease in the form of <u>Exhibit C</u> attached hereto. Such memorandum shall be filed for record in Ouachita Parish, Louisiana.

## Section 18.05. Attorney's Fees and Legal Proceedings.

- (A) If either party is required to commence legal proceedings relating to this Ground Lease, the prevailing party shall be entitled to receive reimbursement for its reasonable attorneys' fees and costs of suit.
- (B) The Corporation waives trial by jury in any action, proceeding, or counterclaim brought by either of the Parties to this Ground Lease against the other on any matters whatsoever arising out of or in any way connected with this Ground Lease, the relationship of the Corporation and the Board, the Board's or the University's use or occupancy of the Facilities, or any other Claims arising hereunder.

Section 18.06. <u>Louisiana Law to Apply</u>. This Ground Lease shall be construed under and in accordance with the laws of the State of Louisiana, and all obligations of the parties created hereunder are performable in Ouachita Parish, Louisiana.

Section 18.07. Warranty of Peaceful Possession. The Board covenants that the Corporation, on paying the Rent and performing and observing all of the covenants and agreements herein contained and provided to be performed by the Corporation, shall and may peaceably and quietly have, hold, occupy, use, and enjoy the Land during the Term and may exercise all of its rights hereunder; and the Board agrees to warrant and forever defend the Corporation's right to such occupancy, use, and enjoyment and the title to the Land against the claims of any and all persons whomsoever lawfully claiming the same, or any part thereof subject only to the provisions of this Ground Lease and the matters listed on Exhibit B attached hereto.

Section 18.08. <u>Curative Matters</u>. Except for the express representations and warranties of the Board set forth in this Ground Lease, any additional matters necessary or desirable to make the Property usable for the Corporation's purpose shall be undertaken, in the Corporation's sole discretion, at no expense to the Board. The Corporation shall notify the Board in writing of all additional matters (not contemplated by construction plans) undertaken by the Corporation to make the Property usable for the Corporation's purpose.

Section 18.09. Non-waiver. No waiver by the Board or the Corporation of a breach of any of the covenants, conditions, or restrictions of this Ground Lease shall constitute a waiver of any subsequent breach of any of the covenants, conditions or restrictions of this Ground Lease. The failure of the Board or the Corporation to insist in any one or more cases upon the strict performance of any of the covenants of this Ground Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenant or option. A receipt by the Board or acceptance of payment by the Board of Rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach. No waiver, change, modification or discharge by the Board or the Corporation of any provision of this Ground Lease shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged.

Section 18.10. <u>Terminology</u>. Unless the context of this Ground Lease clearly requires otherwise, (a) pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character;(b) the singular shall include the plural wherever and as often as may be appropriate; (c) the word "includes" or" including" shall mean "including without limitation;" (d) the word "or" shall have inclusive meaning represented by the phrase "and/or;" (e) the words "hereof," "herein," "hereunder," and similar terms in this Ground Lease shall refer to this Ground Lease as a whole and not to any particular section or article in which such words appear. The section, article and other headings in this Ground Lease and the Table of Contents to this Ground Lease are for reference purposes and shall not control or affect the renovation of this Ground Lease or the interpretation hereof in any respect. Article, section and subsection and exhibit references are to this Ground Lease unless otherwise specified. All exhibits attached to this Ground Lease constitute a part of this Ground Lease and are incorporated herein. All references to a specific time of day in this Ground Lease shall be based upon Central Standard Time (or the other standard of measuring time then in effect in the city of Monroe, Parish of Ouachita, Louisiana).

Section 18.11. <u>Counterparts</u>. This agreement may be executed in multiple counterparts, each of which shall be declared an original.

Section 18.12. <u>Severability</u>. If any clause or provision of this Ground Lease is illegal, invalid or unenforceable under present or future laws effective during the term of this Ground Lease, then and in that event, it is the intention of the parties hereto that the remainder of this Ground Lease shall not be affected thereby.

Section 18.13. <u>Authorization</u>. By execution of this Ground Lease, the Corporation and the Board each represent to the other that they are entities validly existing, duly constituted and in good standing under the laws of the jurisdiction in which they were formed and in which they presently conduct business; that all acts necessary to permit them to enter into and be bound by this Ground Lease have been taken and performed; and that the persons signing this Ground Lease on their behalf have due authorization to do so.

Section 18.14. <u>Ancillary Agreements</u>. In the event it becomes necessary or desirable for the Board to approve in writing any ancillary agreements or documents concerning the Property or concerning the construction, operation or maintenance of the Facilities or to alter or amend any such ancillary agreements between the Board and the Corporation or to give any approval or consent of the Board required under the terms of this Ground Lease, all agreements, documents or approvals shall be forwarded to the Board Representative.

Section 18.15. <u>Amendment</u>. No amendment, modification, or alteration of the terms of this Ground Lease shall be binding unless the same is in writing dated on or subsequent to the date hereof and duly executed by the Parties hereto and subject to receipt of any other written consents to the extent required by Article VIII of the Agreement.

Section 18.16. <u>Successors and Assigns</u>. All of the covenants, agreements, terms and conditions to be observed and performed by the parties hereto shall be applicable to and binding upon their respective successors and assigns including any successor by merger or consolidation of the University into another educational institution or the Board into another educational management board.

Section 18.17. Entire Agreement. This Ground Lease, together with the exhibits attached hereto, contains the entire agreement between the parties hereto with respect to the Property and contains all of the terms and conditions agreed upon with respect to this Ground Lease of the Property, and, with the exception of the extraneous agreements specifically mentioned herein, no other agreements, oral or otherwise, regarding the subject matter of this Ground Lease shall be deemed to exist or to bind the parties hereto; it being the intent of the parties that neither shall be bound by any term, condition, or representations not herein written.

Section 18.18 No Merger. There shall be no merger of the leasehold estate created by this Ground Lease with the fee simple estate of the Board in the Property nor shall there be any merger of the leasehold estate created by this Ground Lease or the fee simple estate of the Board in the Property with the leasehold estate created by the Facilities Lease because one party or such party's transferee may acquire or shall hold directly or indirectly (a) fee simple interest in or to the Property (b) any interest in the leasehold estate created by or granted by this Ground Lease and/or (c) the leasehold estate created by the Facilities Lease, and no such merger shall occur unless all entities having (i) any fee simple interest in or to the Property, (ii) any interest in the leasehold estate created by the Facilities Lease, shall join in a written instrument effecting such merger and shall duly record same in the land records of the jurisdiction in which the Property is located.

Section 18.19 <u>Ground Lease to Constitute a Contract</u>. This Ground Lease, upon execution by the Board and the Corporation shall constitute a third party beneficiary contract between the Board and the Corporation for the benefit of the owners of all Bonds issued hereunder and the Trustee.

THUS DON	E AND PASSED on the	_ day of, 2023, in Monroe, Louisiana, in	
		witnesses, who herewith sign their names with Ronald	
Berry, President of the	he University of Louisiana Mo	onroe and Board Representative, and me, Notary.	
WHEN IEGGEG		DOLDD OF GUIDEDLUGODG FOR THE	
WITNESSES:		BOARD OF SUPERVISORS FOR THE	
		UNIVERSITY OF LOUISIANA SYSTEM	
		By:	
	<del></del>	By.	
Print Name:		Ronald Berry, President	
		University of Louisiana Monroe and	
		Board Representative	
Print Name:			
		RY PUBLIC	
	Printed Name:	<del></del>	
		ion Number:	
	Lifetime	Commission	
THIC DON	E AND DASSED on the	day of 2022 in Mannas Lavisians in	
the presence of the	undersigned both competent v	day of, 2023, in Monroe, Louisiana, in witnesses, who herewith sign their names with Dan W.	
		Ionroe Facilities, Inc., and me, Notary.	
Robertson, Chairmai	if of Chiversity of Louisiana ivi	ionioe i aemites, inc., and inc, ivotary.	
WITNESSES:		UNIVERSITY OF LOUISIANA MONROE	
WIII (ESSES)		FACILITIES, INC.	
		111012111211121111111111111111111111111	
		By:	
		·	
Print Name:		Dan W. Robertson, Chairman	
Print Name:			
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		RY PUBLIC	
	Printed Name:	ion Number	
	•	ion Number: Commission	
	Litetillie	Commission	

# EXHIBIT A

## **DESCRIPTIONS OF IMPROVEMENTS**

Athletic Improvements include, but are not limited to:

- Artificial turf at the University's football stadium
- A football video board
- A basketball video board
- LED lighting for football, baseball and softball,
- Beach volleyball upgrades

Exhibit AULM Athletic- Ground Lease

# EXHIBIT B

# PERMITTED ENCUMBRANCES

None.

#### EXHIBIT C

#### MEMORANDUM OF GROUND LEASE

STATE OF LOUISIANA

PARISH OF OUACHITA

#### MEMORANDUM OF LEASE

This Memorandum of Lease (this "Memorandum") is entered into by and between the Board of Supervisors for the University of Louisiana System ("Lessor") and University of Louisiana Monroe Facilities, Inc. ("Lessee").

#### **RECITALS**

- B. Lessor and Lessee desire to enter into this Memorandum, which is to be recorded in order that third parties may have notice of the parties' rights under the Lease. All defined used herein but not otherwise defined shall have the meanings ascribed thereto in the Lease.

#### LEASE TERMS

Specific reference is hereby made to the following terms and provisions of the Lease:

- 1. The term of the Lease commenced on \_\_\_\_\_\_\_ 1, 2023 and shall continue until the earlier of (i) \_\_\_\_\_\_ 1, 20\_\_ or (ii) the date that all amounts owed under the Indenture have been paid (the "Expiration Date"). Notwithstanding the foregoing, the Lease shall terminate prior to the Expiration Date upon (a) the repayment of the Bonds in full, or (b) the exercise by the Lessor of the Option to Purchase and the purchase of the Corporation's leasehold interest in the Facilities pursuant to the Option, all as set forth in the Facilities Lease.
- 2. Any third party entering into a contract with the Lessee for improvements to be located on the Land, or any other party claiming under said third party, shall be on notice that neither the Lessor nor the Lessor's property shall have any liability for satisfaction of any claims of any nature in any way arising out of a contract with the Lessee.
- 3. Additional information concerning the provisions of the Lease can be obtained from the Parties at the following addresses:

Exhibit CULM Athletic- Ground Lease

Lessor: Board of Supervisors for the University of Louisiana System

1201 North Third Street, Suite 7-300 Baton Rouge, Louisiana 70802

ATTN: Vice President for Business and Finance

Lessee: University of Louisiana Monroe Facilities, Inc.

c/o University of Louisiana at Monroe

Library 6<sup>th</sup> Floor, Suite 623 700 University Avenue Monroe, Louisiana 71209

ATTN: Vice President for Business Affairs

This Memorandum is executed for the purpose of recordation in the public records of Ouachita Parish, Louisiana in order to give notice of all the terms and provisions of the Lease and is not intended and shall not be construed to define, limit, or modify the Lease. All of the terms, conditions, provisions and covenants of the Lease are incorporated into this Memorandum by reference as though fully set forth herein, and both the Lease and this Memorandum shall be deemed to constitute a single instrument or document.

[Remainder of page intentionally left blank]

THUS DONE A	AND PASSED on the	_ day of, 2023, in Monroe, Louisiana
		witnesses, who herewith sign their names with Ronald
Berry, President of the	University of Louisiana Mon	nroe and Board Representative, and me, Notary.
WITNESSES:		BOARD OF SUPERVISORS FOR THE
		UNIVERSITY OF LOUISIANA SYSTEM
	<del></del>	By:
Print Name:		Ronald Berry, President
		University of Louisiana Monroe and
		Board Representative
Print Name:		
	NOTAR	RY PUBLIC
	Printed Name:	
		on Number:
		Commission
THUS DONE A	AND PASSED on the	day of 2023, in Monroe, Louisiana, in the
		nesses, who herewith sign their names with Dan W
		onroe Facilities, Inc., and me, Notary.
Robertson, Chamman of	Chrycistry of Louisiana W	onioe racinties, me., and me, rotary.
WITNESSES:		UNIVERSITY OF LOUISIANA MONROE
WIIILDDED.		FACILITIES, INC.
		racilities, inc.
		D
	<del></del>	By:
Drivet Manne		Dan W. Dahantaan Chairman
Print Name:	<del></del>	Dan W. Robertson, Chairman
Print Name:	<u></u>	
		RY PUBLIC
	Printed Name:	<del></del>
		on Number:
	Lifetime	Commission

Exhibit C-25ULM Athletic- Ground Lease

## EXHIBIT A

## DESCRIPTION OF LAND

## AGREEMENT TO LEASE WITH OPTION TO PURCHASE

by and between

UNIVERSITY OF LOUISIANA MONROE FACILITIES, INC. (as Lessor)

and

BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM, on behalf of UNIVERSITY OF LOUISIANA AT MONROE (as Lessee)

Dated as	of.	1	വ	า	2
Dateu as	OI	Ι,	20	L	J

in connection with:

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Louisiana Local Government Environmental Facilities and Community Development Authority Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Improvements Project) Series 2023

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#### AGREEMENT TO LEASE WITH OPTION TO PURCHASE

#### WITNESSETH:

WHEREAS, the Board is a public constitutional corporation organized and existing under the laws of the State of Louisiana and the University is a university under its management pursuant to Louisiana Revised Statutes 17:3217;

WHEREAS, the Board owns, or has under its supervision and management, the ground on which the University's proposed construction of a student hub and related improvements are to be located;

WHEREAS, the Corporation is a private nonprofit corporation organized and existing under the Louisiana Nonprofit Corporation Law (La. R.S. 12:201 *et seq.*) and an organization exempt from federal income tax under Section 501(a) of the Code as an organization designated in Section 501(c)(3) of the Code, to acquire construct, develop, manage, lease as lessor or lessee, mortgage and/or convey facilities on the campus of the University;

WHEREAS, pursuant to La. R.S. 17:3361 through 17:3366, the Board is authorized to lease to a nonprofit corporation, such as the Corporation, any portion of the campus or other immovable property under the supervision and management of the Board;

WHEREAS, the Board and the Corporation have agreed to enter into a Ground and Buildings Lease Agreement dated of even date herewith (the "*Ground Lease*") whereby the Board will lease the Land (as defined herein) to the Corporation;

WHEREAS, in order to further the functions of the Board, the Corporation shall cause the development, design, construction, upgrades and equipping of athletic improvements, including but not limited to, artificial turf at the University's football stadium, a football video board, a basketball video board, LED lighting for football, baseball and softball, and beach volleyball upgrades in connection therewith (the "Facilities") on the Land (as defined herein), and the Corporation shall lease the Property (as defined herein) to the Board on behalf of the University;

WHEREAS, the Corporation and the Board have agreed that the Corporation, for the benefit of the Board, shall develop and construct or cause to be developed and constructed the Facilities, and will lease the Facilities back to the Board;

WHEREAS, pursuant to a Trust Indenture dated as of1, 2023 (the "Indenture"),
between Louisiana Local Government Environmental Facilities and Community Development Authority
(the "Authority") and [], as trustee (the "Trustee"), the Authority has authorized the issuance
of its \$ Louisiana Local Government Environmental Facilities and Community Development
Authority Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc Athletic
Improvements Project) Series 2023 (the "Series 2023 Bonds"), to fund a loan to the Corporation pursuant

ULM Athletic –Facilities Lease

to a Loan and Assignment Agreement dated as of \_\_\_\_\_\_\_1, 2023 between the Authority and the Corporation (the "Agreement"); WHEREAS, in order to secure repayment of the Bonds, the Corporation will assign to the Trustee the Corporation's interest in the Facilities pursuant to an Assignment of Agreements and Documents by the Corporation in favor of the Trustee dated as of \_\_\_\_\_\_\_1, 2023 (the "Assignment"); and WHEREAS, in connection with the refunding of the \$1,845,000 Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. - Athletic Facilities Project), Series 2014 (the "Refunded Bonds") and in order to provide for the construction of the Facilities by the Corporation and the lease of the Property by the Corporation to the Board, the Board and the Corporation now desire to enter into this Facilities Lease. NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows: Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of and as used in this Facilities Lease, have the meanings as set forth below. All other capitalized terms used herein without definition shall have the meanings as set forth in the Agreement (as hereinafter defined) or in the Indenture (as hereinafter defined). Other terms shall have the meanings assigned to them in other Sections of this Facilities Lease. "Additional Bonds" means parity bonds, if any, issued in one or more series pursuant to Section 5.1 of the Indenture. "Additional Debt" means any Indebtedness (whether present or future, contingent or otherwise, as principal or security or otherwise), including Additional Bonds, that is secured by or payable from the Student Fee Revenues, excluding the Series 2023 Bonds. "Additional Rental" means the amounts specified as such in Section 6(c) of this Facilities Lease. "Administrative Expenses" means the necessary, reasonable and direct out-of-pocket expenses incurred by the Authority, the Corporation (including, but not limited to, insurance premiums for insurance obtained for or on behalf of directors, officers, agents or employees of the Corporation), or the Trustee pursuant to the Indenture, the Agreement, the Ground Lease or this Facilities Lease, the compensation of the Trustee under the Indenture (including, but not limited to, any annual administrative fee charged by the Trustee), the compensation of the Authority, and the necessary, reasonable and direct out-of-pocket expenses of the Trustee incurred by the Trustee in the performance of its duties under the Indenture. "Affiliate" means, with respect to a designated Person under this Ground Lease, any other Person that, directly or indirectly, controls, is controlled by, or is under common control with such designated Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person. between the Authority and the Corporation, and any amendment or supplement hereto entered into from

time to time in accordance with the terms thereof.

"Assignment" means the Assignment of Agreements and Documents dated as of \_\_\_\_\_\_\_1, 2023 between the Corporation and the Trustee, as assignee.

## "Athletics Facilities Fee" means \_\_\_\_

"Authority" means the Louisiana Local Government Environmental Facilities and Community Development Authority, a political subdivision of the State of Louisiana, created by the provisions of the Act, or any agency, board, body, commission, department, or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Authority by said provisions shall be given by law.

"Base Rental" means the amounts referred to as such in Section 6(b) of this Facilities Lease (as such amounts may be adjusted from time to time in accordance with the terms hereof), but does not include Additional Rental or Extraordinary Rental.

"Board" means the Board of Supervisors for the University of Louisiana System, a public constitutional corporation organized and existing under the laws of the State of Louisiana, or its legal successor as management board of the University, acting herein on behalf of the University and its own behalf.

"Board Documents" means the Ground Lease and this Facilities Lease.

"Board Representative" means the President of the University of Louisiana at Monroe and one or more of the persons designated and authorized in writing from time to time by the Board to represent the Board in exercising the Board's rights and performing the Board's obligations under this Facilities Lease or the Ground Lease, or his or her designee, or the Assistant Vice President of Facilities Planning or Vice President for Business and Finance of the Board of Supervisors for the University of Louisiana System, or his or her designee, or the University Representative, or any other representative designated by the resolution of the Board, of whom the Corporation has been notified in writing.

"Bond" or "Bonds" means, collectively, the Series 2023 Bonds and any Additional Bonds or Refunding Bonds issued pursuant to a supplemental Indenture as authorized by the Indenture.

"Bond Documents" shall mean the Indenture, the Assignment, and the Agreement.

"Business Day" means means any day other than (a) a Saturday, (b) a Sunday, (c) any other day on which banking institutions in New York, New York, Baton Rouge, Louisiana, or Monroe, Louisiana are authorized or required not to be open for the transaction of commercial banking business, or (d) a day on which the New York Stock Exchange is closed.

"Casualty" has the meaning set forth in Section 10 hereof.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§9601, et seq.).

"Claim" collectively means any claim, liability, demand, loss, damage, deficiency, litigation, cause of action, penalty, fine, judgment, defense, imposition, fee, lien, bonding cost, settlement, disbursement, penalty, cost or expenses of any and every kind and nature (including without limitation Litigation Expenses), whether known or unknown, incurred or potential accrued, absolute, direct, indirect, contingent or otherwise, and whether imposed by strict liability, negligence, or otherwise, and consequential, punitive, and exemplary damage claims.

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations and rulings promulgated thereunder.

"Commencement Date" means the date shall mean the date on which the Bonds are delivered and payment therefor is received by the Authority.

"Corporation" means University of Louisiana Monroe Facilities, Inc., a Louisiana nonprofit corporation, qualified as a federally designated 501(c)(3) organization, organized exclusively to promote, assist and benefit the mission of the University by engaging in any lawful activity in which a nonprofit corporation meeting the requirements of Section 501(c)(3) of the Internal Revenue Code of 1986 may engage, specifically including, but not limited to, acquiring, constructing, developing, managing, leasing, as lessor or lessee, mortgage and/or conveying facilities on the campuses of the University or its successors or assigns.

"Corporation Representative" means the Chairperson or Vice Chairperson of the Corporation.

"Current Expenses" means all necessary and reasonable expenses of maintaining and operating the Facilities, including all necessary current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance and all other expenses incidental to the operation of the Facilities, including the cost of services, utilities and personnel and all allocated general administrative expenses of the Board and any fee or charge imposed by the Board on the Facilities in connection with the issuance of Bonds, but shall exclude depreciation, Costs of Issuance and deposits to the Maintenance Reserve Fund.

"Date of Opening" means the date all buildings of the Facilities which are financed by the Bonds are occupied.

"Debt Service Coverage Ratio" means, for any Fiscal Year, the ratio determined by the Vice-President for Administration and Finance of the University by dividing (a) the Student Fee Revenues for such Fiscal Year by (b) Annual Debt Service on the Bonds outstanding and on any Additional Debt issued and proposed to be issued for such Fiscal Year.

"Debt Service Requirements" shall mean for any particular Fiscal Year an amount equal to the sum of (a) all interest payable during such Fiscal Year on all Outstanding Bonds, plus (b) the principal installments of Outstanding Bonds falling due during such Fiscal Year. Such interest and principal installments for the Bonds shall be calculated on the assumption that no Bonds Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment of each principal installment on the due date thereof.

"Default or Delay Rental" means and shall consist of (i) all amounts, fees or expenses which the Corporation may be legally obligated to pay or Other Parties by reason of any default of the Board hereunder or any delay in payment of any sums due by the Board hereunder, and (ii) all costs, expenses and charges, including reasonable counsel fees, incurred by the Corporation, whether by suit or otherwise, in collecting sums payable hereunder or in enforcing any covenant or agreement of the Board contained in this Facilities Lease or incurred in obtaining possession of the Facilities after default by the Board, which shall be due not later than thirty (30) days from notification that such Default or Delay Rentals are owed.

"Defeasance Obligations" has the meaning given that term in the Indenture.

"Effective Date" means the date on which the Ground Lease, this Facilities Lease, the Assignment, and the Agreement have been executed and the proceeds of the Bonds are available to the Corporation.

"Encumbrances" means any lien, mortgage, encumbrance, privilege, charge, option, right of first refusal, conditional sales contract, security interest, mechanic's and materialmen's liens, or any lien or encumbrance securing payment of any Claims, including environmental Claims, or of any charges for labor, materials, supplies, equipment, taxes, or utilities, excluding the Option granted to the Board herein.

"Environmental Requirements" shall mean all State, federal, local, municipal, parish, and regional environmental laws, statutes, rules, regulations, ordinances, codes, permits, approvals, plans, authorizations, concessions, investigation results, and guidance documents; all legislative, judicial, and administrative environmental judgments, decrees, orders, rules, rulings, and regulations; and all agreements and other restrictions and requirements relating to environmental matters, whether in effect on, prior to or after the Commencement Date, of any Governmental Authority, including, without limitation, federal, state, and local authorities, relating to the regulation or protection of human health and safety, natural resources, conservation, the environment, or the storage, treatment, disposal, processing, release, discharge, emission, use, remediation, transportation, handling, or other management of industrial, gaseous, liquid, or solid waste, hazardous waste, hazardous or toxic substances or chemicals, pollutants, petroleum, petroleum wastes, petroleum-based materials, asbestos, radioactive materials, polychlorinated biphenyls ("PCBs"), pesticides, biohazards or other materials that are potentially harmful to humans or the environment or the release of which could trigger any reporting or remediation obligations and including without limitation the following environmental laws: The Clean Air Act (42 U.S.C.A. §7401); the Federal Water Pollution Control Act (33 U.S.C. §1251); the Resource Conservation and Recovery Act of 1976, (42 U.S.C. §6901); CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, 100 Stat. 1613); the Toxic Substances Control Act (15 U.S.C. §2601); the Clean Water Act (33 U.S.C. §1251); the Safe Drinking Water Act (42 U.S.C. §3007); the Occupational Safety and Health Act (29 U.S.C. §651); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136); the Louisiana Environmental Quality Act (La. R.S. 30:2001); and the Louisiana Air Quality Regulations (La. C. 33:III.2595) including any amendments or extensions thereof and any rules, regulations, standards or guidelines issued pursuant to or promulgated under any of the foregoing.

"Event of Default" means any default specified in and defined as such by Section 20 hereof.

"Expiration Date" has the meaning assigned to such term in the Ground Lease.

"FP&C" shall mean the State's Office of Facility Planning and Control of the Division of Administration, State of Louisiana.

"Facilities" shall mean the facilities described in <u>Exhibit A</u> attached hereto and to the Agreement, as amended and supplemented in accordance therewith, that are to be constructed, improved, and rehabilitated with the proceeds of the Series 2023 Bonds on the campus of the University.

"Facilities Lease" shall mean this Agreement to Lease with Option to Purchase, including the Exhibits attached hereto, and any amendment or supplement hereto entered into from time to time in accordance with the terms hereof.

"Fiscal Year" means the fiscal year of the University, which at the date of this Facilities Lease is the period from July 1 to and including the following June 30.

"Governmental Authority" means any federal, State, parish, regional, or local government, political subdivision, any governmental agency, department authority, instrumentality, bureau, commission, board, official, or officer, any court, judge, examiner, or hearing officer, any legislative, judicial, executive, administrative, or regulatory body or committee or official thereof or private accrediting body.

"Governmental Regulations" means any and all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, writs, injunctions, rules, regulations, restrictions, permits, plans, authorizations, concessions, investigation, reports, guidelines, and requirements or accreditation standards of any Governmental Authority having jurisdiction over the Corporation and/or the Board, or affecting the Facilities.

"Ground Lease" means the Ground and Buildings Lease Agreement, including the exhibits attached thereto, and any amendment or supplement thereto, dated as of even date herewith which, among other things, obligates the Corporation to renovate, rehabilitate, and construct or cause the renovation, rehabilitation, or construction of the Facilities on the Land and sets forth the terms and conditions pursuant to which the construction will occur.

"Hazardous Substance" shall mean any substance or material that is described as a toxic or hazardous substance, waste or material or a pollutant or contaminant or infectious waste, or words of similar import, in any case of the Environmental Requirements, and includes, without limitation, asbestos, petroleum, or petroleum products (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), polychlorinated biphenyls, pesticides, urea formaldehyde, radon gas, radioactive matter, and medical waste and any other substance or waste that is potentially harmful to human health, natural resources, or the environment or the presence of which in the environment could trigger a remediation obligation or other liability under Environmental Requirements or any constituent of the foregoing.

"Indebtedness" means, as to any Person (i) all indebtedness in respect of borrowed money, including without limitation, bonds, notes and similar obligations, (ii) all obligations under a lease agreement, installment sale agreement or other similar arrangement, (iii) all indebtedness secured by mortgage, pledge, security interest, or lien existing on property owned that is subject to such mortgage, pledge, security interest, or lien, whether or not the indebtedness secured thereby shall have been assumed. (iv) all deferred indebtedness for the payment of purchase price of services, properties or assets purchased except deferred indebtedness for the purchase of equipment or assets related to the University and trade accounts payable in the ordinary course of business, and (v) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person would be liable, if such amounts were advanced under the credit facility, (vi) all guaranties, endorsements (other than endorsements in the ordinary course of business), assumptions, and other contingent obligations in respect of, or to purchase or to otherwise acquire, indebtedness of others, and (vii) all obligations (calculated on a net basis) of such Person under interest rate swaps, caps, floors, collars and other interest hedge agreements, in each case whether such Person is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss; provided, however, that for the purpose of computing Indebtedness, there shall he excluded any particular Indebtedness if, upon or prior to the maturity thereof, there shall have been irrevocably deposited with proper depository in trust the necessary funds (or direct obligations of the United States of America not redeemable by the issuer thereof) for the payment, redemption, or satisfaction of such Indebtedness, and thereafter such funds and such direct obligations of the United States of America so deposited shall not be included in any computation of the assets of such Person and the income derived from such funds and such direct obligations of the United States of America so deposited shall not be included in any computation of the income of the Corporation.

"Interest Payment Date" shall have the meaning given such term in the Indenture.

"Land" shall mean the immovable property, including ground and improvements, owned by the Board and located on the campus of the University, more particularly described on Exhibit B attached to the Ground Lease upon which upon which the Facilities are to be designed, developed, equipped, renovated, reconstructed and/or constructed.

"Legal Expenses" means the reasonable fees and charges of attorneys and of legal assistants, paralegals, law clerks, and other persons and entities used by attorneys and under attorney supervision and all costs incurred or advanced by any of them irrespective of whether incurred in or advanced prior to the initiation of any legal, equitable, arbitration, administrative, bankruptcy, trial or similar proceedings and any appeal from any of same.

"Litigation Expenses" means all out-of-pocket costs and expenses incurred as a result of an Event of Default, or in connection with an indemnification obligation, including Legal Expenses, the reasonable fees and charges of experts and/or consultants, and all court costs and expenses.

"Maintenance Reserve Fund" means the Maintenance Reserve Fund established in the Indenture.

"Notice" shall have the meaning set forth in Section 55 hereof.

"Operating Expenses" means the current expenses of operation, maintenance and current repair of the Facilities, as calculated in accordance with generally accepted accounting principles, and includes, without limiting the generality of the foregoing, insurance premiums, reasonable accounting and legal fees and expenses relating to the Facilities, payments with respect to worker's compensation claims not otherwise covered by insurance, any payments due from the Corporation under this Facilities Lease, the Agreement or the Indenture, any Rebate Amount, amounts payable to the Corporation under the Agreement (other than the principal of, premium, if any, and interest on the Bonds); Administrative Expenses, the cost of materials and supplies used for current operations, the Maintenance Reserve Fund and other taxes and charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice. "Operating Expenses" will not include (1) the principal of and interest on the Bonds; (2) any allowance for depreciation or replacements of capital assets of the Facilities; or (3) amortization of financing costs.

"Option to Purchase" or "Option" means the option to purchase the Corporation's interest in the Facilities granted to the Board in Section 23 of this Facilities Lease.

"Other Parties" means a Person other than the Parties.

"Parties" means the Corporation and the Board, collectively.

"Permitted Sublessees" shall mean (i) Aramark Educational Services, LLC, a Delaware Limited Liability Company, as further described in Section 3(h) hereof, and (ii) the Persons who lease, license or otherwise use any portion of the Facilities in connection with their trade or business and as to which the Board has an opinion of Bond Counsel that such lease, license or other use will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for federal income tax purposes. Persons who lease the Facilities in accordance with their Permitted Use shall automatically be "Permitted Sublessees."

"Permitted Use" means the operation of the Facilities for purposes related to the mission of the Corporation and the University.

"Person" shall mean all juridical persons, whether corporate or natural, including individuals, firms, trusts, corporations, associations, joint ventures, partnerships, and limited liability companies or partnerships.

"Project Fund" means the Project Fund created by the Indenture.

"Property" means, collectively, the Land and all improvements now or thereafter located thereon, including the Facilities as they are constructed thereon, together with all other rights and interests leased pursuant thereto.

"Purchase Price" shall have the meaning set forth in Section 23(e) hereof.

"Refunded Bonds" shall mean the \$1,845,000 Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Facilities Project), Series 2014.

"Refunding Bonds" shall mean parity bonds, if any, issued in one or more series pursuant to the Indenture.

"Remediation" means any and all costs and expenses incurred directly or indirectly due to any investigation of the Facilities or any remediation, response, cleanup, removal, or restoration required by any Governmental Regulation or Governmental Authority or by Environmental Requirements.

"Rental" means and includes the Base Rental, Additional Rental, and Extraordinary Rental.

"Series 2023 Bonds" means the \$\_\_\_\_\_ Louisiana Local Government Environmental Facilities and Community Development Authority Revenue and Refunding Bonds (University of Louisiana Monroe Facilities, Inc. – Athletic Improvements Project) Series 2023, and such bonds issued in exchange for those issued pursuant to the Indenture, or in replacement for those issued pursuant to the Indenture, which bonds have been mutilated, destroyed, lost, or stolen.

"State" means the State of Louisiana.

"Student Activity Enhancement Fee" means the Student Activity Enhancement Fee student self-assessment approved by the students of the University at the Spring 2013 general election and authorized to be collected in perpetuity from all students each semester and session taking four or more credit hours in the amount of \$10.00 per credit hour (not to exceed twelve credit hours for fall and spring and six credit hours for the summer and interim sessions) that is currently being levied upon students of the University and used to support recognized student organizations and co-curricular endeavors, including, but not limited to, spirit groups, visual and performing arts, sports clubs, intercollegiate activities, and student support facilities and operations.

"Student Fee Revenues" means, collectively, the revenues generated from the Student Activity Enhancement Fee, Athletic Facilities Fee and Student Support Fee.

"Student Support Fee" means the Student Support Fee student self-assessment approved by the students of the University at the April 18 and 19, 2012 election and authorized to be collected in perpetuity in the amount of \$95.00 for Fall and Spring Semesters, assessed to students enrolled in 4 or more credit hours, and \$50 for each Summer semester, assessed to students enrolled in 3 or more credit hours, that is currently being levied upon students of the University and used to support and enhance critical student support services, initiatives, programming, personnel, operations, and projects benefitting all students on the University campus.

"Term" means the term of this Facilities Lease, as provided in Section 2 hereof.

"Trustee" means the state banking corporation or national banking association with corporate trust powers qualified to act as Trustee under the Indenture which may be designated (originally or as a successor) as Trustee for the owners of the Bonds issued and secured under the terms of the Indenture, initially \_\_\_\_\_\_\_.

"University" means the University of Louisiana at Monroe, in Monroe, Louisiana.

"*University Representative*" means the President of the University or his or her designee, of whom the Corporation has been notified in writing.

- Section 2. Facilities Lease; Term of Lease. The Corporation hereby leases the Property to the Board, and the Board hereby leases the Property from the Corporation effective as of the Commencement Date of this Facilities Lease, and the Board agrees upon completion of construction of the Facilities to accept possession of the Facilities, as renovated and/or constructed, and agrees to pay the Base Rental, the Extraordinary Rental, and the Additional Rental as provided herein for the use and occupancy of the Facilities, all on the terms and conditions set forth herein. The Board agrees that it will take immediate possession of the Facilities, as renovated and/or constructed under the terms and provisions of the Ground Lease. The Board understands and agrees that Rental shall accrue from the Commencement Date hereof in consideration of the mutual covenants and agreements entered by the Parties under the Ground Lease and the Agreement, notwithstanding the fact that the Facilities have yet to be constructed or renovated. No delay in the Date of Opening of the Facilities beyond the time set forth in the Ground Lease will extend the Term. The Term of this Facilities Lease begins on the Commencement Date and ends on the Expiration Date; provided, however, this Facilities Lease shall terminate prior to the Expiration Date upon the happening of any of the following events:
- (a) repayment of the Bonds in full or the defeasance of the Bonds, including principal, premium, if any, interest and indefeasible payments in full of all Administrative Expenses with respect to the Bonds, all as set forth in the Indenture;
- (b) the exercise by the Board of the Option to Purchase and the purchase of the Corporation's interest in the Facilities pursuant to the Option; or
- (c) the Corporation's exercise of its option to terminate upon the happening of any other event described in this Facilities Lease with respect to which the Corporation has such option, including without limitation a Default by the Board, as set forth in Sections 22 and 32 hereof.

Upon the termination of the Facilities Lease under the circumstances set forth in Section 2(a) above, at the Board's option, the Board may require the demolition of the Facilities as set forth in Section 12.02 of the Ground Lease.

- Section 3. <u>Acknowledgments, Representations and Covenants of the Board.</u> The Board represents, covenants, and agrees as follows:
- (a) The Board has full power and authority to enter into the Board Documents, and the transactions contemplated thereby and agrees to perform all of its obligations hereunder and under the Board Documents.

- (b) The Board has been duly authorized to execute and deliver the Board Documents and further represents and covenants that the Board Documents constitute the valid and binding obligations of the Board enforceable against the Board in accordance with their terms and that all requirements have been met and procedures have occurred in order to ensure the enforceability of the Board Documents and the Board has complied with all constitutional and other statutory requirements as may be applicable to the Board in the authorization, execution, delivery, and performance of the Board Documents.
- (c) The execution and delivery of the Board Documents, and compliance with the provisions hereof and thereof, will not conflict with or constitute on the part of the Board a violation of, breach of, or default under any constitutional provision, statute, law, resolution, bond indenture, or other financing agreement or any other agreement or instrument to which the Board is a party or by which the Board or its properties is bound, or any order, rule or regulation of any court or Governmental Authority or body having jurisdiction over the Board or any of its activities or properties with respect to the Facilities; and all consents, approvals or authorizations required of the Board for the consummation of the transactions contemplated hereby have been obtained or timely will be obtained.
- (d) Other than that which was previously disclosed to the Corporation, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, public board or body pending or threatened against or affecting the Board, wherein an unfavorable decision, ruling, or finding would materially and adversely affect the transaction contemplated hereunder or which in any way would adversely affect the validity or enforceability of the Board Documents.
- (e) The Board will not take or permit to be taken any action which would have the effect, directly or indirectly, of causing interest on the Bonds to be included in gross income for federal income tax purposes.
- (f) The Board agrees to cause the Facilities to be used for the Permitted Use and shall not allow the Facilities to be used for any other use. No more than 5% of the gross area of the Facilities financed with the Bonds will be subleased by the Board or by any Permitted Sublessee or assigns of the Board to, or otherwise used by, private business (unless pursuant to a qualified management contract approved by Bond Counsel) and the Board agrees to take all action, to the extent it is legally authorized and able to do so, necessary to prevent the Bonds from being deemed "private activity bonds" within the meaning of Section 141 of the Code.
- (g) The use of the Facilities is essential to the operation of the University by providing for the needs of the students, faculty, and staff of the University. The Board presently intends to make all payments for use of the Facilities.
- Section 4. <u>Representations and Covenants of the Corporation.</u> The Corporation makes the following representations and covenants:
- (a) The Corporation has been validly created under the Louisiana Nonprofit Corporation Law, is currently in good standing under the laws of the State, has been qualified as a federally designated 501(c)(3) organization, has the power to enter into the transactions contemplated by, and to carry out its obligations under the Board Documents and the Bond Documents. The Corporation is not in breach of or in default under any of the provisions contained in any contract, instrument or agreement to which it is a party or in any other instrument by which it is bound. By proper action of its Board of Directors, the Corporation has been duly authorized to execute and deliver Board Documents and the Agreement;
- (b) The execution and delivery of the Board Documents, and compliance with the provisions thereof and hereof, will not conflict with or constitute on the part of the Corporation a violation of, breach

of, or default under any statute, indenture, mortgage, declaration or deed of trust, agreement, or other agreement or instrument to which the Corporation is a party or by which the Corporation or its properties is bound or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Corporation or any of its activities or properties; and all consents, approvals and authorizations which are required of the Corporation for the consummation of the transactions contemplated thereby and hereby have been or timely will be obtained;

- (c) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or threatened against or affecting the Corporation, wherein an unfavorable decision, ruling or finding would materially and adversely affect the transactions contemplated hereunder or which in any way would adversely affect the validity or enforceability of the Board Documents or any agreement or instrument to which the Corporation is a party, used or contemplated for use in the consummation of the transactions contemplated hereby; and
- (d) The Corporation will not take or permit to be taken any action which would have the effect, directly or indirectly, of causing interest on any of the Bonds to be included in gross income for federal income tax purposes.

#### Section 5. Waiver and Disclaimer of Warranties.

- (a) The Board acknowledges that the Corporation has not made any representations or warranties as to the suitability or fitness of the Facilities for the needs and purposes of the Board or for any other purpose. The Board affirmatively reserves its rights against all parties except the Corporation in this regard.
- (b) The Board further declares and acknowledges that the Corporation, in connection with this Facilities Lease, does not warrant that the Facilities will be, upon completion of construction free from redhibitory or latent defects or vices and hereby releases the Corporation of any liability for redhibitory or latent defects or vices under Louisiana Civil Code Articles 2520 through 2548 and Louisiana Civil Code Articles 2696 and 2697. The Board declares and acknowledges that it does hereby waive the warranty of fitness for intended purposes and guarantee against hidden or latent redhibitory defects and vices under Louisiana law, including Louisiana Civil Code Articles 2520 through 2548 and Louisiana Civil Code Articles 2696 and 2697, and the warranty imposed by Louisiana Civil Code Articles 2475, 2696, 2697 and 2700, and waives all rights in redhibition pursuant to Louisiana Civil Code Articles 2520, *et seq*. The Board further declares and acknowledges that this waiver has been brought to the attention of the Board and explained in detail and that the Board has voluntarily and knowingly consented to this waiver of warranty of fitness and/or warranty against redhibitory defects and vices for the Facilities.
- (c) The Corporation disclaims and the Board waives any warranties and representations with respect to compliance with Governmental Regulations, including Environmental Requirements, or the disposal of, or existence in, on, under, or about the Facilities of any Hazardous Substance. The Board acknowledges that the Corporation reserves in this Facilities Lease all rights to recover from the Board all costs and expenses imposed on the Corporation to bring the Facilities into compliance with any Environmental Requirement, and all costs of Remediation or cleanup of any such Hazardous Substance imposed on the Corporation or the Board, which shall be payable by the Board as Additional Rental hereunder to the extent imposed upon the Corporation. The Board affirmatively reserves its rights against all parties except the Corporation in this regard.

(d) The obligations and liabilities of the Corporation undertaken in this Facilities Lease do not give rise to any personal obligation or liability of the officers, directors, members or other persons or entities affiliated with the Corporation.

#### Section 6. Rental.

- (a) The Board, for and in consideration of the Corporation entering into the Ground Lease, constructing the Facilities in accordance with the Ground Lease and subleasing the Property and leasing the Facilities to the Board pursuant to the terms hereof, hereby covenants and agrees to pay the Base Rental, the Extraordinary Rental, and the Additional Rental in the amounts, at the times and in the manner set forth herein, such amounts constituting in the aggregate total of the rental payable under this Facilities Lease. The obligation of the Board to make Base Rental, Extraordinary Rental and Additional Rental payments shall commence on the Commencement Date and shall not be subject to abatement, set-off, or reduction as a result of a failure by the Corporation to complete construction of the Facilities on a timely basis.
- (b) Payments of Base Rental shall be due on the dates and in the amounts as hereinafter provided:
- (i) Semiannually, commencing on the fifth (5<sup>th</sup>) day before each Interest Payment Date, in an amount equal to the interest due and payable on the Bonds on the next Interest Payment Date, or such lesser amount that, together with amounts already on deposit in the Interest Account of the Debt Service Fund will be sufficient to pay interest on the Bonds on such Interest Payment Date;
- (ii) Annually, commencing on the fifth (5<sup>th</sup>) day before each Principal Payment Date, in an amount equal to the principal amount of the Bonds payable on the next Principal Payment Date; and
- (iii) On the dates required in the Indenture, to the Trustee for deposit into the Maintenance Reserve Fund, an amount sufficient to make up for any deficiency in any prior payment required to be made into such fund and to restore any loss from investment or other causes from such fund and any other payment required to be made to such fund by the Indenture.
- (c) In addition to the Base Rental set forth herein, the Board agrees to pay as Additional Rental any and all costs and expenses, of every nature, character, and kind whatsoever, of the Corporation under the Agreement or the Assignment and/or incurred in the management, operation, ownership, and/or maintenance of the Facilities, including, but not limited to, the following costs and expenses:
- (i) all taxes, assessments, and impositions against the Facilities or the Property, including without limitation, *ad valorem* taxes attributed to the Corporation on behalf of the Board or to the Board (and any tax levied in whole or in part in lieu of or in addition to *ad valorem* taxes);
- (ii) any costs incurred by the Corporation in maintaining the Facilities for the Board and making any alterations, restorations, and replacements to the Facilities;
- (iii) insurance premiums and other charges for insurance obtained with respect to the Facilities including insurance premiums, if any, on all insurance required under the provisions of Section 9 of this Facilities Lease:
  - (iv) any Default or Delay Rentals;
- (v) all costs incurred by the Corporation in connection with its performance of its obligations relating to the Facilities and/or the Property under the Ground Lease;

- (vi) all Administrative Expenses owed to the Authority or the Trustee;
- (vii) litigation expenses, if any, incurred pursuant to Section 44 hereof;
- (viii) any reimbursement amounts payable pursuant to Section 19 hereof or pursuant to any other provision hereof;
  - (ix) additional rental payable pursuant to Section 13(a) and (b) hereof;
- (x) any other costs, charges, and expenses commonly regarded as ownership, maintenance, and Operating Expenses, if any, incurred by the Corporation under this Facilities Lease;
- (xi) if necessary, that portion of the completion costs of the Facilities that may be in excess of the money available in the Project Fund (as defined in the Indenture); and
  - (xii) any amounts required to be deposited to the Rebate Fund.
- (d) Amounts constituting Additional Rental payable hereunder shall be paid by the Board directly to the person or persons to whom such amounts shall be due. The Board shall pay all such amounts when due or within thirty (30) days after notice in writing from the Corporation or Trustee to the Board stating the amount of the Additional Rental then due and the purpose thereof.
- (e) The Board shall be entitled to a credit against and reduction of each Base Rental payment in an amount equal to any amounts derived from the following sources:
- (i) Surplus moneys (including investment earnings) contained in the Funds and Accounts held by the Trustee under the Indenture, including the Debt Service Fund;
- (ii) Advance payments or prepayments of Payments (as defined in the Agreement), including amounts in the Maintenance Reserve Fund in excess of the amount required to be contained herein on any given date pursuant to the Indenture; or
  - (iii) Funds on deposit in the Debt Service Fund held by the Trustee.
- Notwithstanding any other provision of the Facilities Lease, the obligation of the Board to make payments under this Facilities Lease, including payments of Rental, shall be made solely from the Student Fee Revenues. The Vice President for Business and Finance of the Board shall cause the University to include in the Budget and, if necessary, any amendments to the Budget, an amount of Revenues sufficient to make the payments of Base Rental and Additional Rental described herein. The obligations of the Board to make payments pursuant to this Facilities Lease, and to perform and observe the other agreements and covenants on its part contained herein, shall be absolute and unconditional and shall not be subject to any diminution, abatement, set-off, or counterclaim. Until such time as the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with this Facilities Lease shall have been indefeasibly paid in full, the Board shall not suspend or discontinue payment of Rental or any other payments pursuant to this Facilities Lease for any cause, and shall continue to perform and observe all of its agreements contained in this Facilities Lease. The Corporation and the Board acknowledge and agree that the obligation of the Board to pay Rental shall constitute a current expense of the Board payable by the Board from funds budgeted and designated in accordance with law for and in consideration of the right to use the Facilities during the Term and that such obligation shall not in any manner be construed to be a debt of the Board in contravention of any

constitutional or statutory limitations or requirements concerning indebtedness of the Board and nothing contained herein shall constitute a pledge, lien or encumbrance upon any specific tax or other revenues of the Board.

- (g) The payments of the Base Rental and Additional Rental under this Facilities Lease for each Fiscal Year or portion thereof during the Term shall constitute the total Rental for such Fiscal Year or portion thereof and shall be paid by the Board for and in consideration of the construction by the Corporation of the Facilities and the right to the use and occupancy of the Facilities by the Board for and during such Fiscal Year or portion thereof.
- (h) Amounts necessary to pay each Base Rental payment shall be deposited by the Board on the dates set forth in Section 6(b) hereof in lawful money of the United States of America at the office of the Trustee or at such other place or places as may be established by the Corporation and/or Trustee in accordance with the Indenture. Any amount necessary to pay any Base Rental payment or portion thereof which is not so deposited shall remain due and payable until received by the Trustee. Notwithstanding any dispute between the Board and the Corporation hereunder, the Board shall make all Rental payments when due and shall not withhold payment of any Rental pending the final resolution of such dispute or for any other reason whatsoever.
- (i) This Facilities Lease is intended to be a triple net lease. The Board agrees that the Rental provided for herein shall be an absolute net return to the Corporation free and clear of any expenses, charges, taxes or set-offs whatsoever of any kind, character or nature, it being understood and agreed to by the Board that the Board shall bear responsibility for the payment of all costs and expenses associated with the ownership, operation, and maintenance of the Facilities. Under no circumstances will the Corporation be required to make any payment on the Board's behalf or for the Board's benefit under this Facilities Lease, or assume any monetary obligation of the Board under this Facilities Lease, or with respect to the Facilities.

## Section 7. Operation, Alterations, Maintenance, Repair, Replacement, and Security Service.

- (a) The Board or the University shall be responsible for procuring and maintaining or cause to be procured or maintained all services necessary or required in order to adequately operate the Facilities in accordance with the Permitted Use including, but not limited to, administrative support. The Board shall continuously operate or cause to be operated the Facilities from the Date of Opening and continuing for the remainder of the Term for the Permitted Use, and in accordance with all Governmental Regulations.
- (b) The Board or the University shall be responsible for maintaining the Facilities and shall make or contract or cause to be made or contracted with a suitable contractor selected in accordance herewith for the making of all alterations, repairs, restorations and replacements to the Facilities, including without limitation the heating, ventilating, air conditioning, mechanical, electrical, elevators, plumbing, fire, sprinkler, theft alarm systems, air and water pollution control, waste disposal facilities, structural roof, walls, foundations, fixtures, equipment and appurtenances to the Facilities as and when needed to preserve them in good working order, condition and repair (ordinary wear and tear excepted), regardless of whether such repairs, alterations, restorations or replacements are ordinary or extraordinary, foreseeable or unforeseeable, or are at the fault of the Corporation or some other Party. All alterations, repairs, restorations, or replacements shall be of a quality and class equal to or better than the quality and class presently located at the Facilities.
- (c) The Board and the University shall have the right during the Term to cause the Corporation or some Other Party to make or construct any additions or improvements to the Facilities, alter the Facilities, attach fixtures, structures, or signs to or on the Facilities, and affix personal property to the facilities without the Corporation's prior written consent to the extent allowed under the terms of any insurance covering the

Facilities. All such alterations, improvements, additions, attachments, repairs, restorations, and replacements of all or any portion of the Facilities shall (i) be at the sole cost and expense of the Board; (ii) not reduce the then fair market value of the Facilities; (iii) constructed in a good and workmanlike manner and (iv) in compliance with all Governmental Regulations.

(d) The Board or the University shall provide or cause to be provided all security service, custodial service, janitorial service, trash disposal, landscaping and all other services necessary for the proper upkeep and maintenance of the Facilities as required herein. The Board acknowledges that the Corporation has made no representations or warranty with respect to systems and/or procedures for the security of the Facilities, any persons occupying, using or entering the Facilities, or any equipment, furnishings, or contents of the Facilities. It is the responsibility of the Board, through the Corporation and/or the University to cause to be provided, at the sole cost and expense of the Board, for the security of persons on or entering the Facilities and/or property located at the Facilities, in accordance with reasonable and prudent business practices.

## Section 8. <u>Utilities</u>.

- (a) All utilities which are used or consumed in or upon or in connection with the Facilities during the Term, including, without limitation water, gas, electricity, sewerage, garbage, or trash removal, light, cable, heat, telephone, power, computer data and other utilities necessary for the operation of the Facilities ("*Utility Service*") shall be the responsibility of the Board and/or the University. Payments for Utilities Services provided to the entire Facilities (or to the common area of the Facilities) under such contract or contracts therefor as the Board or The University may make shall be made by the Board or The University directly to the respective utility companies furnishing such Utility Services.
- (b) The Corporation shall have no responsibility to the Board for the quality or availability of Utility Service to the Facilities, or for the cost to procure the Utility Service. The Board shall reimburse the Corporation for all utilities used in the Facilities to the extent such utilities are procured at the expense of the Corporation. The Corporation shall not be in Default under this Facilities Lease or be liable to the Board or any Other Person for direct or consequential damage, or otherwise, for any failure in supply of any Utility Service, heat, air conditioning, elevator service, cleaning service, lighting, security, or for surges or interruptions of electricity.

## Section 9. <u>Insurance</u>.

- (a) The Board shall secure and maintain or cause to be secured and maintained at the Board's sole cost and expense:
- (i) A policy or policies of insurance covering the Facilities against loss or damage by fire, lightning, earthquake, collapse, vandalism and malicious mischief, flood and storm surge, and against such other perils as, under good insurance practice, from time to time are insured for properties of similar character and location, which insurance shall be not less than the greater amount of the Bonds outstanding or one hundred percent (100%) of the full replacement cost of the Facilities, without deduction for depreciation, but in no event shall the amount of the insurance be at any time less than the full replacement costs of the Facilities, adjusted to comply with any applicable co-insurance provisions of such insurance policy. Full payment of insurance proceeds shall not be contingent on the degree of damage sustained at other Board facilities. The policy or policies covering such loss must explicitly waive any co-insurance penalty.
- (ii) A policy of comprehensive public liability insurance with respect to the Facilities and the operations related thereto, whether conducted on or off the Facilities, against liability for personal

injury (including bodily injury and death) and property damage of not less than \$5,000,000 in combined single limit liability coverage. Such comprehensive public liability insurance shall specifically include, but shall not be limited to, sprinkler leakage legal liability, water damage legal liability, motor vehicle liability for all owned and non-owned vehicles, including rented or leased vehicles.

- (iii) A policy insuring against demolition, pile driving and any precarious work.
- (iv) Boiler and machinery insurance coverage against loss or damage by explosion of steam boilers, pressure vessels and similar apparatus, but only if steam boilers, pressure vessels or similar apparatus are installed on the Facilities, in an amount not less than \$5,000,000 with deductible provisions not exceeding \$100,000 per accident.
- (v) Workers' compensation insurance issued by a responsible carrier authorized under the laws of the State to insure employers against liability for compensation under the Labor Code of the State, or any act hereafter enacted as an amendment thereto or in lieu thereof, such workers' compensation insurance to cover all persons employed by the State or any agency thereof in connection with the Facilities and to cover full liability for compensation under any such act aforesaid.

#### (b) Reserved.

- (c) The Board may self-insure, obtain commercial coverage, or a combination thereof in order to comply with the insurance required to be maintained under this Section 9. All insurance required in this Section and all renewals of such insurance shall be issued by companies authorized to transact business in the State, and rated at least A by Best's Insurance Reports (property liability) or in the two highest rating categories of S&P and Moody's. All insurance policies provided by the Board shall expressly provide that the policies will not be canceled or altered without 30 days' prior written notice to the Board; and shall, to the extent obtainable, provide that no act or omission of the Corporation or the Board, which would otherwise result in forfeiture or reduction of the insurance, will affect or limit the obligation of the insurance company to pay the amount of any loss sustained.
- (d) All policies of insurance that the Board is obligated to maintain according to this Facilities Lease (other than any policy of worker's compensation insurance) will name the Corporation, the Trustee and such Other Persons or firms as the Board specifies from time to time as additional insureds. Certificates of insurance shall be provided as evidence of current coverage and will identify those additional insureds as required by written contract to the Board prior to the Board's occupancy of the Facilities and from time to time at least 30 days prior to the expiration of the term of each policy.
- (e) Proceeds of insurance received and/or the amount of any loss that is self-insured with respect to destruction of or damage to any portion of the Facilities by fire, earthquake or other casualty or event shall be paid to the Trustee (or, in the case of ORM insurance, to the Board for delivery in full to the Trustee) for application in accordance with the provisions of Section 10 of this Facilities Lease and the Indenture.
- (f) If the Facilities are self-insured through the Office of Risk Management, Division of Administration, State of Louisiana, the insurance provisions of this Section shall be deemed as having been satisfied.
- (g) Annually, the Corporation agrees to deliver to the Trustee a certificate indicating compliance with the insurance requirements of this Section.

## Section 10. Condemnation, Casualty and Other Damage.

- (a) The risk of loss or decrease in the enjoyment and beneficial use of the Facilities due to any damage or destruction thereof by acts of God, fire, flood, natural disaster, the elements, casualties, thefts, riots, civil strife, war, nuclear explosion or otherwise (collectively "Casualty") or in consequence of any foreclosures, attachments, levies or executions; or the taking of all or any portion of the Facilities by condemnation, expropriation, or eminent domain proceedings (collectively "Expropriation") is expressly assumed by the Board. The Corporation and the Trustee shall in no event be answerable, accountable or liable therefor, nor shall any of the foregoing events entitle the Board to any abatements, set-offs or counter claims with respect to its Base Rental, Additional Rental, or any other obligations hereunder. The Board shall continue to be obligated to pay Base Rental and Additional Rental following the occurrence of any of the foregoing events.
- (b) The Board hereby covenants and agrees, to the extent it may lawfully do so, that so long as any of the Bonds remain outstanding and unpaid, the Board will not exercise the power of condemnation with respect to the Facilities. The Board further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the Board should fail or refuse to abide by such covenant and condemns the Facilities, the appraised value of the Facilities shall not be less that the greater of (i) if such Bonds are then subject to redemption, the principal and interest components of the Bonds outstanding through the date of their redemption, or (ii) if such Bonds are not then subject to redemption, the amount necessary to defease such Bonds to the first available redemption date in accordance with the Indenture.

## Section 11. <u>Application of Insurance Proceeds; Condemnation Award.</u>

- If all or any portion of the Facilities is damaged or destroyed by a Casualty, or is taken by Expropriation proceedings, the Corporation shall, upon receipt of notice from the Board instructing the Corporation to do so, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the repair, restoration, or replacement of the Facilities. The proceeds of any insurance, including the proceeds of any self-insurance fund, or of any Expropriation award or payment in lieu of Expropriation, received on account of any damage, destruction or taking of all or any portion of the Facilities shall be delivered to the Trustee and held by the Trustee in a special account to be established upon receipt of any such funds and held by the Trustee in trust, and shall be make available for, and to the extent necessary be applied to, such restoration, repair and replacement. Any amounts so held by the Trustee shall be disbursed to pay the costs of restoration, replacement and repair of the Facilities with respect to which they are held, in each case promptly after receipt of a written request of the Corporation stating that the amount to be disbursed pursuant to such request will be used to pay costs of replacing or repairing or restoring the Facilities and that no amount previously has been disbursed by the Trustee for payment of the costs to be so paid. In making such payments, the Trustee may conclusively rely upon such written requests and shall have no liability or responsibility to investigate any matter stated therein, or for any inaccuracy or misstatement therein. In no event shall the Trustee be responsible for the adequacy of the plans and specifications or construction contract relating to the replacement, restoration, or repair of the Facilities, or for the improper use of moneys properly disbursed pursuant to request made under this Section. Any proceeds remaining on deposit with the Trustee following completion of the repairs, restoration or replacement of the Facilities shall be paid by the Trustee in accordance with the terms of the Indenture.
- (b) In the event the proceeds of any insurance, and any additional funds deposited with the Trustee, are insufficient to fully repair, restore or replace the Facilities, the proceeds shall be paid to the Trustee and used to redeem the outstanding Bonds.
- (c) In the event it is necessary to restore or replace the Facilities in a different location because of the Expropriation of all or a portion of the Facilities, the Corporation and the Board agree to amend or enter into a new Facilities Lease and Ground Lease in accordance with Sections 13.02 and 13.03 of the

Ground Lease. In the event the Board, pursuant to the Ground Lease, decides not to repair, restore or replace the Facilities for any reason, all insurance proceeds received or payable as a result of such Casualty, or all proceeds received or payable as a result of Expropriation proceedings (including payments received or payable in lieu of Expropriation) shall be paid to the Trustee and applied to the prepayment of the Bonds in accordance with the terms of the Indenture, and this Facilities Lease and the Ground Lease shall terminate.

#### Section 12. Encumbrances.

- (a) Payment by the Board. The Board shall pay or cause to be paid all costs and charges for alterations, improvements, additions, repairs and maintenance ("Work") done by the Board or caused to be done by the Board in or to the Facilities, and for all materials furnished for or in connection with such Work. The Corporation reserves all rights to collect for any loss or damage sustained or incurred by the Corporation resulting from any and all Encumbrances, demands or liabilities arising on account of the Work, which shall be payable by the Board as Additional Rental hereunder.
- (b) Failure to Discharge. If the Board fails to pay any charge for which an Encumbrance has been filed, and the Facilities or any portion thereof is placed in imminent danger of being seized, the Corporation may, but shall not be obligated to, pay such charge and related costs and interest, and the amount so paid, together with reasonable Legal Expenses incurred in connection with such Encumbrance, will be immediately due from the Board to the Corporation as Additional Rental. Nothing contained in this Facilities Lease will be deemed the consent or agreement of the Corporation subject to the Corporation's interest in the Facilities to liability under an Encumbrance, or any mechanics', materialman's or other lien law. If the Board receives written notice that an Encumbrance has been or is about to be filed against the Facilities, or that any action affecting title to the Facilities has been commenced on account of Work done by or for the Board or for materials furnished to or for the Board, it shall immediately give the Corporation Notice of such notice.
- (c) Notice of Non-responsibility. The Corporation will have the right to post notices of non-responsibility or similar written notices on the Facilities in order to protect the Facilities against any such claimants.

## Section 13. <u>Assignment and Sublease</u>.

- (a) Neither this Facilities Lease nor any interest of the Board herein shall be mortgaged, pledged, assigned or transferred by the Board by voluntary act or by operation of law, or otherwise; provided, however, the Board may sublease all or any portion of the Facilities, or grant concessions involving the use of all or any portion of the Facilities, whether such concessions purport to convey a leasehold interest or a license to use all or a portion of the Facilities, to any Permitted Sublessee. The Board shall, at all times, remain liable for the performance of the covenants and conditions on its part to be performed under this Facilities Lease (including, without limitation, the payment of Base Rental and Additional Rental), notwithstanding any subletting or granting of concessions which may be made. Nothing herein contained shall be construed to relieve the Board from its obligations to pay Base Rental and Additional Rental as provided in this Facilities Lease or to relieve the Board from any other obligations contained herein. In no event will the Board sublease or permit the use of all or any part of the Facilities to any party other than a Permitted Sublessee without an opinion of Bond Counsel that such will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for federal income tax purposes.
- (b) The Corporation shall, concurrently with the execution hereof, assign all of its rights, title and interest in and to this Facilities Lease to the Trustee. The Board explicitly consents to such assignment

of this Facilities Lease to the Trustee. The parties hereto further agree to execute any and all documents necessary and proper in connection therewith. Anything required or permitted to be done by the Corporation under this Facilities Lease may be done by the Trustee under the Indenture.

(c) Except as set forth in Section 13(b) above and the Assignment, the Corporation shall not sell or assign its interest in the Facilities or this Facilities Lease without the prior written consent of the Board.

## Section 14. <u>Additions and Improvements Removal.</u>

- (a) At the expiration of the Term, or termination of this Facilities Lease, all alterations, fixtures, improvements, and additions made to, in, or on the Facilities by the Board or the University, and all equipment placed upon the Facilities, which are incorporated into or made component parts of the Facilities shall remain the property of the Board.
- (b) Title to all property, furniture, equipment, fixtures, and other property installed at or placed upon the Facilities by the Board which is not incorporated into or made a component part of the Facilities shall remain the property of the Board. The Board hereby agrees to replace such property from time to time as such property becomes worn out, obsolete, inadequate, unsuitable or undesirable. The Board may add or remove such property from time to time, and upon expiration of the Term, provided that the Bond repairs any damage to the Facilities by such removal.
- Section 15. <u>Right of Entry.</u> Representatives of the Corporation shall, subject to reasonable security precautions, and upon giving the Board not less than 24 hours advance Notice, have the right to enter upon the Facilities during reasonable business hours and in accordance with the applicable law with respect to inspection of individual living quarters (and in emergencies without notice and at all times) (i) to inspect the same, (ii) for any purpose connected with the rights or obligations of the Corporation under this Facilities Lease, or (iii) for all other lawful purposes.
- Section 16. <u>Mortgage Prohibition</u>. Except as set forth in the Indenture or the Ground Lease, the Corporation shall not be entitled to mortgage or grant a security interest in the Facilities.

# Section 17. <u>Sale of Facilities: Attornment; and Conveyance and Transfer of the Corporation's Interest.</u>

- (a) If a person other than the Corporation shall succeed to the rights of the Corporation hereunder (in any case with the prior written consent of the Board as required hereby), upon the declaration of the successor to the Corporation's interest in this Facilities Lease, the Board agrees to fully attorn to and recognize any such successor as the Board's landlord under this Facilities Lease upon the then existing terms of this Facilities Lease, provided that such successor shall agree in writing to accept the Board's attornment and not to disturb the Board's possession so long as the Board shall observe the provisions and all covenants of this Facilities Lease. This attornment provision shall inure to the benefit of any such successor and shall be self-operative upon the election and declaration by such successor, and no further instrument shall be required to give effect to the provisions. However, the Board agrees to evidence and confirm the foregoing attornment provisions by the execution and delivery of instruments in recordable form satisfactory to such successor.
- (b) If the Facilities, or any part thereof, shall be sold or otherwise transferred by sale, assignment, transfer or other contract, or by operation of law or otherwise (with the prior written consent of the Board as required hereby, with an opinion of Bond Counsel that such will not cause interest on the Bonds to be included in the gross income of the owners of the Bonds for federal income tax purposes), and if such written consent specifically so provides, the Corporation shall be automatically and entirely released

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and discharged to the extent of the interest in or the portion of the Facilities sold, assigned or transferred from and after the effective date of such sale, assignment or transfer of all liability for the performance of any of the covenants of this Facilities Lease on the part of the Corporation thereafter to be performed. The purchase, assignee or other transferee of the Facilities shall be deemed to have agreed to perform such covenants of the Corporation from and after the date of such assignment or sale during such transferee's period of ownership of the Corporation's interest under this Facilities Lease all without further agreement between the Corporation, its successor and the Board, including to operate the Facilities for a Permitted Use. The Corporation's transferee shall not be held responsible for the performance of any of the covenants of this Facilities Lease on the part of the Corporation required to be performed prior to such sale and transfer, the Board reserving its rights against the Corporation for any unperformed covenants prior to such sale or transfer.

Section 18. Quiet Enjoyment. The Corporation covenants that the Board, on paying the Rental and performing and observing all of the covenants and agreements herein contained and provided to be performed by the Board or The University, shall and may peaceably and quietly have, hold, occupy, use, and enjoy the Facilities during the Term and may exercise all of its rights hereunder; and the Corporation agrees to warrant and forever defend the Board's right to such occupancy, use, and enjoyment and the title to the Facilities against the claims of any and all persons whomsoever lawfully claiming the same, or any part thereof subject only to the provisions of this Facilities Lease.

## Section 19. <u>Environmental Compliance and Indemnity</u>.

- (a) Environmental Compliance. The Board or the University shall operate or cause to be operated the Property and the Facilities in compliance with all Environmental Requirements continuously during the Term, and for such periods of time prior to the Commencement Date and after the Expiration Date, as long as the Board is in possession of the Facilities, in whole or in part. The Board shall not cause or permit any Hazardous Substance to be brought upon, kept, or used in or about the Property or the Facilities, except for such Hazardous Substance as is necessary or useful to the operation of the Facilities.
- The Board's Liability. If the Board fails to comply with any of the foregoing warranties, representations, and covenants, and removal or Remediation of any Hazardous Substance found on the Property or the Facilities is required by Environmental Requirements or Governmental Authority, the Board shall promptly undertake the removal or Remediation of such Hazardous Substance, at the Board's sole cost and expense. In the event the Board fails or refuses to undertake such removal or Remedial actions, the Corporation may cause the removal or Remediation (or other cleanup reasonable acceptable to the Corporation) of any such Hazardous Substance from the Property or the Facilities. The reasonable costs of removal, Remediation, or any other cleanup (including transportation and storage costs) will be considered as Additional Rental under this Facilities Lease, whether or not a court has ordered the cleanup, and those costs will become due and payable within ninety (90) days of written demand by the Corporation. In connection therewith, the Board will give the Corporation, its agents, and employees access to the Property and the Facilities to remove, remediate, or otherwise clean up any Hazardous Substance. The Corporation, however, has no affirmative obligation to remove, remediate, or otherwise clean up any Hazardous Substance, and this Facilities Lease will not be construed as creating any such obligation. The Board hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage, presence, release, disposal, removal or Remediation of any Hazardous Substance located in or about the Facilities by the Board.
- (c) The Board shall indemnify, defend and hold the Corporation harmless from and against any and all losses, claims, demands, actions, suits, damages, expenses and costs which are brought or recoverable against, or suffered or incurred by the Corporation resulting or arising from the breach of or noncompliance by the Board with the provisions of this Section 19.

#### Section 20. <u>The Corporation's Reservation of Rights.</u>

- (a) The Corporation hereby reserves all of its rights to recover from the Board for any and all Claims asserted against the Corporation, including Litigation Expenses arising out of or by reason of:
- (i) any injury to or death of any person or damage of property occurring on or about the Facilities occasioned by or growing out of or arising or resulting from any tortious or negligent act on the part of the Board in connection with the lease, the operation and management of the Facilities; or
- (ii) any failure, breach, or default on the part of the Board in the performance of or compliance with any of the obligations of the Board under the terms of this Facilities Lease.
- (b) Notwithstanding the fact that it is the intention of the parties that the Corporation shall not incur any pecuniary liability by reason of the terms of this Facilities Lease or the undertakings required of the Corporation hereunder, nevertheless, if the Corporation should incur any such pecuniary liability, then in that event, the Corporation shall be entitled to assert all rights and remedies granted in law or in equity to recover from the Board the amount of any pecuniary liability incurred by the Corporation, plus all Litigation Expenses incurred in defense of such liability.
- (c) No recourse shall be had for the enforcement of any obligation, covenant, or agreement of the Corporation contained in this Facilities Lease or any Claim based thereon against the Corporation of any successor thereto or member thereof, either directly or through the Corporation whether by virtue of any constitutional provision, statute, or rule of law. This Facilities Lease and the obligations of the Corporation hereunder, and any Claim asserted against the Corporation are solely corporate obligations, and the enforcement of any obligation or Claim shall be limited solely to the Corporation's interest in the Facilities. No personal liability shall attach to, or be incurred by, any officer, director, agent, employee or member of the Corporation and the Board acknowledges that all personal liability of any character against every such officer, director, agent, employee or member by the execution of this Facilities Lease is expressly waived and released, except to the extent that such liability relates to any criminal act, intentional misconduct, or fraud. The immunity of any officer, director, agent, employee or member of the Corporation under the provisions contained in this Section 20 shall survive any acquisition of the Facilities by the Board and the expiration or other termination of this Facilities Lease.

#### Section 21. Default by Board.

If (i) the Board, on behalf of the University, shall fail to deposit with the Trustee any Base Rental payment required to be so deposited pursuant to Section 6 hereof by the close of business on the day such deposit is required pursuant to Section 6 hereof, or (ii) the Board shall fail to pay or discharge any monetary obligation under this Facilities Lease (other than the payment of Base Rental) as and when due, or within thirty (30) days after receipt of Notice from the Corporation that such sums are due and owing; or (iii) the Board shall breach any nonmonetary terms, covenants or conditions herein, and shall fail to remedy any such breach with all reasonable dispatch within a period of time (or such longer period as the Trustee may approve) after written notice thereof from the Corporation or the University to the Board, then and in any such event (each, an "Event of Default") the Board shall be deemed to be in default hereunder, and the Corporation shall have the right, without any further demand or notice, to terminate this Facilities Lease on the earliest possible date permitted by law or on any later date specified in any Notice given to the Board, in which case, the Board's right to possession of the Facilities will cease and this Facilities Lease will be terminated, without, however, waiving the Corporation's right to collect all Rental and other payments due or owing for the period up to the time the Corporation regains possession, and to enforce other obligations of the Board which survive termination of this Facilities Lease, and in such event the Corporation may without any further demand or notice reenter the Facilities and eject all parties in

possession thereof. The foregoing remedies of the Corporation are in addition to and not exclusive of any other remedy of the Corporation available by law. Any such reentry shall be allowed by the Board without hindrance, and the Corporation shall not be liable in damages for any such reentry or be guilty of trespass. The Corporation understands and agrees that upon its termination of the Board's right to possession of the Facilities or termination of this Facilities Lease, the Corporation, upon its reentry of the Facilities, shall be allowed to use and re-let the Facilities solely for the Permitted Use and shall be subject to all applicable Governmental Regulations heretofore or hereafter enacted by any Governmental Authority relating to the use and operation of the Facilities.

- (b) Notwithstanding any other provision of this Facilities Lease, (i) in no event shall the Corporation have the right to accelerate the payment of any Base Rental payment hereunder and (ii) the Trustee shall have a period of sixty (60) days or such longer period, as shall be necessary in the exercise of reasonable diligence to remedy or cause to be remedied any Event of Default hereunder. The Trustee shall have the curative rights stated herein but shall not have any obligation to exercise any such rights or cure any default of the Board.
- Section 22. Cumulative Remedies. Each right and remedy provided for in this Facilities Lease is cumulative and is in addition to every other right or remedy provided for in this Facilities Lease or now or after the Commencement Date existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Corporation of anyone or more of the rights or remedies provided for in this Facilities Lease or now or after the Commencement Date existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the Corporation of any or all other rights or remedies provided for in this Facilities Lease or now or after the Commencement Date existing at law or in equity or by statute or otherwise. All costs incurred by the Corporation in collecting any amounts and damages owing by the Board pursuant to the provisions of this Facilities Lease or to enforce any provision of this Facilities Lease, including reasonable Litigation Expenses from the date any such matter is turned over to an attorney, whether or not one or more actions are commenced by the Corporation, will also be recoverable by the Corporation as Additional Rental from the Board. The waiver by the Corporation of any term, covenant or condition hereof shall not operate as a waiver by the Board of any breach by the Corporation of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.
- Section 23. Option to Purchase. For and in consideration of the obligations of the Board under this Facilities Lease, the mutual undertakings of the parties, the receipt and adequacy of which is hereby acknowledged, the Corporation grants to the Board an exclusive and irrevocable Option to Purchase for the price and on the terms, provisions, stipulations and conditions hereinafter set forth, all but not less than all of the Corporation's interest in the Facilities.
- (a) Effective Date. The effective date of this Option to Purchase shall be the Commencement Date.
- (b) *Term of Option*. The Option shall expire at midnight Central Time, on the Expiration Date, or upon the termination of this Facilities Lease, whichever occurs first.
- (c) Limitation on Exercise of Option. The Board may not exercise the Option, and the Option shall be voidable, at the sole election of the Corporation, if an Event of Default by the Board has occurred and is continuing under this Facilities Lease, and the applicable time period in which the Board may cure such default has expired. Notwithstanding any provision of this Option to the contrary, the Board shall be entitled to exercise the Option as long as the Board is legally obligated to make payments of Base Rental under this Facilities Lease.

- (d) Exercise of Option. The Board may exercise the Option herein granted at any time on or before expiration of the Term of the Option, on any date by defeasance of the Bonds pursuant to Article XII of the Indenture, by Notice to the Corporation of its election to exercise the Option and purchase the Facilities given not less than sixty (60) days prior to the date on which the Board desires to purchase the Facilities and deposit the Purchase Price (as hereinafter defined) with the Trustee.
- (e) *Purchase Price*. The purchase price shall be equal to the principal of all Bonds then Outstanding plus the interest to accrue on such Bonds until the purchase date, plus any prepayment penalties, charges or costs for early prepayment or defeasance of the Bonds and to discharge the Indenture pursuant to Section 12.1 of the Indenture and any Administrative Expenses owed prior to the purchase date (collectively, the "*Purchase Price*").
- (f) *Effect on Facilities Lease*. Upon the purchase of the Corporation's interest in the Facilities by the Board pursuant to this Option, the Facilities Lease and the Ground Lease shall terminate.
- (g) Payment of Purchase Price. The Board, concurrently with the giving of notice of its intention to exercise the Option herein granted, shall deposit an amount equal to the Purchase Price with the Trustee.
- (i) Conveyance. In the event of and upon the payment of the Purchase Price and any other sums due under this Facilities Lease by the Board, the Corporation will, on the purchase date, execute and deliver to the Board a written cancellation of the Ground Lease and this Facilities Lease.
- (ii) Assignment of Contract Rights and Obligations. The conveyance of any title to the Facilities shall also effect a transfer and assignment of all rights, warranties and liability of the Corporation under then existing contracts of any nature with respect to ownership of the Facilities.
- (h) Closing. In the event the Board elects to exercise the Option timely, notice of the Board's election to the Corporation shall constitute an irrevocable conversion of the Option into a binding obligation of the Corporation to sell the Corporation's interest in the Facilities and the Board to purchase the Corporation's interest in the Facilities under the terms and conditions set forth in this Section 23, and in such event, the Corporation and the Board shall have the right to demand specific performance of this Option by the other. The Closing shall occur within 60 days of the exercise, by the Board, of the Option at the offices of the Board or its counsel, or at such other time, place, and date as agreed upon by the Corporation and the Board.
- (i) Closing Costs. The Board shall pay all closing costs and charges incident to the conveyance of the Facilities.
- (j) No Warranty. The Corporation shall convey its interest in the Facilities without any warranty whatsoever of any nature. The conveyance of the Corporation's interest in the Facilities shall be without any warranty as to fitness and condition, as set forth in Section 5 of this Facilities Lease. Language substantially similar to the language contained in Section 5 of this Facilities Lease shall be incorporated into and made a part of the act translative of title. In no event shall the Corporation be responsible for any defects in title to the Facilities.

## (k) Default under the Option.

(i) In the event the Option is exercised, and the Corporation fails to consummate the transaction contemplated herein for any reason, except default by the Board or the failure of the Board to satisfy any of the conditions set forth herein, the Board, may, in addition to any other rights and remedies

which may otherwise be available to the Board, enforce this Option by specific performance. The Board's remedies under this Section are expressly subject to the provisions of Section 31 of this Facilities Lease.

- (ii) In the event the Option is exercised, and the Board fails to consummate the transactions contemplated herein for any reason, except default by the Corporation or the failure of the Corporation to satisfy any of the conditions set forth herein, the Corporation (a) may enforce this Option by specific performance and in such action shall have the right to recover damages suffered by reason of the Board's delay in acquiring the Corporation's interest in the Facilities; or (b) may bring suit for damages for breach of this Option.
- (iii) No delay or omission in the exercise of any right or remedy accruing to either party upon any breach by the other party under this Option shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by either party of any condition or any subsequent breach of the same or any other term, covenant or condition herein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained.
- (1) Attorney's Fees. Should either party employ an attorney or attorneys to enforce any of the provisions hereof, or to protect its interest in any matter arising under this Option, or to recover damages for the breach of this Option, the party prevailing in any final judgment have the right to collect from the losing party all reasonable attorney's fees and other costs and expenses incurred in enforcing such rights.
- (m) *Notices*. Any notices required or permitted hereunder shall be in writing and delivered either in person to the other party, or the other party's authorized agent, or by United States Certified Mail, return receipt requested, postage prepaid, to the address set forth in Section 55 of this Facilities Lease, or to such other address as either party may designate in writing and delivered as herein provided.
- (n) Assignability. Except as set forth in the Indenture, the Assignment, or the Ground Lease, the Option may not be assigned by the Corporation or the Facilities sold (subject to the Option or otherwise) to any person or entity without the Board's prior written consent, which consent may be withheld by the Board in its sole discretion.
- (o) *Brokerage Commission*. The Corporation and the Board mutually warrant to one another that neither has incurred or will incur the services of a broker, realtor, or other person in the negotiation or confection of this Option or the exercise thereof.
  - (p) *Time of Essence*. Time is of the essence of this Option.
- (q) Binding Effect. This Option shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, successors and assigns.
- Section 24. <u>Severability</u>. If any provisions of this Facilities Lease shall be invalid inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable, to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or Sections contained in this Facilities Lease shall not affect the remaining portions of this Facilities Lease, or any part thereof.

Section 25. Redemption of Bonds. The Corporation agrees that it will not exercise its option to redeem any Bonds pursuant to the Agreement unless the Board consents to such redemption or such redemption is to be effected with moneys derived from a source other than payments made by the Board under this Facilities Lease; however, in no event shall the mandatory redemption of any Bonds pursuant to the Indenture require the consent of the Board. The Corporation further agrees that if requested by the Board it will take all actions necessary to redeem all or any portion of the Bonds designated by the Board on the first date that it may do so under the terms of the Indenture so long as the Board agrees to provide funds in an amount, and at the time, required to effect such redemption.

#### Section 26. Additional Debt.

- (a) Upon the request and at the expense of the Board, the Corporation shall take action as may be required to effect issuance of Additional Debt in such amount as the Board may request as permitted by and in accordance with the provisions of the Indenture and this Facilities Lease for any purpose permitted thereby. Neither the Corporation, the University nor the Board will issue or incur or permit to be issued and incurred any Additional Debt, unless each of the following conditions have been satisfied:
- (i) no Event of Default as provided herein and in the Indenture shall have occurred and be continuing (unless such Event of Default or other event would be cured by such issuance or incurrence) or will occur upon the issuance or incurrence by the Board of any such obligations; and
- (ii) the Debt Service Coverage Ratio for the most recently completed Fiscal Year, taking into account the Additional Debt proposed to be issued or incurred, is equal to at least 1.50 times the amount required for payment of the Debt Service Requirements and a certificate executed by a Board Representative certifying and setting forth in sufficient detail the computation thereof shall be filed with the Trustee.
- (b) Subordinated long term debt or long term payment obligations secured by the Student Fee Revenues may be issued at any time, for any lawful purpose, payable out of, and which may be secured in whole or in part by the Student Fee Revenues as may from time to time be available for the purposes of payment thereof; provided that such pledge shall be subordinate and junior in all respects to the payment of Base Rental.
- Section 27. Rate Maintenance Covenant. The Board covenants that, so long as any of the Bonds remain Outstanding, it will use its best efforts to establish and maintain the levy and collection of fees, rates, receipts, fines and charges, or impose additional fees, as will be necessary to ensure that the Student Fee Revenues will equal no less than [\_\_\_] times the amount required for payment of the Debt Service Requirements hereunder and payment of Current Expenses. If the Student Fee Revenues fall below [\_\_\_\_\_], the Board shall hire an outside consultant and the Board shall follow any reasonably feasible recommendations of such consultant regarding the operation and management of the Facilities, including raising fees, rates, receipts, fines and charges, and reducing expenses. So long as the Board is working in good faith with such consultant to increase any deficient Debt Service Coverage Ratio, there shall not be an Event of Default hereunder unless the Student Fee Revenues are less than the amount required for payment of the payment of the Debt Service Requirements hereunder, and payment of Current Expenses and to make all other payments as are required under this Facilities Lease. The Board further covenants that it will seek any required approval necessary in order to comply with this covenant.
- Section 28. <u>Execution</u>. This Facilities Lease may be simultaneously executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and all of which together shall constitute one and the same Facilities Lease.

Section 29. <u>Law Governing</u>. This Facilities Lease is made in the State of Louisiana under the Constitution and laws of the State of Louisiana and is to be governed by the laws of the State of Louisiana.

### Section 30. Non-designation of Funds and Financial Information Reporting Covenant.

- In the event that in any Fiscal Year no funds or insufficient funds are designated by the Board in the routine annual budget submission to the Board by the University to enable the payment of Base Rental and Additional Rental due during the next succeeding Fiscal Year, the Board will immediately notify the Corporation and the Trustee of such occurrence. On the first day of the month following the Base Rental payment date on which the last payment of Base Rental can be made in full from budgeted funds, the Facilities Lease may terminate without penalty or expense to the Board of any kind whatsoever, except as to payments herein agreed upon for Fiscal Years for which sufficient funds have been lawfully designated. In the event of such termination, the Board agrees peaceably to surrender possession of the Facilities to the Corporation on the date of such termination in its original condition (normal wear and tear excepted). The Corporation will have all legal and equitable rights and remedies to take possession of the Facilities and re-let the Facilities as the Corporation determines and as granted in this Facilities Lease. The Board acknowledges that the Corporation's rights to take possession and to re-let the Facilities under this Section 30 shall be assigned to the Trustee for the benefit of the owners of the Bonds, and the Board agrees that the Trustee shall be entitled to exercise all of the rights of the Corporation under this Section 30. This provision is operative notwithstanding any provisions of this Facilities Lease to the contrary. The Board shall be considered in default hereunder if sufficient Student Fee Revenues have been generated or funds are available to the University and the Board fails to designate funds so budgeted by the University for the payment of Rental. In such event, the Corporation shall be entitled to the rights and remedies set forth in Sections 22 and 23 hereof.
- (b) Upon the termination of the Facilities Lease and in the event the University is no longer operating the Facilities, all Rentals shall be collected by or on behalf of the Corporation. The Corporation shall or shall cause all Rentals collected by it to be deposited with the Trustee no later than the Business Day immediately following the day of collection.
- Board in the routine annual budget submission to the Board by the University to enable the payment of Base Rental and Additional Rental due during the next succeeding Fiscal Year, such failure shall be considered an additional Event of Default hereunder and the Board shall promptly report such Event of Default to all nationally recognized rating agencies and shall file a notice of same with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system (or any successor continuing disclosure vehicle). In the event that in any Fiscal Year sufficient Student Fee Revenues have been generated or funds are available to the University and the Board fails to designate funds so budgeted by the University for the payment of Base Rental and Additional Rental due hereunder, such failure shall be considered an additional Event of Default hereunder and the Board shall promptly report such Event of Default to all nationally recognized rating agencies and shall file a notice of same with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system (or any successor continuing disclosure vehicle).
- (d) As soon as available, and in any event within 210 days after the end of the Corporation's and the Board's Fiscal Years, the annual audited financial statements for the Board and the Corporation together with opinions of their independent accountants and a No Default certificate from each entity relative to the covenants contained in the Board Documents and the Agreement are to be provided to the Lender.

#### Section 31. Exculpatory Provision/In Rem Obligation.

- (a) In the exercise of the powers of the Corporation and its trustees, officers, employees and agents under this Facilities Lease and the Indenture, the Corporation shall not be accountable or liable to the Board (i) for any actions taken or omitted by its officers, directors, employees or agents in good faith and believed by it or them to be authorized or within their discretion or rights or powers conferred upon them, or (ii) for any claims based on this Facilities Lease against any officer, employee or agent of the Corporation in his or her personal capacity, all such liability, if any, being expressly waived by the Board by the execution of this Facilities Lease, except to the extent that such liability relates to any criminal act, intentional misconduct or fraud. Nothing in this Facilities Lease or the Indenture is intended to require or obligate, nor shall anything herein or therein be interpreted to require or obligate, the Corporation for any purpose or at any time whatsoever, to provide, apply or expend any funds coming into the hands of the Corporation other than the funds derived from the issuance of the Bonds under the Indenture and moneys derived pursuant to the Indenture and this Facilities Lease.
- (b) The Board specifically agrees to look solely to the Corporation's interest in the Facilities for the recovery of any judgments from the Corporation. It is agreed that the Corporation will not be personally liable for any such judgments, or incur any pecuniary liability as a result of this Facilities Lease to the Board, or the breath of its obligations hereunder. The Corporation's liability under this Facilities Lease is "in rem" as to its interest in the Facilities. The provision contained in the preceding sentences are not intended to and will not limit any right the Board might otherwise have to obtain injunctive relief against the Corporation or relief in any suit or action in connection with enforcement or collection of amounts that may become owing or payable under or on account of insurance maintained by the Corporation.
- Section 32. <u>Amendments</u>. This Facilities Lease may be amended only as permitted herein and in the Indenture. The Board and the Corporation agree to execute in recordable form a memorandum of this Facilities Lease in the form of Exhibit B attached hereto to be filed for record in Ouachita Parish, Louisiana.
- Section 33. Recording. The Corporation covenants and agrees that it will promptly record and from time to time rerecord a memorandum in recordable form of this Facilities Lease and all supplements thereto and hereto in such manner and in such places as may be required by law in order to fully protect and preserve the security of the holders or owners of the Bonds.
- Section 34. <u>No Construction Against Drafting Party</u>. The Corporation and the Board acknowledge that each of them and their counsel have had an opportunity to review this Facilities Lease and that each Party was responsible for the drafting thereof.
- Section 35. <u>Time of the Essence</u>. Time is of the essence of each and every provision of this Facilities Lease.
- Section 36. No Waiver. The waiver by the Corporation of any agreement, condition or provision contained in this Facilities Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision contained in this Facilities Lease, nor will any custom or practice that may arise between the Parties in the administration of the terms of this Facilities Lease be construed to waive or to lessen the right of the Corporation to insist upon the performance by the Board in strict accordance with the terms of this Facilities Lease. The subsequent acceptance of Rental by the Corporation will not be deemed to be a waiver of any preceding breach by the Board of any agreement, condition, or provision of this Facilities Lease, other than the failure of the Board to pay the particular Rental so accepted, regardless of the Corporation's knowledge of such preceding breach at the time of acceptance of such Rental.
- Section 37. <u>Survival</u>. To the extent permitted by law and to the extent such will not constitute the incurrence of debt by the Board, all of the Corporation's remedies and rights of recovery under Sections 20, 21 and 22 of this Facilities Lease and the Board Insurer's rights of recovery under

- Section 13.10 of the Indenture shall survive the Term and/or the purchase of the Facilities by the Board under the Option.
- Section 38. <u>Counterparts</u>. This Facilities Lease may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.
- Section 39. <u>Estoppel Certificates</u>. At any time and from time to time, but within 10 days after prior written request by the Corporation, the Board will execute, acknowledge, and deliver to the Corporation, promptly upon request but only to the extent accurate, a certificate certifying (i) that this Facilities Lease is unmodified and in full force and effect or, if there have been modifications, that this Facilities Lease is in full force and effect, as modified, and stating the date and nature of each modification; (ii) the date, if any, to which Rental and other sums payable under this Facilities Lease have been paid; (iii) that no Notice of any default has been delivered to the Corporation which default has not been cured, except as defaults specified in said certificate; (iv) that there is no Event of Default under this Facilities Lease or an event which, with Notice or passage of time, or both, would result in an Event of Default under this Facilities Lease, except for defaults specified in said certificate; and (v) such other matters as may be reasonably requested by the Corporation. Any such certificate may be relied upon by any prospective purchaser or existing or prospective mortgagee of the Facilities or any part thereof. The Board's failure to notify the Corporation of any inaccuracies in the proposed certificate within the specified time period shall be conclusive evidence that the matters set forth in the certificate are accurate and correct.
- Section 40. <u>Waiver of Jury Trial</u>. The Corporation waives trial by jury in any action, proceeding, or counterclaim brought by either of the Parties to this Facilities Lease against the other on any matters whatsoever arising out of or in any way connected with this Facilities Lease, the relationship of the Corporation and the Board, the Board's or the University's use or occupancy of the Facilities, or any other Claims arising hereunder.
- Section 41. <u>Written Amendment Required.</u> No amendment, alteration, modification of, or addition to the Facilities Lease will be valid or binding unless expressed in writing and signed by the Corporation and the Board.
- Section 42. <u>Entire Agreement</u>. This Facilities Lease and the exhibits and addenda, if any, contain the entire agreement between the Corporation and the Board. No promises or representation, except as contained in this Facilities Lease, have been made to the Board respecting the condition or the manner of operating the Facilities.
- Section 43. <u>Signs</u>. The Board or the University may attach any sign on any part of the Facilities, or in the halls, lobbies, windows, or elevator banks of the Facilities, without the Corporation's approval. The Board may name the Facilities and change the name, number, or designation of the Facilities, without the Corporation's prior consent.
- Section 44. <u>Litigation Expenses</u>. The Board will pay the Corporation as Additional Rental all reasonable Litigation Expenses and all other reasonable expenses which may be incurred by the Corporation in enforcing any of the obligations of the Board under this Facilities Lease, in exercising its rights to recover against the Board for loss or damage sustained in accordance with the provisions of this Facilities Lease, or in any litigation or negotiation in which the Corporation shall, without its fault, become involved through or because of this Facilities Lease.
- Section 45. <u>Brokers</u>. The Corporation and the Board respectively represent and warrant to each other that neither has consulted or negotiated with any broker or finder with regard to the Facilities.

- Section 46. <u>No Easements for Air or Light</u>. Any diminution or shutting off of light, air, or view by any structure that may be erected on any of the lands constituting the Facilities, or on lands adjacent to the Facilities, will in no way affect this Facilities Lease or impose any liability on the Corporation. This Facilities Lease does not grant any rights to light, view, and/or air over the Facilities whatsoever.
- Section 47. <u>Binding Effect</u>. The covenants, conditions, and agreements contained in this Facilities Lease will bind and inure to the benefit of the Corporation and the Board and their respective permitted successors and assigns.
- Section 48. <u>Facilities Lease to Constitute a Contract</u>. This Facilities Lease, upon execution by the Board and the Corporation shall constitute a third party beneficiary contract between the Board and the Corporation for the benefit of the owners of all Bonds issued hereunder and the Trustee, for the benefit of the owners of all the Bonds hereunder.
- Section 49. Rules of Interpretation. The following rules shall apply to the construction of this Facilities Lease unless the context requires otherwise: (a) the singular includes the plural and the plural includes the singular; (b) words importing any gender include the other genders; (c) references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute to which reference is made and all regulations promulgated pursuant to such statutes; (d) references to "writing" include printing, photocopy, typing, lithography and other means of reproducing words in a tangible visible form; (e) the words "including," "includes" and "include" shall be deemed to be followed by words "without limitation;" (f) references to the introductory paragraph, preliminary statements, articles, sections (or subdivision of sections), exhibits, appendices, annexes or schedules are to those of this Facilities Lease unless otherwise indicated; (g) references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments; (h) references to Persons include their respective successors and assigns to the extent successors or assigns are permitted or not prohibited by the terms of this Facilities Lease; (i) any accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles; (j) "or" is not exclusive; (k) provisions apply to successive events and transactions; (l) references to documents or agreements which have been terminated or released or which have expired shall be of no force and effect after such termination, release, or expiration; (m) references to mail shall be deemed to refer to first-class mail, postage prepaid, unless another type of mail is specified; (n) all references to time shall be to Monroe, Louisiana time; (o) references to specific persons, positions, or officers shall include those who or which succeed to or perform their respective functions, duties, or responsibilities; and (p) the terms "herein," "hereunder," "hereby," "hereof," and any similar terms refer to this Facilities Lease as a whole and not to any particular articles, section or subdivision hereof.
- Section 50. <u>Relationship of Parties</u>. The relationship of the Parties shall be one of lessor and lessee only, and shall not be considered a partnership, joint venture, license arrangement or unincorporated association. The Corporation is not controlled by the Board or under the control of any Person also in control of the Board.
- Section 51. <u>Law Between the Parties</u>. This Facilities Lease shall constitute the law between the Parties, and if any provision of this Facilities Lease is in conflict with the provisions of "Title IX Of Lease" of the Louisiana Civil Code, Articles 2669 through 2777, inclusive, the provisions of this Facilities Lease shall control.
- Section 52. <u>Most Favored Lender</u>. The parties represent and warrant that if they enter into any agreement with another credit provider secured by or payable from the Student Fee Revenues (or an amendment or restatement of any such credit agreement) that includes financial covenants more restrictive than those provided to the Lender in connection with the Bonds, then the financial covenants from such

other credit agreement shall be deemed incorporated into this Facilities Lease, but only so long as the other agreement remains.

Section 53. Role of Lender. The parties hereby acknowledge that the Lender and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to the Indenture and this Agreement and any other information, materials or communications provided by the Lender: (a) the Lender and its representatives are not recommending an action to any municipal entity or obligated person; (b) the Lender and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to this Indenture, information, materials or communications; (c) the Lender and its representatives are acting for their own interests; and (d) the Issuer and the Corporation have been informed that the Issuer and the Corporation should discuss this Indenture and any such other information, materials or communications with any and all internal and external advisors and experts that the Issuer and the Corporation, respectively, deem appropriate before acting on this Indenture or any such other information, materials or communications.

Section 54. The U.S. Patriot Act. The parties hereto represent to the Lender that neither they nor any of their principals, shareholders, members, partners, or Affiliates, as applicable, is a Person named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of any such person. The parties further represent and warrant to the Lender that they or their principals, shareholders, members, partners, or Affiliates, as applicable, are not directly or indirectly, engaged in, nor facilitating, the transactions contemplated by this transaction on behalf of any Person named as a Specially Designated National and Blocked Person.

Section 55. <u>Notices</u>. All notices, filings and other communications ("*Notice*") shall be in writing and shall be sufficiently given and served upon the other parties if delivered by hand directly to the persons at the addresses set forth below, or shall be sent by first class mail, postage prepaid, addressed as follows:

The Corporation: University of Louisiana Monroe Facilities, Inc.

c/o University of Louisiana at Monroe

Library 6<sup>th</sup> Floor, Suite 623 700 University Avenue Monroe, Louisiana 71209

Attention: Vice President for Business Affairs

The Board: Board of Supervisors for the University of Louisiana System

Claiborne Building, Suite 7-300

1201 North Third Street

Baton Rouge, Louisiana 70802

Attention: Vice President of Business and Finance

The University: University of Louisiana at Monroe

Library 6th Floor, Suite 623 700 University Avenue

Monroe, Louisiana 71209-2000

Attention: Vice President for Business Affairs

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THUS DONE AND PASS	ED on the day of, 2023, in Monroe, Louisiana in the
	a competent witnesses, who herewith sign their names with Dan W.
Robertson, Chairman of University	of Louisiana Monroe Facilities, Inc., and me, Notary.
WITNESSES:	UNIVERSITY OF LOUISIANA MONROE FACILITIES, INC.
Print Name:	By: Dan W. Robertson, Chairman
Print Name:	<del></del>
Time I value.	
	<del></del>
	NOTARY PUBLIC
Pr	int Name:
	Notary ID #
	My Commission is for Life
presence of the undersigned, both of	BED on the day of, 2023, in Monroe, Louisiana in the competent witnesses, who herewith sign their names with Ronald Berry, siana at Monroe and Board Representative, and me, Notary.  BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM
D: N	
Print Name:	
	By: Ronald Berry, President
	University of Louisiana at Monroe
	Board Representative
Print Name:	
Time Name.	<del></del>
	NOTARY PUBLIC
Pr	int Name:
	Notary ID #
	My Commission is for Life

## EXHIBIT A

## **DESCRIPTIONS OF IMPROVEMENTS**

Athletic Improvements include, but are not limited to:

- Artificial turf at the University's football stadium
- A football video board
- A basketball video board
- LED lighting for football, baseball and softball,
- Beach volleyball upgrades

# EXHIBIT B

# FORM OF MEMORANDUM OF AGREEMENT TO LEASE WITH OPTION TO PURCHASE

STATE OF LO	UISIANA	§ 8	WNOW ALL MEN DV THESE DESENTS.		
PARISH OF O	UACHITA	\$ \$ \$	KNOW ALL MEN BY THESE PRESENTS:		
		MEMOR	ANDUM OF LEASE		
Louisiana Mon			morandum") is entered into by and between University of or") and the Board of Supervisors for the University of		
		:	RECITALS		
Lessor, the immediate the improvement	1, 2023 (the "novable property mo	Lease") who bre particular e located the	d into an Agreement to Lease with Option to Purchase dated ereby Lessor did lease to Lessee, and Lessee did lease from rly described on Exhibit A attached hereto (the "Land") and ereon (the "Facilities") in connection with bonds issued to be Land.		
	es may have notice	of the partie	ter into this Memorandum, which is to be recorded in order es' rights under the Lease. All defined used herein but not ibed thereto in the Lease.		
		LE	EASE TERMS		
Specific referen	ice is hereby made to	o the follow	ing terms and provisions of the Lease:		
1.	The term of the LeasonLease.	ase commend 1, 20,	ced on1, 2023 and shall continue until midnight unless sooner terminated or extended as provided in the		
2.	Lessee has the right under the Lease to purchase Lessor's leasehold interest in the Facilities at any time during the term of the Lease in accordance with the provisions thereof.				
3.	Additional information concerning the provisions of the Lease can be obtained from the parties at the following addresses:				

Lessor: University of Louisiana Monroe Facilities, Inc.

c/o University of Louisiana at Monroe

Library 6<sup>th</sup> Floor, Suite 623 700 University Avenue Monroe, Louisiana 71209

Attention: Vice President for Business Affairs

Lessee: Board of Supervisors for the University of Louisiana System

1201 North Third Street, Suite 7-300 Baton Rouge, Louisiana 70802

Attention: Vice President for Business and Finance

This Memorandum is executed for the purpose of recordation in the public records of Ouachita Parish, Louisiana in order to give notice of all the terms and provisions of the Lease and is not intended and shall not be construed to define, limit, or modify the Lease. All of the terms, conditions, provisions and covenants of the Lease are incorporated into this Memorandum by reference as though fully set forth herein, and both the Lease and this Memorandum shall be deemed to constitute a single instrument or document.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

presence of the undersigned, be	SSED on the day of, 2023, in Monroe, Louisiana in the oth competent witnesses, who herewith sign their names with Dan W. ity of Louisiana Monroe Facilities, Inc., and me, Notary.
WITNESSES:	UNIVERSITY OF LOUISIANA MONROE FACILITIES, INC.
Print Name:	By: Dan W. Robertson, Chairman
Print Name:	
	NOTARY PUBLIC
	Print Name:
	Notary ID #
	My Commission is for Life
the presence of the undersigned	SSED on the day of, 2023, in Monroe, Louisiana in both competent witnesses, who herewith sign their names with Ronald y of Louisiana at Monroe and Board Representative, and me, Notary.  BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM
Print Name:	
	By: Ronald Berry, President University of Louisiana at Monroe Board Representative
Print Name:	
	NOTARY PUBLIC
	Print Name:
	Notary ID #
	My Commission is for Life

## EXHIBIT A

## DESCRIPTION OF LAND

[insert]

# BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM

#### FACILITIES PLANNING COMMITTEE

June 22, 2023

**Item I.15. University of New Orleans'** request for approval to dedicate a limited area of green space on campus between the University Center and the Recreations and Fitness Center as the "Dr. Gregory and Mary O'Brien Garden."

#### **EXECUTIVE SUMMARY**

The University of New Orleans requests that the limited area of green space on campus between the University Center and the Recreational and Fitness Center be dedicated as the "Dr. Gregory and Mary O'Brien Garden" in recognition of their significant economic, financial, and charitable contributions to the State of Louisiana, the City of New Orleans, and the University of New Orleans. The gifts of resources and service of Dr. and Mrs. O'Brien have greatly promoted the University's goals for continued excellence in academic programs and future student success.

Dr. Gregory M. St. L. O'Brien has been a leader in bringing together the academic and business communities to accomplish common goals. He served as the fourth Chancellor of the University of New Orleans from 1987 until 2003, where he also taught psychology and public affairs. During his 16-year tenure, UNO achieved national recognition for a sevenfold increase in external funding research, congressional funding for seven research centers, and development of a 3-D ship-design computing facility that was the result of a partnership with industry and the state. UNO continues to build on its tradition of public and private partnerships in economic, social, and educational development to prepare itself and the communities it serves for the demands of the 21st Century.

Dr. O'Brien has published and presented extensively in areas of higher education administration. Currently, Dr. O'Brien serves as President of The Higher Education Group, Inc., a consulting group focused on strategic planning, organizational strategy, accreditation, quality assurance, acquisitions, and joint ventures in higher education.

The commitment of Greg and Mary O'Brien to higher education institutions, and specifically to the University of New Orleans, has remained steadfast. His vision of the University's role as a primary engine of social, economic, intellectual, and cultural development in the New Orleans Region and beyond has become an integral part of the University's vision and mission.

## RECOMMENDATION

It is recommended that the following resolution be adopted:

**NOW, THEREFORE, BE IT RESOLVED,** that the Board of Supervisors for the University of Louisiana System hereby approves the University of New Orleans' request for approval to dedicate a limited area of green space on campus between the University Center and the Recreations and Fitness Center as the "Dr. Gregory and Mary O'Brien Garden."



May 19, 2023

James B. Henderson, PhD
President
University of Louisiana System
1201 North Third Street
Suite 7-300
Baton Rouge, LA 70802

Re: Dr. Gregory and Mary O'Brien Garden

Dear Dr. Henderson:

On behalf of the University of New Orleans, I am requesting that the attached proposal for dedication of a limited green space on the University of New Orleans campus as the *Dr. Gregory and Mary O'Brien Garden* be submitted to the University of Louisiana System Board of Supervisors for its consideration and approval.

Please feel free to contact me if you have any additional questions regarding this matter. You may reach me via email at jnicklow@uno.edu.

Sincerely,

John W. Nicklow, PhD

President

To: University of Louisiana System President James B. Henderson and members of the University of Louisiana Board of Supervisors

Date: May 19, 2023

Re: Dr. Gregory and Mary O'Brien Garden

#### 1. Summary

The University of New Orleans requests that the limited area of green space on campus between the University Center and the Recreational and Fitness Center be dedicated as the *Dr. Gregory and Mary O'Brien Garden* in recognition of the significant economic, financial, and charitable contributions of Dr. Gregory M. St. L. O'Brien, PhD and Mrs. Mary K. O'Brien to the State of Louisiana, the City of New Orleans and The University of New Orleans ("University"). The gifts of resources and service of Dr. and Mrs. O'Brien have greatly promoted the University's goals for continued excellence in academic programs and future student success.

Established in 1958, the University of New Orleans is a comprehensive urban research university and one of the region's foremost public resources. The University, as a global community asset, serves national and international students and enhances the quality of life in New Orleans, the nation and the world by participating in a broad array of research, service learning, cultural and academic activities.

Dr. Gregory M. St. L. O'Brien has been a leader in bringing together the academic and business communities to accomplish common goals. He served as the fourth Chancellor of the University of New Orleans from 1987 until 2003, where he also taught psychology and public affairs.

During his 16 year-tenure UNO achieved national recognition for a sevenfold increase in external funding research, congressional funding for seven research centers and development of a 3-D ship-design computing facility that was the result of a partnership with industry and the state. UNO continues to build on its tradition of public and private partnerships in economic, social, and educational development to prepare itself and the communities it serves for the demands of the 21<sup>st</sup> century.

Dr. O'Brien began his professional career on the faculty of the Harvard Medical School. He served on the faculty of Case Western Reserve University in Cleveland, Ohio, where he directed its Human Services Design Laboratory, and the University of Wisconsin, Milwaukee, where he served as dean and professor in the School of Social Welfare. Dr. O'Brien was provost and professor of psychology at the University of Michigan at Flint, and from 1980 until his appointment as UNO chancellor, he served the University of South Florida as provost and vice president for academic affairs.

Dr. O'Brien holds bachelor's and honorary doctoral degrees from Lehigh University and master's and doctoral degrees in psychology from Boston University. In 1999 he was chosen New Orleanian of the Year by Gambit Weekly magazine and served as Interim Superintendent of New Orleans Public Schools in 1999. In May 2000, he was inducted into the Junior Achievement of Greater New Orleans Business Hall of Fame. He is a former chairman of the NCAA Presidents Commission and is a nationally recognized leader in intercollegiate athletic reform. Dr. O'Brien has been awarded honorary degrees from Lehigh University and Western State University College of Law, He was awarded the US Navy's Meritorious Service Award.

Dr. O'Brien has published and presented extensively in areas of higher education administration, for-profit higher education, educational policy, economic development, organizational social psychology, inter-organizational relations, mental health and human services, international business and management, and information and research utilization. Currently, Dr. O'Brien serves as President of The Higher Education Group, Inc., a consulting group focused on strategic planning, organizational strategy, accreditation, quality assurance, acquisitions, and joint ventures in higher education.

The commitment of Greg and Mary O'Brien to higher education institutions, and specifically to the University of New Orleans, has remained steadfast. His vision of the University's role as a primary engine of social, economic, intellectual, and cultural development in the New Orleans Region and beyond has become an integral part of the University's vision and mission.

### 2. Budget Note

Not applicable. The cost of any plaques or other expense related to the naming will be paid for with non-state funds.

#### 3. Related Documents

This proposal is in compliance with University of Louisiana Board of Supervisors: C-VI Facilities Planning