

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010**

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<b>TAB</b>	<b>DESCRIPTION</b>	<b>ACTION</b>
<b>1</b>	<b>BOISE STATE UNIVERSITY</b> Capital Project Request – COBE Building	Motion to approve
<b>2</b>	<b>BOISE STATE UNIVERSITY</b> Ground Lease Review - ACC	Information item
<b>3</b>	<b>UNIVERSITY of IDAHO</b> Kibbie Activity Center – Dome Enhancements – Design Phase	Motion to approve
<b>4</b>	<b>UNIVERSITY of IDAHO</b> Kibbie Dome – Life Safety Project – East Wall Replacement	Motion to approve
<b>5</b>	<b>UNIVERSITY of IDAHO</b> Bond Issuance	Motion to approve
<b>6</b>	<b>UNIVERSITY of IDAHO</b> Property Easement – Bus Shelter	Motion to approve
<b>7</b>	<b>UNIVERSITY of IDAHO</b> Contract for Dining Services	Motion to approve
<b>8</b>	<b>LEWIS-CLARK STATE COLLEGE</b> Property Sale	Motion to approve
<b>9</b>	<b>LEWIS-CLARK STATE COLLEGE</b> Property Purchase	Motion to approve

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**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010**

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<b>TAB</b>	<b>DESCRIPTION</b>	<b>ACTION</b>
<b>10</b>	<b>2009 FINANCIAL REVIEWS</b>	Information item
<b>11</b>	<b>AMENDMENT TO BOARD POLICY</b> Section V.K. – Construction Projects 1st Reading	Motion to approve
<b>12</b>	<b>AMENDMENT TO BOARD POLICY</b> Section V.B., Budget Policies – Occupancy Costs, 1st Reading	Motion to approve
<b>13</b>	<b>AMENDMENT TO BOARD POLICY</b> Section I.N.1. - Reimbursement Policy, 2nd Reading	Motion to approve
<b>14</b>	<b>AMENDMENT TO BOARD POLICY</b> Section V.W. – Litigation, 2nd Reading	Motion to approve

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**BOISE STATE UNIVERSITY**

**SUBJECT**

Construction approval for new College of Business and Economics Building

**REFERENCE**

October 2005	Board approved Campus Master Plan Update
February 2007	Capital project financing update
February 2008	Capital project financing update
April 2008	Increase in Strategic Facilities fee approved for new College of Business and Economics building
April 2009	Board approves planning and design for new College of Business and Economics at a cost not to exceed \$3,000,000

**APPLICABLE STATUTE, RULE OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.K.1.

**BACKGROUND/DISCUSSION**

Fundraising efforts for a new College of Business and Economics (COBE) building began in the late 1990's. At that time a general understanding of the needs of the growing program and the scope of the building were developed through campus discussion. The building was incorporated in the 2005 Master Plan and has since been included in the comprehensive financing plan for major capital improvements. The new COBE building is a significant undertaking for the Boise State University campus. Given its prominent location at the corner of Capitol Boulevard and University Drive, the building will become a landmark in the city landscape and will mark the western main entrance to the campus.

In September 2008 the University initiated a programming study to determine the appropriate size and type of functional space needed to support the college's operations in a new facility. In April 2009 the Board approved a request for the planning and design of the new COBE building. The Department of Public Works was authorized to secure design services and an architectural design team was selected and has completed preliminary design.

The new COBE building is designed to effectively address the current and future growth needs of the College. The building will provide approximately 71,324 assignable square feet of space for the departments of Accounting, Network Operations and Information Systems, Economics, Management, Marketing and Finance. It will incorporate modern and innovative instructional facilities including: case-study rooms, classrooms, computer labs, a high-tech financial trading center, student services center, and team rooms. There will also be offices and meeting spaces to support faculty interaction and research efforts, and spaces are planned for outreach to and support of the local business community. Design

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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development documents show the building to be approximately 117,312 gross square feet. A summary of the space types with assignable and gross areas is included as Attachment # 1.

**IMPACT**

Cost estimates based on the design development documents indicate a construction cost of \$28,870,000. Contingencies, architectural and engineering fees, commissioning, testing, and other administrative and soft costs brings the estimated total project cost to \$37,000,000. This project will be brought back to the Board for financing approval prior to contract award.

Portions of the work, including the build out of the second level above the lecture hall, will be bid as alternates in an effort to assure a successful award within the budget. Even with the margin which additive alternates may provide, continuing volatility and inflation create risk for the University. Accordingly the University has incorporated contingency funds into the estimated project cost should they be necessary to award the bid. In the event that bid results come in below estimates, the University may proceed with the purchase and installation of furniture, fixtures and equipment for this project within the budget authorized by the Board.

The funding for the project leverages the strategic facility fee by utilizing several additional funding sources. The Foundation expects to receive cash donations totaling \$14,500,000 by March 31, 2010, with additional pledges totaling \$3,000,000 for a total of \$17,500,000.

Additionally, the COBE Building is the first academic project to benefit from the Academic Capital Project Fund (ACPF). The ACPF was created during the development of the Stueckle Sky Center and is funded by athletic revenues resulting in the athletic department revenues funding some of the construction costs for the new College of Business.

The projected funding package is as follows:

Gifts and Pledges (cash on hand):	\$14,500,000
Strategic Facilities Fee Bonds:	14,000,000
Bond Proceeds Reallocation:	4,000,000
Bond Reserves and ACPF:	<u>4,500,000</u>
Total	\$37,000,000

This project will be procured through the standard process through the State of Idaho Department of Public Works and/or the State of Idaho Department of Purchasing as appropriate.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**ATTACHMENTS**

Attachment 1 – Space Distribution Summary	Page 5
Attachment 2 – Project Budget	Page 6
Attachment 3 – Capital Project Tracking Sheet	Page 7

**STAFF COMMENTS AND RECOMMENDATIONS**

Cost estimates for construction have come in at \$28,870,000. As a hedge against market volatility, portions of the work will be bid as additive alternates. The university has built a \$1.4M construction contingency and \$3M project contingency into the total cost of the project. If bids are favorable, the university could build out a second level above the lecture hall, and may proceed with the purchase and installation of furniture, fixtures and equipment for the project.

Staff recommends approval.

**BOARD ACTION**

A motion to approve the request by Boise State University to proceed with construction of the new College of Business and Economics building for a cost not to exceed \$37,000,000. The university intends to issue bonds to finance a portion of this building and will seek Board approval at the April 2010 meeting to issue these bonds prior to starting construction.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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## Attachment 1

## COBE Preliminary Design Square Footages

January 08 2010

<b>Space Use Type</b>	<b>GSF</b>	<b>ASF</b>
Student Space	19,714	11,900
Classroom Space	29,742	17,953
Office Space	33,498	20,220
Multipurpose Space	8,133	4,909
Centers	8,972	5,416
Lecture Hall - 250 Seat - 1st Level	9,183	6,082
<b>Subtotal</b>	<b>109,242</b>	<b>66,480</b>
Lecture Hall Add Alt. 2nd Level / Mech Space	8,070	4,844
<b>Total</b>	<b>117,312</b>	<b>71,324</b>

## Attachment 2

**Architectural & Engineering Services  
Project Budget**

<b>Project Number:</b>	DPW09-200
<b>Project Title:</b>	College of Business and Economics (COBE)
<b>Date:</b>	1/4/2010

Category	Budget
Architectural Fees	2,870,000
Commissioning, Testing, Plan Check, Etc.	379,400
Construction Costs	28,870,000
Construction Contingency	1,443,500
<b>Subtotal</b>	<b>33,562,900</b>

University Costs	450,100
Project Contingency	2,987,000

<b>Total Project</b>	<b>\$ 37,000,000</b>
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**Office of the Idaho State Board of Education  
Capital Project Tracking Sheet  
Jan-10**

**History Narrative**

1 **Institution/Agency:** Boise State University      **Project:** College of Business and Economics Building Construction  
 2 **Project Description:** Construction of the new College of Business and Economics Building  
 3 **Project Use:** To house the departments and programs affiliated with the College of Business and Economics  
 4 **Project Size:** Approximately 117,000 gross square feet

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	Sources of Funds				Use of Funds			
	PBF	ISBA	Other *	Total Sources	Planning	Use of Funds Const	Other	Total Uses
<b>Initial Cost of Project</b>	\$ -	\$ -	\$ 37,000,000	\$ 37,000,000	\$ 3,000,000	\$ 28,870,000	\$ 5,130,000	\$ 37,000,000
<b>Total Project Costs</b>	\$ -	\$ -	\$ 37,000,000	\$ 37,000,000	\$ 3,000,000	\$ 28,870,000	\$ 5,130,000	\$ 37,000,000

History of Funding:	PBF	ISBA	* Other Sources of Funds			Total Other	Total Funding
			Institutional Funds	Student Revenue	Other		
Requested 3/2009	\$ -	\$ -	\$ 1,800,000	\$ 18,000,000	\$ 17,200,000	\$ 37,000,000	\$ 37,000,000
							\$ -
<b>Total</b>	\$ -	\$ -	\$ 1,800,000	\$ 18,000,000	\$ 17,200,000	\$ 37,000,000	\$ 37,000,000

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**BUSINESS AFFAIRS AND HUMAN RESOURCES COMMITTEE**  
**FEBRUARY 18, 2010**

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**BOISE STATE UNIVERSITY**

**SUBJECT**

Preliminary review of ground lease terms with American Campus Communities

**REFERENCE**

February 2008	Board approved extension of Expansion Zone & Capital Projects update
June 2009	Board approval of MOU with American Campus Communities

**APPLICABLE STATUTE, RULE OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.K.1. and V.I.5.b.(1)

**BACKGROUND/DISCUSSION**

As enrollment at Boise State University continues to grow, demand for on-campus housing continues to exceed capacity. Because of this shortfall, students who want to live on campus are currently living at the University Inn and in off-campus hotel rooms. Over the past three years, applications for on-campus housing have increased by over 70 percent. Conservative estimates are that the University needs an additional 3,000-6,000 beds to meet this demand.

To meet the growing demand for on-campus housing, the University seeks to partner with American Campus Communities (ACC), one of the nation's largest developers, owners and managers of high-quality student housing communities, to develop and manage new on-campus housing. Since 1996, ACC has developed and acquired more than \$2 billion in student housing assets. Working with ACC allows the University to develop new housing without issuing debt or using central cash reserves.

The terms of the proposed transaction were contained in a Memorandum of Understanding (MOU) approved by the Board in June, 2009. After the Board approval, the University worked with ACC to finalize the planning and construction approval processes and scheduled construction to begin in May 2010. The primary terms of the lease were set forth in the MOU. The terms of the MOU contemplate a student housing project consisting of two primary phases, Phase 1 and Phase 2. Phase 1 is the only part committed to in this lease.

The primary terms of the proposed Lease terms with ACC are as follows:

- The University will ground lease property in its designated expansion zone to ACC for a 65 year term with a lessee option to extend the term for two periods of 10 years.

**BUSINESS AFFAIRS AND HUMAN RESOURCES COMMITTEE**  
**FEBRUARY 18, 2010**

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- ACC will design, develop, build and manage student housing on the leased property. Phase 1 will include approximately 874 beds, the majority of which will be substantially complete and ready for occupancy for the Fall 2011 semester. **ALL** the improvements will, at all times, be owned by the University, but leased to ACC.
- ACC will make semi-annual ground lease payments to the University. These rent payments are a percentage of the ACC gross revenues and as such will vary based upon actual rents (assumes property is tax-exempt<sup>1</sup>.)
- ACC's construction cost savings, if any, will be shared with the University.
- The University will receive additional rent if the project revenues exceed expectations via a formula for sharing in this "upside participation."
- ACC must construct the project to the standards agreed to in the MOU (Outline specifications and concept plans). The University agrees not to build competing housing unless a study shows reasonable demand and the new housing will not adversely impact the ACC project.
- ACC will be responsible for all maintenance, operation and upkeep of the facility to a "Class A Standard."
- ACC will operate the project pursuant to University student residential life program standards.
- The University will agree to make available adequate parking commensurate with the needs of the University and the project at costs commensurate with the relative value of the parking needed.

**IMPACT**

The primary benefit of a public-private partnership for on-campus housing for Boise State University is the ability to reserve debt capacity for construction of academic and research facilities while meeting the immediate need for on-campus student housing. The University would also reap the benefit of ACC's experience constructing, owning and managing high-quality student housing communities.

Since ACC is required to finance this project with their own equity, there is no debt on the project that can be attributed to the University. In recent conversations with representatives from Moodys and Standard & Poors, they have verbally indicated that the project costs would not be considered the University's direct debt. However, they will continue to monitor this project and any potential impact it could have on the University's overall credit quality. In the unlikely event that the project is unsuccessful or ACC were to default, the University's subsequent involvement in the project could cause the rating

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<sup>1</sup> ACC and the University intend that the land, improvements and equipment that comprise this project be treated as property of the State of Idaho for tax purposes since they are owned by the University and are put to education purposes, i.e. student housing. Should the Ada County Assessor or other tax authority determine otherwise, the University will oppose such action.

**BUSINESS AFFAIRS AND HUMAN RESOURCES COMMITTEE**  
**FEBRUARY 18, 2010**

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agencies to reassess their credit position. However, if that unlikely scenario were to occur, the University would still have the housing community, a viable institutional asset.

Potential drawbacks of a long term ground lease include the University's loss of control of leased land for an extended period of time and reputational costs associated with an unsuccessful project. Additionally, expected financial gains may not materialize if those gains are tied to the success of a project that doesn't meet expectations.

An updated summary of the financial impact of the Phase I project in January 2010 as compared to the information presented at the June 2009 Board meeting is presented as attachment 1.

**BUSINESS AFFAIRS AND HUMAN RESOURCES COMMITTEE  
FEBRUARY 18, 2010**

<b>BOISE STATE UNIVERSITY PHASE 1 PROFORMA COMPARISON 1/6/2010</b>	<b>5/13/2009 Proforma Included in MOU (Sc 1)</b>	<b>1/6/2010 Program &amp; GC Pricing Update</b>
Program		
Delivery Date	2011	2011
Beds	864	874
Total residential SF	247,644	252,445
Total Circulation/Common Space SF	56,987	56,714
<i>% of Res SF</i>	23%	22%
Community Center SF	15,000	13,677
Retail Space SF	0	0
<b>Total GSF</b>	<b>319,631</b>	<b>322,836</b>
Development Budget		
GC Costs - Residential/CC	\$30,499,220	\$30,479,671
<i>cost per GSF</i>	\$95.42/sf	\$94.41/sf
GC Costs - Retail	\$0	\$0
Intramural Field/Berm Allowance (1)	\$250,000	\$250,000
Total Development Costs	\$41,688,969	\$41,732,439
Project Level/Corp Financing Costs	\$1,845,605	\$1,847,530
<b>Total ACC Cost @ GAAP Interest</b>	<b>\$43,534,574</b>	<b>\$43,579,969</b>
Operating Budget (Year 1 - 2011)		
Net Rental Revenue	\$5,343,792	\$5,380,812
Other Income	\$88,196	\$89,211
Total Revenue	\$5,431,988	\$5,470,023
Total Operating Expenses	\$1,835,717	\$1,849,375
OpEX per bed	\$2,125	\$2,116
Expense Ratio	33.8%	33.8%
Taxes	\$0	\$0
<b>NOI before Reserves &amp; GR</b>	<b>\$3,596,271</b>	<b>\$3,620,649</b>
Cash Flow		
Reserves per Bed	\$175	\$175
Annual Revenue/Expense Growth	4.0%	4.0%
Ground Lease Term	65-years + extensions	65-years + extensions
Valuation Analysis (Year 1 - 2011)		
ACC Returns/Yields		
ACC Yr1 Yield	7.22%	7.26%
ACC Unlevered IRR (2)	11.20%	11.24%
Ground Rent to BSU		
Annual pmt to BSU	\$300,932	\$303,039
<i>% of Revenue</i>	5.54%	5.54%
<b>BSU NPV of Ground Rent (3)</b>	<b>\$10,738,885</b>	<b>\$10,814,080</b>
<b>Notes: Assumptions:</b>		
(1) Lower square footage in community center is likely to be compensated by adding cash to Intramural Field/Berm Allowance amount of \$250,000.		
(2) Unlevered IRR is over the full, 85- year term		
(3) NPV is over the full, 85-year term and assumes a 6% discount rate		

**BUSINESS AFFAIRS AND HUMAN RESOURCES COMMITTEE  
FEBRUARY 18, 2010**

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**ATTACHMENTS**

Attachment 1 – Phase 1 Financial Impact Summary  
Attachment 2 – Proposed Ground Lease

Page 5  
Page 7

**STAFF COMMENTS AND RECOMMENDATIONS**

This item is for informational purposes only.

**BOARD ACTION**

None at this time. The University will return in April for lease approval.

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LEASE AGREEMENT

(Phase 1)

THIS LEASE AGREEMENT (this “Lease”) dated the \_\_\_\_\_ day of \_\_\_\_\_, is by and between the IDAHO STATE BOARD OF EDUCATION, a \_\_\_\_\_, acting as the Board of Trustees on behalf of BOISE STATE UNIVERSITY (“Lessor”), and ACC OP (Boise State \_\_\_\_ ) LLC, a Delaware limited liability company (“Lessee”).

In consideration of the mutual covenants set forth herein, and intending to be legally bound hereby, Lessor and Lessee hereby agree as follows:

1. Definitions. As used in this Lease, the following terms shall have the following meanings:

“Academic Year” shall mean University’s academic year of \_\_\_\_\_ to \_\_\_\_\_, as the same may be modified by Lessor; provided that such modification shall require Lessee’s approval to the extent that such modification will affect or be applicable to the terms and provisions of this Lease.

“Affiliate” shall mean any individual, partnership, corporation, limited liability company, trust, unincorporated organization, association, or other entity which, directly or indirectly, through one or more intermediaries, owns more than a ten percent (10%) ownership interest in Lessee or controls, is controlled by, or is under common control with American Campus Communities, Inc., Lessee, or any such person owning more than a ten percent (10%) interest in Lessee.

“Appraiser Day” shall have the meaning assigned to it in Exhibit D.

“Approval Items” shall have the meaning assigned to it in Section 4.1.

“Arbitration Dispute” shall mean any issue to be settled in accordance herewith by binding arbitration in accordance with Exhibit E.

“Arbitrator” shall have the meaning assigned to it in Exhibit E.

“As-Built Plans” shall have the meaning assigned to it in Section 4.8.

“Base Date” means the date on which the Index is published which is immediately prior to the date of commencement of the Lease Term.

“Bureau” means the Bureau of Labor Statistics of the United States Department of Labor.

“Calculation Statement” shall have the meaning assigned to it in Section 5.1.4.

“Campus” shall mean the University’s campus in Boise, Idaho.

“CERCLA” shall have the meaning assigned to it in Section 11.2.1.

“Class A Condition” means the condition of a privatized student housing facility of similar age which is of high quality, excellently maintained and very well managed (especially if the building is more than 10 years old), attractive and efficient.

“Commencement Date” shall mean the date of this Lease, as set forth on the first page of this Lease.

“Committee” shall have the meaning assigned to it in Section 9.1.4.1.1

“CPI” means the new U.S. Consumer Price Index for all urban consumers - All Items (1982-84=100).

“Default Rate” shall have the meaning assigned to it in Section 25.

“Default Termination Notice” shall have the meaning assigned to it in Section 20.5.

“Determination Day” shall have the meaning assigned to it in Exhibit D.

“Event of Default” shall have the meaning assigned to it in Section 27.

“Exercise Notice” shall have the meanings assigned to it in Section 3.2.

“Fee Mortgage” shall mean any Mortgage by Lessor or any other Person pursuant to which Lessor’s interest in the Leased Premises (or any part thereof) is encumbered or given as collateral in any form (including, for example, a synthetic lease), and any modifications, extensions, renewals and replacements thereof; provided, however, that "Fee Mortgage" does not include and specifically excludes any such instrument which is a Leasehold Mortgage.

“Fixtures” means any and all equipment, machinery, and other fixtures or improvements that are permanently attached to and made part of the Improvements or that, although they can be removed from the Improvements, are necessary to operate or maintain the Improvements in a normal and ordinary way, such as the HVAC system, the electrical system, the plumbing system, and the elevator system.

“FMV” shall mean “fair market value”, as determined in accordance with Exhibit D.

“Gross Revenues” shall mean, for any period, all revenues earned by Lessee from the operation and leasing of the Leased Premises during such period normally included in operating revenues in accordance with Generally Accepted Accounting Principles; provided, however, that Gross Revenues shall not include: (i) Subtenant Deposits, unless and until such Subtenant Deposits are forfeited to or applied by Lessee in accordance with the terms of a Sublease with respect to any failure by the Subtenant to perform its obligations; (ii) proceeds or payments under insurance policies (except proceeds of business interruption or rental loss insurance); (iii) condemnation proceeds; (iv) proceeds from any sale or financing of the Lease; and (v) any other items not normally included in operating revenues in accordance with Generally Accepted

Accounting Principles.

“Improvements” shall mean any and all buildings and improvements from time to time located on the Land, including without limitation all additions, alterations and improvements thereto or replacements thereof and all fixtures, machinery, landscaping, signage and equipment installed therein or affixed thereto necessary for the proper operation of such buildings and improvements; provided that “Improvements” does not include any of the Personal Property.

“Index” means the CPI issued and published by the Bureau. In the event that (a) the Bureau ceases to use the 1982-4 average of 100 as the basis of calculation, or (b) a substantial change is made in the number or character of "market basket" items used in determining the CPI, or (c) the CPI shall be discontinued for any reason, the Bureau shall be requested to furnish a new index comparable to the CPI, together with information which will make possible the conversion to the new index in computing the CPI rate. If for any reason the Bureau does not furnish such an index and such information, the parties shall thereafter accept and use such other index or comparable statistics on the cost of living for the United States of America as shall be computed and published by an agency of the United States of America or by a responsible financial periodical of recognized authority then selected by Lessee and reasonably approved by Lessor.

“Land” shall mean the real property described on Exhibit A, together with all rights, easements and appurtenances thereto or in anywise belonging.

“Lead Leasehold Mortgagee” shall have the meaning assigned to it in Section 20.3.

“Lease” shall have the meaning assigned to it in the Introductory Paragraph.

“Lease Term” shall have the meaning assigned to it in Section 3.1.

“Lease Year” shall mean any twelve (12) month period during the Lease Term commencing on the first day of September and ending on the 31st day of August; provided that the first Lease Year shall additionally include any period of time from and after the Opening Date until the first day of September in the year in which the Opening Date occurs.

“Leased Premises” shall mean the Land, together with all Improvements from time to time located thereon. The Leased Premises shall include the Project.

“Leasehold Mortgage” shall mean any Mortgage constituting a lien upon the Lessee’s interest under this Lease and the leasehold estate hereby created, and any modifications, extensions, renewals and replacements thereof.

“Leasehold Mortgagee” shall mean any holder of a Leasehold Mortgage, or any interest therein.

“Lessee” shall have the meaning assigned to it in the Introductory Paragraph.

“Lessee’s FMV” shall have the meaning assigned to it in Section 19.3.

“Lessor” shall have the meaning assigned to it in the Introductory Paragraph.

“Lessor’s FMV” shall have the meaning assigned to it in Section 19.3.

“Loan” shall mean any debt financing obtained by Lessee or an Affiliate of Lessee, whether or not secured by an interest in the Leased Premises, for the purpose of obtaining funds for use in connection with the Project and/or the Leased Premises, including without limitation a refinancing of such loan; provided that Loan shall not mean debt financing obtained by Lessee for other purposes or equity financing or other funding provided by one or more of Lessee’s members or their direct or indirect owners.

“Maintenance and Capital Repair Reserve” means the reserve maintained by Lessee into which the Required Reserve Amounts are deposited or reserved.

“Manager” shall mean Lessee’s affiliate entity engaged by Lessee as the property manager for the Leased Premises, or any successor manager engaged by Lessee as the property manager for the Leased Premises.

“Mortgage” shall mean any deed of trust, mortgage or other financing document given or granted in connection with or to secure a borrowing or financing.

“MOU” shall mean that certain Memorandum of Understanding dated on or about August 5, 2009 executed by and between ACC OP Development LLC and Lessor, as heretofore amended and as may be hereafter amended by written agreement between such parties.

“New Lease” shall have the meaning assigned to it in Section 20.7.

“Opening Date” means the date on which the Project is first open for business and occupied by Subtenants.

“Outline Specifications” means the outline specifications for the Improvements set forth on Exhibit M attached hereto.

“Outperformance Rent” shall mean a sum equal to 25% of the Gross Revenue received by Lessee during any Lease Year in excess of the Annual Gross Revenue Hurdle for such Lease Year.

“PCBs” shall have the meaning assigned to it in Section 11.2.1.

“Permitted Exceptions” shall mean the easements, restrictions, encumbrances and other exceptions listed on Exhibit B hereto.

“Permitted Uses” shall mean any use of the Leased Premises at the time permitted pursuant to Section 8.1.

“Person” shall include an individual, corporation, limited liability company, partnership, joint venture, unincorporated association, or other entity.

“Personal Property” shall mean all furniture, furnishings, appliances, equipment, and personal property of any nature whatsoever now or hereafter owned by Lessee and located or to be located in the Leased Premises other than the Fixtures.

“Plans” shall have the meaning assigned to it in Section 4.

“Project” shall mean the mixed use development including residential housing, storage, parking, and other uses to be operated within the Leased Premises.

“Qualified Assignee” shall mean a Person which satisfies the following conditions as of the date of the applicable assignment or transfer:

- (a) has a net worth of at least \$100,000,000.00 (which condition may be satisfied by such Person’s parent organization); and
- (b) has at least five (5) years of experience managing student housing facilities comparable to the Leased Premises (which condition may be satisfied by a management company [or its parent organization] which will be retained by the assignee to manage and operate the Leased Premises).

“Renewal Option” shall have the meaning assigned to it in Section 3.2.

“Renewal Term” shall have the meaning assigned to it in Section 3.2.

“Rent” shall mean Variable Rent and Outperformance Rent.

“Required Reserve Amount” shall mean an amount equal to the greater of (a) the sum of \$125.00 per year per residential bed within the Residential Premises and (b) such amount as is required by any Leasehold Mortgage; provided that the amount set forth in clause (a) above shall be increased annually on each September 1 during the Lease Term by a percentage; such percentage shall be the percentage increase of the Index from the Base Date to the Index published immediately prior to the date upon which each such adjustment shall be made. All references herein to the Required Reserve Amount shall mean and refer to the Required Reserve Amount as increased pursuant to this paragraph.

“Secured Lenders” shall have the meaning assigned to it in Section 20.14.

“Secured Property” shall have the meaning assigned to it in Section 20.14.

“State Board of Education” shall mean the Idaho State Board of Education, a

“Sublease” shall mean any sublease or license of the Leased Premises or any part thereof by Lessee to another party.

“Subtenant” shall mean a tenant or occupant of a portion of the Leased Premises pursuant to a Sublease.

“Subtenant Deposits” shall mean all security deposits, security interests, pledges, prepaid rent of more than one month in advance or other sums, deposits, or interests received by Lessee from any Subtenants.

“Target Completion Date” shall mean August 15, 2011, as such date may be extended due to Unavoidable Delays.

“Total Development and Construction Cost” shall mean the total costs and expenses paid or incurred by Lessee in acquiring, designing, developing, constructing, opening, repairing, renovating, altering and equipping the Improvements and Project.

“Transfer” shall have the meaning assigned to it in Section 22.1.

“Unavoidable Delay” shall have the meaning assigned to it in Section 39.

“University” shall mean Boise State University

“University Student” shall mean individuals who (a) are enrolled as a student at University for the current semester, (b) are enrolled as a student at University for a subsequent semester, or (c) with respect to summer occupancy, (i) were enrolled as a student at University in the previous Spring semester and/or (ii) are enrolled for the upcoming Fall semester.

“Work” shall mean the construction and other work described by the Plans.

2. Lease.

2.1 Lease Grant. In accordance with and subject to the terms and conditions of this Lease, Lessor hereby leases the Leased Premises to Lessee, and Lessee hereby leases the Leased Premises from Lessor.

2.2 Intentionally omitted.

2.3 Lessee’s Access Easements. Lessor owns those certain parcels of real property adjacent to the Land as generally described or depicted on Exhibit G attached hereto (the “Lessee Easement Tracts”). Concurrently with the execution hereof, Lessor shall grant to Lessee nonexclusive easements (the “Lessee Easements”) over and across the Lessee Easement Tracts, subject only to the Permitted Exceptions, for purposes of providing access, ingress and egress and/or utilities to and from the Leased Premises for the entire Lease Term, with such Lessee Easements to be in the form of Exhibit H attached hereto.

2.4 Lessor's Access Easement. Concurrently with the execution hereof, Lessee shall grant to Lessor nonexclusive easements (the "Lessor Easements") over and across the driveways to be developed by Lessee on the Leased Premises in the approximate locations set forth on Exhibit I attached hereto (the "Lessor Easement Tracts"), subject only to the Permitted Exceptions and this Lease, for purposes of providing permanent access, ingress and egress, with such Lessor Easements to be in the form of Exhibit J attached hereto.

2.5 Other Easements. Lessee and Lessor agree to reasonably cooperate with one another in good faith relative to the granting of additional easements on the Leased Premises and Lessor's adjacent property, as applicable. Without limiting the generality of the foregoing, Lessor agrees to timely grant to Lessee access, temporary access, sidewalk and/or utility easements (including without limitation electricity, water and sewer) over and across Lessor's adjacent property as are needed for Lessee's development, construction and operation of the Leased Premises. In addition, Lessor agrees from time to time upon request by Lessee to exercise reasonable efforts and cooperate with Lessee, at no material cost to Lessor, in order to obtain releases or abandonments of existing easements and other Permitted Exceptions which Lessee determines need to be released or abandoned in connection with the development and construction of the Project.

3. Lease Term.

3.1 Lease Term. The term of this Lease (the "Lease Term") shall commence upon the Commencement Date and, unless extended pursuant to Section 3.2, shall expire on the sixty-fifth (65th) anniversary of the Opening Date.

3.2 Options to Extend Lease Term Subject to the provisions of this Section 3.2, Lessee shall have options (each, a "Renewal Option") to extend the Lease Term for two (2) additional terms of ten (10) years each (each, a "Renewal Term"). In order to exercise any Renewal Option, Lessee or a Leasehold Mortgagee shall be required to give Lessor notice of such exercise (each, an "Exercise Notice") not earlier than two (2) years prior to the expiration of the initial 65-year Lease Term (as to the first Renewal Option) or the current Renewal Term (as to any subsequent Renewal Option) and not later than twelve (12) months prior to the expiration of the initial 65-year Lease Term (as to the first Renewal Option) or the current Renewal Term (as to any subsequent Renewal Option). If Lessee gives an Exercise Notice, the Lease Term shall be extended for the Renewal Term as to which the Exercise Notice is applicable. Such extension shall be on all the other terms and conditions provided in this Lease.

4. Construction.

4.1 Plans. Lessee has caused to be prepared and submitted to Lessor the complete set of construction drawings prepared by Oz Architecture dated \_\_\_\_\_ relative to the Project which specify exterior building elevations, site plans, landscaping plans (subject to allowance), exterior lighting plans and emergency call-box locations for the Project (collectively, the "Approval Items"), which construction drawings are described on Exhibit C (the "Plans"). Lessor has reviewed and approved the Plans and all of the Approval Items contained within the Plans and acknowledges that the same conform to the Outline Specifications.

4.2 Changes to Plans. Any material revisions to the Approval Items shall be delivered to Lessor from time to time for approval, which approval shall not be unreasonably withheld, conditioned or delayed, and which approval shall not be withheld so long as the Approval Items conform substantially to the Outline Specifications and are a logical extension of prior submittals that have been approved by Lessor (and which approval shall be deemed to have been given if Lessor does not specifically disapprove such revisions or request additional information or documentation concerning such Approval Items within twenty (20) business days after receipt by Lessor). In the event that Lessor timely requests additional information or documentation concerning any Approval Items, and University does not specifically disapprove such Approval Items within five (5) days after University's receipt of such additional information or documentation (or the expiration of the original twenty (20) business day period, whichever is later to occur), then Lessor shall be deemed to have approved the Approval Items.

4.3 Plans. As used herein, "Plans" means the Plans as hereafter modified or amended; provided, however, that any material revision to the Plans which affects Approval Items shall be subject to Lessor's approval pursuant to Section 4.2 hereinabove.

4.4 Construction of the Project. Lessee shall, at its own cost, prosecute and/or engage one or more qualified contractors to prosecute the Work substantially in accordance with the Plans and shall thereafter prosecute the Work to completion, with the goal of completing the Work and having the Project open and ready for operation by the Target Completion Date. Lessee acknowledges that its construction will take place adjacent to the Campus, and Lessee shall use reasonable efforts to prevent its construction from unreasonably interfering with college operations and activities. Lessee shall be responsible, as a cost of the Project, for costs of the following, to the extent applicable: (a) demolition of improvements currently located on the Land; (b) any required environmental and archeological remediation as set forth in the Plans; (c) any and all utility distribution systems; and (d) acquisition of necessary easements and/or rights-of-way from parties other than Lessor, and Lessor will reasonably cooperate with and assist Lessee in such regard. Lessee will cause the general contractor engaged by Lessee to construct the Project to provide (i) customary construction warranties on all improvements, fixtures and equipment, (ii) customary indemnities (which shall include indemnities of Lessor) and (iii) customary builder's risk (which coverage shall be maintained by Lessee, in the event not carried by such general contractor) and liability insurance (which shall name Lessor as an additional insured), with limits of liability reasonably acceptable to Lessor. Lessor acknowledges that it has reviewed and approved certificates of insurance and contractor indemnity and warranty requirements provided by Lessee and/or its contractor and that such certificates and indemnity and warranty requirements satisfy the requirements of Sections 4.4(i), (ii) and (iii) hereof.

4.5 Allocation of Savings. In the event and to the extent that the Total Development and Construction Cost is less than the estimated costs of acquisition, design, development, construction, furnishing, equipping and opening the Project shown on Lessee's proforma as of the commencement of construction of the Improvements (the "Estimated Project Cost") then following final completion of the Improvements, Lessee shall apply the difference between Total Development and Construction Cost and Estimated Project Cost ("Savings") as



follows:

4.5.1 First, 25% of the Savings, if any, shall be distributed by Lessee to Lessor; and

4.5.2 The remainder of the Savings shall be retained by Lessee.

4.6 Intentionally omitted.

4.7 Permits. Lessee shall acquire and pay for any approvals or permits regarding offsite improvements affecting City rights-of-way from the Ada County Highway District and/or utility companies having jurisdiction. Lessee acknowledges that (a) on-site stormwater detention or retention will be required to incorporate stormwater best practices as stipulated under City of Boise (“City”) best practices and EPA stormwater permits and (b) any required lot consolidation or lot line adjustment applications will be processed through the City Subdivision Department. Lessee acknowledges that building permits and certificates of occupancy will be issued through the Idaho Division of Building Safety. Lessor shall cooperate with Lessee and all governmental agencies and third parties as required to apply for and obtain all such permits and approvals, including, without limitation, by joining in applications for permits and approvals if required or requested, and Lessor shall support Lessee’s efforts to obtain such approvals in such ways as Lessee shall from time to time reasonably request, but such support shall not require Lessor financial contribution. Lessor shall likewise join with Lessee in, and provide, if applicable, any grants for easements or dedications or conveyances for electricity, telephone, gas, water, sewer, and other public utilities and facilities as Lessee may require for the development of the Project; provided that the location of any such easements on Lessor’s adjacent property shall be in locations mutually acceptable to Lessor and Lessee.

4.8 As-Built Drawings. Within sixty (60) days after completion of all of the Work, Lessee shall deliver to Lessor one electronic copy of complete as-built computer aided drafting and design drawings for the Project (the “As-Built Plans”) and one copy of an as-built survey showing the location of the Project and all underground improvements installed by or on behalf of Lessee or utility providers to the Project

4.9 Time for Completion Responsibilities: Alternate Housing. Lessee shall not be in default of its obligations under this Lease for failing to complete the construction of the Improvements in accordance with the provisions of this Section 4 by the Target Completion Date or any other certain or specified date. If construction of the Improvements is not completed on schedule, Lessee will be required to house any residents who are unable to occupy the Improvements at the commencement date of their valid signed leases at Lessee’s cost in housing comparable to or better than housing provided by Lessor on the Campus until construction is completed to the point where such residents can occupy the Improvements.

4.10 Naming of Project and Buildings. Lessor and Lessee shall use good faith efforts to mutually agree upon the name of the Project. In the event that Lessor and Lessee are unable to agree upon the name of the Project, despite their good faith efforts, Lessee will choose the name for the Project; provided, however, that such name shall not include the terms “BSU”,

“Bronco” or “Boise State University” without Lessor’s written approval. Lessor may, with Lessee’s approval, choose names of individual buildings within the Project. In the event that Lessor desires to name a building within the Project in connection with a significant monetary contribution for the benefit of Lessor, then Lessee’s approval of such naming shall not be unreasonably withheld, conditioned or delayed.

4.11 Signage. Before erecting or placing any permanent project signage upon the Land, Lessee shall submit the design and specifications to Lessor for approval, which approval shall not be unreasonably withheld, conditioned or delayed.

4.12 Evidence of Costs. Within sixty (60) days after completion of all of the Work, and thereafter on an annual basis, Lessee shall deliver to Lessor and Lead Leasehold Mortgagee a statement setting forth Total Development and Construction Cost, together with reasonable supporting documentation therefor. In the event that any Total Development and Construction Cost is paid for work performed by Lessee or its Affiliates, the cost of such work shall not exceed the cost which would have been paid had such work been performed by an unrelated third party in an arms-length transaction.

5. Rent.

5.1 Lessee shall pay as Rent the sum of the following amounts:

5.1.1 Intentionally omitted.

5.1.2 Variable Rent. Variable Rent (herein so called) shall be due and payable by Lessee to Lessor for each Lease Year in an amount equal to five and 54/100 percent (5.54%) of Gross Revenues received during such Lease Year.

Variable Rental will be paid semi-annually, in arrears, on February 28 and August 31 of each year, with a reconciliation between Lessor and Lessee, if applicable, annually within 120 days after the end of each calendar year. To the extent adjustments are necessary, any such adjustments shall be added to or subtracted from the next installment of Variable Rental. In the event that the Opening Date is prior to September 1 of the first Lease Year, then any Variable Rent owing for the period from the Opening Date until September 1 of such first Lease Year shall be payable as though it were owing in the first Lease Year.

5.1.3 Outperformance Rent. Outperformance Rent shall be due and payable by Lessee to Lessor only in the event that each of the following conditions are satisfied in any Lease Year:

5.1.3.1 the sum of all Gross Revenues received by Lessee since the commencement of the Lease Term exceeds the applicable Cumulative Gross Revenue Hurdle as set forth on Exhibit K attached hereto for such Lease Year; and

5.1.3.2 Gross Revenues received by Lessee during such Lease Year exceed the applicable Annual Gross Revenue Hurdle (herein so called) as set forth on

Exhibit K attached hereto for such Lease Year.

Outperformance Rent for each Lease Year will be paid annually, in arrears, on or before October 31 of the following Lease Year.

5.1.4 Statements. At the time each payment of Variable Rent is payable under Section 5.1.2, Lessee shall provide a statement (the "Calculation Statement") to Lessor, showing in reasonable detail the Gross Revenues for the applicable Lease Year (or applicable part thereof).

5.1.5 Lessor's Audit Right.

5.1.5.1 Lessor shall have the right, at Lessor's expense, to audit Lessee's calculations provided in any Calculation Statement, and Lessee shall make Lessee's books, records, invoices, statements, and other material documents and agreements relating to or supporting the calculations set forth on any Calculation Statement available for Lessor to review for such purpose. Lessee shall retain such documents for at least three (3) years after any Calculation Statement has been provided to Lessor hereunder.

5.1.5.5 Lessor shall have the right to claim an adjustment of the calculations set forth on any Calculation Statement; provided that any such claim shall be required to be made by written notice delivered to Lessee within sixty (60) days after the date on which Lessor receives such Calculation Statement from Lessee. Any such claim shall be made by notice to Lessee within such 60-day period, specifying the reasons for such claim for adjustment in detail sufficient for Lessee to understand the basis for Lessor's claim. If Lessor fails to claim an adjustment in such manner and time with respect to any Calculation Statement, Lessor shall have no further right hereunder to challenge the determinations set forth in the applicable Calculation Statement, except as set forth in Section 5.1.5.7 below.

5.1.5.6 If Lessor timely claims an adjustment under Section 5.1.5.5, Lessee and Lessor shall use reasonable good faith efforts to resolve any such claim within forty-five (45) days after the date on which the notice of claim was given by Lessor. If Lessee and Lessor are unable to resolve such claim within such 45-day period, Lessor and Lessee will use reasonable good faith efforts to agree upon an independent third-party auditor to perform an audit in order to resolve such claim and, in the event that Lessor and Lessee are unable to agree on such an auditor within ten (10) days after the expiration of such 45-day period, then either party may submit the issue (which shall be an Arbitration Dispute) to binding arbitration in accordance with Exhibit E, and the issue shall be resolved in such manner.

5.1.5.7 If, when the matter is finally resolved, the final determination of Variable Rent payable to Lessor exceeds by five percent (5%) or more the amount thereof provided on the Calculation Statement, Lessee shall reimburse Lessor for its actual reasonable out-of-pocket costs in connection with the audit of the Calculation Statement within thirty (30) days after Lessee's receipt of an invoice therefor. In the event that any such audit verifies that Variable Rent has been underpaid or overpaid for any period, then Lessor and Lessee shall promptly make any necessary reimbursement or payment, as applicable, to the other

party.

6. Real Estate Taxes and Assessments.

6.1 The State Board of Education has determined that the housing to be constructed and operated under this Lease is designed to serve a State of Idaho recognized educational purpose for the University and is being used to benefit the University. It is the intent of the State Board of Education that the housing constructed pursuant to this Lease is a facility designed to meet the needs of the University and the State of Idaho.

6.2 Lessor and Lessee intend that Land, Improvements and Project will be exempt from all ad valorem or other property taxes, leasehold taxes, rental sales taxes and other similar taxes or exactions or payments in lieu thereof. Lessor acknowledges that (a) such tax exemptions are a material consideration for Lessee's decision to enter into this Ground Lease and construct the Improvements, without which exemptions, and agreements of Lessor set forth in this Article 6, Lessee would not have so entered into this Ground Lease and agreed to construct the Improvements and (b) in the event that the Land, Improvements and Project are not exempt from all such taxes and assessments, Lessee will suffer material adverse financial consequences. Lessor and Lessee will cooperate in good faith as allowed by law to ensure that applicable exemptions are at all times applicable to the Project. Lessor and Lessee will cooperate in good faith to reduce and/or eliminate any governmental assessments or charges regarding the Land as allowed by law. In addition, if requested by Lessee, Lessor will cooperate with and assist Lessee, in good faith, in connection with the pursuit of legislation confirming the tax exempt status of the Project, with the costs of such pursuit to be paid as follows: (a) the first \$50,000.00 of such costs shall be borne by Lessee and (b) any such costs in excess of \$50,000.00 shall be borne fifty percent (50%) by Lessee and fifty percent (50%) by Lessor, and Lessor agrees to pay its share of such costs to Lessee within thirty (30) days after Lessor's receipt of Lessee's invoice(s) therefor from time to time. Lessor will promptly deliver to Lessee copies of any ad valorem tax bill or assessment notice relative to the Leased Premises received by Lessor.

6.3 In the event that additional ad valorem taxes or assessments or rental sales taxes with respect to residential space within the Project are levied (or levy is attempted) in the future, Lessee and Lessor shall cooperate in good faith to defend, at Lessee's cost, such levy of taxes or assessments.

6.4 In the event that, despite Lessee's and Lessor's cooperation in good faith to defend the levy of ad valorem taxes or assessments, ad valorem taxes or assessments are levied against the Improvements, Leased Premises, the Project or Lessee's leasehold interest in the Improvements, Leased Premises or Project, (a) Lessee shall have the right to contest such taxes or assessments and (b) Lessor and Lessee agree to in good faith negotiate relative to the economic consequences of such taxation to Lessor and Lessee. Such negotiations shall include, but need not be limited to, the potential of a fair reduction of Rent.

7. Lessor's Obligations. Lessor hereby covenants and agrees as follows, which covenants and agreements are personal to the original Lessor and shall survive as obligations of

the original Lessor following any Transfer pursuant to Section 22.2 hereof:

7.1 Defense of Title. Lessor shall pay all amounts required to protect and defend Lessor's title to and interest in the Leased Premises and as otherwise necessary to protect Lessee's interest in the Leased Premises hereunder from any title exceptions adversely affecting Lessee's proposed use of the Leased Premises, including without limitation any liens or similar claims not created by Lessee.

7.2 Advertising/Marketing.

7.2.1 Lessor shall permit Lessee to advertise on the Campus; provided that, with respect to signage on the Campus which is outside of the Project, the location of such signage will not be inconsistent with University policy related to advertising locations for University housing and/or other University-recognized student groups, unless approved by Lessor. Notwithstanding the foregoing, Lessee shall be permitted to (a) have advertising kiosks and/or information dissemination tables in high pedestrian areas approved by Lessor, with such approval not to be unreasonably withheld, conditioned or delayed (and which approval shall be deemed granted in the event that Lessor does not specifically deny such approval within ten [10] business days after it is requested in writing), (b) advertise and disseminate information in the student center during leasing periods, (c) advertise in a temporary marketing and leasing center located on the Campus during construction of the Project and (d) have other advertising and/or information dissemination locations, as approved by Lessor, with such approval not to be unreasonably withheld, conditioned or delayed (and which approval shall be deemed granted in the event that Lessor does not specifically deny such approval within ten [10] business days after it is requested in writing). To the extent that any advertising by Lessee contains Lessor's name, logo or website, such advertising shall be subject to Lessor's written approval, which approval shall not be unreasonably withheld, conditioned or delayed (and which approval shall be deemed granted in the event that Lessor does not specifically deny such approval within ten [10] business days after it is requested in writing).

7.2.2 In Lessor's marketing materials, catalogues, informational brochures distributed to students and on its web sites, the Project shall be listed as available on-Campus or off-Campus Lessor housing, as mutually selected by Lessor and Lessee. Lessor will permit Lessee to actively participate in transfer student orientation sessions or similar events for purposes of marketing the Project. Lessee shall also be entitled to participate in freshman orientation sessions with the permission of the Lessor, which permission shall not be unreasonably withheld, conditioned or delayed.

7.2.3 Lessor agrees that Lessee may market the Project for purposes of housing for summer camps and conferences at the University.

7.3 Student Information. Lessor will provide to Lessee on a timely basis, in an electronic format, contact information (name, classification, current local address, permanent home address, email address, etc.) for all accepted and enrolled students of University. Lessee shall reimburse Lessor for its actual cost of providing such information, without any mark-up, overhead or profit. Lessee agrees that the information provided in this Section 7.3 shall (1) only

be used by Lessee as part of Lessee's provision of student housing and related services at the Project and for no other purpose, (2) never be disclosed by ACC to a third party other than any Affiliate of Lessee or any of Lessee's lenders, investors or advisors, (3) be maintained as confidential as required by law, and (4) not be used as a mailing, telephone or other solicitation list for any purpose other than the purposes of this Lease. Notwithstanding the foregoing, to the extent that either (i) current applicable State or federal law (including without limitation the Family Educational Rights and Privacy Act [FERPA] [20 U.S.C. § 1232g; 34 CFR Part 99]) is changed, (ii) new applicable State or federal laws are enacted or (iii) Lessor is legally challenged and, as a result, Lessor hereafter becomes legally prohibited from providing such contact information to Lessee, Lessor agrees to disseminate Lessee's marketing materials and information related to the Project, promptly following written request therefor by Lessee. Lessee shall reimburse Lessor for its actual cost of disseminating Lessee's marketing information pursuant to this Section 7.3, without any mark-up, overhead, or profit.

7.4 Preference of other Projects. Lessor shall not undertake to directly or indirectly own an interest in, lease, develop, promote, allow, authorize, facilitate, support, subsidize, manage or operate, or refer University Students to, any new or existing Competing Project (hereinafter defined) on a preferential basis to that of the Project, without Lessee's written consent, which consent shall not be unreasonably withheld, conditioned or delayed. As used herein, the term "Competing Project" shall mean any student housing project which is likely to compete for residents with the Project with consideration given to applicable factors, including without limitation the following factors: (i) targeted student residents (e.g., upper-classmen or graduates); (ii) package of amenities (e.g., swimming pool, food service, parking, access to public transportation and fitness facilities); and (iii) residence life programs.

7.5 Competing Projects. Lessor shall not undertake to directly or indirectly own an interest in, lease, develop, promote, allow, authorize, facilitate, support, subsidize, manage or operate any new Competing Project unless Lessor shall first deliver to Lessee a housing study from an independent third party consultant which has at least five (5) years experience in providing such housing studies and which is reasonably acceptable to Lessee and Lessor (a "Consultant") which demonstrates that such Competing Project will not materially and adversely affect the demand for the Project. Notwithstanding the foregoing, for purposes of this Section 7.5, any replacement of currently existing student housing on the Campus (so long as the total number of beds is not increased and the student housing which is replaced is not used after the replacement student housing is completed) shall not be deemed to be a Competing Project. The foregoing shall not be deemed to prevent Lessor from developing on the Campus student housing facilities containing up to 150 bed accommodations, in the aggregate, using its own funds or borrowings secured by its own credit, so long as Lessor does not engage another third-party developer (unless such developer is strictly providing development services for a fee and has no equity interest in the project) in connection with such development.

7.6 Internet. Lessor shall allow students who are Subtenants of the Leased Premises the same access to Lessor's internet system that other registered students of Lessor have, at no additional cost; provided, however, that Lessee shall be responsible for any and all costs of installing and maintaining hardware to enable internet access.

7.7 Other Services. Lessor shall make available to students who are Subtenants of the Leased Premises (on the same terms as made available to other registered students who live in on-Campus housing), as applicable, the same “support” services that are provided to all other registered students who live in on-Campus housing, including without limitation police services (subject to Section 9.1.5 hereof), transportation, residence life programming, student adjudication procedures and recreation center access.

7.8 Utilities. Costs for any utilities or services furnished by Lessor shall be at Lessor’s actual cost. In the event that Lessee elects, at its option, to obtain any available utility services from Lessor (if allowed by law), Lessee will be charged with Lessor’s actual cost of such service.

7.9 Other Facilities. Lessee acknowledges that the State Board of Education has authority to set rental rates for Lessor’s own student housing facilities on the Campus. Such authority is not relinquished as part of this Lease. Notwithstanding the foregoing, Lessor acknowledges that having rental rates for any other existing or future student housing project on the Campus (on a comparative basis, taking into consideration such factors as age of the facility, location, amenities, unit size and configuration) which are no less than those being charged for the Project is important to the success of the Project and will benefit both Lessor and Lessee, and Lessor will in good faith consider the effects on the Project in setting or amending rental rates for other existing or future student housing projects on the Campus.

8. Permitted Uses, Subletting and Parking.

8.1 Permitted Uses.

8.1.1 Lessee shall use the Leased Premises only for residential apartments which will support the University and other institutions of higher education (subject to the priorities set forth in Section 9.1.4.2.2(a)) and ancillary supporting uses, such as (without limitation) a management office, a leasing office, common areas, recreational rooms, meeting rooms, workout rooms, utility rooms, lobbies, retail space and parking areas.

8.1.2 Any material changes or expansions of the uses permitted pursuant to Section 8.1.1, shall be subject to Lessor’s approval, which approval shall not be unreasonably withheld, conditioned or delayed, provided however that University may withhold approval at its sole, absolute and unreviewable discretion if the change or expansion is to a use not related to a University purpose, as such purpose may be determined at the sole discretion of the University. [UNDER REVIEW BY ACC AND BOISE STATE]

8.2 Subtenants/Subleases/Parking.

8.2.1 Subleases. Lessee shall have the right to sublet all or any part of the Leased Premises and Improvements to Subtenants for Permitted Uses. Each Sublease shall require the Subtenant to attorn (i) to Lessor in the event of the termination of this Lease or Lessee’s rights and privileges under this Lease or (ii) to any Leasehold Mortgagee that becomes the lessee under a New Lease prior to the expiration date of the Sublease.

8.2.2 Form of Subleases. Lessee will cause Manager to incorporate into the Subleases the following provisions, except to the extent prohibited by applicable law:

8.2.2.1 Subtenants will be obligated to abide by Lessor's promulgated code of conduct relative to all University student residents and all other applicable relevant promulgated policies applicable to all University student residents currently set forth in [http://www.boisestate.edu/osrr/scp/student\\_code.html](http://www.boisestate.edu/osrr/scp/student_code.html) or other website identified by Lessor to Lessee in writing.

8.2.2.2 Subtenants and their guests shall be subject to Lessor's judicial process procedures, and violations of University's student code of conduct relative to matters other than defaults under Subleases or violations of community policies, rules and regulations for the Project shall be adjudicated pursuant to such procedures. Subtenants will be required to abide by community policies, rules and regulations of the Project, and such policies, rules and regulations shall be subject to enforcement by Lessee and/or Manager.

8.3 Nondiscrimination. Lessor and Lessee agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunities, immigration, non-discrimination and affirmative action. To that end, Lessee shall not unlawfully discriminate in the conduct and operation of its business at the Project against any person or group of persons because of race, color, religion, national origin, citizenship, sex, gender identity, sexual orientation, age, disability, Vietnam-era veteran status, other protected veteran status, newly separated veteran status, or special disabled veteran status.

8.4 Parking. [THE FINAL WORDING OF THIS SECTION 8.4 IS UNDER DISCUSSION]

8.4.1 Lessor is responsible for constructing and providing, at its sole cost and expense, at least \_\_\_\_\_ parking spaces for the exclusive use of residents and staff of the Project in the area on the Campus in close proximity to the Land and which described or depicted on Exhibit L attached hereto (the "Required Parking Spaces").

8.4.2. Lessor shall construct or provide the Required Parking Spaces and complete all required striping, bollards, stops and signage so that the Required Parking Spaces are fully operational, compliant with all applicable laws, rules and regulations and unconditionally ready for use by residents and staff of the Project on or before \_\_\_\_\_.

8.4.3 At Lessee's option, either (a) Lessor will lease the Required Parking Spaces directly to Lessee, and Lessee will thereafter lease such Required Parking Spaces to the residents and staff of the Project at a rental amount to be negotiated by Lessor and Lessee or (b) Lessor will lease the Required Parking Spaces directly to the residents and staff of the Project. Lessee shall provide Lessor with the names of all residents and staff who obtain parking privileges under this Section 8 so that Lessor can ensure that such persons cannot purchase parking privileges otherwise through Lessor.



8.4.4 The Required Parking Spaces will be operated, enforced and patrolled by Lessor in the same manner (or better) as Lessor operates, enforces and patrols its other parking areas on the Campus. Lessor shall keep and maintain the Required Parking Spaces in good and operable condition, at Lessor's sole cost and expense. Lessor shall issue parking permits to individual users.

8.4.4 The rental rates of the Required Parking Spaces will be in a tiered format and pricing will be based upon proximity and convenience and shall include any market-justified premiums.

8.4.5 Lessor and Lessee agree to in good faith discuss and evaluate the parking needs of the Project at the end of every ten (10) Lease Years and implement any changes mutually agreed to by Lessor and Lessee; provided that no changes to parking requirements shall materially negatively impact the demand for the Project.

9. Maintenance, Operation and Management.

9.1 Maintenance and Operation. Following completion of construction of the Improvements, Lessee shall operate and maintain the Leased Premises to a standard equal to Class A Condition. In order to maintain a standard equal to Class A Condition, Lessee shall, at a minimum, do the following:

9.1.1 Minimum Maintenance Standards.

9.1.1.1 Lessee shall perform daily groundskeeping and common area cleaning, including interior and exterior common areas, to ensure that the Leased Premises meet mutually acceptable levels of curb appeal.

9.1.1.2 The Manager's on-site maintenance staff shall use reasonable efforts to respond to Subtenant issued work orders within 24 hours of receipt. Subtenant work orders related to life safety, loss of utilities or issues of major inconvenience to a Subtenant will be handled on a first priority basis utilizing reasonable efforts to respond within four (4) hours of receipt of such Subtenant work order.

9.1.1.3 Lessee shall develop and implement ongoing maintenance programs along with a preventive maintenance and capital replacement program to ensure the Leased Premises are preserved in Class A Condition throughout the Lease Term. The maintenance program shall be subject to approval of the Committee.

9.1.1.4 If Lessee refuses or neglects to repair and/or maintain the Leased Premises, or any part thereof, and, as a result of such refusal or neglect, the safety or health of Subtenants is in imminent danger, and Lessee fails to cure such condition within a reasonable time after Lessor advises Lessee thereof in writing, the Lessor shall have the right, upon giving the Lessee reasonable written notice of its election to do so, to make such repairs or perform such maintenance on behalf of and for the account of Lessee. In such event, such work shall be paid for by Lessee as additional Rent and shall be due promptly upon receipt

of an invoice therefor. No proper exercise by Lessor of any rights reserved in this Section 9.1.1.4 shall entitle Lessee to any damage for any injury or inconvenience occasioned thereby (except any injury or damage resulting from the gross negligence or willful misconduct of Lessor) nor to any abatement of Rent or other amounts payable by Lessee under this Lease.

9.1.1.5 If Lessee fails, following reasonable written notice thereof from Lessor to Lessee, to make repairs and/or maintain the Project in accordance with the requirements of this Section 9.1.1, and such refusal or neglect does not adversely affect the safety or health of Subtenants, then Lessor shall have the right to obtain a report from an independent, qualified third-party consultant relative to the level or repairs or maintenance of the Leased Premises and, if such report indicates that Lessee is not repairing or maintaining the Leased in accordance with the requirements of this Section 9.1.1, then Lessee shall take action to repair or maintain the Leased Premises in accordance with such requirements; provided, however, that if Lessee disputes the findings of such report, Lessee may, by written notice thereof to Lessor, at its option elect to mediate such dispute in accordance with the procedures and guidelines of the American Arbitration Association, and Lessor agrees to participate in such mediation.

9.1.2 Minimum Staffing Standards.

9.1.2.1 Lessee shall maintain the necessary on-site staff at the Leased Premises to ensure that all facets of operations (business administration, marketing and leasing, maintenance and residence life), are successfully implemented. Manager's on-site staff shall at a minimum consist of an on-site manager, assistant manager, maintenance supervisor and a resident director. In addition, sufficient support staff will be maintained as necessary to satisfy the requirements of this Section 9.1.2.

9.1.2.2 Lessee and Lessor acknowledge that they desire the Leased Premises to serve as an academically oriented student housing community that provides its Subtenants with an opportunity to study, socialize and recreate through the implementation of a sound residence life program. Lessee agrees that the Leased Premises shall have an on-site paraprofessional resident assistant staff at a ratio of no less than one (1) resident assistant to every seventy-five (75) Subtenants living at the Leased Premises, which resident assistants shall be employees of Lessee or Manager.

9.1.3 Management. Lessee will engage Manager to manage and operate the Leased Premises in a Class A Condition and otherwise in accordance with the terms and provisions of this Lease pursuant to management agreements between Lessee and Manager.

9.1.4 Residence Life and Marketing.

9.1.4.1 Advisory Committee

9.1.4.1.1 An advisory committee ("Committee"), composed of three (3) representatives of Lessor and three (3) representatives of Lessee, will meet at least twice annually to review the operations of the Leased Premises. The Committee may

review annual operating and capital budgets and operating policies governing student Subtenants of the Leased Premises. The Committee shall not set or amend rental rates (which rental rates will be set and amended by Lessee) or set or amend parking and transportation policies, rates or procedures (which will be set and amended by Lessor)[.

9.1.4.1.2 Four (4) members of the Committee will constitute a quorum, provided at least two (2) representatives of Lessor and two (2) representatives of Lessee are present. A concurring vote of four (4) members of the Committee shall be required for action by the Committee. Notwithstanding the foregoing, in the event that the Committee is unable to reach a decision relative to a financial or economic matter which will or is likely to result in a material economic consequence to Lessee or the Leased Premises, then representatives of Lessee shall resolve the deadlock by casting the deciding vote (provided, however, that Lessee may not use its ability to cast a deadlock-breaking vote as a means to avoid managing and operating the Leased Premises in Class A Condition ), and in the event that the Committee is unable to reach a decision relative to operating policies governing student Subtenants, then representatives of Lessor shall resolve the deadlock by casting the deciding vote; provided, however, that if such decision will or is likely to result in a material economic consequence to Lessee or the Leased Premises, Lessee may override such deciding vote (provided, however, that Lessee may not use its ability to cast a deadlock-breaking vote as a means to avoid managing and operating the Leased Premises in Class A Condition).

9.1.4.1.3 On or before September 30 of each year, Lessee shall require Manager to deliver to the Committee for its review and consideration an Annual Marketing and Leasing Plan (herein so called) setting forth the following with respect to the upcoming Academic Year:

- (a) Proposed rental rates; and
- (b) A proposed marketing plan.

9.1.4.1.4 On or before November 1 of each year, Lessee shall require Manager to deliver to the Committee for its review and consideration an annual Management Plan (herein so called), setting forth the following with respect to the upcoming Academic Year:

- (a) Annual Operating Budget (herein so called);
- (b) Annual Capital Plan (herein so called);
- (c) Annual Staffing Plan (herein so called);
- (d) Any proposed changes in operational programs, policies and procedures necessary to achieve Class A Condition;
- (e) Security plan;

- (f) Residence Life Plan (herein so called); and
- (g) Facility assessment reports as necessary to appropriately plan for use of reserves in maintaining Class A Condition.

The Annual Operating Budget, Annual Capital Plan and Annual Staffing Plan shall be designed to achieve or exceed those necessary to satisfy the requirements of this Lease.

9.1.4.1.5 The Committee shall adopt community policies, rules and regulations for the Subtenants which are consistent with this Lease.

9.1.4.1.6 Any deadlock among the members of the Committee which is not resolved by the terms of this Section 9.1 or otherwise resolved by the members of the Committee shall be an Arbitration Dispute.

9.1.4.2 Marketing and Leasing

9.1.4.2.1 Lessor desires and Lessee intends to market and lease the Leased Premises to house University Students.

9.1.4.2.2 Lessee shall cause the Manager to direct its marketing and leasing efforts for new Subtenants in the following order of priority for the Leased Premises:

- (a) University Students:
  - (i) Continuing students currently living in Lessor's on-Campus facilities in an effort to attract them to Lessee's housing as opposed to moving off Campus;
  - (ii) Continuing students currently living off-Campus in an effort to have them return to on-Campus housing;
  - (iii) Upperclass transfer students applying for admission to University;
  - (iv) First year students who satisfy either of the following conditions: (A) if such student graduated from high school, such student graduated from high school more than two (2) years

previous to his/her admittance to University or (B) if such students received a GED diploma, such student is 20 years old or older; and

- (v) Freshmen applying for admission to University.
- (b) Students of other state universities or colleges, but only with the Lessor's approval, which approval shall not be unreasonably withheld, conditioned or delayed if there is insufficient demand from University Students; and
- (c) University faculty and staff, but only with Lessor's approval, which approval shall not be unreasonably withheld, conditioned or delayed if there is insufficient demand from University students.

9.1.4.3 Collection of Revenues. Lessee shall collect all revenues from the Leased Premises and any services provided by Lessee.

9.1.4.4 Financial Aid. Lessee and Lessor shall work together to develop a process to coordinate financial aid payments for rental in the Leased Premises with Lessor's current system for processing financial aid.

9.1.4.5 Resident Satisfaction Surveys. Lessee may from time to time, commission a resident satisfaction survey relative to the Leased Premises. Lessee agrees to furnish to Lessor the results of any such survey following Lessee's receipt thereof.

9.1.4.6 Reporting. Lessee shall require Manager to promptly report to Lessor any criminal incidents or serious breaches of community policies or rules and regulations.

9.1.4.7 Meal Plans. Lessor and Lessee shall reasonably cooperate relative to the marketing of meal plans to Subtenants.

9.1.4.8 Alcoholic Beverages Policy. Lessee may, at its option, adopt a policy relative to the Project whereby Subtenants who are lawfully permitted to possess and consume alcoholic beverages are not prohibited from doing so in the Project, provided that such possession and consumption is in accordance with applicable laws which are applicable generally to residents of off-Campus housing in Boise, Idaho. Such policy, if adopted by Lessee, shall be effective for the Project, regardless of University policy regarding

alcoholic beverages.

9.1.5 Police/Security.

9.1.5.1 The Project shall be within the jurisdiction of the University's Campus police force, and Lessor shall cause such police force to patrol the parking areas and exterior common areas of the Leased Premises on a schedule to be reasonably determined by Lessor and Lessee.

9.1.5.2 With respect to the Project, Lessor shall cause the University's Campus police force to enforce applicable laws at the Project. Lessor shall cause the University's Campus police force to be available to respond to emergency situations and situations involving criminal activity in the same manner as the City of Boise police force responds with regard to off-Campus student housing facilities serving the Campus.

9.1.5.3 Lessee and Manager shall enforce the community policies of the Project. In order to attempt to limit unnecessary calls to the University's Campus police force, Lessee and Lessor will advise Subtenants that calls relative to excessive noise and violations of community policies should initially be directed to Manager, with Manager being the intended first responder on such calls.

9.2 Repair and Restoration Reserves.

9.2.1 During the Lease Term, following completion of the construction of the Leased Premises, Lessee shall deposit or credit to the Maintenance and Capital Repair Reserve an amount equal to the Required Reserve Amount, which funds must be spent on items set forth in the approved Annual Capital Plan. Notwithstanding the foregoing, in the event that funds on hand in the Maintenance and Capital Repair Reserve are more than \$750,000.00 (the "Maximum Required Reserve"), then no further deposit or credit to the Maintenance and Capital Repair Reserve shall be required until the balance of the Maintenance and Capital Repair Reserve is less than the Maximum Required Reserve. Notwithstanding anything set forth herein to the contrary, in the event that a Leasehold Mortgage requires periodic deposits to a maintenance and/or capital repair reserve which may be spent on items set forth in the approved Annual Capital Plan, then the obligations of Lessee under this Section 9.2.1 shall be satisfied by Lessee's compliance with such requirement in such Leasehold Mortgage.

9.2.2 Lessee shall utilize funds from time to time in the Maintenance and Capital Repair Reserve for purposes of maintaining and equipping the Leased Premises in accordance with the requirements of this Lease.

9.3 [RESERVED]

9.4 Alterations. After construction of the Improvements in accordance with Section 4 has been completed by Lessee, Lessee may from time to time make such alterations to the Leased Premises as it from time to time determines to be appropriate. To the extent that any such alterations will result in a material change to any Approval Items, such alterations shall be

subject to University's approval, which approval shall not be unreasonably withheld, conditioned or delayed, and which approval shall not be withheld so long as the Approval Items conform substantially to the Outline Specifications and are a logical extension of prior submittals that have been approved by Lessor (and which approval shall be deemed to have been given if Lessor does not specifically disapprove such revisions or request additional information or documentation concerning such Approval Items within twenty (20) business days after receipt by Lessor). In the event that Lessor timely requests additional information or documentation concerning any such material change in any Approval Items, and University does not specifically disapprove such Approval Items within five (5) days after University's receipt of such additional information or documentation (or the expiration of the original twenty (20) business day period, whichever is later to occur), then Lessor shall be deemed to have approved the change to the Approval Items.

10. Condition of Leased Premises. Except as otherwise specifically provided in this Lease, Lessee shall accept the Leased Premises on the Commencement Date in their "as-is" condition, including, without limitation, subject to any structural defects. Lessee acknowledges and agrees that there are no representations or warranties made by or on behalf of Lessor with respect to the Leased Premises (other than those set forth in this Lease) or with respect to its suitability for the Permitted Uses.

11. Environmental Covenants and Warranties.

11.1 Lessor's Representations. Lessor warrants and represents to Lessee that:

11.1.1 Lessor has not failed to disclose to Lessee in writing any information known to Lessor relating to the environmental condition of the Land and the improvements that have been located on the Land during the period of Lessor's ownership of the Land.

11.1.2 To Lessor's knowledge, all environmental conditions which materially and adversely affect the Land or any such improvements have been removed in material conformance with all applicable environmental laws or otherwise responded to so as not to be a factor that needs to be considered or dealt with by Lessee in constructing the Project and in subleasing and using the Land and the Improvements

11.1.3 To Lessor's knowledge, no hazardous wastes or hazardous substances (as defined in Section 11.2.1) or any other environmentally regulated substance have been generated or released on, in, or under the Land or in the Improvements on the Land during Lessor's ownership thereof, except for any of the same that have been removed from the Leased Premises in accordance with all applicable laws, except for items normally or routinely used in the operation, repair, maintenance, and use of residential projects, such as fuels, solvents, cleaning materials, paint and printing materials, so long as the same are used in a manner that complies with all applicable laws.

11.2 Lessee's Environmental Covenants .

11.2.1 Lessee shall not engage in and shall use reasonable efforts to prevent any Subtenant from engaging in operations at or in the Leased Premises which involve the generation, manufacture, refining, transportation, treatment, storage, handling disposal, release or threat of release of “hazardous substances,” “regulated substances,” “hazardous wastes” or “solid wastes” (as such terms are defined and/or used in applicable state or federal laws or the regulations issued thereunder whether now or hereafter in effect, including, without limitation, the federal Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”)), including, without limitation, asbestos, lead paint and polychlorinated byphenyls (“PCBs”) or environmentally deleterious material in amounts and concentrations, the uncontained presence of which would require remediation or clean-up to conform to applicable remediation criteria established under applicable local, state or federal laws, regulations or guidelines. Lessee shall at all times comply with and conform to the requirements of all laws, statutes, ordinances, rules, regulatory notices and orders of all governmental and regulatory authorities with respect to the generation, handling, treatment, storage, disposal and remediation of hazardous substances, regulated substances, and wastes or environmentally deleterious materials. Lessee shall not cause and shall not permit to exist as a result of an intentional or unintentional action or omission on its part (and Lessee shall use reasonable efforts not to permit to exist as a result of an intentional or unintentional action or omission on the part of any other party), the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping from or about the Leased Premises of any such hazardous substances, regulated substances, or wastes in amounts and concentrations the uncontained presence of which would require remediation or clean-up to conform to applicable remediation criteria established under applicable local, state or federal laws, regulations or guidelines.

11.2.2 Nothing contained in this Section 11.2 shall be construed as prohibiting the use on the Leased Premises of substances regulated by environmental laws, including hazardous substances and hazardous wastes, that are normally or routinely used in the construction of improvements such as the Improvements Lessee has undertaken in Section 4 to construct or are normally or routinely used in the operation, repair, maintenance, and use of residential projects, such as fuels, solvents, cleaning materials, paint and printing materials, so long as the same are used in a manner that complies with all applicable laws.

12. Warranties and Representations.

12.1 By Lessor. Lessor hereby warrants and represents to Lessee as follows:

12.1.1 Lessor has the full right, power, and authority to enter into this Lease and to perform its obligations hereunder. All requisite approvals, consents and board or committee actions necessary to authorize Lessor to enter into this Lease and to be bound by the provisions of this Lease have been obtained or taken. The person executing this Lease on behalf of Lessor has authority on behalf of Lessor to execute this Lease and all other documents contemplated hereby. This Lease constitutes a valid and binding obligation of Lessor and is enforceable against Lessor in accordance with its terms.

12.1.2 The Land is not subject to any pending or, to Lessor’s knowledge, threatened litigation, and Lessor is not subject to any pending or, to Lessor’s knowledge,



threatened litigation that would or might affect the Land or Lessor's ability to perform its obligations under this Lease.

12.1.3 The Leased Premises are not, as of the date of this Lease, subject to any oral or written lease, license or other occupancy agreement.

12.2 By Lessee.

12.2.1 Lessee has the full right, power, and authority to enter into this Lease and to perform its obligations hereunder. All requisite approvals and limited liability company actions necessary to authorize Lessee to enter into this Lease and to be bound by the provisions of this Lease have been obtained or taken. The person executing this Lease on behalf of Lessee has authority on behalf of Lessee to execute this Lease and all other documents contemplated hereby. This Lease constitutes a valid and binding obligation of Lessee and is enforceable against Lessee in accordance with its terms.

12.2.2 Lessee is not subject to any pending or, to Lessee's knowledge, threatened litigation that would or might affect Lessee's ability to perform its obligations under this Agreement.

13. Compliance With Laws. Lessee shall comply in all material respects at Lessee's sole cost and expense with all notices of all governmental authorities having jurisdiction over the Leased Premises and shall observe and comply with all laws, ordinances, codes, rules or regulations of any governmental or quasi-governmental authority, public, private and other authorities, and agencies having jurisdiction over the Leased Premises. Notwithstanding the foregoing, Lessee shall have the right to reasonably contest any such notices, laws, ordinances, codes, rules or regulations.

14. Title to Improvements.

14.1 Pursuant to this Lease, Lessee owns a leasehold interest in and to the Leased Premises.

14.2 Lessor owns fee simple title to the Leased Premises, subject to the Lessee's leasehold interest therein. The Improvements will be owned by Lessor as they are incorporated, and will never be owned by Lessor unburdened by Lessee's leasehold interest until termination or expiration of this Lease in accordance with its terms.

15. Utilities. Lessee shall pay all charges for utility services furnished to the Leased Premises during the Lease Term.

16. Mechanics' Liens. Subject to Lessee's obligation to remove or otherwise bond against any lien as required by this Section 16, Lessee shall use commercially reasonable efforts to avoid the filing of mechanics' liens against the fee interest of Lessor in the Leased Premises or the leasehold estate of Lessee under this Lease and shall obtain a lien waiver from its general contractor upon completion of construction of the Project. Lessee shall cause any claim of

mechanics' lien arising by, through or under Lessee which purports to lien the estate of Lessor or Lessee in the Leased Premises to be removed or bonded off prior to any execution or enforcement of such lien. In the event that Lessee permits such liens to be foreclosed or executed on, Lessor may, but shall not be obligated to, pay such lien or liens in full, or cause the same to be removed of record by causing the lien or liens to be bonded. Any reasonable expenses incurred by Lessor in furtherance of Lessor's rights under this Section 16 shall be paid by Lessee to Lessor as additional rent due under this Lease. Lessor or Lessee may contest the validity of any such lien or claim, but upon final determination of such contest, Lessee shall pay any remaining judgment, decree or lien and cause the same to be released of record without cost to Lessor.

17. Casualty.

17.1 Lessee's Obligation to Repair. Except as provided in Section 17.1.4, in the event of damage to or destruction of the Project or any Improvements, the funds derived from casualty insurance acquired pursuant to Section 18 shall be made available to the extent needed to effect, such repair and reconstruction of the structure or improvement so damaged or destroyed to substantially its condition prior to said damage or destruction, or, if such repair or reconstruction is not commercially feasible due to the age, design, use, extent of damage or the type of construction, or other aspect of the Improvements, Lessee may, at its option, effect repair and reconstruction so as to preserve the portions of the Improvements that have not been substantially damaged or to remodel or revise the structure of the Improvements, or Lessee may raze the Improvements or any part thereof provided, however, that Lessee's actions shall be subject to the following requirements:

17.1.1 The restoration shall create a building of substantially the same (or greater) floor area and number of units as were contained in the damaged building; provided that Lessee shall be entitled to make such changes in the Improvements as Lessee determines are desirable to recognize changes that have occurred in this type of residential housing since the original construction of the Project and trends that are then occurring therein, provided that all such changes materially comply with the Outline Specifications, as applicable.

17.1.2 Any material changes in Approval Items set forth in the plans for the restoration shall be subject to the review and approval of Lessor in accordance with the terms and provisions of Section 4.2 hereof.

17.1.3 Lessor acknowledges that it has no ownership right or interest in the proceeds of the insurance acquired by Lessee pursuant to Section 18.

17.1.4 Notwithstanding the foregoing provisions of this Section 17.1, any Lead Leasehold Mortgagee that succeeds to Lessee as lessee hereunder shall not be required to perform the obligations of Lessee under this Section 17.1; provided that any such Lead Leasehold Mortgagee shall be required to raze or repair the remaining improvements to the extent necessary to protect them against further deterioration as a result of such casualty and as necessary to place the remaining Improvements in a reasonably safe and sanitary condition; and provided further that, if such Lead Leasehold Mortgagee does not agree with Lessor by written

agreement approved by Lessor (which approval shall not unreasonably be withheld, conditioned or delayed), within one hundred thirty-five (135) days of the occurrence of the casualty, to perform Lessee's obligations under Section 17.1, Lessor may, at any time thereafter, as its sole remedy, terminate this Lease by notice to such Lead Leasehold Mortgagee without incurring any liability whatsoever to Lessee or Lead Leasehold Mortgagee, and Lead Leasehold Mortgagee shall thereupon be entitled to receive and retain all proceeds of casualty insurance applicable to such casualty up to the amount of the outstanding Loan which was secured by its Leasehold Mortgage. No such termination shall relieve Lessee or such Lead Leasehold Mortgagee that has succeeded to Lessee as lessee hereunder from obligations hereunder that accrue with respect to the period ending on the effective date of such termination.

17.1.5 If there is no Loan secured by a Leasehold Mortgage, then insurance proceeds shall be used to restore the Improvements. If there is a Loan secured by a Leasehold Mortgage, Lessee shall use commercially reasonable efforts to obtain the consent of any Leasehold Mortgagee to apply any insurance proceeds received with respect to any casualty occurring with respect to the Improvements to be applied to the restoration of the Improvements, subject to such reasonable requirements as the Leasehold Mortgagee may impose. Lessee and Lessor hereby agree as follows (which provisions must be included in each Leasehold Mortgage):

17.1.5.1 In the event of damage or destruction affecting the Project, then so long as (A) the insurance proceeds (together with any additional sums deposited with Lead Leasehold Mortgagee by Lessee or Lessor in connection with such casualty) are sufficient to repair or restore such damage or destruction, and (B) the casualty does not occur within the last six (6) months of the term of the Loan secured by such Leasehold Mortgage or the last six (6) months of the term of this Lease, then such Leasehold Mortgagee will permit Lessee to have access to such insurance proceeds (together with any additional sums deposited with Lead Leasehold Mortgagee by Lessee or Lessor in connection with such casualty) to repair and restore such damage or destruction, subject to customary requirements and conditions to such disbursement.

17.1.5.2 Any excess proceeds and other funds contributed pursuant to this Section 17.1.5 following repair or restoration of such damage or destruction shall be paid (A) if Lessor did not contribute funds pursuant to Section 17.1.5, to Lessee or, if there is then a Leasehold Mortgage, to the Lead Leasehold Mortgagee, (B) if Lessor contributed funds pursuant to this Section 17.1.5, but Lessee did not, then to Lessor, to the extent of such contribution, and thereafter to Lessee or, if there is then a Leasehold Mortgage, to the Lead Leasehold Mortgagee, and (C) if Lessee and Lessor contributed funds pursuant to Section 17.1.5 hereof, then to Lessee (or, if there is then a Leasehold Mortgage, to the Lead Leasehold Mortgagee) and Lessor in the proportion in which each of them contributed funds pursuant to Section 17.1.5) hereof).

17.2 Prompt Repair. If Lessee, pursuant to the terms hereof, is obligated or elects to repair, replace, reconstruct or rebuild any structures, improvements or other property as hereinabove provided, the same shall be effected at Lessee's cost and expense (only to the extent of insurance proceeds and other amounts available as above provided and subject to the

provisions of Section 18). Subject to the time required for collecting insurance proceeds, redesign as is appropriate under Section 17.1 and obtain governmental approvals therefor, and obtain necessary financing and subject to Unavoidable Delays, Lessee shall use commercially reasonable efforts to commence and complete such repair, replacement, reconstruction or rebuilding to full completion promptly.

17.3 Lease Continuance. This Lease and the Lease Term shall not terminate or be terminated because of damage to or destruction of the Project or Improvements, except as expressly provided in this Lease.

18. Insurance and Indemnification.

18.1 Liability Insurance. Lessee shall purchase and maintain and keep in effect at all times during the Lease Term insurance against claims for personal injuries (including death) or property damage, under a policy of commercial general liability insurance, such that the total available limits will not be less than \$5,000,000.00 per occurrence, which may be satisfied by any combination of primary, secondary, and other coverages, naming Lessor and any Leasehold Mortgagee as an additional insured. The coverage afforded the additional insured shall be primary and shall apply to loss prior to any coverage carried by Lessor. Any insurance or self-insurance maintained by Lessor shall be in excess of Lessee's commercial general liability insurance coverage and shall not contribute with it. Certificates of insurance shall include a copy of the endorsement evidencing additional insured status. The policy shall include coverage for:

- Bodily injury
- Broad form property damage (including completed operations)
- Personal injury
- Blanket contractual liability
- Products and completed operations and this coverage shall extend for one year past the actual completion of construction of all Improvements.

In the event that the general liability insurance coverage is written on a "claims made" basis, coverage shall extend for two (2) years past expiration or termination of this Lease.

18.2 Workers' Compensation Insurance. Lessee shall purchase and maintain and keep in effect at all times during the Lease Term workers compensation and employers liability insurance as required by the State of Idaho Workers Compensation statutes as follows:

Workers Compensation (Coverage A)	Statutory
Employers Liability (Coverage B)	\$500,000 each accident
	\$500,000 each employee/disease
	\$1,000,000 policy limit/disease

This policy shall include endorsement for All State coverage for state of hire.

18.3 Automobile Liability Insurance. If applicable, Lessee shall purchase and maintain and keep in effect at all times during the Lease Term business automobile liability

insurance, with minimum limits of \$1,000,000 per occurrence combined single limit, with Insurance Service Office, Inc. Declarations to include non-owned and hired motor vehicles, applicable to claims arising from bodily injury, death or property damage arising out of the ownership, maintenance or use of any automobile. The policy shall be endorsed to add Lessor as an additional insured and shall stipulate that the insurance shall be primary, and that any self-insurance or other insurance carried by Lessor shall be excess and not contributory to the insurance provided by Lessee. Lessee represents and warrants that Lessee does not own any motor vehicles.

18.4 Property Insurance. Lessee shall maintain and keep in effect (or cause to be maintained and kept in effect) at all times during the Lease Term insurance on the Leased Premises and Improvements against loss or damage by fire, lightning, windstorm, hail, explosion, vandalism, malicious mischief; and damage from aircraft and vehicles and smoke damage. Such insurance shall be written on a replacement cost basis in the amount of the full replacement cost of the Leased Premises and Improvements (but excluding the value of roads, foundations, surface parking areas and similar improvements) subject, however to commercially reasonable sublimits for buildings of this type. During any period while the Project is being constructed, the insurance required pursuant to this Section 18.4 shall be in the form of a builder's "all risk" policy. In addition, Lessee shall purchase and maintain business income insurance equal to at least twelve (12) months estimated business income.

The builder's risk policy referred to above shall be all risk insurance coverage, which shall insure against physical loss or damage to all property incorporated into the Project and shall also insure finished products. Coverage shall also cover the interests of Lessor, the construction contractor and the construction subcontractors with respect to the Project, but it will not cover any machinery, tools, equipment, appliances or other personal property owned, rented or used by the construction contractor or any construction subcontractor in the performance of the construction work on the Project, which will not become a part of the completed Project.

The property insurance obtained under the builder's risk policy shall insure against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, false work, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirement, and shall cover reasonable compensation for the Project design professional's and construction contractor's services and expenses required as a result of such insured loss. The builder's risk insurance shall include physical loss or damage to the construction work on the Project, including materials and equipment in transit, on the Leased Premises or at another location as may be indicated in the construction contractor's application for payment and approved by Lessee.

As to the builder's risk insurance policy, the Lessee or the construction contractor, as applicable, shall be responsible for the deductible of each loss and shall retain responsibility for any loss not covered by the builder's risk policy.

18.5 Evidence of Insurance. Upon the Commencement Date, and if requested by Lessor, no less than annually thereafter, Lessee shall deliver to Lessor certificates of

insurance and any additional documentation reasonably requested by Lessor (including, without limitation, policy endorsements) to assure compliance with this Section 18 reasonably acceptable to the Lessor which shall identify this Lease and include copies of endorsements naming Lessor as an additional insured for general liability coverage and auto liability coverage as to acts and omissions of Lessee and others for which Lessee is responsible under applicable law and as to all liability coverages shall stipulate that the Lessee's insurance shall be primary and that any self-insurance or other insurance carried by Lessor shall be excess and not contributory to the insurance provided by Lessee. The certificates, insurance policies and endorsements required by this Section 18 shall contain a provision that coverages afforded will not be cancelled until at least thirty (30) days prior written notice (ten (10) days for nonpayment) to Lessor prior to any lapse, cancellation, or a reduction in coverage. All coverages, conditions, limits and endorsements shall remain in full force and effect as required in this Lease Agreement.

18.6 Copies and Additional Information. Lessor shall be provided upon request copies of all policies and endorsements, to the extent available. Each copy of a policy shall include a copy of all endorsements and shall be accompanied by a letter from Lessee's insurance broker stating that the Lessee's insurance carrier will not provide certified copies of insurance policies and endorsements and that the enclosed copy of the policy and endorsements is a true, correct and complete copy of the respective insurance policy and all endorsements to the best of the broker's knowledge. In addition, Lessor may, and Lessee hereby authorizes the Lessor to, request and receive directly from insurance companies utilized by Lessee in meeting the insurance requirements in this Section 18 any and all information reasonably considered necessary in the sole discretion of Lessor.

18.7 Intentionally omitted.

18.8 Waiver of Subrogation. Lessee and Lessor each hereby waives, and shall cause its respective insurers to waive, any claims, causes of action or other rights of any nature that such party may have against the other arising out of property damage to the Project, the Improvements, the Leased Premises or any other property owned or leased by Lessee or Lessor, to the extent that Lessee actually carries or is required hereby to carry insurance on the damaged real or personal property, except to the extent such loss or damage results from the intentional tort of the other party. Without limitation on the generality of the foregoing, the foregoing is intended, among other matters, to act as a waiver by each property insurer of Lessee and Lessor of its subrogation rights against such parties.

18.9 Claims Reporting. Any failure to comply with the claims reporting provisions of the policies or any breach of policy warranty shall not affect coverage afforded under the policy to protect Lessor.

18.10 Self-Insurance. The policies specified herein may provide coverage, which contain deductibles or self-insured retentions. Such deductibles and/or self-insured retentions shall not be applicable with respect to the coverage provided to Lessor under such policies. The Lessee shall be solely responsible for any deductible and/or self-insured retention, and Lessor, at its option, may require the Lessee to secure the payment of such deductible or self-insured retention by a surety bond or an irrevocable and unconditional letter of credit.

18.11 Payment of Insurance Proceeds. If after damage or destruction of the Project or Improvements, Lessee is obligated by the terms of this Lease to repair, reconstruct or restore the Project or Improvements, then the proceeds of Lessee's casualty insurance shall be paid to Lessee, or to the Lead Leasehold Mortgagee, if said Lead Leasehold Mortgagee so requires, to be applied pursuant to a procedure reasonably satisfactory to Lead Leasehold Mortgagee and, if Lessor has deposited funds pursuant to Section 17.1.5, Lessor, to the cost of the repair, reconstruction, or restoration of the Project or Improvements as provided in this Section 18.

18.12 Indemnification by Lessee. Lessee shall indemnify, hold harmless and, if elected by Lessor, defend Lessor and its regents, officers, employees and agents from and against any and all claims, demands, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorney's fees and litigation expenses) in respect of bodily injury to or death of a person or damage to tangible personal property owned by a third party to the extent arising or resulting from the negligent acts or omissions or willful misconduct of Lessee or any of its members, managers, officers or employees in respect of the Project. This indemnity shall not be construed to include claims, demands, liabilities, losses, damages, costs and expenses to the extent arising from the negligent acts or omissions of the Lessor or its regents, officers or employees.

18.13 Indemnification by Lessor. Subject to the limits of the Idaho Tort Claims Act, Lessor shall indemnify, hold harmless and, if elected by Lessee defend Lessee and its, members, managers, directors, officers and employees from and against any and all claims, demands, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorney's fees and litigation expenses) in respect of bodily injury to or death of a person or damage to tangible personal property owned by a third party to the extent arising or resulting from the negligent acts or omissions or willful misconduct of Lessor or any of its regents, officers or employees in respect of the Project. This indemnity shall not be construed to include claims, demands, liabilities, losses, damages, costs and expenses to the extent arising from the negligent acts or omissions of the Lessee or its members, directors, officers or employees.

18.14 Lessor's Insurance. Concurrently with the execution of this Lease, and thereafter upon renewal of such policies, Lessor shall deliver to Lessee certificates evidencing Lessor's commercial general liability insurance, automobile liability insurance and workers compensation insurance, with limits of liability as currently maintained by Lessor. [ACC TO CONFIRM]

19. Condemnation. In the event that the entire Leased Premises, or any part thereof, is taken or condemned for a public or quasi-public use or that after any partial taking the remaining portion of the Leased Premises is not sufficient, in Lessee's reasonable judgment, for the successful operation of the Project, Lessee shall have the right, with the written approval of the Lead Leasehold Mortgagee (if there is then a Leasehold Mortgage), to terminate this Lease by written notice thereof to Lessor, in which event both parties shall be relieved of and from any liability hereunder, except those accrued up to the time of such termination. In the event of any

temporary taking or condemnation, Lessee shall be entitled to the entire award of the condemning authority and there shall be no reduction in Rent. In the event that the entire Leased Premises or any part thereof is permanently taken by condemnation, Lessee and Lessor shall cooperate to prove in each condemnation proceeding the loss in value, by reason of the taking, of the respective estates of Lessor and Lessee (notwithstanding the termination of this Lease, if any), and Lessor and Lessee shall each be entitled to pursue an award for the values of Lessor's and Lessee's respective interests in the Leased Premises taken in such proceedings, if the condemning authority permits separate awards to be sought by Lessee and Lessor (it being acknowledged that in all events Lessee shall be entitled to receive any value attributable to the Improvements, less any amounts paid by Lessor pursuant to Section 17.1.5 of this Lease). In the event that the condemning authority does not permit separate awards to be sought by Lessee and Lessor, then all proceeds and awards which may be payable as a result of condemnation shall, following their receipt by Lessee or any Leasehold Mortgagee, be distributed in the following order of priority:

19.1 There shall first be paid to any Leasehold Mortgagees such amounts as may be required by such mortgages to be paid to such Mortgagees, in order of priority.

19.2 From the amount remaining, if any, there shall then be paid to Lessee a sum equal to the costs incurred by Lessee or any Leasehold Mortgagee in connection with collection of such proceeds and awards (including, without limitation, all fees for experts, counsel fees, costs of surveys and appraisals, and court costs), and, in the event of a partial taking which does not result in the termination of this Lease, a sum equal to the costs incurred or to be incurred by Lessee in restoring the portion of the Leased Premises remaining to a condition as nearly as possible to that in which the Leased Premises were prior to such taking, in the light of any reduced area thereof, pursuant to a procedure reasonably satisfactory to any Lead Leasehold Mortgagee.

19.3 The amount remaining, if any, shall be divided between Lessor and Lessee in an amount proportionate to the fair market value of Lessor's and Lessee's estates in the Leased Premises. Such fair market value is to be determined in accordance with the standards and principles applicable generally in condemnation proceedings before the courts of the State of Idaho and in accordance with the terms of this Lease. The said sum equal to the fair market value of the respective estates shall be based on the determination of the condemning authority, board of review or court which shall have determined the amount of proceeds and awards received by Lessee and Lessor, provided that such determination shall have set forth an apportionment between the leasehold estate of Lessee, on one hand, and the Lessor's estate in the Leased Premises, on the other hand. The parties hereby request such condemning authority, board of review or court to make such determination pursuant to this Section 19.3 and hereby consent to such determination. In the absence of such determination relative to such apportionment, upon written request by either Lessor or Lessee (an "Appraisal Request"), the apportionment shall be determined by appraisal in accordance with the procedures specified in Exhibit D. The decision of such appraisal process shall be binding upon the parties. Notwithstanding anything to the contrary contained herein, regardless of the manner in which the proportionate values of the Lessor's and the Lessee's estates are determined, Lessee's award shall be reduced by all amounts



paid to Leasehold Mortgagees. If the amount paid to the Leasehold Mortgagees exceeds the fair market value of Lessee's estate in the Leased Premises as determined above (the "Lessee's FMV"), then the remainder, if any, of the condemnation proceeds and awards shall be paid to Lessor. If the amount paid to the Leasehold Mortgagees is less than the Lessee's FMV, then the remainder, if any, of the condemnation proceeds and awards shall be paid as follows: (i) first, to Lessor in any amount that, when compared to the amount paid to the Leasehold Mortgagees, equals the same proportion of award to the fair market value of Lessor's estate as determined above (the "Lessor's FMV") as that proportion determined by comparing the payment to the Leasehold Mortgagees to Lessee's FMV, and (ii) second, the remainder, if any, *pari passu*, until fully paid, in the same proportion as the fair market value of each party's estate in the Leased Premises or this Lease, as the case may be, compares to the total fair market value of Lessee's FMV and Lessor's FMV.

In the event that the entire Leased Premises, or any part thereof, is taken or condemned, and Lessee does not terminate this Lease as a result thereof, then Rent shall be reduced as of the date of such taking or condemnation to equal the product of (a) the Rent in effect prior to such taking or condemnation, multiplied by (b) a fraction, the numerator of which is the number of tenantable square feet contained within the Improvements remaining after such taking or condemnation and the denominator of which is the number of tenantable square feet contained within the Improvements prior to such taking or condemnation.

20. Leasehold Mortgages.

20.1 Right to Mortgage. Lessee may, at its option, following that date which is two (2) years after the Opening Date, mortgage, or otherwise lien, pledge, assign or secure its leasehold interest in the Project to secure borrowings of Lessee or its Affiliates in the event and to the extent that a Rating Determination (hereinafter defined) has been issued. As used herein, the term "Rating Determination" shall mean preliminary indications by Moody's Investor's Service and Standard & Poor's that such borrowings by Lessee or its Affiliates will not be included in the calculation of direct or indirect debt of University. ACC will pursue the Rating Determination at its cost and Lessor agrees, at Lessee's request, to cooperate with Lessee and use its reasonable good faith efforts to obtain a Rating Determination. Following that date which is two (2) years after the Opening Date, provided that a Rating Determination has been issued, then thereafter on one or more occasions Lessee and every successor and assignee of Lessee shall have the right to enter into one or more Leasehold Mortgages and assign this Lease as security for such Leasehold Mortgage; provided, however, that the amount of the Loan secured by such Leasehold Mortgages, in the aggregate, shall not exceed an amount equal to seventy-five percent (75%) of the then fair market value of the Leased Premises as of the time such Leasehold Mortgage is executed, as reasonably determined by the applicable Leasehold Mortgagee. Lessee shall not place or create any Mortgage or other lien or encumbrance purporting to affect Lessor's fee interest in the Leased Premises or Lessor's interest in this Lease.

20.2 Notice to Lessor. Within fifteen (15) days after the execution of any Leasehold Mortgage, Lessee shall provide Lessor with a true and correct copy of such Leasehold Mortgage. In the event of any amendment to or modification of any Leasehold Mortgage, a copy thereof shall be provided to Lessor within fifteen (15) days after the execution thereof. Such

notice shall remain effective for so long as such Leasehold Mortgage shall remain unsatisfied of record or until written notice of satisfaction of such Leasehold Mortgage is given by the Leasehold Mortgagee to Lessor. Lessor shall promptly upon receipt of a communication under this Section 20 acknowledge in writing receipt of said communication to Lessee and such Leasehold Mortgagee as satisfying the requirements of this Section 20, or, in the alternative, reject in writing said notice as not complying with the provisions of this Section 20 and specify the specific grounds for such rejection. In the event that Lessor shall fail to reject any such notice on or before fifteen (15) days after the receipt by Lessor of such notice, such notice shall be deemed to have satisfied the requirements of this Section 20. In the event of any assignment of a Leasehold Mortgage or in the event of a change of address of a Leasehold Mortgagee or of an assignee of such Leasehold Mortgage, notice of the new name and/or address shall be provided to Lessor. Any notice to be given by Lessor to a Leasehold Mortgagee pursuant to any provision of this Section 20 shall be deemed properly addressed if sent to the Leasehold Mortgagee at the address indicated in the most recent notice sent with respect to the Leasehold Mortgage pursuant to this Section 20. Notices from the Leasehold Mortgagee to Lessor shall be mailed to the address designated pursuant to the provisions of Section 29 hereof. Such notices, demands and requests shall be given in the manner described in Section 29 and shall in all respects be governed by the provisions of that section.

20.3 Designation of Lead Leasehold Mortgagee: Amendment Requires Approval. Lessee shall designate one Leasehold Mortgagee as the “Lead Leasehold Mortgagee” by notice to Lessor in accordance with this Section 20. In no event shall there be more than one Lead Leasehold Mortgagee at any one time. Lessee shall have the right, from time to time during the Lease Term, to change the designated Lead Leasehold Mortgagee by notice to Lessor; provided that such change in designation shall not be effective without the consent of such outgoing Lead Leasehold Mortgagee, unless the lien of its Leasehold Mortgage has been satisfied of record or it otherwise gives notice of satisfaction. This Lease shall not be amended, cancelled, surrendered or rejected by Lessee without the prior written approval of the Lead Leasehold Mortgagee, and any such action done without the consent of Lead Leasehold Mortgagee shall not bind Lead Leasehold Mortgagee or adversely affect its rights hereunder, except with respect to a termination under Sections 20.5 or 20.6 herein.

20.4 Default Notice. Lessor, upon providing Lessee any notice of default under this Lease or a termination of this Lease, shall at the same time provide a copy of such notice to the Lead Leasehold Mortgagee and each other Leasehold Mortgagee that has given Lessor notice of its Leasehold Mortgage; provided that Lessor shall not at any time be required to give notice to more than the Lead Leasehold Mortgagee and two additional Leasehold Mortgagees. No such notice by Lessor shall be deemed to have been duly given unless and until a copy thereof has been so provided to such Leasehold Mortgagees of which Lessor has received written notice in the manner specified herein. After such notice has been given to the Lead Leasehold Mortgagee, such Lead Leasehold Mortgagee shall have an additional ninety (90) day period for remedying any default or causing the same to be remedied as is given Lessee; provided that such ninety (90) day period shall begin when Lessor delivers a subsequent written notice to the Lead Leasehold Mortgagee after the period of time given to Lessee to remedy, commence remedying or cause to be remedied the defaults specified in any such notice has expired in accordance with the terms and provisions of this Lease; provided, however, that in the event that

any such nonmonetary default is not susceptible to cure by Lead Leasehold Mortgagee until Lead Leasehold Mortgagee can gain possession of the Leased Premises, Lead Leasehold Mortgagee's period of time to commence to cure such default shall be extended until such time as Lead Leasehold Mortgagee gains possession of the Leased Premises, so long as (a) during such extended cure period all payments of Rent are paid as required under this Lease (subject to the notice and cure provisions set forth in this Lease) and (b) Lead Leasehold Mortgagee is reasonably diligent in its efforts to gain possession of the Leased Premises. Lessor shall accept such performance by or at the instigation of such Lead Leasehold Mortgagee as if the same had been done by Lessee. Lessee authorizes Lead Leasehold Mortgagee to take any such action at Lead Leasehold Mortgagee's option in accordance with law and the terms and conditions of this Lease and does hereby authorize entry upon the Leased Premises by the Lead Leasehold Mortgagee for such purpose.

20.5 Notice to Lead Leasehold Mortgagee. Anything contained in this Lease to the contrary notwithstanding, if any default shall occur that may entitle Lessor to terminate this Lease, Lessor shall have no right to terminate this Lease unless, following the expiration of the period of time given Lessee to cure such default set forth in Section 27 or to a Leasehold Mortgagee in this Section 20, or elsewhere in this Lease, if any, Lessor shall notify ("Default Termination Notice") the Lead Leasehold Mortgagee of Lessor's intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination if the nature of such default is the failure to pay Rent, and at least sixty (60) days in advance of the proposed effective date of such termination if such default is not the failure to pay Rent. The provisions of Section 20.6 shall apply if, during such 30- or 60-day Default Termination Notice period the Lead Leasehold Mortgagee shall:

20.5.1 Notify Lessor of such Lead Leasehold Mortgagee's desire to nullify such Default Termination Notice;

20.5.2 Pay or cause to be paid all Rent and other payments then due and in arrears as specified in the Default Termination Notice to such Lead Leasehold Mortgagee and that may thereafter become due during the cure period allowed to such Lead Leasehold Mortgagee, subject to the notice and cure provisions set forth in this Lease; provided that no such amount shall be required to be paid before the same is due and owing under this Lease; and

20.5.3 [FINAL LANGUAGE OF THIS SECTION 20.5.3 IS UNDER DISCUSSION] Comply or, in good faith, with reasonable diligence and continuity, commence to comply with all nonmonetary requirements of this Lease then in default and continue to pursue such cure with reasonable due diligence, excepting obligations of Lessee to satisfy or otherwise discharge any lien, charge or encumbrance against Lessee's interest in this Lease junior in priority to the lien of the Leasehold Mortgage held by Lead Leasehold. Notwithstanding any other provision of this Lease, the time allowed the Lead Leasehold Mortgagee to complete such cure pursuant to this Section 20.5.3 shall be not less than sixty (60) days and shall continue thereafter for so long as is reasonably necessary for the Lead Leasehold Mortgagee to cure such nonmonetary requirement including, in the event that the Lead Leasehold Mortgagee is required to obtain possession of the Leased Premises in order to effect such cure, any period of time reasonably required to obtain such possession (including any time Lead Leasehold Mortgagee is

stayed or enjoined).

**20.6 Procedure on Default.**

20.6.1 If Lessor shall elect to terminate this Lease by reason of any default of Lessee, and Lead Leasehold Mortgagee shall have proceeded in the manner provided for by Section 20.5, the specified date for the termination of this Lease as fixed by Lessor in its Default Termination Notice in connection with Lessee's failure to comply with obligations other than the obligation to pay Rent shall be extended as provided in this Section 20.6; provided that such Lead Leasehold Mortgagee shall, during such extended period:

20.6.1.1 [FINAL LANGUAGE OF THIS SECTION 20.6.1.1 IS UNDER DISCUSSION] Pay or cause to be paid the Rent, and other monetary obligations of Lessee under this Lease as the same become due (subject to the notice and grace provisions of Section 20.5) and continue its good faith efforts to perform all of Lessee's other obligations under this Lease, excepting obligations of Lessee to satisfy or otherwise discharge any lien, charge or encumbrance against Lessee's interest in this Lease junior in priority to the lien of the Leasehold Mortgage held by Lead Leasehold Mortgagee; and

20.6.1.2 Unless Lead Leasehold Mortgagee is stayed or enjoined from taking such actions, take steps to acquire or sell Lessee's interest in this Lease by foreclosure of the Leasehold Mortgage or other appropriate means and prosecute the same to completion with reasonable diligence and continuity.

20.6.2 If at the end of such extended period Lead Leasehold Mortgagee is complying with this Section 20.6, this Lease shall not then terminate; and the time for completion by such Lead Leasehold Mortgagee of proceedings pursuant to this Section 20.6 shall continue for the period provided in Section 20.5.3 in connection with Lessee's failure to comply with obligations other than the obligation to pay rent. Nothing in this Section 20.6, however, shall be construed to require Lead Leasehold Mortgagee to continue such foreclosure proceedings after the default has been cured. If the default shall be cured, and Lead Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease.

20.6.3 If Lead Leasehold Mortgagee is complying with Section 20.6, upon the acquisition of Lessee's estate herein by Lead Leasehold Mortgagee or its designee or any other permitted purchaser at a foreclosure sale, assignment in lieu thereof or otherwise, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease.

20.6.4 Notwithstanding any other provision of this Lease, any sale or other Transfer of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignment or other Transfer of this Lease or of the leasehold estate hereby created in lieu of the foreclosure of any Leasehold Mortgage (whether as a result of a default hereunder, a default under a Leasehold Mortgage or otherwise), shall be deemed to be a permitted sale, Transfer or assignment of this Lease and of the leasehold estate hereby created not requiring the consent of Lessor, provided that the Leasehold Mortgagee

satisfies the requirements of Section 20.6.6(b) of this Lease, and such purchaser or assignee of this Lease and of the leasehold estate hereby created shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Lessee to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of such leasehold estate. No such sale, Transfer or assignment shall constitute a default or Event of Default under this Lease.

20.6.5 [FINAL LANGUAGE OF THIS SECTION 20.6.5 IS UNDER DISCUSSION] Notwithstanding any other provision of this Lease and provided that all monetary and non-monetary defaults under this Lease have been cured prior, no Leasehold Mortgagee or other person acquiring title to Lessee's interest in the Leased Premises through or under a Leasehold Mortgage of Lessee's interest in the Leased Premises hereunder (including by Transfer in lieu of foreclosure) shall be liable for any loss or damage occurring prior to acquiring such title or subsequent to any assignment of such title as provided in Section 20.6.6. In the event of any sale or other Transfer of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignment or other Transfer of this Lease or of the leasehold estate hereby created in lieu of the foreclosure of any Leasehold Mortgage, (a) the Leasehold Mortgagee shall not be liable for any act or omission of Lessee, (b) the Leasehold Mortgagee shall not be liable for any amendment to this Lease not joined in or consented to by such Leasehold Mortgagee, (c) the Leasehold Mortgagee shall not be subject to any offsets or defenses which Lessor has against Lessee and (d) Lessor and such Leasehold Mortgagee shall, upon written request of the other party, reaffirm in writing the validity of this Lease. Nothing contained in this Section 20.6.5 shall be construed as eliminating, modifying, or otherwise changing (i) any other provision of this Section 20 requiring Leasehold Mortgagees to satisfy specific requirements in order to be entitled to the benefits accorded Leasehold Mortgagees under this Section 20 to the extent such requirements are applicable under the circumstances or (ii) any provision of Section 17 or Section 19 of this Lease.

20.6.6 Notwithstanding any other provision of this Lease, any Leasehold Mortgagee (including the Lead Leasehold Mortgagee) or its designee that acquires Lessee's rights under this Lease through foreclosure or otherwise shall (if the acquiring Leasehold Mortgagee does not satisfy the requirements of a Qualified Assignee) need not be a Qualified Assignee; provided that such Leasehold Mortgagee shall following such foreclosure or transaction in lieu thereof either (a) upon any transfer by such Leasehold Mortgagee or its designee, assign Lessee's rights under this Lease to a Qualified Assignee or another third party that Lessor approves as having appropriate qualifications and financial capability necessary to operate the Improvements successfully (including appropriate experience, which may be provided through the engagement of a manager with appropriate experience), which approval shall not unreasonably be withheld, conditioned or delayed (provided that such Qualified Assignee or other third party shall be required to assume and agree to perform and be bound by all of the obligations of Lessee under this Lease, including all obligations to pay Rent and perform the construction (if any) required hereby) or (b) engage a Person which has at least five (5) years of experience managing student housing facilities comparable to the Leased Premises (which condition may be satisfied by such Person's parent organization) to operate and manage the Project.

20.7 New Lease. In the event of the termination of this Lease as a result of Lessee's default or otherwise as provided in Section 20 and Lead Leasehold Mortgagee or its designee have acquired proper possession of the Leasehold interest, Lessor shall, in addition to providing the notices of default and termination as required by Section 20, provide Lead Leasehold Mortgagee with written notice that the Lease has been terminated, together with a statement of all sums that would at the time be due under the Lease but for such termination, and of all other defaults, if any, then known to Lessor. Lessor agrees to enter into a new lease ("New Lease") of the Leased Premises with Lead Leasehold Mortgagee or its designee (provided the requirements of Section 20.6.6(b) of this Lease are satisfied) for the remainder of the term of this Lease, effective as of the date of termination, at the Rent and upon the same terms, covenants and conditions of this Lease (but excluding any requirements which are not applicable or have been satisfied by Lessee (i.e. initial construction requirements) prior to termination), subject only to the conditions of title as the Leased Premises are subject to on the date of the execution of the original Lease and such matters arising thereafter that require Lead Leasehold Mortgagee consent and to which such Lead Leasehold Mortgagee has consented to in writing, and to the right, if any, of any parties then in possession of any part of the Leased Premises, provided:

20.7.1 Lead Leasehold Mortgagee shall make written request upon Lessor for such New Lease within sixty (60) days after the date such Lead Leasehold Mortgagee receives Lessor's Default Termination Notice of this Lease given pursuant to this Section 20.7;

20.7.2 [FINAL LANGUAGE OF THIS SECTION 20.7.2 IS UNDER DISCUSSION] Lead Leasehold Mortgagee or its designee shall pay or cause to be paid to Lessor at the time of the execution and delivery of such New Lease, any and all sums that are at the time of execution and delivery thereof due pursuant to this Lease regardless of such termination and, in addition thereto, all reasonable expenses, including reasonable attorneys' fees, that Lessor shall have incurred by reason of such termination and the execution and delivery of the New Lease and that have not otherwise been received by Lessor from Lessee or other party in interest under Lessee. Upon the execution of such New Lease, Lessor shall allow to the lessee named therein as an offset against the sums otherwise due under this Section or under the New Lease, an amount equal to the net income derived by Lessor from the Leased Premises during the period from the date of termination of this Lease to the date of the beginning of the Lease term of such New Lease. In the event of a controversy as to the amount to be paid to Lessor pursuant to this Section 20.7.2, the payment obligation shall be satisfied in the event that Lessor shall be paid the amount not in controversy (provided that such amount is not less than one hundred percent (100%) of the Variable Rent payable by Lessee during the last complete Lease Year), and the Lead Leasehold Mortgagee or its designee shall agree to pay any additional sum ultimately determined to be due;

20.7.3 [FINAL LANGUAGE OF THIS SECTION 20.7.3 IS UNDER DISCUSSION] Lead Leasehold Mortgagee or its designee shall agree to remedy any of Lessee's defaults of which the Lead Leasehold Mortgagee was notified by Lessor's Default Notice of Termination,; and

20.7.4 Upon the execution and delivery of a New Lease, all Subleases shall thereupon be assigned and transferred, without warranty or recourse by Lessor to the extent

of its interests, if any, to the tenant under the New Lease.

20.8 No Merger. So long as any Leasehold Mortgage is in existence, unless Lead Leasehold Mortgagee and each other Leasehold Mortgagee that has given Lessor notice of its Leasehold Mortgage shall otherwise expressly consent in writing or unless this Lease has otherwise been terminated in accordance with its terms, the fee title to the Leased Premises and the leasehold estate of Lessee therein created by this Lease shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by Lessor or by Lessee or by a third party, by purchase or otherwise. Lessor and Lessee may not voluntarily agree to terminate this Lease without the consent of Lead Leasehold Mortgagee and each other Leasehold Mortgagee that has given Lessor notice of its Leasehold Mortgage.

20.9 Erroneous Payments. No payments not constituting payments of Rent made to Lessor by Lead Leasehold Mortgagee shall constitute agreement that such payment was, in fact, due under the terms of this Lease; and Lead Leasehold Mortgagee having made any payment to Lessor pursuant to Lessor's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof provided Lead Leasehold Mortgagee shall have made demand therefor not later than ninety (90) days after the date of such payment.

20.10 Bankruptcy. In the event either Lessor or Lessee becomes the subject of a proceeding under the United States Bankruptcy Code (Title 11 U.S.C.) as now or hereafter in effect (including any replacement thereof):

20.10.1 Lessee shall not be entitled to reject this Lease without the prior written consent of the Lead Leasehold Mortgagee and every other Leasehold Mortgagee that has given Lessor notice of its Leasehold Mortgage; provided that, if the Lease is nevertheless rejected in connection with a bankruptcy proceeding by Lessee or a trustee in bankruptcy for Lessee, such rejection shall be deemed an assignment by Lessee to the Lead Leasehold Mortgagee of the leasehold estate and all of Lessee's interest under this Lease, in the nature of an assignment in lieu of foreclosure, and this Lease shall not terminate and the Lead Leasehold Mortgagee shall have all the rights of the Lead Leasehold Mortgagee under this Section 20.10.1 as if such bankruptcy proceeding had not occurred, unless the Lead Leasehold Mortgagee shall reject such deemed assignment by notice in writing to Lessor within sixty (60) days following rejection of the Lease by Lessee or Lessee's trustee in bankruptcy. If any court of competent jurisdiction shall determine that this Lease shall have been terminated notwithstanding the terms of the preceding sentence as a result of rejection by Lessee or the trustee in bankruptcy for Lessee in connection with any such proceeding, the rights of the Lead Leasehold Mortgagee to a New Lease from Lessor pursuant to Section 20.7 shall not be affected thereby.

20.10.2 If the Lease is rejected by Lessor or by Lessor's trustee in bankruptcy:

20.10.2.1 Lessee shall not have the right to treat this Lease as terminated except with the prior written consent of the Lead Leasehold Mortgagee and each

other Leasehold Mortgagee that has given Lessor notice of its Leasehold Mortgagee; and any right to treat this Lease as terminated in such event shall be deemed assigned to such Leasehold Mortgagees, whether or not specifically set forth in any such Leasehold Mortgage, so that the concurrence in writing of Lessee and the Lead Leasehold Mortgagee and each other Leasehold Mortgagee that has given Lessor notice of its Leasehold Mortgage shall be required as a condition to treating this Lease as terminated in connection with such proceeding.

20.10.2.2 If this Lease is not treated as terminated in accordance with Section 20.10.2, then this Lease shall continue in effect upon all the terms and conditions set forth herein, including Rent, but excluding requirements that are not then applicable or pertinent to the remainder of the term hereof (i.e. initial construction requirements). Thereafter, Lessee or its successors shall be entitled to offset against rent payable hereunder the amounts of any damages from time to time arising from such rejection or any failure of Lessor to perform its obligations hereunder and any such offset properly made shall not be deemed a default under this Lease. The lien of each Leasehold Mortgage then in effect shall extend to the continuing possessory rights of Lessee following such rejection with the same priority as it would have enjoyed had such rejection not taken place.

20.11 Intentionally omitted.

20.12 Fee Mortgage. All Fee Mortgages shall be subordinate to this Lease and any New Lease, and Lessor shall from time to time at the request of Lessee or any Leasehold Mortgagee provide a subordination agreement from any holder of a Fee Mortgage confirming that the Fee Mortgage is subordinate to this Lease and any New Lease.

20.13 Limitation of Leasehold Mortgagee's Liability. The liability of any Leasehold Mortgagee or its designee or nominee acquiring title to the Leasehold interest pursuant to foreclosure or other process in lieu thereof under this Lease shall be limited to its interest in the Leased Premises, and any judgments rendered against any such Leasehold Mortgagee or its designee or nominee following foreclosure or other process in lieu thereof shall be satisfied solely out of its interests in this Lease or the proceeds of sale of its interest in the Leased Premises. No personal judgment shall lie against any such Leasehold Mortgagee or its designee or nominee upon extinguishment of its rights in the Leased Premises, and any judgment so rendered shall not give rise to any right of execution or levy against such Leasehold Mortgagee's or its designee's or nominee's assets. The provisions of this Section shall not inure to the successors and assigns of any Leasehold Mortgagee or its designee or nominee following its acquisition and Transfer of title to the leasehold estate created hereby.

20.14 Security Interests. Lessor hereby consents to Lessee's grant of security interests in the Personal Property to bona fide lenders, their successors and assigns (together, "Secured Lenders"). Any Personal Property in which a security interest has been granted to a Secured Lender is hereinafter called "Secured Property." Lessor subordinates any interest in the Personal Property to security interests granted to Secured Lenders, subject to the provisions hereof. Lessor consents to the entry by Secured Lenders or their agents or representatives upon the Leased Premises at any time pursuant to any document evidencing or governing a lien or security interest in favor of a Secured Lender for the purpose of removing the Secured Property,



except that the Secured Lenders may not remove any Fixtures from the Leased Premises. The Secured Property shall be deemed to be personal property and not a part of the Premises and shall not be claimed or seized or levied upon in any levy or legal execution or legal proceedings by Lessor. The Secured Lenders may remove Secured Property, or any part thereof, without liability for damage to or diminution in value of the Leased Premises, except for the actual physical damage caused by such removal, which physical damage shall be repaired by the removing Secured Lender or caused to be repaired by the removing Secured Lender so that the Leased Premises shall be restored to the condition the Leased Premises would be in absent such removal.

20.15 No Guaranty; Only Debtor-Creditor Relationship. Nothing contained herein shall be construed as a guaranty, of any kind or nature, by any Leasehold Mortgagee of any of the obligations of Lessee hereunder or as creating a relationship between Lessee and any Leasehold Mortgagee other than a relationship of creditor and debtor.

20.16 Casualty; Condemnation. All proceeds of policies of insurance maintained hereunder and the award from any condemnation or taking of the Leased Premises (to the extent attributable to the interests of Lessee in the Leased Premises) shall be paid to and held by the Lead Leasehold Mortgagee in trust for the benefit of Lessor and Lessee, as applicable. Such Lead Leasehold Mortgagee is hereby authorized to participate in any actions, proceedings or negotiations in connection with the collection, settlement or compromise of any such proceeds or awards.

20.17 Right to Exercise Options. In the event that Lessee fails to exercise any options to renew or extend the term of this Lease within the time required, Lessor shall give Lead Leasehold Mortgagee written notice of Lessee's failure to exercise any such option. Lead Leasehold Mortgagee shall have thirty (30) days after receipt of Lessor's written notice within which to exercise the option which Lessee failed to exercise, and any exercise of such option by Lead Leasehold Mortgagee shall have the same force and effect as if the option had been exercised within the required time by Lessee, except that any time period calculated from the date that Lessee exercised or could have exercised such an option shall be calculated instead from the date when the Lead Leasehold Mortgagee exercised the option.

20.18 Arbitration. Lessor shall give each Leasehold Mortgagee prompt written notice of any arbitration or legal proceedings between Lessor and Lessee involving obligations under this Lease. Each Leasehold Mortgagee shall have the right to intervene in any such proceedings and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention. In the event that any Leasehold Mortgagee shall not elect to intervene or become a party to any such proceedings, Lessor shall give the Leasehold Mortgagee written notice of, and a copy of any award or decision made in any such proceedings, which shall be binding on all Leasehold Mortgagees not intervening after receipt of written notice of arbitration.

20.19 Waiver of Lessor's Lien. Lessor does hereby waive any and all lien or claim of lien against Lessee, the Leased Premises, the Personal Property and all other trade fixtures and equipment of Lessee now or hereafter located on the Leased Premises, arising from

this Lease or the relationship of Lessor and Lessee (or to the extent any such waiver is ineffective, Lessor hereby subordinates any such lien or claim of lien to the liens created under any and all Leasehold Mortgages, whether now or hereafter existing).

20.19 Changes to Mortgagee Protective Provisions. In the event that Lessee is permitted pursuant to Section 20.1 hereof to enter into a Leasehold Mortgage, Lessor agrees to consider in good faith any modifications, clarifications or changes to the mortgagee protective provisions contained in this Lease (including without limitation those set forth in this Section 20) which are reasonably requested by a Leasehold Mortgagee.

20.20 No Rights Superior to Lessee. Except as otherwise expressly set forth herein, no rights, powers or privileges granted under this Section 20 to a Leasehold Mortgagee, including the Lead Leasehold Mortgagee, or any party claiming an interest by, through or arising from an act of a Leasehold Mortgagee shall be superior, greater or more extensive than those already granted to the Lessee. Except as otherwise expressly set forth herein, nothing in this Section 20 shall be construed to relieve any obligation of Lessee under this Lease in the event there is a Leasehold Mortgage.

20.21 No Lien of Lessor's Interest. Nothing herein shall be construed to grant the Lessee, the Lead Leasehold Mortgagee, any other Leasehold Mortgagee, or any party claiming by, through or arising from an act of Lessee or any Leasehold Mortgagee, including the Lead Leasehold Mortgagee, any right or power to assert a lien on the interests of the Lessor, including but not limited to the fee interest of the Lessor or Lessor's interest in this Lease.

21. Quiet Enjoyment. Lessor represents that it has the right and capacity to enter into this Lease. Lessor covenants and agrees that Lessee shall peaceably and quietly have, hold, and enjoy the Leased Premises for the Lease Term, without hindrance or molestation by anyone claiming paramount title or claims whatsoever, except by, through, or under Lessee, subject, however, to the covenants, agreements, terms, conditions and other obligations of this Lease and any holder of any rights under any Permitted Exceptions and subject to the rights of Lessor set forth herein if an Event of Default occurs.

22. Assignment/Transfer.

22.1 Limitation: Consent Required. Lessee may at any time sell, assign, sublease, convey or transfer (collectively, "Transfer") this Lease to an Affiliate of Lessee or to a Qualified Assignee without Lessor's approval. Lessee shall not Transfer this Lease to any party other than an Affiliate of Lessee or to a Qualified Assignee without the prior consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. Any such Transfer shall be subject to all the covenants, conditions, agreements, and terms of this Lease. As between Lessor and Lessee, Lessee shall be responsible for any realty transfer taxes associated with any Transfer of this Lease. As used herein, "Transfer" shall not include any subletting permitted in this Lease, including without limitation Section 8.2. If Lessee requests Lessor's consent to any Transfer for which Lessor's consent is required, then Lessee shall provide Lessor with a copy of the contract of sale and a written description of the following information about the proposed transferee, its controlling parties and its proposed manager or operator of the

Project: name and address; reasonably satisfactory information about its and its controlling parties' business and business history; and general references sufficient to enable Lessor to determine the proposed transferee's or its controlling parties' or Project manager's or operator's experience. It shall be reasonable for Lessor to withhold its consent to a Transfer if the proposed transferee cannot provide reasonably satisfactory evidence to the Lessor of its ability to satisfy all of the obligations of Lessee under this Lease or if none of the proposed transferee, its controlling parties, or its manager or operator has adequate successful experience in operating urban residential rental properties. Lessor's consent to a Transfer shall not release Lessee from performing its obligations under this Lease, unless Lessee's transferee assumes Lessee's obligations under this Lease which arise following the date of such assignment in a writing reasonably satisfactory to Lessor, and upon such assumption Lessee shall be released from all liability under this Lease; provided that Lessee shall not thereby be relieved of obligations, liabilities, indemnifications and causes of action that arose prior the date of the Transfer and prior to the transferee's ownership of the leasehold estate unless the same are specifically assumed by the transferee. Lessor's consent to any Transfer shall not waive Lessor's rights as to any subsequent Transfer. Any Transfer by Lessee in violation of the terms and covenants of this Lease shall be void and shall constitute a default by Lessee under this Lease. In the event that Lessee requests that Lessor consider a Transfer hereunder, Lessee shall pay Lessor's reasonable out-of-pocket attorneys' fees and costs incurred by Lessor in connection with the consideration of such request or such Transfer.

22.2 Transfer by Lessor. Notwithstanding anything set forth herein to the contrary, Lessor shall not at any time Transfer its interests in the Land, the Improvements and/or the Project, or any part thereof, except only to an affiliate of Lessor which is a 501(c)(3) entity or another governmental agency (a "Qualifying Transferee"). Notwithstanding the foregoing, Lessor may not Transfer its interests in the Land, the Improvements and/or the Project, or any portion thereof, in the event that, as a result of such Transfer, ad valorem real property taxes or other taxes or assessments (or payments in lieu thereof) would be due and payable on Lessor's or Lessee's interest in the Leased Premises (or any portion thereof). Any Transfer to a Qualifying Transferee shall be subject to and conditioned upon the following:

22.2.1 The Qualifying Transferee must expressly assume (and be able to perform) all of the duties and obligations of Lessor under this Lease and agree to be bound by all of the terms and provisions of this Lease; and

22.2.2 Lessor must notify Lessee in writing of such proposed Transfer at least thirty (30) days prior to the date of such Transfer, and copies of the documents effectuating the Transfer and the assumption by the Qualifying Transferee pursuant to Section 22.2.1 above must be delivered to Lessee within five (5) days after such Transfer.

23. Access to Project. Lessor, and its employees and agents from time to time designated by Lessor to Lessee, shall have the right to enter the Project at all reasonable times for the purpose of examining or inspecting the same, subject in all respect to the rights of Subtenants. Except in case of emergency, any such entry shall be after reasonable written notice to Lessee, and, at Lessee's option, Lessee shall have the right to have Lessor's agents and employees accompanied on any such examination or inspection by a representative designated

by Lessee. If a representative of Lessee shall not be present to open and permit entry into the Project at any time when such entry by Lessor is necessary or permitted hereunder, Lessor may enter (including forcibly, to the extent necessary in the event of any emergency) without liability to Lessor and without such entry constituting an eviction of Lessee or termination of this Lease. Lessor also reserves the right to enter the property at any time for purposes of performing its duties and obligations in accordance with this Lease and providing services in accordance with this Lease. Lessee specifically waives any violation of the right to the covenant of quiet enjoyment due to Lessor's exercise of its rights in accordance with the provisions of this Section 23.

24. Estoppel Certificate. Upon not less than ten (10) business days prior written request by Lessee or Lessor, the other party shall execute, acknowledge, and deliver to the requesting party and/or to any current or prospective mortgagee, purchaser, assignee, title insurer, Subtenant, or other appropriate party, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified, and setting forth the modifications), setting forth the dates to which the rent and charges payable by Lessee hereunder have been paid, whether or not to the knowledge of the party making such certificate there is any existing default by either party and whether or not any notice of default has been served by either party upon the other and remains outstanding and stating the nature of any such defaults, and such other matters as may be reasonably requested, it being intended that any such statement delivered pursuant to this Section 24 may be relied upon by any existing or prospective title insurer, purchaser, assignee, Subtenant, mortgagee, or other appropriate party.

25. Interest on Past Due Obligations. Unless otherwise specifically provided herein, any amount due under this Lease from Lessee to Lessor or from Lessor to Lessee which is not paid when due shall bear interest from the due date until paid at the "Default Rate." "Default Rate" shall mean a rate that is two percent (2%) per annum in excess of the per annum prime rate announced as the "prime rate" in the Wall Street Journal or its successor, in effect from time-to-time; provided that, in no event shall the Default Rate hereunder exceed the maximum amount or rate that lawfully may be charged in the circumstances, if such a maximum exists.

26. Surrender Upon Lease Termination. Upon the expiration or earlier termination of this Lease, Lessee shall remove Lessee's personal property and equipment that is not attached to the Improvements and shall surrender the Leased Premises to Lessor in Class A condition, damage by condemnation, and normal wear and tear excepted; provided that Lessee shall not remove from the Leased Premises any Fixtures attached to or used in connection with operation of the Improvements, or any additions to or replacements thereof made during the Lease Term, it being the intent of the parties that upon expiration or earlier termination of this Lease, Lessor shall receive the Improvements in operating condition free of debris and rubbish and broom cleaned,; provided that nothing contained herein shall be construed as prohibiting Lessee from removing the Personal Property of Lessee or as prohibiting the removal of any belongings of any Subtenant. Lessee's Personal Property not removed by Lessee after any expiration or other termination shall be considered abandoned and Lessor may dispose of such property in accordance with the law governing abandoned property then in effect.

27. Default and Remedies.

27.1 The occurrence of any of the following shall constitute an Event of Default hereunder:

27.1.1 Lessee shall have failed to pay any Rent payable under Section 5.1 when due or (subject to receipt of notice of the same from Lessor to the extent the bill therefor is received by Lessor) any other sum required or stipulated to be paid by Lessee to Lessor hereunder, and such failure continues for ninety (90) days following Lessee's receipt of written notice thereof from Lessor; or

27.1.2 Lessee shall have failed to observe or perform any other covenant or obligation of Lessee hereunder and Lessee shall not have cured such failure within one hundred eighty (180) days after Lessee shall have received written notice thereof from Lessor; provided, however, that if such failure is such as cannot with diligent effort be cured within one hundred eighty (180) days, Lessee shall not be in default hereunder if Lessee shall have promptly commenced action to remedy such failure promptly following notice thereof and shall have diligently prosecuted such action in good faith thereafter; or

27.1.3 The occurrence of the following events: (a) the filing by or against the Lessee in any court, pursuant to any statute, either in the United States or of any other state, a petition in bankruptcy or insolvency, or for reorganization or for appointment of a receiver or trustee of all or a substantial portion of the property owned by the Lessee, (b) the making by Lessee of a general assignment for the benefit of creditors or (c) the issuance of any execution or attachment against the Lessee or all or a substantial portion of the Lessee's property, whereby all or any portion of the Lessee's interest in the Leased Premises shall be attempted to be taken, exercised or occupied by someone other than the Lessee, except as may herein be otherwise expressly permitted, which filing, adjudication, appointment, assignment, petition, execution or attachment set forth in subsections (a), (b) or (c) in this Section 27.1.3 shall not be set aside, vacated, discharged or bonded within ninety (90) days after the determination, issuance or filing of the same; or

27.1.4 Lessee permanently abandons the construction of the Improvements prior to completion thereof with no intention to complete construction, and such condition is not remedied within sixty (60) days after Lessee's receipt of written notice thereof from Lessor.

27.1.5 After the Improvements are completed, Lessee permanently vacates or abandons the Improvements (or Project) with no intention to reoccupy the Improvements (or Project), and such condition is not remedied within sixty (60) days after Lessee's receipt of written notice thereof from Lessor.

27.2 Upon the occurrence of an Event of Default, subject to the rights of Leasehold Mortgagees set forth in Section 20 Lessor shall be entitled to exercise all rights and remedies otherwise allowed in this Lease or otherwise allowed by law or equity including, but not limited to any one or more or all of the following remedies:

27.2.1 Subject to Section 20, Section 27.3 and Section 27.5, Lessor may terminate this Lease and the rights of Lessee hereunder, and may enter and retake possession of the Leased Premises (subject to the rights of Subtenants); or

27.2.2 Lessor may exercise any other right or remedy available at law or in equity; provided that the remedy of terminating this Lease shall be subject to Section 20, Section 27.3 and Section 27.5 or

27.2.3 Lessor, without additional notice, may cure such Event of Default on the part of the Lessee at Lessee's expense, and Lessee shall promptly reimburse Lessor for all reasonable costs and expenses incurred by Lessor, plus interest at the Default Rate, or

27.2.4 Lessor shall have the right, without terminating this Lease, at its option, to re-enter and re-take possession of the Leased Premises and all Improvements thereon, subject to the rights of Subtenants, and collect rents from any Subtenants and/or sublet the whole or any part of Leases Premises for the account of the Lessee, upon any terms or conditions determined by the Lessor. In such event of subleasing, the Lessor shall have the right to collect any rent which may become payable under any Sublease and apply the same as follows, subject to the rights of any Leasehold Mortgagee: to the payment of expenses incurred by the Lessor in dispossessing the Lessee and in subletting the Leased Premises, to the payment of the Rent and other amounts payable by the Lessee under this Lease required to be paid by the Lessee in fulfillment of the Lessee's covenants hereunder, to any Leasehold Mortgagee amounts due under such Leasehold Mortgages by Lessee, and any remaining rent shall be paid to the Lessee. Lessee shall remain liable to the Lessor for the payment of the Rent and other amounts required to be paid by the Lessee under this Lease, less any amounts actually received by the Lessor from a Sublease and after payment of expenses incurred, applied on account of the Rent and other amounts due hereunder. In the event of such election, the Lessor shall not be deemed to have terminated this Lease by taking possession of the Leased Premises unless written notice of termination has been given by the Lessor to the Lessee. Notwithstanding a re-letting without termination by the Lessor due to the default by the Lessee, the Lessor may at any time after such re-letting elect to terminate this Lease for such default (subject to the terms and provisions of this Lease, including without limitation Sections 27.3 and 27.5 hereof). Such Lessor re-entry rights under this Section 27.2.4 shall only exist until such time as Lessee fully cures the Event of Default and Lessor is fully compensated for all actual, reasonable costs and expenses incurred by Lessor as a result of such re-entry by Lessor in accordance with this Section 27.2.4.

27.3 Notwithstanding anything to the contrary contained herein, if Lessor claims that an Event of Default has occurred, and Lessee has contested such claim and has proceeded expeditiously to obtain final, nonappealable adjudication or arbitration for such claim, then Lessor may not terminate this Lease until the final, nonappealable adjudication or arbitration of the claim confirms that an Event of Default has occurred.

27.4 In the event that Lessee shall have failed to pay any Rent payable under Section 5.1 when due or (subject to receipt of notice of the same from Lessor to the extent the bill therefor is received by Lessor) any other sum required or stipulated to be paid by Lessee to

Lessor hereunder, and such failure continues for more than sixty (60) days after Lessee's receipt of written notice thereof from Lessor, Lessee shall owe to Lessor interest on any such sum not paid when due as follows:

27.4.1 Sums past due for 60 – 90 days after the date on which they were due shall accrue interest at the rate of six percent (6%) per annum;

27.4.2 For sums past due for 91 – 120 days after the date on which they were due, interest shall accrue at the rate of twelve percent (8%) per annum; and

27.4.3 For sums past due for more than 120 days after the date on which they were due, interest shall accrue at the rate of eighteen percent (12%) per annum.

27.5 Notwithstanding anything set forth herein to the contrary, in the event that Lessor terminates this Lease pursuant to this Section 27 as a result of an Event of Default Lessor shall, concurrently with and as a condition to such termination, pay to Lessee (or, if there is then one or more Leasehold Mortgages, then such sum shall be tendered to Lead Leasehold Mortgagee) an amount equal to (a) the Total Development and Construction Cost, minus (b) an amount equal to (i) 1.54% of the Total Development and Construction Cost multiplied by (ii) the number of Lease Years which have elapsed prior to the effective date of such termination.

27.6 The failure of Lessor or Lessee to seek redress for violations or to insist upon the strict performance of any covenant or condition of this Lease shall not be deemed a waiver of such violation or of any future similar violation and the waiver by Lessor or Lessee of any breach shall not be deemed a waiver of any past, present or future breach of the same or any other term, covenant or condition of this Lease.

27.7 The rights, privileges, elections and remedies of Lessor or Lessee set forth in this Lease or allowed by law or equity are cumulative and the enforcement by Lessor or Lessee of a specific remedy shall not constitute an election of remedies and/or a waiver of other available remedies.

28. Broker's Commissions. Each party represents and warrants to the other that it has not dealt with any real estate brokers in connection with this Lease, and each party shall indemnify the other against all costs, expenses and liabilities, including, without limitation, reasonable attorneys' fees, arising out any breach by it of the foregoing representation and warranty.

29. Notices. Except as otherwise expressly provided herein, all notices required or permitted hereunder shall be in writing and shall be served on the parties at the following addresses:

TO LESSOR: Idaho State Board of Education  
P.O. Box 83720  
Boise, Idaho 83720-0037  
Attn: Executive Director  
Telephone: 208-334-2270  
Facsimile: 208-334-2632

WITH COPIES TO: Boise State University  
1910 University Drive  
Boise, Idaho 83725-1200  
Attention: Stacy Pearson, Vice President Finance and  
Administration  
Telephone: 208-426-1200  
Facsimile: 208-426-3826

WITH COPIES TO: Boise State University  
1910 University Drive  
Boise, Idaho 83725-1002  
Attention: Kevin Satterlee, Vice President/General  
Counsel  
Telephone: 208-426-1203  
Facsimile: 208-426-1345

TO LESSEE: ACC OP (BOISE STATE \_\_\_\_\_) LLC  
c/o American Campus Communities  
805 Las Cimas Parkway  
Suite 400  
Austin, Texas 78746  
Attention: President (URGENT)  
Telephone: 512-732-1000  
Facsimile: 512-732-2450

WITH COPIES TO: Glast, Phillips & Murray, P.C.  
2200 One Galleria Tower  
13355 Noel Road  
Dallas, Texas 75240  
Attention: R. Craig Warner  
Telephone: 972-419-8314  
Facsimile: 972-419-8329

Any such notices shall, unless otherwise provided herein, be given or served (a) by depositing the same in the United States mail, postage paid, certified and addressed to the party to be notified, with return receipt requested, (b) by overnight delivery using a nationally recognized overnight courier, (c) by personal delivery, or (d) by facsimile transmission, evidenced by confirmed receipt. Notice deposited in the mail in the manner hereinabove described shall be effective on the third (3rd) business day after such deposit. Notice given in any other manner



shall be effective only if and when received (or when receipt is refused) by the party to be notified. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Notices given by counsel to Lessor shall be deemed given by Lessor and notices given by counsel to Lessee shall be deemed given by Lessee.

30. Waiver. Neither party shall be deemed, by any act of omission or commission, to have waived any of its rights or remedies under this Lease unless the waiver is in writing and signed by such party. Any such waiver shall be applicable only to the extent specifically set forth in the writing. A waiver of one event shall not be construed as continuing or as a bar to or waiver of any right or remedy to a subsequent event.

31. Interpretation. The language in all parts of this Lease shall in all cases be construed as a whole and simply according to its fair meaning and not strictly for nor against any of the parties, and the construction of this Lease and any of its various provisions shall be unaffected by any claims, whether or not justified, that it has been prepared, wholly or in substantial part, by or on behalf of any of the parties. The parties do not intend to become, and nothing contained in this Lease shall be interpreted to deem that Lessee and Lessor are, partners or joint venturers in any way or that Lessee is an agent or representative of Lessor for any purpose or in any manner whatsoever. A male or female person may be referred to in this Lease by a neuter or masculine pronoun. The singular includes the plural, and the plural includes the singular. A provision of the Lease which prohibits a party from performing an action shall be construed so as to prohibit the party from performing the action or from permitting others to perform the action. Except to the extent, if any, to which this Lease specifies otherwise, each party shall be deemed to be required to perform its obligations under this Lease at its own expense, and each part shall be permitted to exercise its rights and privileges only at its own expense. "Including" means "including but not limited to." Words such as "hereby," "herein," and "hereunder" and words of similar import shall be construed to refer to this Lease in its entirety. "Include" means "include but not limited to." "Any" means "any and all." Except to the extent the context requires otherwise, "may" means "may but shall not be obligated to." "At any time" means "at any time and from time to time." An expense incurred on behalf of a party shall be deemed to have been incurred by the party. An obligation performed on a party's behalf and pursuant to its request or consent shall be deemed to have been performed by the party. If a party is required not to unreasonably withhold consent or approval, the party shall also be required not to unreasonably delay consent or approval. The captions of this Lease are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

32. Short Form. Simultaneously with the execution hereof, the parties hereto shall execute a short form or memorandum of lease for recording. Any recording, realty transfer, documentary, stamp or other tax imposed upon the execution or recording of the short form or this Lease shall be paid by Lessee. Subject to the terms of Section 20.7, upon the expiration or termination of this Lease, such short form or memorandum shall be terminated. Subject to the terms of Section 20.7, upon the expiration, or termination of this Lease, Lessor shall prepare and tender to Lessee documents necessary to effect the termination of the short form or memorandum.

33. Binding Effect. All terms, covenants, conditions and agreements contained in this Lease shall extend to and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

34. Mutual Offset. In addition to any applicable statutory right available to the parties, Lessor and Lessee agree that any costs or damages paid or incurred by either Lessor or Lessee as a result of a default under this Lease by the other party may be offset against sums owed to such defaulting party by the other party pursuant to this Lease.

35. Partial Invalidity. If any term, covenant or condition of this Lease shall be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term, covenant and condition of this Lease shall be valid and shall be enforced to the extent permitted by law; provided such partial invalidity does not prevent Lessee from realizing the benefit of its bargain pursuant to this Lease, including but not limited to possession of the Leased Premises and the use thereof in all material respects as contemplated by this Lease.

36. Governing Law; Consent to Exclusive Jurisdiction. This Lease shall be construed in accordance with and governed by the laws of the State of Idaho, without regard to conflict of laws principles. For the purpose of any suit, action or proceeding arising out of or relating to this Lease, each of Lessor and Lessee hereby irrevocably consents and submits to the exclusive jurisdiction and venue of the Ada County District Court. Each of Lessor and Lessee irrevocably waives any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding brought in either such court and any claim that such suit, action or proceeding brought in such court has been brought in an inconvenient forum. In addition to any form of service of process otherwise permitted by law, service in any such action may be given by certified or registered mail, return receipt requested, and shall be deemed served upon the actual delivery thereof in such manner to the party intended to be served, which service shall be adequately established by the receipt for such delivery.

37. Jury Trial Waiver. LESSOR AND LESSEE EACH HEREBY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY LITIGATION RELATING TO THIS LEASE.

38. Captions. The captions herein are inserted for convenience of reference and shall not be limiting or determinative in the construction or interpretation hereof.

39. Unavoidable Delays. If either party shall be prevented or delayed from punctually performing any obligation or satisfying any condition under this Lease (other than an obligation or condition requiring the making of any payment hereunder) by any condition beyond the reasonable control of such Party (each, an “Unavoidable Delay”), including, without limitation, any strike, lockout, labor dispute, Act of God, unusually severe weather, governmental restriction, regulation or control, terrorist, enemy, or hostile governmental action, civil commotion, insurrection, sabotage, failure or default of the other party to this Lease or fire or other casualty, then the time to perform such obligation or satisfy such condition shall be extended for a period equal to the duration of the delay caused by such event plus ten (10) days. If either party shall, as a result of any such event, be unable to exercise any right or option within any time limit provided therefor in this Lease, such time limit shall be deemed extended for a

period equal to the duration of the delay caused by such event plus ten (10) days.

40. Intentionally omitted

41. Nonliability of Lessor and Lessee Officials and Employees. No regent, officer, official, employee, agent or representative of Lessor shall be personally liable to Lessee or any successor in interest, in the event of any default or breach by Lessor for any amount which may become due to Lessee or any successor in interest, or on any obligation incurred under the terms of this Lease. No officer, official, employee, agent, member or representative of Lessee shall be personally liable to Lessor or any successor in interest, in the event of any default or breach by Lessee for any amount which may become due to Lessor or any successor in interest, or on any obligation incurred under the terms of this Lease.

42. Prior Agreements and Discussions. Any agreements between Lessor on the one hand and Lessee on the other hand before the date of this Lease and relating to the Leased Premises are superseded by this Lease; provided, however, that the MOU shall remain in full force and effect with respect to all things and matters other than the Leased Premises, notwithstanding the execution of this Lease. All prior negotiations relative to the Leased Premises are merged into this Lease. The submission of any unexecuted copy of this Lease shall not constitute an offer to be legally bound by the provisions of the document submitted; and no party shall be bound by this Lease until it is executed and delivered by both parties.

43. No Third Party Rights. Nothing in this Lease shall be construed to permit anyone other than Lessor, Lessee, any Leasehold Mortgagees and their respective successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.

44. Entire Agreement; Amendment. This Lease and the Exhibits hereto embody the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings between the parties hereto with respect to the subject matter hereof. This Lease may be changed, waived, discharged or terminated only by an instrument in writing signed by the party or parties against which enforcement of such change, waiver, discharge or termination is sought. The Exhibits to this Lease are as follows:

- Exhibit A - Legal Description
- Exhibit B - Permitted Exceptions
- Exhibit C - Plans
- Exhibit D - Determination of Fair Market Value
- Exhibit E - Arbitration Provisions
- Exhibit F - Site Plan
- Exhibit G - Lessee Easement Tracts
- Exhibit H - Lessee Easement Forms
- Exhibit I - Lessor Easement Tracts
- Exhibit J - Lessor Easement Form
- Exhibit K - Outperformance Rent
- Exhibit L - Required Parking Spaces

Exhibit M - Outline Specifications

45. MOU. This Lease constitutes the Ground Lease (as defined in the MOU) for Phase 1 (as defined in the MOU).

46. Intellectual Property Rights. No party may use the intellectual property rights of the other party without the written permission of the other party.

47. Counterparts. This Lease may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature and acknowledgment pages may be taken from one counterpart and inserted in other counterparts to form a single Lease document.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the date first written above.

LESSOR:

IDAHO STATE BOARD OF  
EDUCATION, acting as the Board of  
Trustees on behalf of Boise State University

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

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

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

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

Stacy M. Pearson,  
Vice President of Finance and  
Administration

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

)

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

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by \_\_\_\_\_ of IDAHO STATE BOARD OF EDUCATION, a \_\_\_\_\_, acting as the Board of Trustees on behalf of Boise State University.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF \_\_\_\_\_

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

)

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

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by Stacy M. Pearson, Vice President of Finance and Administration of IDAHO STATE BOARD OF EDUCATION, a \_\_\_\_\_, acting as the Board of Trustees on behalf of Boise State University.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF \_\_\_\_\_

[SIGNATURE PAGE OF LESSOR]

LESSEE:

ACC OP (BOISE STATE \_\_\_\_\_)  
LLC, a Delaware limited liability company

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

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

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

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

)

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

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by  
\_\_\_\_\_ of ACC OP (BOISE STATE \_\_\_\_\_) LLC, a Delaware  
limited liability company, for and on behalf of such limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF \_\_\_\_\_

My commission expires: \_\_\_\_\_

[SIGNATURE PAGE OF LESSEE]

EXHIBIT D

**Determination of Fair Market Value**

At any time when the Lessee's FMV and/or Lessor's FMV is required to be determined in accordance with this Lease, such determination shall be made in accordance with the provisions of this Exhibit D.

1. FMV. For purposes of determining FMV, among other things to be considered in determining FMV, the rental history and prospects of the Project shall be considered, the current rental stream from the Project shall be considered, that Lessee is to receive the value of the Improvements (less any amounts contributed by Lessor pursuant to Section 17.1.5 of this Lease) shall be considered, and market conditions and the prospects for the Property in the future shall be considered, but the impact of any financing on Lessee's leasehold interests shall not be considered, and Lessee's FMV shall be determined as if Lessee's leasehold interests were free and clear of any financing.

2. Agreement of Parties. If, at any time, Lessor and Lessee agree (with the approval of any Lead Leasehold Mortgagee) in writing on the Lessee's FMV or Lessor's FMV, then such FMV shall be the amount so agreed in writing, no further action to determine FMV shall be required to be taken under this Exhibit D, and any proceedings then under way pursuant to this Exhibit D shall be terminated and of no further effect.

3. Parties Determinations. On the thirtieth (30th) day after Lessor's or Lessee's receipt of an Appraisal Request (or, if such day is not a business day, on the next business day) (the "Determination Day"), Lessee and Lessor shall meet at the office of Lessor. At such meeting:

3.1 Lessor shall deliver to Lessee three copies of Lessor's written determination of Lessor's FMV and Lessee's FMV ("Lessor's Determination"). Each copy of Lessor's Determination shall contain a statement of the amount of Lessor's FMV and Lessee's FMV determined by Lessor and may also contain such additional materials supporting or explaining Lessor's Determination as Lessor shall determine to be appropriate.

3.2 Simultaneously with Lessor's delivery of its determination, Lessee shall deliver to Lessor three copies of Lessee's determination of Lessor's FMV and Lessee's FMV ("Lessee's Determination"). Each copy of Lessee's Determination shall contain a statement of the amount of Lessor's FMV and Lessee's FMV determined by Lessee and may also contain such additional materials supporting or explaining Lessee's Determination as Lessee shall determine to be appropriate.

3.3 In the event that Lessee fails to deliver its determination as required hereby, any Lead Leasehold Mortgagee may so provide its determination, and Lead Leasehold Mortgagee shall have an additional thirty (30) days to provide its



determination. If either Lessee or Lead Leasehold Mortgagee, on the one hand, or Lessor, on the other hand, fails to deliver its determination as required hereby, then the Lessor's FMV and Lessee's FMV shall be as determined by the other party.

3.4 Unless the Lessor's FMV and Lessee's FMV has then been determined in accordance with Section 3.3:

3.4.1 Lessee shall execute an acknowledgment of the receipt of two of the copies of Lessor's Determination, one of which shall be delivered to Lessor and the second of which shall be placed in a sealable package which will be delivered to the Appraiser as set forth herein (the "Appraiser's Package").

3.4.2 Lessor shall execute an acknowledgment of the receipt of two of the copies of Lessee's Determination, one of which shall be delivered to Lessee and the second of which shall be placed in the Appraiser's Package.

3.4.3 Lessor and Lessee shall prepare the Appraiser's Package, which shall include a separate copy of this Exhibit D, the written Lessor's Determination and Lessee's Determination (including such additional materials as each party has included with its own determination), a complete copy of this Lease, together with any amendments thereto, and the names and addresses of the Lessor and Lessee (including for each the appropriate contact person). The Appraiser's Package shall be placed in an envelope or box and sealed.

4. Selection of Appraiser.

4.1 On the twenty-first day after the Determination Day (or, if such day is not a business day, on the next business day) (the "Appraiser Day"), Lessor and Lessee shall meet at the office of Lessor. At such meeting, Lessor and Lessee shall each deliver to the other the names, addresses, and telephone number of three qualified appraisers, whom that party proposes to be the Appraiser. The list of each party shall designate which of such qualified appraisers is the first choice, which the second choice, and which is the third choice of such party. In the event that Lessee fails to deliver its list as required hereby, any Lead Leasehold Mortgagee may so provide its list in lieu thereof, and Lead Leasehold Mortgagee shall have an additional thirty (30) days to provide such list. If either Lessee or Lead Leasehold Mortgagee, on the one hand, or Lessor, on the other hand fails to present such a list, the Appraiser shall be the first choice from the list of the other party. Unless the Appraiser is determined pursuant to the preceding sentence, Lessor and Lessee agree in writing to select another appraiser to be the Appraiser, the Appraiser shall be any qualified appraiser that appears on both the list of Lessor and the list of Lessee. If more than one qualified appraiser appears on both such lists, the Appraiser shall be the one that has the highest average ranking by Lessor and Lessee, and if two or more qualified appraiser appear on both lists and both have the same highest ranking, one of them shall be selected by the flip of a coin.

4.2 If the means for selection of the Appraiser provided above does not result

in the selection of the Appraiser at the meeting and Lessor and Lessee do not otherwise agree in writing on the selection of the Appraiser within five business days after Appraiser Day, Lessee and Lessor shall each deliver a copy of this Exhibit D to the first choice on such party's list of qualified appraisers and shall instruct the qualified appraiser to consult with the first choice appraiser on the other party's list and to select a qualified appraiser to be the Appraiser and to notify Lessor and Lessee thereof.

4.3 If such qualified appraisers do not select the Appraiser within ten additional business days, either party may apply to the \_\_\_\_\_ in Ada County, Idaho for the appointment of the Appraiser. Such application shall include the names of the six (or in the case of appraisers appearing on both lists, the smaller number of) appraisers on the lists of Lessor and Lessee without disclosing which party placed that appraiser on its list, and the Appraiser shall be the qualified appraiser selected by the \_\_\_\_\_ from such lists.

4.4 To be a qualified appraiser in accordance herewith, an appraiser shall be required to be an MAI real estate (or the equivalent designation of the standard of professional qualification then in use) appraiser who shall have had at least 15 years' continuous experience in the business of appraising real estate (and at least 10 years' experience in appraising student housing) in the metropolitan area in which the Leased Premises are located.

5. Determination by Appraiser. As soon as the Appraiser has been selected, Lessee shall deliver the Appraiser's Package to the Appraiser and give notice to Lessor of the date on which such delivery was made. The Appraiser shall conduct such investigations as he or she may deem appropriate and shall, within twenty (20) business days after the date of his or her designation, give notice to Lessee and Lessor selecting (a) either the Lessor's Determination of Lessor's FMV or the Lessee's Determination of Lessor's FMV, whichever determination is closer to the Appraiser's determination of Lessor's FMV and (b) either the Lessor's Determination of Lessee's FMV or the Lessee's Determination of Lessee's FMV, whichever determination is closer to the Appraiser's determination of Lessee's FMV. The Appraiser shall not be permitted to make any other determination of Lessor's FMV and Lessee's FMV, and any determination of Lessor's FMV and Lessee's FMV by the Appraiser that is not made in accordance with the provisions of this Section 5 shall be void. The Appraiser's notice stating his determination of Lessor's FMV and Lessee's FMV in accordance herewith shall also certify that the Appraiser is a qualified independent appraiser within the meaning provided in Section 4.4 and has made the determination free from any influence or affiliation that might affect the Appraiser's judgment or neutrality.

6. Effect of Determination. The determination of Lessor's FMV and Lessee's FMV made, as provided above, shall be conclusive upon Lessor and Lessee; provided, however, that if, at any time prior to the time the Appraiser makes the a determination of Lessor's FMV and Lessee's FMV in the manner provided herein, Lessor and Lessee agree in writing as to Lessor's FMV and Lessee's FMV, then the agreement between Lessor and Lessee shall govern and control.

7. Costs. Each party shall pay fees, costs and expenses of the appraiser used by such party for services under Section 4.2, its own counsel fees, and one-half (1/2) of all other expenses, including the fees of the Appraiser.

## EXHIBIT E

**Arbitration Provisions**

In the event of any dispute which is identified in the Lease as an Arbitration Dispute and which has not been resolved by agreement of Lessee and Lessor, at the written request of either Lessor or Lessee, the same shall be submitted to arbitration in accordance with the provisions hereof. Any arbitration shall be fully binding and shall be conducted in accordance with the following provisions and, to the extent not inconsistent with these provisions, in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Capitalized terms not otherwise defined in this Exhibit E shall have the same meanings assigned to them in the Lease. Lessor and Lessee may be referred to herein individually as a “Party” and together as the “Parties.”

1. **Arbitrator.** Lessor and Lessee shall both endeavor in good faith to agree on an Arbitrator (herein so called) within thirty (30) days after delivery and receipt of a Demand (hereinafter defined), and in the absence of agreement within such 30 day period shall select a replacement Arbitrator in the manner then used for selection of arbitrators under the Commercial Arbitration Rules of the American Arbitration Association (“Rules”) then in effect; provided that resolution of disputes shall be governed by this Lease and not by said Rules or under American Arbitration Association auspices. The Lead Leasehold Mortgagee shall be consulted with respect to the selection of the Arbitrator, and in the event that the Lessee fails to participate in discussions relative to the selection of the Arbitrator, then Lead Leasehold Mortgagee may attempt to reach agreement with Lessor relative to the Arbitrator.

2. **Notice of Demand for Arbitration.** In order to initiate Arbitration, the Party demanding Arbitration shall give the other Party, the Lead Leasehold Mortgagee and the Arbitrator written notice demanding Arbitration (a “Demand”). Such Demand shall identify the issues in dispute. Any time periods based on the date of a Demand shall be measured from the date such written notice is given in accordance with the Lease.

3. **Time and Place for Meeting.** Upon receipt of a Demand, the Arbitrator shall schedule a meeting (the “Meeting”), which may be at the Leased Premises, within fifteen (15) business days after its receipt of the Demand. Reasonable notice of such Meeting shall be provided to Lead Leasehold Mortgagee. Lessor and Lessee shall both attend the Meeting with the Arbitrator and each Party shall be represented as it determines to be appropriate. At or before the Meeting, either Party may, at its option, submit a short written statement describing the matter in dispute and its position in regard to the same. At the Meeting, the Parties shall show the Arbitrator such documents regarding the dispute as each shall determine to be in dispute and, unless a hearing (“Hearing”) is requested by the Arbitrator or either Party pursuant to Paragraph 4 below, which may be requested at any time before the end of the Meeting, such Arbitration Dispute shall be arbitrated at the Meeting, and each Party shall make such presentation of its case at the Meeting as its shall determine. If such Arbitration Dispute is arbitrated at the Meeting, the Meeting shall continue (including from day to day if required) until all presentations permitted by the Arbitrator have been completed. Unless agreed to at the Meeting by the Arbitrator, neither

Party shall be entitled to make any submission after the Meeting as to any matter arbitrated at the Meeting.

4. **Hearing.** If either Party or the Arbitrator requests a Hearing (which may be requested as to all issues to be arbitrated or as to only some of the issues to be arbitrated, in which case those issues as to which no such request has been made shall be arbitrated at the Meeting), the Arbitrator shall at the Meeting advise the Parties of the date, time, and place for the Hearing, which date shall be no sooner than the fifteenth (15th) business day after and shall not be later than the thirtieth (30th) business day after the date of the Meeting. The date for the Hearing shall be confirmed by the Arbitrator by written notice to the Parties and Lead Leasehold Mortgagee. The place of the Hearing shall be in the metropolitan area of Boise, Idaho and shall be confirmed in such written notice. In setting the Hearing, the Arbitrator shall make reasonable efforts to accommodate the schedules of the Parties.

5. **Procedure at Hearing.** At the Hearing the Parties shall make arguments and present evidence. The Parties may be, but shall not be required to be, represented by counsel at the Hearing. No official stenographic or other record shall be required by the Arbitrator, but either Party may make a record for its own purposes. At the request of either Party or the Arbitrator, if relevant to the dispute, the Leased Premises may be visited or inspected. No Party shall be entitled to make any additional submission after the Hearing has concluded unless agreed to at the Hearing by the Arbitrator. Once it begins, the Hearing shall continue, on a daily basis if necessary, until all arguments and evidence permitted by the Arbitrator have been submitted for his consideration.

6. **Arbitrator's Decision.** The Arbitrator shall deliver his/her Decision as to each issue arbitrated at a Meeting or Hearing to the Parties promptly and, in any event, within five (5) business days following the conclusion of the Meeting as to any Arbitration Dispute arbitrated at a Meeting and within ten (10) business days following the conclusion of the Hearing as to any Arbitration Dispute arbitrated at a Hearing. The Arbitrator's Decision shall be void as to all other matters.

7. **Arbitrator's Fees.** The Arbitrator's fees and expenses, and any related expenses incurred by the Arbitrator (e.g., for a room for the Hearing) shall be shared equally by Lessee and Lessor.

8. **Judgment Final.** Each Decision rendered by the Arbitrator shall, as provided in the Statute, be held adjudicated, settled, and not open, either directly or indirectly, to review and may be enforced as provided by applicable Idaho law.

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**UNIVERSITY OF IDAHO**

**SUBJECT**

Capital Project Design Phase Authorization Request - ASUI Kibbie Activity Center (Kibbie Dome) Enhancement Project

**REFERENCE**

August 2006	Information Item, Technical Assessment & Feasibility Study, Proposed University of Idaho Events Pavilion and ASUI Kibbie Activity Center Improvements. Business Affairs and Human Resources Agenda, Section II, Item No. 7, page 14 of the approved minutes.
November 2006	Discussion, Replace Artificial Turf, ASUI Kibbie Activity Center, Regular Board Meeting, November 30, 2006
February 2007	Information Item, UPDATE: Technical Assessment & Feasibility Study, Proposed UI Events Pavilion and ASUI Kibbie Activity Center Improvements. Notification of the Immediate Code Compliance, Guest and Participant Safety Issues Documented in the Technical Assessment & Feasibility Study. Business Affairs and Human Resources Agenda, Section II, Item No. 7, page 12 of the approved minutes.
April 2007	Capital Project Authorization, Replace Artificial Turf, ASUI Kibbie Activity Center. Business Affairs and Human Resources Agenda—Finance Agenda, Item No. 9, page 19 of the approved minutes.
December 2007	Capital Project Design Phase Authorization, ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements. Business Affairs and Human Resources Agenda—Finance Agenda, Item No. 8, page 8 of the approved minutes.
December 2008	Capital Project Initial Construction Phase Authorization, and Construction Loan Authorization, ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements. Business Affairs and Human Resources Agenda—Finance Agenda, Item Nos. 2 & 3, page 13 of the approved minutes.

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Sections V.K.1 and Section V.K.2.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**BACKGROUND/ DISCUSSION**

In 2006, the University initiated a Technical Assessment & Feasibility Study of a proposed Events Pavilion and of the ASUI Kibbie Activity Center (KAC). A team of consultants headed by Opsi Architecture and Hastings-Chivetta conducted a technical evaluation of the facility and identified a series of life safety improvements necessary for the KAC.

The University is currently proceeding with these life safety improvements. Installation of a new turf play surface in the KAC was authorized by the Board in April of 2007 and the installation was completed in September of 2007. The initial phase of construction of Life Safety Improvements to include replacement of the west end wall, installation of fire detection and suppression systems in the interstitial roof truss space and additional west end field level egress was authorized by the Board in December of 2008. That initial phase of Life Safety Improvements is currently in construction and estimated for completion in March of 2010. The replacement of the west wall portion of the project was completed in August of 2009 and has not only improved safety in the Dome, it has transformed the character of the Dome.

In addition to the on-going Life Safety Improvements, the Technical Assessment & Feasibility Study recommended a further series of amenity renovations intended to give a 'face-lift' to the 35 year old facility, enhancing the functionality of the facility, and improving spectator comfort through concession and seating upgrades. These amenity renovations are separate and distinct from the Life Safety Improvements, and, they are to be funded by a separate source of developed and gifted funds.

***Overall Project Description***

The ASUI Kibbie Activity Center (KAC) Enhancements Project consists of the following elements:

- Construction of a new Media and Game Operations Box to be located above the north concourse and seating area of the Kibbie Dome.
- Conversion of the existing Media and Game Operations Box currently located above the south concourse seating area of the Kibbie Dome. This existing structure will be expanded and renovated to serve as a Club Level in support of enhanced spectator seating opportunities
- Construction of Suite-Style Seating Boxes to be located on the south concourse/seating area
- Construction of Club Seating areas to be located on the south concourse/seating area.
- Additional Miscellaneous improvements aimed at enhancement of spectator comfort and upgraded seating in the ASUI Kibbie Activity Center.

The University has worked diligently over the course of the past year to identify and refine the improvements and enhancements necessary to achieve the goals



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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and intent of the Technical Assessment & Feasibility Study in the most efficient and achievable manner. This currently proposed scope is much reduced and much more efficient than originally envisioned. This allows the University to meet the goals and intents of the original vision while providing much greater value to our stakeholders.

Relocation of the media and game management operations to a new location above the north concourse will allow a purpose-built space supporting these needs that is fully compliant with the functional needs of the media, coaching and facility management staffs in a code compliant and fully accessible facility.

This relocation further frees up the south side concourse and structures to be expanded and renovated, creating enhanced seating opportunities and spectator comfort facilities on par with current state of the art, spectator venues and arenas. Location of these facilities on the south concourse allows a versatility of use in support of a variety of events, to include the Lionel Hampton International Jazz Festival, varsity football, varsity men's and women's basketball, regional and community events, etc.

The total Capital Project Cost to include design, construction and associated soft costs for this series of enhancements and improvements is \$5,310,000. The Design Phase cost to include architectural fees, survey costs, plan check fees and other associated miscellaneous costs for this effort is estimated at \$671,000.

***Current Authorization Request***

With this item, the University seeks authorization for the Design Phase in the amount of \$671,000.

The University intends to proceed with Design only at this time and return to the Board at a later date with a request for construction authorization dependent upon successful fund raising efforts.

This project directly supports the University's strategic plan and its education and outreach goals. It is fully consistent with the stated goals and intents of the Technical Assessment & Feasibility Study for the ASUI Kibbie Activity Center (as described both herein and to the Board in previous presentations), the University's Long Range Campus Development Plan (LRCDP), and the Campus Infrastructure Master Plan. The KAC is an iconic structure which serves a wide variety of campus and community needs, supporting general education, recreational, athletic, and community events. It also serves as a staging and response center in regional emergencies.

**IMPACT**

The Immediate fiscal impact of this effort is \$671,000.

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010**

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<u>Funding</u>		<u>Estimated Budget</u>	
State	\$ 0	Construction	\$ 0
Federal (Grant):	\$ 0	A/E & Consultant Fees	\$ 671,000
Other (UI/Bond)	\$ 0	Contingency	\$ <u>inc. above</u>
Private	\$ <u>671,000</u>		
Total	\$ 671,000	Total	\$ 671,000

**ATTACHMENTS**

Attachment 1 – Capital Project Tracking Sheet

Page 5

**STAFF COMMENTS AND RECOMMENDATIONS**

The UI is seeking Board approval to proceed with design of its planned enhancement and improvements project for the Kibbie Dome. This project is separate and distinct from Board approved life safety improvements currently underway, the final phase of which the Board will consider under Tab 4 of this agenda. Design is being funded entirely with private donations. The UI will seek Board approval for construction at a later date contingent upon successful fund raising efforts. Staff recommends approval.

**BOARD ACTION**

A motion to approve the request by the University of Idaho to implement the Design Phase for the Enhancement and Improvements project in the ASUI Kibbie Activity Center, at a cost not to exceed \$671,000, funded from private donations. Authorization includes the authority to execute all requisite consulting, design and vendor contracts necessary to fully implement the design phase for the project.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**Office of the Idaho State Board of Education  
Capital Project Tracking Sheet  
As of December 8, 2009**

**History Narrative**

- 1 Institution/Agency:** University of Idaho      **Project:** ASUI Kibbie Activity Center (Kibbie Dome) Enhancement Project, Moscow, ID
- 2 Project Description:** Implement enhancements and improvements to the Dome. In accordance with the vision of the Technical Assessment & Feasibility Study, the project scope includes a series of amenity renovations intended to give a 'face-lift' to the 35 year old facility, enhancing the functionality of the facility, and improving spectator comfort through concession and seating upgrades. These amenity renovations are separate and distinct from the Life Safety Improvements, and, they are to be funded by a separate source of developed and gifted funds.
- 3 Project Use:** Functional and amenity renovations within the Dome.
- 4 Project Size:** N/A

	Sources of Funds				Use of Funds			
	PBF	ISBA	Other	Total Sources	Planning	Const	Other	Total Uses
Initial design phase authorization - Feb 2010	\$ -	\$ -	\$ 671,000	\$ 671,000	\$ 671,000	\$ -	\$ -	\$ 671,000
			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	\$ -	\$ -	\$ 671,000	\$ 671,000	\$ 671,000	\$ -	\$ -	\$ 671,000

History of Funding:	PBF	ISBA	Other Sources of Funds			Total Other	Total Funding
			Institutional Funds (Gifts/Grants)	Student Revenue	Other		
Initial Authorization Request - design phase Feb 2010*	\$ -		\$ 671,000			\$ 671,000	\$ 671,000
	\$ -		\$ -			\$ -	\$ -
	\$ -		\$ -			\$ -	\$ -
						-	-
						-	-
<b>Total</b>	\$ -	\$ -	\$ 671,000	\$ -	\$ -	\$ 671,000	\$ 671,000

\* UI will seek construction authorization from the Regents prior to initiating construction.

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**UNIVERSITY OF IDAHO**

**SUBJECT**

Capital Project Additional Phase Authorization Request, ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements

**REFERENCE**

August 2006	Information Item, Technical Assessment & Feasibility Study, Proposed University of Idaho Events Pavilion and ASUI Kibbie Activity Center Improvements. Business Affairs and Human Resources Agenda, Section II, Item No. 7, page 14 of the approved minutes.
November 2006	Discussion, Replace Artificial Turf, ASUI Kibbie Activity Center, Regular Board Meeting, November 30, 2006
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December 2008	Project Initial Construction Phase Authorization, and Construction Loan Authorization, ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements. Business Affairs and Human Resources Agenda—Finance Agenda, Item Nos. 2 & 3, page 13 of the approved minutes.

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.K.1 and Section V.K.2.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**BACKGROUND/ DISCUSSION**

In 2006, the University initiated a Technical Assessment & Feasibility Study of a proposed Events Pavilion and of the ASUI Kibbie Activity Center (Kibbie Dome). A team of consultants headed by Opsis Architecture and Hastings-Chivetta conducted a technical evaluation of the facility and identified a series of life safety improvements necessary for the Kibbie Dome.

The University is currently proceeding with these life safety improvements. Installation of a new turf play surface in the Kibbie Dome was authorized by the Board in April of 2007 and the installation was completed in September of 2007. The initial phase of construction of Life Safety Improvements to include replacement of the west end wall, installation of fire detection and suppression systems in the interstitial roof truss space and additional west end field level egress was authorized by the Board in December of 2008.

The initial phase of Life Safety Improvements is currently substantially complete. It, along with a parallel effort by the State of Idaho, is estimated for final completion in March of 2010. The replacement of the west wall portion of the project was successfully completed in August of 2009 and has not only improved safety in the Kibbie Dome, it has transformed the very character of the Kibbie Dome.

***Summary of Project Activity to Date***

In December of 2007, the Board authorized the University to expend up to \$2,000,000 to implement the design phase for the ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements.

Subsequent to the Board's authorization to implement the design phase for the Kibbie Dome Life Safety Improvements, the University issued a Request for Qualifications for A/E Services. A team of consultants headed by Opsis Architecture, Hastings-Chivetta and Lombard Conrad Architects of Boise, Idaho was selected from a field of four candidate consulting teams in February of 2008.

Beginning in April of 2008, the University and the design team held a series of meetings with representatives of the State Division of Building Safety (DBS) and the State Fire Marshal to establish and verify goals and objectives for the project, and to ensure that all stakeholders were working towards a common end.

The design team developed accurate foundational information needed upon which to base solid design decisions. This information was presented to the University in September of 2008 and to DBS and the State Fire Marshal in October of 2008.

The design team then prepared design and bidding documents for the Life Safety Improvements measures agreed to by all parties and prioritized in consultation with DBS and the Fire Marshal. In addition, the Life Safety subconsultant, Rolf

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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Jensen Associates, prepared a computer generated, state-of-the-art fire and smoke model and a NFPA 101 Compliant Life Safety Analysis as requested by and agreed upon by DBS and the Fire Marshal. This was presented to all parties in early 2009.

In addition, the University published a Request for Qualifications for Construction Management Services in October of 2008. A team headed by Walsh Construction Company of Portland, Oregon was selected from a field of three qualified candidate firms in December 2008.

In December of 2008, the University approached the Board with a request to pursue the project via a phased implementation. This phased approach was necessitated by limitations on the University's ability to develop funds via a bond issue that arose as a result of the general condition of the economy at the time. The University stated that it had reviewed this phased approach and strategy with both DBS and the State Fire Marshal. Both DBS and the State Fire Marshal were in agreement that a phased strategy made sense given the economic conditions and supported the University's approach. The Board approved the Initial Construction Phase.

Following the Board of Regents Authorization in December of 2008, the University gave direction to the design and construction management teams to develop and proceed with the bidding of an initial construction package with an estimated total construction cost, to include contingencies, of \$10,000,000. This package was in alignment with the University's initial construction funding package and the Regents' Authorization.

Construction on this initial phase began in earnest in March of 2009 upon the conclusion of the Lionel Hampton International Jazz Festival. The scope centered on the removal and replacement of the west end wall. The replacement of the west end wall was successfully completed in August of 2009 in sufficient time to host the fall 2009 varsity football season. Further scope items included installation of aisle handrails, the addition of west end field level exits and a northeast exit stair case, which continued through fall and winter of 2009. The scope of this initial phase of construction is now substantially complete.

In the summer of 2009, the University learned that the State of Idaho was able to fund a separate, complementary Life Safety Improvements project via the State Permanent Building Fund (PBF). The scope of the State project is coordinated with the University funded project and includes sprinklering in the roof interstitial space, improvements to the fire detection and alarm systems, and standby power generation. The State funded project is currently underway and is scheduled for completion in March of 2010.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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***Current Authorization Request***

At the time of the request for the initial phase of construction, the University indicated that it intended to proceed with the initial phase of construction, and return to the Board for additional authorization on the remaining scope as financing conditions would allow.

Accordingly, the University is now requesting additional construction authorization of the Board to complete the final phase of construction as outlined in previous presentations and as described above. The major element of work in this final phase is replacement of the east end wall and the installation of associated systems such as the east smoke evacuation fans, related controls, sprinkling of the east end wall, and various remaining miscellaneous items.

The replacement of the east end wall with non-combustible construction is much more complicated than the replacement of the west wall. There is a need to coordinate with operations and occupants of the Vandal Athletic Center, and take measures necessary to protect those occupants from construction operations, including possible relocation of some occupants. In addition, there are many more building systems that tie together through the east wall and which were not present in the west wall. Scoreboards, video screens, and the like are located on the east wall. Fire detection and alarm systems, and building control and communications systems tying the north concourse to control centers located in the south concourse are all served by cables and conductors that run through conduit and chases located in the east wall. Scaffolding and hoisting operations are much more complex in regard to the east wall than they were with the west, again due to the presence of the Vandal Athletic Center.

It is the intent of the University and the design and construction management teams to apply the knowledge gained and lessons learned from the replacement of the west wall to the more complex replacement of the east end wall and associated system and scope. Based on the west wall experience, and given the additional complexities present with the replacement of the east wall, the University estimates this final phase of construction at \$11,000,000.

Therefore, this current authorization request is for an additional construction phase of \$11,000,000 to include replacement of the east end wall with non-combustible construction, completion of the smoke evacuation system, associated fire detection alarm and suppressions systems, additional roof ballasting, and other miscellaneous items as identified as the Technical Assessment & Feasibility Study and agreed to by DBS and the State Fire Marshal.

This authorization request is in addition to the existing \$2,000,000 design phase authorization and \$10,000,000 initial construction phase authorization currently in place, and will bring the total project authorization to \$23,000,000.



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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The tentative design and construction timeline for this additional phase of life safety construction is as follows:

<b>Milestone</b>	<b>Proposed Date</b>	<b>Actual Date</b>
SBOE Authorization for \$2M Design Phase for Life Safety Improvements	Dec 2007	Dec 2007
SBOE Authorization for \$10M Financing and Initial Construction Phase Contract	Dec 2008	Dec 2008
Initial Construction Phase Substantially Complete	Dec 2009	Dec 2009
SBOE Authorization for \$11M Financing and Additional Construction Phase Contract	Feb 2010	
Initial Construction Phase Complete	Mar 2010	
Initiate Bids and Material Orders Processes for Long Lead Items for Additional Construction Phase Contract	Jun 2010	
Begin Relocation of Scoreboards and other East End Wall Systems	Dec 2010	
Erect Hoisting Systems	Feb 2011	
Begin Demolition of East End Wall	Mar 2011	
Substantial Completion of East End Wall	Aug 2011	
Final Completion of ASUI KAC Life Safety Improvements	Oct 2011	

The projected timeline for life safety improvements is tentative and subject to change as the project is better defined through the construction process.

This project directly supports the University's strategic plan and its education and outreach goals. It is fully consistent with the stated goals and intents of the Technical Assessment & Feasibility Study for the ASUI Kibbie Activity Center as described both herein and to the Board in previous presentations, the University's Long Range Campus Development Plan (LRCDP), and the Campus Infrastructure Master Plan. The Kibbie Dome is an iconic structure which serves a wide variety of campus and community needs, supporting general education, recreational, athletic, and community events. It also serves as a staging and response center in regional emergencies.

**IMPACT**

The Immediate fiscal impact of this effort is \$23,000,000. As stated above, this includes the \$2,000,000 design phase authorization and a \$10,000,000 initial construction phase authorization currently in place. The additional construction phase authorization amount requested is \$11,000,000.

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010**

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<u>Funding</u>		<u>Estimated Budget</u>	
State	\$ 0	Construction	\$ 21,000,000*
Federal (Grant):	\$ 0	A/E & Consultant Fees	\$ 2,000,000*
Other (UI/Bond)	\$ 23,000,000	Contingency	\$ <u>inc. above</u>
Private	\$ <u>0</u>		
Total	\$ 23,000,000	Total	\$ 23,000,000

\* Design and Construction Phase Contingency amounts are included in each line item respectively.

**ATTACHMENTS**

Attachment 1 – Capital Project Tracking Sheet

Page 7

**STAFF COMMENTS AND RECOMMENDATIONS**

The UI is requesting additional construction authorization from the Board to complete the final phase of Kibbie Dome life safety improvements as outlined in previous presentations and as described above. The major element of work in this final phase is replacement of the east end wall and the installation of associated systems (e.g. east smoke evacuation fans, related controls, sprinklering of the east end wall, etc.). The additional construction phase authorization amount requested is \$11,000,000 for a total project cost of \$23,000,000. The Board will consider approval of actual project financing as a separate item under Tab 6. Staff recommends approval.

**BOARD ACTION**

A motion to approve the request by the University of Idaho to implement the Additional Construction Phase for the ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements project at a total additional cost not to exceed \$11,000,000. Total Authorization for the complete ASUI Kibbie Activity Center Life Safety Improvements project is hereby raised to \$23,000,000. Authorization includes the authority to execute all requisite consulting, design, construction and vendor contracts necessary to fully implement the project. This authorization is subject to approval of project financing.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**Office of the Idaho State Board of Education  
Capital Project Tracking Sheet  
As of January 8, 2010**

**History Narrative**

**1 Institution/Agency:** University of Idaho      **Project:** Capital Project Additional Construction Phase Authorization Request, ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements

**2 Project Description:** Implement Life Safety Upgrades and Improvements to the Dome. Life safety improvements include improvements to exiting systems and exiting capacity, replacement of light wood frame end walls with non-combustible construction, installation of a smoke exhaust and fire sprinkler system, and enhancements to the HVAC and electrical distribution systems.

**3 Project Use:** Corrects code deficiencies within the Dome.

**4 Project Size:** N/A

	Sources of Funds				Use of Funds			Total Uses
	PBF	ISBA	Other	Total Sources	Planning	Use of Funds Const	Other	
Design Phase Authorization - Dec 2007			\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ -	\$ -	\$ 2,000,000
Initial Construction Phase Authorization - Dec 2008			\$ 10,000,000	\$ 10,000,000	\$ -	\$ 10,000,000	\$ -	\$ 10,000,000
Additional Construction Phase Authorization - Feb 2010			\$ 11,000,000	\$ 11,000,000	\$ -	\$ 11,000,000	\$ -	\$ 11,000,000
<b>Total Project Costs</b>	\$ -	\$ -	\$ 23,000,000	\$ 23,000,000	\$ 2,000,000	\$ 21,000,000	\$ -	\$ 23,000,000

History of Funding:	PBF	ISBA	Other Sources of Funds				Total Funding
			Institutional Funds (Gifts/Grants)	Student Revenue	Other	Total Other	
Initial Authorization Request - Design Phase, Life Safety Element - Dec 07			\$ 2,000,000			\$ 2,000,000	\$ 2,000,000
Second Authorization Request - Initial Construction Phase, Life Safety Element - Dec 08			\$ 10,000,000			\$ 10,000,000	\$ 10,000,000
Third Authorization Request - Additional Construction Phase, Life Safety Element - Feb 10			\$ 11,000,000			\$ 11,000,000	\$ 11,000,000
<b>Total</b>	\$ -	\$ -	\$ 23,000,000	\$ -	\$ -	\$ 23,000,000	\$ 23,000,000

Notes:  
 25 1) UI will seek construction authorization from the Regents prior to initiating construction for additional phases of the life safety improvements.  
 26 2) Design and Construction Phase Contingency amounts are included in each line item respectively.

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**UNIVERSITY OF IDAHO**

**SUBJECT**

Issuance of tax-exempt refunding and general revenue bonds to a) refund outstanding bonds, b) refinance existing promissory note, and c) fund additional life-safety improvements to ASUI Kibbie Activity Center

**REFERENCE**

August 2006	Information Item, Technical Assessment & Feasibility Study, Proposed University of Idaho Events Pavilion and ASUI Kibbie Activity Center Improvements. Business Affairs and Human Resources Agenda, Section II, Item No. 7, page 14 of the approved minutes.
February 2007	Information Item, UPDATE: Technical Assessment & Feasibility Study, Proposed UI Events Pavilion and ASUI Kibbie Activity Center Improvements. Notification of the Immediate Code Compliance, Guest and Participant Safety Issues Documented in the Technical Assessment & Feasibility Study. Business Affairs and Human Resources Agenda, Section II, Item No. 7, page 12 of the approved minutes.
April 2007	Information Item, Future Financing Plan Under a Single Bond System. Business Affairs and Human Resources Agenda, Section II, Item No. 7, page 18 of the approved minutes.
October, 2007	Authorization to issue Adjustable Rate General Revenue Refunding Bonds Series 2007A and Adjustable Rate General Revenue Bonds, Series 2007B. Business Affairs and Human Resources Agenda, Section II, Item No. 3, page 7 of the approved minutes.
December 2007	Capital Project Design Phase Authorization, ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements. Business Affairs and Human Resources Agenda—Finance Agenda, Item No. 8, page 8 of the approved minutes.
December 2008	Capital Project Initial Construction Phase Authorization, and Construction Loan Authorization, ASUI Kibbie Activity Center (Kibbie Dome) Life Safety Improvements. Business Affairs and Human Resources Agenda—Finance Agenda, Item Nos. 2 & 3, page 13 of the approved minutes.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.F.  
Title 33 Chapter 38, Idaho Code (Higher Education Bond Act)

**BACKGROUND/DISCUSSION**

**Overview of proposed bonds**

The University proposes issuing four series of bonds as follows:

**Series 2010A Refunding Project**

Series 2010A Bonds to be used to refund the University's Student Fee Refunding Revenue Bonds, Series 1996 ("**Activity Center Bonds**") in the aggregate principal amount of \$3,125,000 and the Student Fee Refunding Revenue Bonds, Series 1997B currently outstanding in the aggregate principal amount of \$7,290,000.

**Series 2010B Project**

Series 2010B Bonds to be used to pay off the loan from Wells Fargo Bank, N.A. which financed the initial phase of life safety improvements to the Kibbie Dome of the University - replacement of the west end wall, installation of fire detection and suppression systems in the interstitial roof truss space and additional west end field level egress.

**Series 2010C Projects**

Taxable Series 2010C Bonds to be used to fund the Additional Phase of life safety and code improvements to the Kibbie Dome. These bonds will take advantage of the "Build America Bonds" classification and the University will receive tax credit payments equal to 35% of the interest payable by the University.

**Series 2011 Refunding Project**

Series 2011 Bonds to be issued to provide funds sufficient to refund all of the Series 2007A Bonds in the aggregate principal amount of \$62,095,000. The Series 2011 Bonds are being offered and will be delivered on a forward delivery basis. The University will utilize a forward purchase bond sale agreement ("FPA") refunding of the 2007A Bonds to capture current low interest rates in early 2010 for actual delivery of the refunding bonds to investors on April 1, 2011.

The Series 2011 Refunding allows the University to lock in current low rates to fix the rate on the Series 2007A bonds beyond the balloon date of April, 2011. In a FPA bond refunding, bond investors agree to purchase the University's refunding bonds now, for bond settlement on April 1, 2011. The principal adverse consideration for the University proceeding with a refunding now would be that interest rates in 2011 might be lower than the pricing of the Series 2010 refunding bonds in the current market.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**2010 Supplemental Resolution**

The 2010 Supplemental Resolution authorizes issuance of the Series 2010A, 2010B, 2010C and 2011 Bonds for the purposes outlined above.

The 2010 Supplemental Resolution also authorizes an Escrow Agreement with respect to the Activity Center Bonds (the "**Series 2010A Escrow Agreement**") with Wells Fargo Bank, N.A., as Escrow Agent (the "**Escrow Agent**"). The 2010 Supplemental Resolution and the Series 2010A Escrow Agreement provide for the purchase of direct obligations of the United States to be deposited along with an existing cash balance of \$10,000,000 into an escrow account (the "**Series 2010A Escrow Account**") to pay the current interest and redemption price on the Activity Center Bonds upon call for redemption on their first call date.

The 2010 Supplemental Resolution also authorizes an escrow agreement with respect to the Series 2007A Bonds (the "**Series 2011 Escrow Agreement**"). The 2010 Supplemental Resolution and the Series 2011 Escrow Agreement provide for the purchase of direct obligations of the United States to be deposited along with an existing cash balance into the escrow account (the "**Series 2011 Escrow Account**") to pay the current interest and redemption price on the Series 2007A Bonds upon call for redemption on their first call date.

**Rate, Maturities Security and Ratings**

- Interest rates will be determined at pricing however the bond market is currently in a very favorable position for these issuances.
- The 2010 bond series will be fixed rate to maturity. The 2011 refunding bond will continue the multi-modal concept begun in 2007 and be fixed for ten years, with the same final maturity as the original 2007 bond. Specific maturities are as follows:
  - a) Series 2010A Maturity: Match-maturity refunding (Series 1996 Final Maturity: April 1, 2013; Series 1997B Final Maturity: May 15, 2016)
  - b) Series 2010B Maturity: Final Maturity: April 1, 2033.
  - c) Series 2010C Maturity: Final Maturity: April 1, 2041
  - d) Series 2011 Maturity: balloon maturity in 2021; final maturity at 4/1/2041
- All bond series will be issued as part of the General Revenue Bond System and secured by pledged revenues to include student fees, sales and service revenues from auxiliary enterprises and educational activities, revenues received for facility and administrative cost recovery in conjunction with grants and contracts, various miscellaneous revenues, and certain investment income.
- Moody's Investors Service and Standard & Poor's each have affirmed UI's ratings of "A1" and "A+" respectively with stable outlook.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**IMPACT**

The University has already realized savings of approximately \$5 million in reduced interest costs from the 2007 series bonds which utilized multi-modal bonds initial fixed terms of 4.5 years (Series 2001A) and 10.5 years (Series 2007B). The University now has the opportunity to lock in today's low rates to fix the rate on the Series 2007A bonds beyond the balloon date of April, 2011. Refunding now would take interest rate risk off the table well before the April 1, 2011 balloon date. The current interest rate market suggests the University could lock in an all-in-cost of capital in the mid 5% range for a 10 year extension of the Series 2007A bonds with a balloon in 2021.

The University needs to refinance the current \$10 million debt to Wells Fargo and in light of the favorable interest rate market sees this as an opportunity to complete the important life safety project for the Kibbie Dome.

The University's ten year debt projections (Attachment 1) shows the projected debt service needs and the projected debt service sources from Facility Fees with respect to the proposed bonds.

**ATTACHMENTS**

Attachment 1 – Ten Year Debt Projection	Page 7
Attachment 2 – Ten Year Debt Projection Series 2010/11 Only	Page 9
Attachment 3 – Preliminary Official Statement	Page 11
Attachment 4 – Supplemental Resolution	Page 103
Attachment 5 – Bond Purchase Agreement	Page 155
Attachment 6 – Forward Delivery Bond Purchase Contract	Page 175
Attachment 7 – Continuing Disclosure Agreement 2010	Page 199
Attachment 8 – Continuing Disclosure Agreement 2011	Page 205
Attachment 9 – Escrow Agreement	Page 211
Attachment 10 – Opinions of Bond Counsel 2010-2011	Page 231
Attachment 11 – Rating Agency Reports, a & b ( <i>b not yet rec'd</i> )	Page 237
Attachment 12 – Remarketing Agreement	Page 247

**STAFF COMMENTS AND RECOMMENDATIONS**

The UI is requesting approval to issue tax-exempt refunding and general revenue bonds to: (i) refund outstanding bonds; (ii) refinance an existing promissory note; and (iii) fund the final phase of life-safety improvements to the Kibbie Dome. The issuance for the 2010 Kibbie projects and the refunding of the series 1996 and 1997B bonds would total \$31,415,000, and the 2011 project refunding of the 2007A bonds would total \$62,095,000 for a grand total of \$93,510,000. Historically low rates would allow the UI to realize significant reduced interest costs. In addition, the bonds to be used for the final phase of life-safety improvements to the Kibbie Dome take advantage of the Build America Bond program under the federal American Recovery and Reinvestment Act. Under this new financing tool, the issuer receives a direct federal subsidy payment for a portion of their borrowing costs on Build America Bonds equal to 35% of the total



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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interest paid to investors. As a result of this federal subsidy payment, the University will realize a lower net borrowing cost. Moody's Investors Service and Standard & Poor's each have affirmed UI's ratings of "A1" and "A+", respectively. Staff recommends approval.

**BOARD ACTION**

A motion to approve the request by the University of Idaho for a Supplemental Resolution for the Series 2010A, 2010B, 2010C, and 2011 Bonds, the title of which is as follows:

A SUPPLEMENTAL RESOLUTION of the Regents of the University of Idaho authorizing the issuance and sale of (i) General Revenue Refunding Bonds, Series 2010A, in the principal amount of up to \$13,000,000 (the "Series 2010A Bonds");(ii) General Revenue Bonds, Series 2010B, in the principal amount of up to \$12,000,000 (the "Series 2010B Bonds"); (iii) Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy-Build America Bonds), in the principal amount of up to \$16,000,000 (the "Series 2010C Bonds"); and (iv) Adjustable Rate General Revenue Refunding Bonds, Series 2011, in the principal amount of up to \$67,000,000 (the "Series 2011 Bonds" and collectively with the Series 2010A Bonds, the Series 2010B Bonds, and the Series 2010C Bonds, the "Series 2010/11 Bonds"), authorizing the execution and delivery of Bond Purchase Agreements related to the Series 2010/11 Bonds, and providing for other matters relating to the authorization, issuance, sale and payment of the Series 2010/11 Bonds.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**(Roll Call Vote Required)**

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University of Idaho  
10 Year Debt Projection  
January 25, 2010

	FY2010 Est	FY2011 Est	FY2012 Est	FY2013 Est	FY2014 Est	FY2015 Est	FY2016 Est	FY2017 Est	FY2018 Est	FY2019 Est	FY2020 Est	FY2021 Est
<b>1 Potential Projects</b>	<b>Cost</b>	<b>Est Debt Financed</b>	<b>Terms</b>	<b>Annual Debt Service</b>								
2 Wallace Residence Center Improvements	\$20,000,000	\$20,000,000	30, 4.90%	\$1,287,000	\$1,287,000	\$1,287,000	\$1,287,000	\$1,287,000	\$1,287,000	\$1,287,000	\$1,287,000	\$1,287,000
3 Brink/Phinney Renovations	\$25,000,000	\$25,000,000	30, 5.25%		\$1,673,000	\$1,673,000	\$1,673,000	\$1,673,000	\$1,673,000	\$1,673,000	\$1,673,000	\$1,673,000
4 Research Infrastructure Improvements	\$20,000,000	\$20,000,000	30, 5.25%			\$1,339,000	\$1,339,000	\$1,339,000	\$1,339,000	\$1,339,000	\$1,339,000	\$1,339,000
5 New Projects Phase II	\$100,000,000	\$70,000,000	30, 6.00%					\$5,086,000	\$5,086,000	\$5,086,000	\$5,086,000	\$5,086,000
<b>6 Projected New Debt Financing</b>	\$165,000,000	\$135,000,000		\$0	\$0	\$1,287,000	\$2,960,000	\$4,299,000	\$4,299,000	\$4,299,000	\$9,385,000	\$9,385,000
<b>7 Beginning Facilities Fee Reserve</b>	\$1,500,000	\$5,110,569	\$5,324,146	\$5,715,607	\$5,235,206	\$4,453,894	\$4,304,494	\$4,729,019	\$2,896,583	\$1,659,749	\$1,260,437	\$1,995,104
8 Operating transfers for debt service	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000	\$6,500,000
9 Student Facility Fee (SFF) Revenue	\$6,211,636	\$6,980,156	\$7,763,426	\$8,561,663	\$9,375,088	\$10,203,926	\$10,769,989	\$11,346,353	\$11,933,167	\$12,530,583	\$13,138,754	\$13,757,835
<b>10 Available for Debt Service Payments</b>	<b>\$14,211,636</b>	<b>\$18,590,725</b>	<b>\$19,587,571</b>	<b>\$20,777,270</b>	<b>\$21,110,295</b>	<b>\$21,157,820</b>	<b>\$21,574,483</b>	<b>\$22,575,372</b>	<b>\$21,329,750</b>	<b>\$20,690,332</b>	<b>\$20,899,191</b>	<b>\$22,252,939</b>
11 Existing Projected Debt Service	\$8,808,699	\$8,759,125	\$4,879,088	\$4,880,588	\$5,780,013	\$5,982,263	\$5,971,588	\$5,108,813	\$5,099,025	\$4,860,669	\$4,334,811	\$4,323,254
12 2010/2011 Kibbie and Refunding Debt Service	\$292,368	\$4,507,454	\$7,705,876	\$7,701,476	\$6,577,388	\$6,572,063	\$6,574,876	\$5,184,976	\$5,185,976	\$5,184,226	\$5,184,276	\$5,187,226
13 New Projected Debt Service (FY12-FY21)	\$0	\$0	\$1,287,000	\$2,960,000	\$4,299,000	\$4,299,000	\$4,299,000	\$9,385,000	\$9,385,000	\$9,385,000	\$9,385,000	\$9,385,000
<b>14 Total Projected Debt Service</b>	<b>\$9,101,067</b>	<b>\$13,266,579</b>	<b>\$13,871,964</b>	<b>\$15,542,064</b>	<b>\$16,656,401</b>	<b>\$16,853,326</b>	<b>\$16,845,464</b>	<b>\$19,678,789</b>	<b>\$19,670,001</b>	<b>\$19,429,895</b>	<b>\$18,904,087</b>	<b>\$18,895,480</b>
15 Reserve	\$5,110,569	\$5,324,146	\$5,715,607	\$5,235,206	\$4,453,894	\$4,304,494	\$4,729,019	\$2,896,583	\$1,659,749	\$1,260,437	\$1,995,104	\$3,357,459
<b>16 Operating Budget (does not include direct student loans)</b>	<b>\$392,664,300</b>	<b>\$392,664,300</b>	<b>\$392,664,300</b>	<b>\$400,517,586</b>	<b>\$408,527,938</b>	<b>\$416,698,496</b>	<b>\$425,032,466</b>	<b>\$433,533,116</b>	<b>\$442,203,778</b>	<b>\$451,047,854</b>	<b>\$460,068,811</b>	<b>\$469,270,187</b>
<b>17 Debt Service as % of Operating Budget</b>	<b>2.32%</b>	<b>3.38%</b>	<b>3.53%</b>	<b>3.88%</b>	<b>4.08%</b>	<b>4.04%</b>	<b>3.96%</b>	<b>4.54%</b>	<b>4.45%</b>	<b>4.31%</b>	<b>4.11%</b>	<b>4.03%</b>

- 18 Assumptions:**  
 19 1. Average annual operating budget flat for 2010 - 2012 then assumed 2% growth through 2021.  
 20 2. No new state funding for academic buildings  
 21 3. Student enrollment growth of 1.0% annually  
 22 4. New per semester SFF fee of \$40 FY2011 - FY 2015 then \$25 FY 2016 - FY 2021

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SUMMARY DEBT PROJECTIONS

Fiscal Year	Outstanding Bonds*			Series 2010A			Series 2010B		
	Principal	Interest	Net Annual Debt Service	Principal	Interest	Net Annual Debt Service	Principal	Interest	Net Annual Debt Service
4/1/10	4,565,000	3,951,331	8,516,331	-	292,368	292,368	-	-	-
10/1/10									
4/1/11	4,205,000	4,554,125	8,759,125	2,170,000	367,383	2,537,383	-	564,653	564,653
10/1/11									
4/1/12	1,770,000	3,109,088	4,879,088	2,230,000	286,650	2,516,650	-	540,625	540,625
10/1/12									
4/1/13	1,860,000	3,020,588	4,880,588	2,295,000	219,750	2,514,750	-	540,625	540,625
10/1/13									
4/1/14	2,855,000	2,925,013	5,780,013	1,245,000	145,163	1,390,163	-	540,625	540,625
10/1/14									
4/1/15	3,200,000	2,782,263	5,982,263	1,285,000	101,588	1,386,588	-	540,625	540,625
10/1/15									
4/1/16	3,345,000	2,626,588	5,971,588	1,335,000	53,400	1,388,400	-	540,625	540,625
10/1/16									
4/1/17	2,645,000	2,463,813	5,108,813	-	-	-	-	540,625	540,625
10/1/17									
4/1/18	2,765,000	2,334,025	5,099,025	-	-	-	-	540,625	540,625
10/1/18									
4/1/19	2,890,000	1,970,669	4,860,669	-	-	-	-	540,625	540,625
10/1/19									
4/1/20	2,505,000	1,829,811	4,334,811	-	-	-	-	540,625	540,625
10/1/20									
4/1/21	2,615,000	1,708,254	4,323,254	-	-	-	-	540,625	540,625
10/1/21									
4/1/22	2,270,000	1,581,246	3,851,246	-	-	-	-	540,625	540,625
10/1/22									
4/1/23	1,645,000	1,490,876	3,135,876	-	-	-	560,000	540,625	1,100,625
10/1/23									
4/1/24	1,700,000	1,425,656	3,125,656	-	-	-	640,000	512,625	1,152,625
10/1/24									
4/1/25	1,755,000	1,356,361	3,111,361	-	-	-	675,000	480,625	1,155,625
10/1/25									
4/1/26	1,815,000	1,284,797	3,099,797	-	-	-	705,000	446,875	1,151,875
10/1/26									
4/1/27	1,660,000	1,210,759	2,870,759	-	-	-	935,000	409,863	1,344,863
10/1/27									
4/1/28	1,725,000	1,149,173	2,874,173	-	-	-	985,000	360,775	1,345,775
10/1/28									
4/1/29	1,785,000	1,085,175	2,870,175	-	-	-	1,035,000	309,063	1,344,063
10/1/29									
4/1/30	1,855,000	1,018,952	2,873,952	-	-	-	1,090,000	254,725	1,344,725
10/1/30									
4/1/31	1,920,000	950,131	2,870,131	-	-	-	1,145,000	197,500	1,342,500
10/1/31									
4/1/32	2,000,000	878,899	2,878,899	-	-	-	1,220,000	125,938	1,345,938
10/1/32									
4/1/33	2,075,000	804,699	2,879,699	-	-	-	795,000	49,688	844,688
10/1/33									
4/1/34	2,150,000	727,717	2,877,717	-	-	-	-	-	-
10/1/34									
4/1/35	2,235,000	647,952	2,882,952	-	-	-	-	-	-
10/1/35									
4/1/36	2,315,000	565,033	2,880,033	-	-	-	-	-	-
10/1/36									
4/1/37	2,400,000	479,147	2,879,147	-	-	-	-	-	-
10/1/37									
4/1/38	2,495,000	390,107	2,885,107	-	-	-	-	-	-
10/1/38									
4/1/39	2,585,000	297,542	2,882,542	-	-	-	-	-	-
10/1/39									
4/1/40	2,685,000	201,639	2,886,639	-	-	-	-	-	-
10/1/40									
4/1/41	2,750,000	102,025	2,852,025	-	-	-	-	-	-
10/1/41									
<b>Total</b>	<b>77,040,000</b>	<b>50,923,447</b>	<b>127,963,447</b>	<b>10,560,000</b>	<b>1,466,301</b>	<b>12,026,301</b>	<b>9,785,000</b>	<b>10,199,828</b>	<b>19,984,828</b>

\* Does not include the Series 1996, Series 1997B and Series 2007A Bonds which are expected to be refunded

SUMMARY DEBT PROJECTIONS

Fiscal Year	Series 2010C				Series 2011			Total		
	Principal	Interest	U.S. Treasury 35% Direct Subsidy	Net Annual Debt Service	Principal	Interest	Net Annual Debt Service	Principal	Interest	Net Annual Debt Service
4/1/10	-	-	-	-				4,565,000	4,243,699	8,808,699
10/1/10	-	-	-	-						
4/1/11	-	957,817	(335,236)	622,581	-	782,836	782,836	6,375,000	7,226,815	13,266,579
10/1/11	-	-	-	-						
4/1/12	-	917,059	(320,971)	596,088	850,000	3,202,513	4,052,513	4,850,000	8,055,934	12,584,963
10/1/12	-	-	-	-						
4/1/13	-	917,059	(320,971)	596,088	890,000	3,160,013	4,050,013	5,045,000	7,858,034	12,582,063
10/1/13	-	-	-	-						
4/1/14	-	917,059	(320,971)	596,088	935,000	3,115,513	4,050,513	5,035,000	7,643,372	12,357,401
10/1/14	-	-	-	-						
4/1/15	-	917,059	(320,971)	596,088	980,000	3,068,763	4,048,763	5,465,000	7,410,297	12,554,326
10/1/15	-	-	-	-						
4/1/16	-	917,059	(320,971)	596,088	1,030,000	3,019,763	4,049,763	5,710,000	7,157,434	12,546,463
10/1/16	-	-	-	-						
4/1/17	-	917,059	(320,971)	596,088	1,080,000	2,968,263	4,048,263	3,725,000	6,889,759	10,293,788
10/1/17	-	-	-	-						
4/1/18	-	917,059	(320,971)	596,088	1,135,000	2,914,263	4,049,263	3,900,000	6,705,972	10,285,001
10/1/18	-	-	-	-						
4/1/19	-	917,059	(320,971)	596,088	1,190,000	2,857,513	4,047,513	4,080,000	6,285,865	10,044,894
10/1/19	-	-	-	-						
4/1/20	-	917,059	(320,971)	596,088	1,250,000	2,798,013	4,048,013	3,755,000	6,085,508	9,519,537
10/1/20	-	-	-	-						
4/1/21	-	917,059	(320,971)	596,088	1,315,000	2,735,513	4,050,513	3,930,000	5,901,450	9,510,479
10/1/21	-	-	-	-						
4/1/22	-	917,059	(320,971)	596,088	1,385,000	3,154,188	4,539,188	3,655,000	6,193,118	9,527,147
10/1/22	-	-	-	-						
4/1/23	-	917,059	(320,971)	596,088	1,460,000	3,077,320	4,537,320	3,665,000	6,025,880	9,369,909
10/1/23	-	-	-	-						
4/1/24	-	917,059	(320,971)	596,088	1,545,000	2,995,268	4,540,268	3,885,000	5,850,608	9,414,637
10/1/24	-	-	-	-						
4/1/25	-	917,059	(320,971)	596,088	1,630,000	2,907,358	4,537,358	4,060,000	5,661,403	9,400,432
10/1/25	-	-	-	-						
4/1/26	-	917,059	(320,971)	596,088	1,725,000	2,813,470	4,538,470	4,245,000	5,462,201	9,386,230
10/1/26	-	-	-	-						
4/1/27	-	917,059	(320,971)	596,088	1,825,000	2,712,902	4,537,902	4,420,000	5,250,582	9,349,611
10/1/27	-	-	-	-						
4/1/28	-	917,059	(320,971)	596,088	1,935,000	2,605,227	4,540,227	4,645,000	5,032,234	9,356,263
10/1/28	-	-	-	-						
4/1/29	-	917,059	(320,971)	596,088	2,050,000	2,489,708	4,539,708	4,870,000	4,801,004	9,350,033
10/1/29	-	-	-	-						
4/1/30	-	917,059	(320,971)	596,088	2,170,000	2,365,888	4,535,888	5,115,000	4,556,623	9,350,652
10/1/30	-	-	-	-						
4/1/31	-	917,059	(320,971)	596,088	2,305,000	2,233,301	4,538,301	5,370,000	4,297,991	9,347,020
10/1/31	-	-	-	-						
4/1/32	-	917,059	(320,971)	596,088	2,445,000	2,091,082	4,536,082	5,665,000	4,012,978	9,357,007
10/1/32	-	-	-	-						
4/1/33	500,000	917,059	(320,971)	1,096,088	2,600,000	1,938,759	4,538,759	5,970,000	3,710,204	9,359,233
10/1/33	-	-	-	-						
4/1/34	1,370,000	882,609	(308,913)	1,943,696	2,760,000	1,775,219	4,535,219	6,280,000	3,385,544	9,356,631
10/1/34	-	-	-	-						
4/1/35	1,430,000	788,216	(275,876)	1,942,340	2,935,000	1,600,235	4,535,235	6,600,000	3,036,402	9,360,526
10/1/35	-	-	-	-						
4/1/36	1,490,000	689,689	(241,391)	1,938,298	3,125,000	1,412,982	4,537,982	6,930,000	2,667,704	9,356,312
10/1/36	-	-	-	-						
4/1/37	1,560,000	587,028	(205,460)	1,941,568	3,325,000	1,213,294	4,538,294	7,285,000	2,279,469	9,359,009
10/1/37	-	-	-	-						
4/1/38	1,630,000	479,544	(167,840)	1,941,704	3,535,000	1,000,494	4,535,494	7,660,000	1,870,145	9,362,304
10/1/38	-	-	-	-						
4/1/39	1,700,000	367,237	(128,533)	1,938,704	3,765,000	773,901	4,538,901	8,050,000	1,438,680	9,360,147
10/1/39	-	-	-	-						
4/1/40	1,775,000	250,107	(87,537)	1,937,570	4,005,000	532,188	4,537,188	8,465,000	983,933	9,361,396
10/1/40	-	-	-	-						
4/1/41	1,855,000	127,810	(44,733)	1,938,076	4,265,000	274,666	4,539,666	8,870,000	504,501	9,329,767
10/1/41	-	-	-	-						
Total	13,310,000	25,305,355	(8,856,874)	29,758,481	61,445,000	70,590,405	132,035,405	172,140,000	158,485,335	321,768,461

**PRELIMINARY OFFICIAL STATEMENT DATED FEBRUARY \_\_, 2010**

**NEW ISSUE – BOOK ENTRY ONLY**

**RATINGS: S&P: "A+"  
Moody's: "A1"  
See "RATINGS" herein**

*In the opinion of Skinner Fawcett, LLP Boise, Idaho and Ballard Spahr LLP, Salt Lake City, Utah, as Co-Bond Counsel to the Regents of the University of Idaho (the "Regents"), interest on the Series 2010A Bonds, the Series 2010B Bonds, and the Series 2011 Bonds is excludable from gross income for purposes of federal income tax, assuming continuing compliance with the requirements of the federal tax laws. Interest on the Series 2010A Bonds is not a preference item for purposes of either individual or corporate federal alternative minimum tax ("AMT"); however, interest paid to corporate holders of the Series 2010A Bonds may be indirectly subject to AMT under certain circumstances. Interest on the Series 2010B Bonds and the Series 2011 Bonds is exempt from individual and corporate federal AMT and is not includable in adjusted current earnings for purposes of corporate AMT. Interest on the Taxable Series 2010C Bonds is **not** excludable from gross income for federal income tax purposes. Co-Bond Counsel is also of the opinion that interest on the Series 2010 Bonds and the Series 2011 Bonds is exempt from State of Idaho income taxes under currently existing law. See "TAX MATTERS" herein.*

**\$95,100,000\***

[LOGO]

**THE REGENTS OF THE UNIVERSITY OF IDAHO  
consisting of**

**\$10,560,000\***  
**General Revenue  
Refunding Bonds  
Series 2010A**

**\$9,785,000\***  
**General Revenue Bonds  
Series 2010B**

**\$13,310,000\***  
**Taxable General  
Revenue Bonds  
Series 2010C  
(Issuer Subsidy – Build  
America Bonds)**

**\$61,445,000\***  
**Adjustable Rate  
General Revenue  
Refunding Bonds  
Series 2011**

**Dated: Respective Dates of Delivery  
as described herein**

**Due: April 1, as shown on the inside cover page**

**Denominations:** \$5,000 and integral multiples thereof as described herein.

**Registration/Book-Entry:** The Regents of the University of Idaho General Revenue Refunding Bonds, Series 2010A (the "**Series 2010A Bonds**"), General Revenue Bonds, Series 2010B (the "**Series 2010B Bonds**"), Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy – Build America Bonds) (the "**Taxable Series 2010C Bonds**"), and Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the "**Series 2011 Bonds**" and, together with the Series 2010A Bonds, the Series 2010B Bonds and the Taxable Series 2010C Bonds, the "**Series 2010/2011 Bonds**") are issued as fully registered bonds and, when delivered, will be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York ("**DTC**"). DTC will act as securities depository for the Series 2010/2011 Bonds. Beneficial Owners of the Series 2010/2011 Bonds will not receive physical bonds, but will receive a credit balance on the books of the nominees of such purchasers. The Series 2011 Bonds are also referred to herein as the "**Adjustable Rate Bonds**." The Series 2010A Bonds, the Series 2010B Bonds and the Taxable Series 2010C Bonds are collectively referred to herein as the "**Fixed Rate Bonds**." The Series 2010A Bonds, Series 2010B Bonds and Series 2011 Bonds are also referred to herein as the "**Tax-Exempt Bonds**."

THIS PRELIMINARY OFFICIAL STATEMENT AND THE INFORMATION CONTAINED HEREIN ARE SUBJECT TO COMPLETION AND AMENDMENT. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

**Initial Term Interest Rate With Respect to the Adjustable Rate Bonds; Fixed Rates With Respect to the Fixed Rate Bonds:** The Adjustable Rate Bonds will initially bear interest at the Initial Term Interest Rate (as shown on the inside cover page) during the Initial Term Interest Rate Period (as shown on the inside cover page). The interest on the Adjustable Rate Bonds during the Initial Term Interest Rate Period will be payable on each April 1 and October 1, commencing April 1, 2011. Upon expiration of the Initial Term Interest Rate Period, the Adjustable Rate Bonds will be subject to mandatory tender for purchase on the last day of the Initial Term Interest Rate Period, and, upon such mandatory tender, may be converted to another Term Interest Rate Period, as more fully described herein. The Fixed Rate Bonds will bear interest at the fixed rates and mature, subject to prior redemption, as shown on the inside cover page of this Official Statement. The interest on the Fixed Rate Bonds will be payable on each April 1 and October 1, commencing October 1, 2010. Interest on the Series 2010/2011 Bonds shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**This Official Statement provides certain information concerning (i) the Adjustable Rate Bonds prior to conversion to another Term Interest Rate Period and (ii) the Fixed Rate Bonds. Owners and prospective purchasers of the Adjustable Rate Bonds should not rely on this Official Statement for information concerning the Adjustable Rate Bonds in connection with any conversion to another Term Interest Rate Period but should look solely to the Official Statement or remarketing circular used in connection with any such conversion.**

**Payment:** Principal, premium, if any, and interest due with respect to the Series 2010/2011 Bonds will be payable by Wells Fargo Bank, N.A., Boise, Idaho, as Trustee (the "**Trustee**"), to DTC, which will, in turn, remit such principal, premium, if any, and interest due with respect to the Series 2010/2011 Bonds.

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#### MATURITY SCHEDULES ON INSIDE COVER

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**Redemption and Tender:** During the Initial Term Interest Rate Period shown on the inside cover page hereof, the Adjustable Rate Bonds will not be subject to optional or mandatory redemption. The Adjustable Rate Bonds are subject to mandatory tender for purchase prior to maturity on the effective date of any new Term Interest Rate Period for such Adjustable Rate Bonds.

The Series 2010A Bonds are not subject to optional redemption prior to maturity. The Series 2010B Bonds and the Taxable Series 2010C Bonds are subject to optional redemption and extraordinary redemption prior to their respective maturities under certain circumstances as described herein. The Series 2010 Bonds may be subject to mandatory sinking fund redemption prior to maturity as described herein.

**Authority:** Article IX, Section 10 of the Constitution of the State of Idaho confirmed the Regents as the governing body for the University of Idaho (the "**University**"). Under Idaho law, the Regents are a body politic and corporate and an independent instrumentality of the State of Idaho. The Series 2010/2011 Bonds are being issued as "Additional Bonds" pursuant to a Resolution adopted by the Regents on November 22, 1991, providing for the issuance of revenue bonds (the "**Original Resolution**"). The Original Resolution provided for the issuance of an initial series of facility revenue bonds and authorized the issuance of additional series of revenue bonds pursuant to Supplemental Resolutions, if certain conditions are met. The Series 2010/2011 Bonds are being issued under a supplemental resolution (the "**2010 Supplemental Resolution**") adopted by the Regents on February 18, 2010. The Original Resolution, as previously restated, amended and supplemented, and as amended and supplemented by the



2010 Supplemental Resolution, is referred to herein as the "**Resolution.**" The revenue bonds issued pursuant to the Resolution, including the Series 2010/2011 Bonds, are referred to herein as the "**Bonds.**"

**Purposes:** The Series 2010/2011 Bonds are being issued to provide funds to refund certain outstanding bonds issued by the Regents and the Series 1997B Bonds issued by the Regents under the Resolution, to repay a bank loan the proceeds of which were used to finance certain capital improvements to the facilities of the University of Idaho (the "**University**"), to finance certain capital improvements at the University's Moscow campus, to forward refund the outstanding Series 2007A Bonds issued by the Regents under the Resolution, and to pay costs of issuance associated with the Series 2010/2011 Bonds.

**Security:** The Series 2010/2011 Bonds are being issued as part of the General Revenue Bond System created by the Regents in 2005 and are secured by "**Pledged Revenues**" as defined herein. The lien of the Series 2010/2011 Bonds on the Pledged Revenues is on a parity with the lien thereon of Bonds previously issued by the Regents under the Resolution which, following the delivery of the Series 2010/2011 Bonds and refunding of the Series 1997B Bonds and Series 2007A Bonds, will be Outstanding in the aggregate principal amount of \$72,475,000.\* The lien of the Bonds on the Pledged Revenues is subordinate to a prior lien on certain Pledged Revenues granted in favor of bonds of the Regents which, following the delivery of the Series 2010/2011 Bonds, will no longer be Outstanding, as more specifically described herein. The Pledged Revenues include student fees, sales and service revenues from auxiliary enterprises and educational activities, revenues received for facility and administrative cost recovery in conjunction with grants and contracts, various miscellaneous revenues, and certain investment income. **The Series 2010/2011 Bonds are limited obligations of the Regents and do not constitute a debt or liability of the State of Idaho, its Legislature, or any of its political subdivisions or agencies other than the Regents to the extent herein described. The Regents are not authorized to levy or collect any taxes or assessments other than the fees described herein to pay the Series 2010/2011 Bonds. The Regents have no taxing power.**

**Legal Matters:** The Series 2010/2011 Bonds are offered when, as and if issued and accepted by the Underwriter, subject to prior sale and to the delivery of approving opinions by Skinner Fawcett LLP, Boise, Idaho and Ballard Spahr LLP, Salt Lake City, Utah, as Co-Bond Counsel, and to other conditions. Certain legal matters will be passed upon for the Regents and the University by the University's Counsel, Kent E. Nelson, Esq., Moscow, Idaho; and for the Underwriter by Hogan & Hartson LLP, Denver, Colorado. It is expected that the Series 2010A Bonds, the Series 2010B Bonds, and the Taxable Series 2010C Bonds will be available for delivery on or about March \_\_, 2010. It is expected that the Series 2011 Bonds will be available for delivery on or about January \_\_, 2011.

#### GEORGE K. BAUM & COMPANY

Dated: March \_\_, 2010

\* Preliminary, subject to change

† The Regents take no responsibility for the accuracy of the CUSIP numbers, which are being provided solely for the convenience of the owners of the Bonds.

**MATURITIES, PRINCIPAL AMOUNTS, INITIAL TERM INTEREST RATE PERIOD,  
INTEREST RATES AND YIELDS\***

**\$10,560,000\***

**THE REGENTS OF THE UNIVERSITY OF IDAHO  
General Revenue Refunding Bonds, Series 2010A**

<u>Maturity Date</u> <u>(April 1)*</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u>
	\$	%	%	

[\$ \_\_\_\_\_ \* \_\_\_\_\_% Term Bond due April 1, 20\_\_ Yield \_\_\_\_\_%; CUSIP: \_\_\_\_\_]

**\$9,785,000\***

**THE REGENTS OF THE UNIVERSITY OF IDAHO  
General Revenue Bonds, Series 2010B**

<u>Maturity Date</u> <u>(April 1)*</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u>
	\$	%	%	

[\$ \_\_\_\_\_ \* \_\_\_\_\_% Term Bond due April 1, 20\_\_ Yield \_\_\_\_\_%; CUSIP: \_\_\_\_\_]

**\$13,310,000\***

**THE REGENTS OF THE UNIVERSITY OF IDAHO  
Taxable General Revenue Bonds, Series 2010C  
(Issuer Subsidy – Build America Bonds)**

<u>Maturity Date</u> <u>(April 1)*</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u>
	\$	%	%	

[\$ \_\_\_\_\_ \* \_\_\_\_\_% Term Bond due April 1, 20\_\_ Yield \_\_\_\_\_%; CUSIP: \_\_\_\_\_]

**\$61,445,000\***

**THE REGENTS OF THE UNIVERSITY OF IDAHO  
Adjustable Rate General Revenue Refunding Bonds, Series 2011**

<u>Maturity Date</u> <u>(April 1)*</u>	<u>Principal</u> <u>Amount*</u>	<u>Initial Term</u> <u>Interest Rate</u> <u>Period Ending</u>	<u>Initial Term</u> <u>Interest</u> <u>Rate</u>	<u>Price</u>	<u>CUSIP</u>
	\$61,445,000	April 1, 2021	%	100%	

\* Preliminary, subject to change

NO DEALER, BROKER, SALESPERSON OR OTHER PERSON HAS BEEN AUTHORIZED BY THE REGENTS OR BY THE UNDERWRITER TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS, OTHER THAN AS CONTAINED IN THIS OFFICIAL STATEMENT, AND IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE REGENTS OR BY THE UNDERWRITER. THIS OFFICIAL STATEMENT DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY THE SERIES 2010/2011 BONDS, NOR SHALL THERE BE ANY SALE OF THE SERIES 2010/2011 BONDS BY ANY PERSON IN ANY JURISDICTION IN WHICH IT IS UNLAWFUL FOR SUCH PERSONS TO MAKE SUCH OFFER, SOLICITATION OR SALE.

THE INFORMATION SET FORTH HEREIN HAS BEEN FURNISHED BY THE REGENTS, THE UNIVERSITY, DTC, AND CERTAIN OTHER SOURCES THAT ARE BELIEVED TO BE RELIABLE BUT IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS BY, AND IS NOT TO BE CONSTRUED AS A REPRESENTATION BY, THE UNDERWRITER. THE INFORMATION AND EXPRESSIONS OF OPINION CONTAINED HEREIN ARE SUBJECT TO CHANGE WITHOUT NOTICE. THE DELIVERY OF THIS OFFICIAL STATEMENT AND ANY SALE MADE HEREUNDER WILL NOT, UNDER ANY CIRCUMSTANCES, CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE REGENTS OR THE UNIVERSITY SINCE THE DATE HEREOF. ANY STATEMENTS MADE IN THIS OFFICIAL STATEMENT INVOLVING MATTERS OF OPINION OR ESTIMATES, WHETHER OR NOT SO EXPRESSLY STATED, ARE SET FORTH AS SUCH AND NOT AS REPRESENTATIONS OF FACT OR REPRESENTATIONS THAT ESTIMATES WILL BE REALIZED.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2010/2011 BONDS AT LEVELS ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZATION, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THIS OFFICIAL STATEMENT IS NOT TO BE CONSTRUED AS A CONTRACT WITH THE PURCHASERS OF THE SERIES 2010/2011 BONDS.

THE UNDERWRITER HAS INCLUDED THE FOLLOWING SENTENCE FOR INCLUSION IN THIS OFFICIAL STATEMENT. THE UNDERWRITER HAS REVIEWED THE INFORMATION IN THIS OFFICIAL STATEMENT IN ACCORDANCE WITH, AND AS PART OF, ITS RESPONSIBILITIES TO INVESTORS UNDER THE FEDERAL SECURITIES LAWS AS APPLIED TO THE FACTS AND CIRCUMSTANCES OF THIS TRANSACTION, BUT THE UNDERWRITER DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

THE SERIES 2010/2011 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON A SPECIFIC EXEMPTION CONTAINED IN SUCH ACT, NOR HAVE THEY BEEN REGISTERED UNDER THE SECURITIES LAWS OF ANY STATE.

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CAUTIONARY STATEMENTS REGARDING  
PROJECTIONS, ESTIMATES AND OTHER  
FORWARD-LOOKING STATEMENTS IN  
THIS OFFICIAL STATEMENT

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THIS OFFICIAL STATEMENT, INCLUDING BUT NOT LIMITED TO THE MATERIAL SET FORTH UNDER THE CAPTIONS "PLAN OF FINANCE" AND "PRO FORMA AND HISTORICAL PLEDGED REVENUES," CONTAINS STATEMENTS RELATING TO FUTURE RESULTS THAT ARE "FORWARD-LOOKING STATEMENTS." WHEN USED IN THIS OFFICIAL STATEMENT, THE WORDS "ESTIMATES," "INTENDS," "EXPECTS," "BELIEVES," "ANTICIPATES," "PLANS," AND SIMILAR EXPRESSIONS IDENTIFY FORWARD-LOOKING STATEMENTS. ANY FORWARD-LOOKING STATEMENT IS SUBJECT TO RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE CONTEMPLATED IN SUCH FORWARD-LOOKING STATEMENTS. INEVITABLY, SOME ASSUMPTIONS USED TO DEVELOP THE FORWARD-LOOKING STATEMENTS WILL NOT BE REALIZED AND UNANTICIPATED EVENTS AND CIRCUMSTANCES WILL OCCUR. THEREFORE, IT CAN BE EXPECTED THAT THERE WILL BE DIFFERENCES BETWEEN FORWARD-LOOKING STATEMENTS AND ACTUAL RESULTS, AND THOSE DIFFERENCES MAY BE MATERIAL. THE REGENTS DO NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS CHANGE OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH THESE STATEMENTS ARE BASED OCCUR.

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

**AND**

**THE STATE BOARD OF EDUCATION**

Paul C. Agidius – President  
Richard Westerberg – Vice President  
Kenneth Edmunds – Secretary  
Emma Atchley  
Roderic W. Lewis  
Tom Luna  
Don Soltman  
Milford Terrell

**UNIVERSITY OFFICIALS**

M. Duane Nellis – President  
Douglas D. Baker – Provost  
Lloyd Mues – Vice President for Finance and Administration and Bursar  
John K. McIver – Vice President for Research, Graduate Studies and Outreach  
Christopher D. Murray – Vice President for University Advancement  
Kent E. Nelson – University Counsel

Finance and Administration  
Administration Building, Room 211  
Moscow, Idaho 83844-3166  
(208) 885-6530

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**TABLE OF CONTENTS**


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	<u>Page</u>		<u>Page</u>
INTRODUCTION .....	1	Employee Retirement Plan; Post Retirement	
FORWARD DELIVERY OF SERIES 2011		Health Benefits .....	30
BONDS .....	6	Insurance.....	31
Forward Delivery Contract .....	6	SOURCES OF FUNDING FOR THE	
No Standby Purchaser for Series 2011 Bonds .....	8	UNIVERSITY .....	32
Other Investment Considerations.....	8	State Appropriations .....	32
THE SERIES 2010/2011 BONDS.....	9	Grants and Contracts.....	33
Generally .....	9	Financial Assistance .....	33
Book-Entry System.....	9	Federal Appropriations .....	33
Designation of the Taxable Series 2010C		Land Grant Endowments .....	33
Bonds as "Build America Bonds".....	10	Budget Process/Financial Reports .....	33
Interest Rate Periods .....	10	Future Plans .....	34
Payment of Interest.....	10	Schedule of Outstanding Indebtedness .....	34
Interest Rate Determination for Adjustable		UNIVERSITY GOVERNANCE AND	
Rate Bonds.....	11	ADMINISTRATION.....	35
Mandatory Tender for Purchase .....	12	The Board of Regents of the University and	
Delivery of Adjustable Rate Bonds .....	12	The State Board of Education.....	35
Payment of Purchase Price; Adjustable Rate		University Officers .....	35
Bonds Deemed Purchased .....	13	University of Idaho Foundation.....	37
Remarketing of Mandatory Tender Bonds.....	14	TAX MATTERS .....	38
Remarketing Agent.....	14	Series 2010A Bonds .....	38
Redemption Prior to Maturity.....	14	Series 2010B Bonds and the Series 2011	
SECURITY FOR THE SERIES 2010/2011		Bonds.....	38
BONDS.....	16	Original Issue Premium .....	38
Pledged Revenues.....	16	Original Issue Discount .....	38
Student Fees.....	18	Taxable Series 2010C Bonds .....	39
Sales and Services Revenues .....	19	Series 2010 Bonds and Series 2011 Bonds.....	39
Facilities and Administrative Recovery		No Further Opinion.....	39
Revenues.....	19	UNDERWRITING .....	39
Other Operating Revenues.....	20	RATINGS.....	40
Investment Income.....	20	CONTINUING DISCLOSURE.....	40
Use of Pledged Revenues and Other Revenues		LITIGATION .....	41
Not Otherwise Obligated.....	20	VERIFICATION AGENT.....	41
Covenants .....	20	LEGAL MATTERS .....	41
No Debt Service Reserve Account for the		INDEPENDENT AUDITORS .....	41
Series 2010/2011 Bonds .....	21	MISCELLANEOUS.....	42
Outstanding Bonds; Additional Bonds .....	21	APPENDICES:	
PLAN OF FINANCE .....	22	APPENDIX A: FINANCIAL STATEMENTS OF	
Sources and Uses of Funds .....	22	THE UNIVERSITY FOR THE	
Series 2010A Refunding Project.....	23	YEARS ENDED JUNE 30, 2009	
Series 2010B Project.....	23	AND JUNE 30, 2008 .....	A-1
Series 2010C Project.....	23	APPENDIX B: SCHEDULE OF STUDENT FEES .....	B-1
Series 2011 Refunding Project .....	23	APPENDIX C: GLOSSARY OF CERTAIN TERMS	
Verification of Mathematical Calculations .....	24	USED IN THE RESOLUTION AND	
DEBT SERVICE REQUIREMENTS .....	25	OFFICIAL STATEMENT .....	C-1
PRO FORMA AND HISTORICAL PLEDGED		APPENDIX D: SUMMARY OF THE RESOLUTION... D-1	
REVENUES.....	26	APPENDIX E: DEPOSITORY TRUST	
THE UNIVERSITY .....	27	COMPANY INFORMATION .....	E-1
Generally .....	27	APPENDIX F: OPINION OF CO-BOND COUNSEL	
Student Body .....	27	FOR SERIES 2010 BONDS .....	F-1
Housing and Student Union Facilities .....	28	APPENDIX G: FORM OF OPINION OF CO-	
Spectator and Recreation Facilities.....	29	BOND COUNSEL FOR SERIES	
Parking Facilities .....	30	2011 BONDS .....	G-1
Employees and Faculty .....	30	APPENDIX H: FORM OF FORWARD PURCHASE	
		LETTER AGREEMENT .....	H-1

OFFICIAL STATEMENT

\$95,100,000\*

THE REGENTS OF THE UNIVERSITY OF IDAHO  
consisting of

\$10,560,000\*  
General Revenue  
Refunding Bonds  
Series 2010A

\$9,785,000\*  
General Revenue Bonds  
Series 2010B

\$13,310,000\*  
Taxable General  
Revenue Bonds  
Series 2010C  
(Issuer Subsidy – Build  
America Bonds)

\$61,445,000\*  
Adjustable Rate  
General Revenue  
Refunding Bonds  
Series 2011

INTRODUCTION

This Official Statement, which includes the front cover page, inside cover page, and the Appendices hereto, provides certain information in connection with the offer and sale by the Regents of the University of Idaho (the "**Regents**") of their General Revenue Refunding Bonds, Series 2010A (the "**Series 2010A Bonds**"), General Revenue Bonds, Series 2010B (the "**Series 2010B Bonds**"), Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy – Build America Bonds) (the "**Taxable Series 2010C Bonds**"), and Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the "**Series 2011 Bonds**"). Collectively, the Series 2010A Bonds, the Series 2010B Bonds and the Taxable Series 2010C Bonds are referred to herein as the "**Series 2010 Bonds**" or the "**Fixed Rate Bonds**" and, together with the Series 2011 Bonds, are referred to as the "**Series 2010/2011 Bonds.**" The Series 2011 Bonds are also referred to herein as the "**Adjustable Rate Bonds.**"

The Series 2010/2011 Bonds are being issued pursuant to the supplemental resolution (the "**2010 Supplemental Resolution**") adopted by the Regents on February 18, 2010. The Series 2010/2011 Bonds are being issued as "Additional Bonds" under a bond resolution adopted November 22, 1991 (the "**Original Resolution**"). The Original Resolution, together with the 2010 Supplemental Resolution and previous supplemental resolutions amending, supplementing and restating the Original Resolution and authorizing the issuance of Additional Bonds, are referred to collectively herein as the "**Resolution,**" and the Series 2010/2011 Bonds together with all other bonds heretofore or hereafter issued under the Resolution are referred to collectively herein as the "**Bonds.**" See "THE SERIES 2010/2011 BONDS."

*This introduction is not a summary of this Official Statement. It is only a summary description of and guide to, and is qualified by, more complete and detailed information contained in, the entire Official Statement, including the cover page, inside cover page, and appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the Series 2010/2011 Bonds to potential investors is made only by means of the entire Official Statement. See APPENDIX C for definitions of certain words and terms used herein. See APPENDIX D for a summary of the Resolution.*

\* Preliminary, subject to change

## The Regents and the University of Idaho

A comprehensive land-grant institution, the University of Idaho (the "**University**") is the state of Idaho's (the "**State**") oldest institution of higher learning. Its main campus is located in Moscow, Idaho. With an enrollment of approximately 11,957 full and part-time students, the University has been charged with primary responsibility in the State for advanced research and graduate education. The University was established in Moscow in 1889 by the Territorial Legislature, and provisions of the University's Charter as a territorial university are incorporated into the Idaho State Constitution. Policy direction of the University is vested in the Regents of the University of Idaho (the "**Regents**"), whose members also serve as the Idaho State Board of Education. See "THE UNIVERSITY" and the audited financial statements of the University in **APPENDIX A** for financial and other information as to the University and the Regents.

*Certain references herein to the "Regents" shall be deemed to refer to the University or other appropriate authority pursuant to the Act and other applicable laws, as appropriate.*

### Authority for Issuance

The Regents are authorized by the Educational Institutions Act of 1935, constituting Section 33-3801, et seq. of the Idaho Code, as amended (the "**Act**"), to issue bonds for "projects" (as defined in the Act). The Regents are also authorized to issue refunding bonds pursuant to the Act and Title 57, Chapter 5, Idaho Code. The Series 2010/2011 Bonds are being issued pursuant to such statutory authorization and pursuant to the Resolution.

### Purpose of the Series 2010/2011 Bonds

The Series 2010/2011 Bonds are being issued to provide funds to (i) refund the Student Fee Refunding Revenue Bonds, Series 1996 (the "**Series 1996 Activity Center Bonds**") issued under a separate resolution by the Regents and the Student Fee Refunding Revenue Bonds, Series 1997B (the "**Series 1997B Bonds**") issued as Bonds under the Resolution by the Regents, as further described in "PLAN OF FINANCE – Series 2010A Refunding Project"; (ii) payoff a loan from Wells Fargo Bank, N.A. the proceeds of which were used to fund improvements to the Kibbie Dome of the University as further described in "PLAN OF FINANCE – Series 2010B Project"; (iii) fund certain capital improvements to the Kibbie Dome of the University as further described in "PLAN OF FINANCE – Series 2010C Project"; (iv) forward refund all of the General Revenue Refunding Bonds, Series 2007A (the "**Series 2007A Bonds**") issued by the Regents as Bonds under the Resolution, as described in "PLAN OF FINANCE – Series 2011 Refunding Project" and "FORWARD DELIVERY OF SERIES 2011 BONDS"; and (v) pay costs of issuance associated with the Series 2010/2011 Bonds. Collectively, the projects described in (i)-(iv) hereof are referred to as the "**Projects**." See "PLAN OF FINANCE." See also "SECURITY FOR THE SERIES 2010/2011 BONDS – No Debt Service Reserve Fund" herein.

### Terms of the Series 2010/2011 Bonds

#### *Denominations*

The Series 2010/2011 Bonds are issuable only as fully registered bonds without coupons in denominations of \$5,000, and any integral multiples thereof. See "THE SERIES 2010/2011 BONDS – Generally."

*Interest Rates and Payments*

The Adjustable Rate Bonds will initially bear interest at an Initial Term Interest Rate (as shown on the inside cover page of this Official Statement) during the Initial Term Interest Rate Period (as shown on the inside cover page of this Official Statement). The interest on the Adjustable Rate Bonds during the Initial Term Interest Rate Period will be payable on each April 1 and October 1, commencing April 1, 2011. The Adjustable Rate Bonds will be subject to mandatory tender for purchase on the last day of the Initial Term Interest Rate Period, and, upon mandatory tender, may be converted to another Term Interest Rate Period as more fully described herein. See "THE SERIES 2010/2011 BONDS – Interest Rate Periods," "– Payment of Interest," and "– Interest Rate Determination for Adjustable Rate Bonds." There will be no Liquidity Facility available to pay for Adjustable Rate Bonds to the extent that, upon tender on the Conversion Date, the Adjustable Rate Bonds are unable to be remarketed. **In such event, the Adjustable Rate Bonds will bear interest to maturity at the interest rate described in "THE SERIES 2010/2011 BONDS – Payment of Purchase Price; Adjustable Rate Bonds Deemed Purchased" and "– Remarketing of Mandatory Tender Bonds."** The Adjustable Rate Bonds will not be subject to mandatory tender prior to their maturity date and, therefore, will not have the benefit of a Liquidity Facility. Principal of the Adjustable Rate Bonds is payable on the date and in the amount shown on the inside cover page hereof, subject to prior redemption or purchase. The Fixed Rate Bonds are dated their date of delivery and bear interest from such date to maturity, payable semiannually on April 1 and October 1 of each year, commencing October 1, 2010. Interest on the Series 2010/2011 Bonds shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months.

Principal on the Series 2010/2011 Bonds is payable in the years and in the amounts shown on the inside front cover of this Official Statement. See "THE SERIES 2010/2011 BONDS – Generally."

*Designation of the Taxable Series 2010C Bonds as "Build America Bonds"*

The Regents have elected to treat the Taxable Series 2010C Bonds as "Build America Bonds" for purposes of the Federal American Recovery and Reinvestment Act of 2009 (the "**Federal Recovery Act**") and to receive tax credit payments from the United States Department of the Treasury pursuant to the provisions of Section 6431(b) of the Internal Revenue Code (the "**Code**"), in an amount equal to thirty-five percent (35%) of the interest payable by the Regents on any Taxable Series 2010C Bonds (each, a "**Direct Payment**"). All Direct Payments, upon their receipt from time to time by the Regents, shall be (i) deposited in the Bond Fund established under the Resolution, (ii) used in paying debt service on the Outstanding Bonds of the Regents, and (iii) included in Pledged Revenues for all purposes under the Resolution. See "THE SERIES 2010/2011 BONDS – Designation of the Taxable Series 2010C Bonds as 'Build America Bonds'." **However, if for any reason there is a material adverse change to the Code pursuant to which the Direct Payments are reduced or eliminated, the Taxable Series 2010C Bonds will remain outstanding and there will be no extraordinary optional redemption available to the Regents, notwithstanding the impact of such a change on the Pledged Revenues. See "SECURITY FOR THE SERIES 2010/2011 BONDS."**

*Redemption and Tender*

During the Initial Term Interest Rate Period, the Adjustable Rate Bonds will not be subject to optional or mandatory redemption. The Adjustable Rate Bonds are subject to mandatory tender for purchase prior to maturity on the last day of the Initial Term Interest Rate Period and upon the occurrence of certain events. See "THE SERIES 2010/2011 BONDS – Mandatory Tender for Purchase" and "– Redemption Prior to Maturity."



The Series 2010A Bonds are not subject to optional redemption prior to maturity. The Series 2010B Bonds and the Taxable Series 2010C Bonds are subject to optional redemption and extraordinary redemption prior to their respective maturities under certain circumstances as described in "THE SERIES 2010/2011 BONDS – Redemption Prior to Maturity – Optional Redemption" and "– Extraordinary Redemption of Series 2010B Bonds and Taxable Series 2010C Bonds." The Series 2010 Bonds may be subject to mandatory sinking fund redemption prior to maturity as described in "THE SERIES 2010/2011 BONDS – Redemption Prior to Maturity – Mandatory Sinking Fund Redemption."

#### *Book-Entry System*

The Depository Trust Company, New York, New York ("**DTC**") is acting as securities depository for the Series 2010/2011 Bonds through its nominee, Cede & Co., to which principal and interest payments on the Series 2010/2011 Bonds are to be made. One or more fully registered bonds in denominations in the aggregate equal to the principal amount per maturity of the Series 2010/2011 Bonds will be registered in the name of Cede & Co. Individual purchases will be made in book-entry form only and purchasers of the Series 2010/2011 Bonds will not receive physical delivery of bond certificates, all as more fully described herein. Upon receipt of payments of principal and interest, DTC is to remit such payments to the DTC Participants for subsequent disbursement to the beneficial owners of the Series 2010/2011 Bonds. For a more complete description of the book-entry system, see "THE SERIES 2010/2011 BONDS – Generally."

**For a more complete description of the Series 2010/2011 Bonds and the Resolution and other documents pursuant to which such Series 2010/2011 Bonds are being issued, see "THE SERIES 2010/2011 BONDS" and "APPENDIX D – SUMMARY OF THE RESOLUTION" hereto.**

#### **Payment and Security for the Series 2010/2011 Bonds**

In connection with the issuance of their General Revenue Refunding Bonds, Series 2005A (the "**Series 2005A Bonds**"), the Regents began the process of creating a single bond system (the "**General Revenue Bond System**") pursuant to a supplemental resolution adopted in connection with the Series 2005A Bonds (the "**2005A Supplemental Resolution**") by combining the revenues previously pledged under the Original Resolution with certain other student fees and revenues it had previously pledged as security on a stand-alone basis to other bond systems and certain previously unpledged student fees and revenues. The Regents' strategy in creating the General Revenue Bond System was to enhance the security and source of payment for all of its bondholders, while increasing its financial flexibility, but still maintaining accountability for individual enterprises through internal financial policies. To facilitate the creation of the General Revenue Bond System, the Regents covenanted in the 2005A Supplemental Resolution that it would not issue bonds under its other existing bond systems. The Series 2010/2011 Bonds are being issued as part of the General Revenue Bond System and under the Resolution. See "SECURITY FOR THE SERIES 2010/2011 BONDS."

The Series 2010/2011 Bonds are secured by the Pledged Revenues as defined in the Resolution (as further described herein, the "**Pledged Revenues**"). The lien of the Series 2010/2011 Bonds on the Pledged Revenues is on a parity with the lien thereon of the Bonds previously issued by the Regents under the Resolution. Following refunding of the Series 1997B Bonds and the Series 2007A Bonds, the Bonds will be Outstanding in the aggregate principal amount of \$72,475,000.\* In connection with the creation of the General Revenue Bond System, the 2005A Supplemental Resolution amended the

\* Preliminary, subject to change

Resolution to add to the Pledged Revenues University revenues which were the subject of a prior pledge to the Regents' Series 1996 Activity Center Bonds and Recreation Center Bonds (as hereafter defined). See "SECURITY FOR THE SERIES 2010/2011 BONDS – Pledged Revenues." Therefore, the lien of the Series 2010/2011 Bonds on certain of the Pledged Revenues is subordinate to this prior pledge until all Series 1996 Activity Center Bonds and Recreation Center Bonds are paid. As of the date hereof, the Recreation Center Bonds are no longer outstanding. The Series 1996 Activity Center Bonds are expected to be refunded in whole with proceeds of the Series 2010A Bonds. See "PLAN OF FINANCE" and "SOURCES OF FUNDING FOR THE UNIVERSITY – Schedule of Outstanding Indebtedness" for the list of Outstanding bonds of the Regents as of December 31, 2009, including the Bonds and the Series 1996 Activity Center Bonds. Under the Resolution, the University has covenanted to establish and collect in each Fiscal Year Pledged Revenues equal to not less than 100% of the Maximum Annual Debt Service on any Outstanding Bonds and any Additional Bonds that may hereafter be issued. See "SECURITY FOR THE SERIES 2010/2011 BONDS."

The Regents have appointed Wells Fargo Bank, N.A., to serve as Trustee, bond registrar, authenticating agent, paying agent and transfer agent (the "**Trustee**") with respect to the Series 2010/2011 Bonds.

#### **Availability of Continuing Disclosure**

Upon delivery of the Series 2010/2011 Bonds, the Regents and the Trustee will enter into Continuing Disclosure Agreements in which the Regents will agree, for the benefit of the owners of the Series 2010/2011 Bonds respectively, to file with the Municipal Securities Rulemaking Board at its Electronic Municipal Market Access system such ongoing information regarding the University as described in "CONTINUING DISCLOSURE."

#### **Forward Delivery of Series 2011 Bonds**

Pursuant to a Forward Delivery Bond Purchase Contract dated March \_\_, 2010 (the "**Forward Delivery Contract**") between the Regents and George K. Baum & Company (the "**Underwriter**"), the Underwriter has agreed, subject to the terms thereof, to purchase the Series 2011 Bonds for delivery on or about January \_\_, 2011. For a discussion regarding the forward delivery of the Series 2011 Bonds, certain conditions to the obligation of the Underwriter and certain risks to purchasers of the Series 2011 Bonds resulting from the forward delivery thereof, see "FORWARD DELIVERY OF SERIES 2011 BONDS." **There is no standby purchaser to purchase the Series 2011 Bonds in the event that the Underwriter fails for any reason to accept delivery of and pay for the Series 2011 Bonds as provided in the Forward Delivery Contract.**

#### **Other Information**

This Official Statement speaks only as of its date, and the information contained herein is subject to change without notice.

This Official Statement and the Appendices hereto contain brief descriptions of, among other matters, the Regents, the University, the Series 2010/2011 Bonds, the Refunded Bonds, the Projects, the Resolution, the Continuing Disclosure Agreements and the security and sources of payment for the Series 2010/2011 Bonds. Such descriptions and information do not purport to be comprehensive or definitive. The summaries of various constitutional provisions and statutes, such contracts, and other documents are intended as summaries only and are qualified in their entirety by reference to such laws and documents, and references herein to the Series 2010/2011 Bonds are qualified in their entirety to the forms thereof included in the Resolution. Copies of such contracts and other documents and information are available,

upon request and upon payment to the Trustee of a charge for copying, mailing and handling, from the Trustee at 877 W. Main Street, 3rd Floor, MAC U1858-033, Boise, ID 83702, Attention: Corporate Trust, telephone: (208) 393-5491. During the period of offering of the Series 2010/2011 Bonds copies of such documents are available, upon request and upon payment to George K. Baum & Company of a charge for copying, mailing and handling, from 1400 Wewatta Street, Suite 800, Denver, CO 80202, telephone: [(800) 722-1670.]

## **FORWARD DELIVERY OF SERIES 2011 BONDS**

### **Forward Delivery Contract**

The following is a description of certain provisions of the Forward Delivery Contract relating to the Series 2011 Bonds. This description is not to be considered a full statement of the terms of the Forward Delivery Contract and accordingly is qualified by reference thereto and is subject to the full text thereof.

#### *Settlement*

On January \_\_, 2011, or on such later date, but not later than April 1, 2011 (the "**Settlement Date**"), as may be mutually agreed upon by the Regents and the Underwriter, the Regents will, subject to the terms and conditions of the Forward Delivery Contract, deliver the Series 2011 Bonds to The Depository Trust Company, New York, New York ("**DTC**") on behalf of the Underwriter and deliver or cause to be delivered to the Underwriter the other documents, opinions, certificates and instruments required by the Forward Delivery Contract to be delivered as part of the settlement, as more fully discussed below (the "**Settlement Documents**"). Subject to the terms and conditions of the Forward Delivery Contract, the Underwriter will accept such delivery and pay the purchase price for the Series 2011 Bonds. All of the foregoing described transactions are referred to herein as the "**Settlement.**"

It is a condition to the Regents' obligation to sell and deliver the Series 2011 Bonds to the Underwriter that the entire authorized principal amount thereof be purchased, accepted and paid for by the Underwriter at the Settlement. It is a condition to the Underwriter's obligation to purchase, to accept delivery of and to pay for the Series 2011 Bonds that the entire authorized principal amount thereof be issued, sold and delivered by the Regents at the Settlement.

The Regents will have no obligation to issue, sell and deliver the Series 2011 Bonds if, because of a Change in Law (as hereinafter defined), such issuance, sale and delivery would be illegal as to the Regents. In such event, the Regents will have no liability whatsoever for its failure to issue, sell and deliver the Series 2011 Bonds.

#### *Conditions of Settlement*

General. The Settlement and the issuance of the Series 2011 Bonds will not require further action by the Regents. The Settlement Documents include, among other items, the opinion of Co-Bond Counsel in substantially the form set forth as **Appendix G** hereto and certain opinions of Co-Bond Counsel and the Underwriter's counsel and a certificate of the Regents as to the completeness and accuracy of the updated Official Statement (the "**Updated Official Statement**") relating to the Series 2011 Bonds, which the Forward Delivery Contract requires the Regents to prepare as of a date between \_\_\_\_\_, 2010 and \_\_\_\_\_, 2011, both inclusive, and furnish to the Underwriter, as such Updated Official Statement may have been supplemented and amended to the Settlement Date.

For a description of certain other conditions which must be met to complete the Settlement, see "Issuance of Legal Opinions" and "Litigation" under this caption.

THE FORWARD DELIVERY CONTRACT DOES NOT PERMIT THE UNDERWRITER TO REFUSE TO ACCEPT DELIVERY OF AND PAY FOR THE SERIES 2011 BONDS BECAUSE OF ANY ADVERSE CHANGE IN THE FINANCIAL CONDITION OF THE REGENTS OR THE UNIVERSITY, BUT ONLY PERMITS SUCH REFUSAL IF ANY SUCH CHANGE HAS NOT BEEN ACCURATELY AND COMPLETELY DESCRIBED IN THE UPDATED OFFICIAL STATEMENT OR IN A SUPPLEMENT OR AMENDMENT TO THE UPDATED OFFICIAL STATEMENT OR WOULD CAUSE THE REGENTS OR ANOTHER PARTY TO BE UNABLE TO DELIVER ANY OF THE SETTLEMENT DOCUMENTS IN THE FORM AND SUBSTANCE PROVIDED FOR IN THE FORWARD DELIVERY CONTRACT.

FAILURE TO COMPLETE THE REQUIREMENTS OF THE SETTLEMENT, INCLUDING FAILURE OF THE REGENTS TO DELIVER ANY OF THE SETTLEMENT DOCUMENTS IN THE FORM AND SUBSTANCE PROVIDED FOR IN THE FORWARD DELIVERY CONTRACT (UNLESS SUCH FAILURE IS WAIVED BY THE UNDERWRITER), WILL MEAN THAT THE SERIES 2011 BONDS WILL NOT BE ISSUED AND DELIVERED. THE UNDERWRITER HAS THE RIGHT, BUT IS UNDER NO OBLIGATION, TO WAIVE ANY SUCH FAILURE.

Issuance of Legal Opinions. It is a condition to the issuance of the Series 2011 Bonds at the Settlement that Co-Bond Counsel delivers its approving opinion in substantially the form attached hereto as **Appendix G**. The ability of Co-Bond Counsel to deliver such an opinion at the Settlement is subject to its review and analysis at that time of certain matters, including, among others, the application of the proceeds of the Series 2011 Bonds and pertinent provisions of statutes, regulations, rulings and court decisions, including, but not necessarily limited to, state law and federal income tax and securities laws then in effect or proposed to be in effect. Co-Bond Counsel has advised the Regents and the Underwriter that, assuming satisfaction by the Regents and the Underwriter of their respective obligations to be satisfied in the Forward Delivery Contract, and the issuance of the Series 2011 Bonds, and no change in any applicable law, regulations or rulings, or in interpretations thereof, or in any other facts or circumstances (tax or otherwise) which, in Co-Bond Counsel's view, affect or are material to its opinion (including, without limitation, the existence of any litigation), Co-Bond Counsel expects to be able to issue at the Settlement an opinion substantially in the form attached hereto as **Appendix G**. In addition, in order to deliver such opinion, appropriate certifications and representations by or on behalf of the Regents and others may have to be delivered and made in connection with the issuance of the Series 2011 Bonds. Thus, no assurances can be made that there will be no change in any applicable law, regulations or rulings, or in interpretations thereof, prior to the time of the Settlement, that the facts and circumstances that are material to such opinion will not differ, at the time of the Settlement, from those currently expected, or that such certifications and representations will be delivered and made in connection with the issuance of the Series 2011 Bonds, and, as a consequence, such opinion may not be rendered.

Litigation. It is a condition to the completion of the Settlement that the Regents report as of the Settlement Date that there is no litigation of any nature then pending or threatened restraining or enjoining the issuance, sale, execution or delivery of the Series 2011 Bonds or in any way contesting or affecting the validity of, or having a material adverse effect on, the Series 2010/2011 Bonds, the pledge and application of Pledged Revenues or the existence or powers of the Regents or the University.

*Termination of Forward Delivery Contract*

The Underwriter may terminate the Forward Delivery Contract by notification to the Regents if, at any time on or prior to the Settlement Date, the Underwriter is or would be prohibited from lawfully purchasing the Series 2011 Bonds as provided in the Forward Delivery Contract or lawfully selling the Series 2011 Bonds or beneficial ownership interests therein to the public as a result of (i) any change in or addition to applicable federal or state law, whether statutory, constitutional or as interpreted by the courts, including any changes in or new rules, regulations or other pronouncements or interpretations by federal or state agencies, (ii) any legislation enacted by the Congress of the United States or introduced therein or recommended for passage by the President of the United States (if such enacted, introduced or recommended legislation has a proposed effective date which is on or before the Settlement Date), (iii) any law, rule or regulation proposed or enacted by any governmental body, department or agency (if such proposed or enacted law, rule or regulation has a proposed effective date which is on or before the Settlement Date), or (iv) any judgment, ruling or order issued by any court or administrative body, which in any such case, would, as to the Underwriter, prohibit (or have the retroactive effect of prohibiting, if enacted, adopted, passed or finalized) the Underwriter from purchasing the Series 2011 Bonds as provided for in the Forward Delivery Contract or selling the Series 2011 Bonds or beneficial ownership interests therein to the public; provided, however, that such change in or addition to law, legislation, law, rule or regulation or judgment, ruling or order shall have become effective, been enacted, introduced or recommended, been proposed or enacted or been issued, as the case may be, subsequent to the date of the Forward Delivery Contract.

*Certain Covenants and Agreements of the Regents*

The Regents have agreed promptly to notify the Underwriter as soon as it may become aware of any fact which, in its reasonable judgment, casts doubt on or questions the ability of the Regents to refund the Series 2007A Bonds, to issue, sell and deliver the Series 2011 Bonds as provided for by the Forward Delivery Contract or to perform any of its other obligations in a timely manner pursuant to the Forward Delivery Contract. The Regents have agreed to take no action including, without limitation, the issuance of additional debt, the effect of which will be to prevent the issuance and delivery of the Series 2011 Bonds on the Settlement Date.

**No Standby Purchaser for Series 2011 Bonds**

There is no standby purchaser to purchase the Series 2011 Bonds in the event that the Underwriter fails for any reason to accept delivery of and pay for the Series 2011 Bonds as provided in the Forward Delivery Contract.

**Other Investment Considerations**

Each purchaser of a beneficial interest in the Series 2011 Bonds from the Underwriter shall be required to enter into a letter agreement (a "**Forward Purchase Letter Agreement**") with the Underwriter in the form attached hereto as **Appendix H**, obligating the purchaser, on the Settlement Date, to pay for and accept delivery of its beneficial interest in the Series 2011 Bonds. The purchaser's obligation under its Forward Purchase Letter Agreement will be conditioned only upon the Series 2011 Bonds being issued and delivered by the Regents and purchased, accepted and paid for by the Underwriter on the Settlement Date as provided for in the Forward Delivery Contract. Events which may occur prior to the Settlement Date may have significant consequences to persons who have so agreed to purchase Series 2011 Bonds on the Settlement Date. The values of the Series 2011 Bonds of each maturity on the Settlement Date are unlikely to be the same as, and in all likelihood will be greater or less than, the purchase prices therefor, and such differences may be substantial. Several factors may adversely

affect such values including, but not limited to, a general increase or decrease in interest rates for all obligations and other indebtedness, any threatened or adopted change in the federal income tax laws affecting the relative benefits of owning tax-exempt securities versus other types of investments, such as fully taxable obligations, or any adverse development with respect to the financial condition of the Regents or the University or with respect to the ratings of the Series 2011 Bonds. In addition, although the delivery of the opinion of Co-Bond Counsel in substantially the form attached hereto as **Appendix G**, which is a condition to the issuance and delivery of the Series 2011 Bonds, is subject to a number of conditions to be fulfilled at the time of such delivery as described above, changes or proposed changes in federal income tax laws or regulations or interpretations thereof could affect the market value of tax-exempt securities generally similar to the Series 2011 Bonds without preventing the delivery of the Series 2011 Bonds at the Settlement.

### **THE SERIES 2010/2011 BONDS**

*This Official Statement provides certain information concerning the Adjustable Rate Bonds during the Initial Term Interest Rate Periods and the Fixed Rate Bonds. The Adjustable Rate Bonds will be subject to mandatory tender for purchase on the last day of the Initial Term Interest Rate Period, and, upon mandatory tender, may be Converted to another Term Interest Rate Period. Holders and prospective purchasers of the Adjustable Rate Bonds should not rely on this Official Statement for information concerning the Adjustable Rate Bonds in connection with any Conversion of the Adjustable Rate Bonds to a different Interest Rate Period, but should look solely to the Official Statement or remarketing circular used in connection with any such Conversion.*

*Capitalized terms used and not defined herein have the meanings assigned to them in **APPENDIX C**.*

#### **Generally**

General information describing the Series 2010/2011 Bonds appears elsewhere in this Official Statement. That information should be read in conjunction with this summary, which is qualified in its entirety by reference to the Resolution and the forms of Series 2010/2011 Bonds included in the 2010 Supplemental Resolution. See "**APPENDIX D – SUMMARY OF THE RESOLUTION**" hereto.

Each Series of the Series 2010/2011 Bonds will initially be issued as fully registered bonds without coupons in denominations of \$5,000 or any integral multiple thereof. Each Series of the Series 2010/2011 Bonds will be dated as of its respective delivery date and will mature, subject to prior redemption, as shown on the inside cover page of this Official Statement. See "**FORWARD DELIVERY OF SERIES 2011 BONDS**." The Adjustable Rate Bonds will bear interest initially at a Term Interest Rate for a Term Interest Rate Period through April 1, 2021 (the "**Initial Term Interest Rate Period**"), and the Fixed Rate Bonds will bear interest at the fixed rates, as shown on the inside cover page of this Official Statement.

#### **Book-Entry System**

The Series 2010/2011 Bonds, when issued, will be registered in the name of Cede & Co., as nominee for DTC. Payment of the principal of and interest on the Series 2010/2011 Bonds will be made directly to DTC or its nominee, Cede & Co., by the Trustee. For a description of the method of payment of principal, premium, if any, and interest on the Series 2010/2011 Bonds and matters pertaining to transfers and exchanges while registered in the name of Cede & Co., see "**APPENDIX E –**

**DEPOSITORY TRUST COMPANY INFORMATION.**" So long as the Series 2010/2011 Bonds are registered in the name of Cede & Co., as nominee for DTC, notices or communications to Bondholders with respect to matters described under this caption "THE SERIES 2010/2011 BONDS" will be delivered to DTC or its nominee as registered owner of such Series 2010/2011 Bonds. DTC is responsible for notifying Participants, and Participants (and direct participants in DTC) are responsible for notifying Beneficial Owners of the Series 2010/2011 Bonds. Neither the Trustee nor the Regents is responsible for sending notices to Beneficial Owners. See "APPENDIX E – DEPOSITORY TRUST COMPANY INFORMATION."

#### **Designation of the Taxable Series 2010C Bonds as "Build America Bonds"**

The Regents have elected to treat the Taxable Series 2010C Bonds as "Build America Bonds" for purposes of the Federal Recovery Act and to receive Direct Payments from the United States Department of the Treasury pursuant to the provisions of Section 6431(b) of the Code. Pursuant to the Resolution, the Taxable Series 2010C Bonds will be issued in accordance with the following terms:

(a) All Direct Payments relating to such Taxable Series 2010C Bonds, upon their receipt from time to time by the Regents, shall be (i) deposited in the Bond Fund established under the Resolution, (ii) used in paying debt service on the Outstanding Bonds of the Regents, and (iii) included in Pledged Revenues for all purposes under the Resolution. See "SECURITY FOR THE SERIES 2010/2011 BONDS – Pledged Revenues." **However, if for any reason there is a material adverse change to the Code pursuant to which the Direct Payments are reduced or eliminated, the Taxable Series 2010C Bonds will remain outstanding and there will be no extraordinary optional redemption available to the Regents, notwithstanding the impact of such a change on the Pledged Revenues. See "SECURITY FOR THE SERIES 2010/2011 BONDS."**

(b) With respect to such Taxable Series 2010C Bonds, the Regents covenant to timely file, or to cause to be timely filed, Internal Revenue Form 8038-CP not sooner than ninety (90) days and not later than forty-five (45) days prior to each Interest Payment Date for any such Taxable Series 2010C Bonds.

#### **Interest Rate Periods**

The term of the Adjustable Rate Bonds will be divided into consecutive Interest Rate Periods, during which the Adjustable Rate Bonds will bear interest at a Term Interest Rate. The Adjustable Rate Bonds will initially bear interest at the Term Interest Rate during the Initial Term Interest Rate Period shown on the inside cover page hereof. Upon expiration of the Initial Term Interest Rate Period, the Adjustable Rate Bonds will be subject to mandatory tender for purchase on the last day of the Initial Term Interest Rate Period, and, upon such mandatory tender, may be converted to a another Term Interest Rate Period at the Regents' discretion. The Adjustable Rate Bonds may not be Converted at the option of the Regents to a different Term Interest Rate Period prior to April 1, 2021.

#### **Payment of Interest**

Each Series 2010/2011 Bond will bear interest from and including the respective delivery date thereof until payment of the principal or redemption price thereof has been made or provided for on the due date thereof in accordance with the provisions of the Resolution, whether at maturity, upon redemption or acceleration or otherwise. Interest on the Series 2010/2011 Bonds shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months.

Interest on Series 2011 Bonds with respect to the immediately preceding Interest Rate Period will be paid on each Payment Date, as described below. During the Initial Term Interest Rate Period, the

amount of interest payable on any Payment Date for the Adjustable Rate Bonds is the amount of interest accrued thereon from the preceding Payment Date (or other date as described in the Resolution) to, but excluding, the Payment Date on which interest is being paid. During the Initial Term Interest Rate Period, the Payment Date for the Adjustable Rate Bonds will be April 1 and October 1 and the day immediately succeeding the last day of the Initial Term Interest Rate Period commencing April 1, 2011.

The Series 2010 Bonds bear interest from their date of delivery to maturity, with the Payment Date for such Series 2010 Bonds on April 1 and October 1 of each year, commencing October 1, 2010. Principal on the Series 2010 Bonds is payable on April 1 in the years and in the amounts shown on the inside cover page of this Official Statement.

If a Payment Date is not a Business Day at the place of payment, then payment will be made at that place on the next succeeding Business Day, with the same force and effect as if made on the Payment Date, and, in the case of such payment, no interest will accrue for the intervening period.

Payment of the interest on each Series 2010/2011 Bond will be made to the person appearing on the Bond Register as the registered owner thereof as of the Record Date, such interest to be paid by the Trustee to such Bondholder (i) by check mailed by first class mail on the Payment Date, to such Bondholder's address as it appears on the Bond Register, or (ii) upon written request at least three Business Days prior to the Record Date of the Holder of all of the Outstanding Series 2010/2011 Bonds or the Holder of Outstanding Series 2010/2011 Bonds aggregating not less than \$1,000,000 in principal amount, by wire transfer in immediately available funds at an account maintained in the United States at such wire address as such Bondholder will specify in its written notice (any such written request will remain in effect until rescinded in writing by such Bondholder); except, in each case, that, if and to the extent that there is a default in the payment of the interest due on such Payment Date, such defaulted interest will be paid to the Bondholder in whose name any such Series 2010/2011 Bonds are registered on the Bond Register at the close of business on a special record date to be fixed by the Trustee. Both the principal of and premium, if any, on the Series 2010/2011 Bonds will be payable upon surrender thereof at the Principal Office of the Trustee.

### **Interest Rate Determination for Adjustable Rate Bonds**

#### *Change of Interest Rate Determination Methods*

The Regents may not convert the Adjustable Rate Bonds into a different Interest Rate Period prior to April 1, 2021. After such date, the Regents, by written direction to the Trustee and the Remarketing Agent, delivered at least thirty-five (35) days prior to the proposed Conversion Date, accompanied by an Approving Opinion, may elect to Convert the Interest Rate Period for the Adjustable Rate Bonds from a Term Interest Rate Period to another Term Interest Rate Period, and, upon such election, are required to determine the duration of any such new Term Interest Rate Period which shall be one of the periods specified in the definition "Term Interest Rate Period." Such direction is to specify (a) the Conversion Date to such new Interest Rate Period in accordance with the provisions of the Resolution and (b) if the new Interest Rate Period is a Term Interest Rate Period, the last day thereof.

#### *Notice of Change in Interest Rate Determination Method*

The Trustee is to give notice by first class mail of a Conversion of the Adjustable Rate Bonds to a Term Interest Rate Period to the Bondholders and the Regents not less than thirty (30) days prior to the Conversion Date. Such notice is required to state (1) that the Interest Rate Period on the Adjustable Rate Bonds will be Converted to a Term Interest Rate Period, as applicable, (2) the Conversion Date with respect to such conversion, as applicable, and, with respect to a Term Interest Rate Period, the final date



thereof, (3) the Payment Dates with respect to such Term Interest Rate Period, (4) that the Adjustable Rate Bonds will be purchased on such Conversion Date pursuant to the Resolution, (5) the procedures for such purchase as provided in (4) above, (6) the redemption provisions that will pertain to such Adjustable Rate Bonds during such Term Interest Rate Period, (7) the ratings which are expected to be assigned to the Adjustable Rate Bonds upon such Conversion, (8) with respect to a Conversion to a Term Interest Rate Period, the day by which the Term Interest Rate for such Term Interest Rate Period will be determined, and (9) the manner by which such Term Interest Rate may be obtained.

**Mandatory Tender for Purchase**

The Adjustable Rate Bonds will be subject to mandatory tender for purchase at the Purchase Price, payable from the sources specified in the Resolution in immediately available funds, on April 1, 2021 and on the effective date of any new Interest Rate Period for the Adjustable Rate Bonds.

The Trustee is to give Notice by Mail to the Holders of the Adjustable Rate Bonds subject to mandatory tender for purchase as described above not later than the 30th day prior to the date on which such Adjustable Rate Bonds are subject to such mandatory tender, which notice is required to be in the form of the notice required by the Resolution for Conversion to a new Interest Rate Period. See "Interest Rate Determination for Adjustable Rate Bonds – Notice of Change in Interest Rate Determination Method" under this caption.

Upon the giving of notice to Bondholders of the mandatory tender of the Adjustable Rate Bonds for purchase, the Adjustable Rate Bonds will be subject to mandatory tender for purchase notwithstanding that the events described in such notice have not occurred on the Purchase Date specified in such notice, including the failure to change the Interest Rate Period for such Adjustable Rate Bonds. See "Remarketing of Mandatory Tender Bonds" under this caption.

**Delivery of Adjustable Rate Bonds**

With respect to any Book-Entry Bond, delivery of such Adjustable Rate Bond to the Trustee in connection with any mandatory tender shall be effected by the making of, or the irrevocable authorization to make, appropriate entries on the books of DTC or any DTC Participant to reflect the transfer of the beneficial ownership interest in such Adjustable Rate Bond to the account of the Trustee, or to the account of a DTC Participant acting on behalf of the Trustee. With respect to any Adjustable Rate Bond which is not a Book-Entry Bond, delivery of such Adjustable Rate Bond to the Trustee in connection any mandatory tender shall be effected by physical delivery of such Adjustable Rate Bond to the Trustee at its Principal Office, by 1:00 p.m. (New York City time) on the Purchase Date, accompanied by documents described in the Resolution.

If the Adjustable Rate Bonds are not Book-Entry Bonds, a principal amount of Adjustable Rate Bonds equal to the amount of Adjustable Rate Bonds successfully remarketed by the Remarketing Agent are required to be delivered by the Trustee to such persons as shall be designated by the Remarketing Agent. Such Adjustable Rate Bonds are required to be held available at the Principal Office of the Trustee and are to be picked up by the Remarketing Agent at or after 1:00 p.m. (New York City time) on the Purchase Date against delivery of funds for deposit into the Remarketing Account of the Bond Purchase Funds equal to the Purchase Price of such Adjustable Rate Bonds that have been remarketed. If the Adjustable Rate Bonds are Book-Entry Bonds, transfer of ownership of the remarketed Adjustable Rate Bonds is required to be effected in accordance with the procedures of DTC and the DTC Participants for the delivery of funds for deposit into the Remarketing Account of the Bond Purchase Funds equal to the Purchase Price of such Adjustable Rate Bonds that have been remarketed.

The Trustee is required, as to any Adjustable Rate Bonds which have not been delivered to it as described above, to (i) notify the Remarketing Agent in writing of such nondelivery and (ii) place a stop transfer against an appropriate amount of Adjustable Rate Bonds registered in the name of the Holder of such Adjustable Rate Bonds on the Bond Register. The Trustee is required to place and maintain such stop transfer commencing with the lowest serial number Adjustable Rate Bonds registered in the name of such Holder until stop transfers have been placed against an appropriate amount of Adjustable Rate Bonds and until the appropriate Adjustable Rate Bonds are delivered to the Trustee.

**Payment of Purchase Price; Adjustable Rate Bonds Deemed Purchased**

The Purchase Price of Adjustable Rate Bonds to be purchased upon mandatory tender as described herein is to be paid by the Trustee from moneys on deposit in the Bond Purchase Fund at or before 4:00 p.m. (New York City time) on the Purchase Date upon surrender to the Trustee of the tendered Adjustable Rate Bonds. Payment of the Purchase Price of Adjustable Rate Bonds and transfer of beneficial ownership while the Adjustable Rate Bonds are held under a book-entry system shall be undertaken in accordance with the provisions described in "APPENDIX E – DEPOSITORY TRUST COMPANY INFORMATION."

PAYMENT OF THE PURCHASE PRICE FOR THE ADJUSTABLE RATE BONDS TENDERED FOR PURCHASE AND NOT REMARKETED WILL NOT BE SUPPORTED BY A LIQUIDITY FACILITY. THE REGENTS HAVE NO OBLIGATION TO PURCHASE THE ADJUSTABLE RATE BONDS TENDERED OR DEEMED TENDERED UNDER THE RESOLUTION. THE PLEDGED REVENUES ARE NOT PLEDGED TO SECURE THE PURCHASE PRICE.

**If sufficient funds are not available for the purchase of all Adjustable Rate Bonds tendered or deemed tendered on any Purchase Date due to a failed remarketing or otherwise, (i) all tendered Adjustable Rate Bonds will be returned to their respective owners, and (ii) all outstanding Series 2011 Bonds will bear interest at the Bond Buyer 25 Revenue Bond Index plus 150 basis points (provided that such rate may not exceed the Maximum Interest Rate) from the date of such Purchase Date through the final maturity date of such Series 2011 Bonds, subject to optional redemption by the University as described in "Redemption Prior to Maturity" under this caption. Neither the University, the Regents, nor the Trustee shall have any obligation to purchase the Adjustable Rate Bonds tendered or deemed to be tendered under the Resolution. Any failure to remarket and purchase all Adjustable Rate Bonds tendered or deemed tendered on any Purchase Date does not constitute an Event of Default under the Resolution.**

If moneys sufficient to pay the Purchase Price of Adjustable Rate Bonds to be purchased are held by the Trustee on the date such Adjustable Rate Bonds are to be purchased, such Adjustable Rate Bonds will be deemed to have been purchased for all purposes of the Resolution, irrespective of whether or not such Adjustable Rate Bonds shall have been delivered to the Trustee or transferred on the books of DTC, and neither the former Holder nor the former Beneficial Owner of such Adjustable Rate Bonds shall have any claim thereon, under the Resolution or otherwise, for any amount other than the Purchase Price thereof. In the event of non-delivery of any Adjustable Rate Bonds to be purchased pursuant to mandatory tender, the Trustee is to segregate and hold uninvested the moneys for the Purchase Price of such Adjustable Rate Bonds in trust, without liability for interest thereon, for the benefit of the former Holders of such Adjustable Rate Bonds, who will, except as provided in the following sentence, thereafter be restricted exclusively to such moneys for the satisfaction of any claim for the Purchase Price of such Adjustable Rate Bonds. Any moneys which the Trustee is to segregate and hold in trust for the payment of the Purchase Price any Adjustable Rate Bonds and remaining unclaimed for four (4) years after the applicable Purchase Date will, to the extent permitted by law, be paid, upon written request of the Regents,

to the Regents. After the payment of such unclaimed moneys to the Regents, the former Holder of such Adjustable Rate Bonds shall look only to the Regents for the payment thereof.

**Remarketing of Mandatory Tender Bonds**

Not later than 9:30 a.m. (New York City time) on each Purchase Date occurring pursuant to the Resolution, the Trustee is to give notice by telephone to the Remarketing Agent specifying the principal amount of all Outstanding Adjustable Rate Bonds which are subject to mandatory tender on such Purchase Date pursuant to the Resolution (the "**Mandatory Tender Bonds**") and the names of the Holder or Holders thereof. The Remarketing Agent is to thereupon offer for sale at par and use its best efforts to find purchasers for such Mandatory Tender Bonds.

Not later than 11:00 a.m. (New York City time) on the Business Day immediately preceding each Purchase Date described in the immediately preceding paragraph, the Trustee is to give notice by telephone to the Remarketing Agent of the accrued amount of the interest payable as of the Purchase Date specified in such notice from the Trustee on, and confirming the aggregate principal amount of, the Mandatory Tender Bonds.

Not later than 10:30 a.m. (New York City time) on each Purchase Date with respect to Mandatory Tender Bonds, the Remarketing Agent is to give Electronic Notice (promptly confirmed in writing) to the Regents and the Trustee of the amount of remarketing proceeds that the Remarketing Agent has received and the principal amount of Mandatory Tender Bonds which have not been remarketed in accordance with the Remarketing Agreement.

**If sufficient remarketing proceeds or other funds are not available for the purchase of all the Adjustable Rate Bonds tendered or deemed tendered on any Purchase Date, (i) all tendered Series 2011 Bonds will be returned to their respective owners, and (ii) all outstanding Series 2011 Bonds will bear interest at the Bond Buyer 25 Revenue Bond Index plus 150 basis points (provided that such rate may not exceed the Maximum Interest Rate) from such Purchase Date through the final maturity of such Series 2011 Bonds, subject to optional redemption by the University as described in "Redemption Prior to Maturity" under this caption. Any failure to remarket and purchase all Adjustable Rate Bonds tendered or deemed tendered on any Purchase Date pursuant to the Resolution does not constitute an Event of Default under the Resolution. Any calculation of interest rate with respect to Mandatory Tender Bonds shall be calculated by the Remarketing Agent or, in the absence of the Remarketing Agent, by the Trustee.**

**Remarketing Agent**

George K. Baum & Company (the "**Remarketing Agent**") has been appointed as the initial Remarketing Agent with respect to the Adjustable Rate Bonds. The Remarketing Agent's duties with respect to the remarketing of the Adjustable Rate Bonds upon tender thereof are described in the Resolution and a Remarketing Agreement, entered between the Regents and the Remarketing Agent (the "**Remarketing Agreement**"). Under the Remarketing Agreement, the Remarketing Agent may resign at any time upon sixty (60) days notice prior to the effectiveness of such resignation.

**Redemption Prior to Maturity**

*Optional Redemption*

Series 2010A Bonds. The Series 2010A Bonds are not subject to optional redemption prior to their stated maturity.

Series 2010B Bonds. The Series 2010B Bonds maturing on or before April 1, 2020, shall not be subject to call or redemption prior to their stated dates of maturity, except for extraordinary redemption as described below. On any Payment Date on or after April 1, 2020, at the election of the University, the Series 2010B Bonds maturing after April 1, 2021, and not called in accordance with mandatory redemption provisions, shall be subject to redemption, in whole or in part, in maturities selected by the University and within each maturity as selected by lot by the Trustee, upon notice as described in "Notice of Redemption" under this caption, at par, plus accrued interest to the redemption date.

Taxable Series 2010C Bonds. The Series 2010B Bonds maturing on or before April 1, 2020, shall not be subject to call or redemption prior to their stated dates of maturity, except for extraordinary redemption as described below. On any Payment Date on or after April 1, 2020, at the election of the University, the Series 2010B Bonds maturing after April 1, 2021, and not called in accordance with mandatory redemption provisions, shall be subject to redemption, in whole or in part, in maturities selected by the University and within each maturity as selected by lot by the Trustee, upon notice as described in "Notice of Redemption" under this caption, at par, plus accrued interest to the redemption date.

Adjustable Rate Bonds. The Adjustable Rate Bonds are not subject to optional redemption during their Initial Term Interest Rate Period. In the event of a failed remarketing of the Adjustable Rate Bonds on the Purchase Date upon mandatory tender at the end of the Initial Term Interest Rate Period, the Adjustable Rate Bonds will be returned to their respective owners and will be subject to redemption, in whole or in part, only on any Payment Date on or after April 1, 2031, at the election of the University, as selected by lot by the Trustee, upon notice as described in "Notice of Redemption" under this caption at par, plus accrued interest to the redemption date.

*Extraordinary Redemption of Series 2010B Bonds and Taxable Series 2010C Bonds*

In the event that the University shall determine, in accordance with the Resolution, not to rebuild, replace, restore, or repair damaged or destroyed portions of the Series 2010B Project or the Series 2010C Projects, then the Series 2010B Bonds and the Taxable Series 2010C Bonds shall be subject to redemption, in whole or in part, at par plus accrued interest to the date of redemption, on the next applicable interest payment date, solely from, and to the extent of, insurance proceeds available to the Trustee for such payment.

*Mandatory Sinking Fund Redemption*

The Series 2010 Bonds may be subject to mandatory sinking fund redemption as determined during the offering period of such Series 2010 Bonds. Upon redemption of any Series 2010 Bonds other than by application of such mandatory sinking fund redemption, an amount equal to the principal amount so redeemed will be credited toward a part or all of any one or more of such mandatory sinking fund redemption amounts, if any, for the Series 2010 Bonds in such order of mandatory sinking fund date as shall be directed by the University.

*Notice of Redemption*

When the Series 2010/2011 Bonds are called for redemption through the optional redemption provisions of the Resolution, unless waived by any Holder of the Series 2010/2011 Bonds, notice must be sent by the Trustee, postage prepaid, by first class mail not less than thirty-five (35) nor more than sixty (60) days prior to the redemption date to (i) the registered owners of the Series 2010/2011 Bonds to be redeemed at the address shown on the Bond Register, (ii) one or more Information Services (as defined in APPENDIX C hereto), and (iii) the Remarketing Agent, if any. As provided in the Resolution, the

Trustee may give further notice of redemption at least thirty-five (35) days before the redemption date to the Municipal Securities Rulemaking Board; provided, however that no defect in such further notice or failure to give all or any portion of such further notice will in any manner defeat the effectiveness of a call for redemption. See "**APPENDIX D – SUMMARY OF THE RESOLUTION – GENERAL PROVISIONS RELATING TO THE BONDS – Notice of Redemption.**"

## SECURITY FOR THE SERIES 2010/2011 BONDS

### Pledged Revenues

In connection with the creation of the General Revenue Bond System, the 2005A Supplemental Resolution amended the Resolution to add additional University revenues to Pledged Revenues and provided that all Bonds issued under the Resolution be designated as "General Revenue Bonds." The 2005A Supplemental Resolution changed the debt service coverage ratios required to be maintained annually and for the issuance of Additional Bonds. The 2005A Supplemental Resolution also made other changes to the Resolution in light of the transition to the General Revenue Bond System as reflected in "**APPENDIX D – SUMMARY OF THE RESOLUTION.**" To effect the Regents' conversion of its then-existing bond system to the General Revenue Bond System in which all the Series 2005A Bonds and all future Additional Bonds (including the Series 2010/2011 Bonds) would be issued, the Regents covenanted in the 2005A Supplemental Resolution not to issue any additional bonds under the Activity Center Resolution or the Recreation Center Resolution (both as defined below). In conjunction with the additions of revenue sources to Pledged Revenues, the Regents changed the definitions of the components of Pledged Revenues to match the descriptions of revenue categories in the University's audited financial statements.

The Pledged Revenues which now secure the Series 2010/2011 Bonds and the other Outstanding and future Bonds issued under the Resolution include the following student fees and other revenue sources. The pledge of certain such Pledged Revenues to the Bonds is subordinate to the pledge of such revenues to the Outstanding Series 1996 Activity Center Bonds described below, which Series 1996 Activity Center Bonds are expected to be refunded as described in "PLAN OF FINANCE." Pledged Revenues are shown on a pro forma basis for Fiscal Year 2005 (which includes those revenues not pledged in such Fiscal Year) and on a historical basis for Fiscal Years 2006, 2007, 2008 and 2009 under "PRO FORMA AND HISTORICAL PLEDGED REVENUES."

- *Student Fees* (as further described in "Student Fees" below), except that the pledge of the Activity Center Complex Fee to pay the Bonds is junior and subordinate to the pledge of such fee under the resolution (the "**Activity Center Resolution**") pursuant to which the Regents issued the Series 1996 Activity Center Bonds currently outstanding in the aggregate principal amount of \$3,125,000, for so long as any Series 1996 Activity Center Bonds are Outstanding. The Series 1996 Activity Center Bonds are included in the Refunded Bonds, and are not expected to be outstanding following issuance of the Series 2010A Bonds. See "PLAN OF FINANCE." Since the Regents' Student Fee Revenue Bonds (Recreation Center Project), Series 1999 (the "**Recreation Center Bonds**") are no longer outstanding, the pledge of the Recreation Center Fee to pay the Bonds is no longer junior and subordinate to the pledge of such fee under the resolution pursuant to which the Recreation Center Bonds were issued (the "**Recreation Center Resolution**").
- *Sales and Services Revenues* (as further described in "Sales and Services Revenues" below), except that the pledge of such revenues to pay the Bonds is junior and

subordinate to the pledge of the portion of Sales and Service Revenues which consists of the net revenues from the University's non-residential food service facilities (the "**Non-Residential Food Service System**") and net revenues from the University's bookstore, previously pledged under the Activity Center Resolution for so long as any Series 1996 Activity Center Bonds are Outstanding.

- Certain revenues received by the University as reimbursement for facility and administrative costs in conjunction with grants and contracts for research activities conducted by the University (as further discussed under "Facilities and Administrative Recovery Revenues" below, the "**F&A Recovery Revenues**").
- Various revenues generated from miscellaneous sources, including fines and lease/rental revenues (as further discussed in "Other Operating Revenues" below, the "**Other Operating Revenues**").
- *Investment Income* under the Resolution, except that the pledge of such income is junior and subordinate to the pledge of the portion of Investment Income previously pledged under the Recreation Center Resolution and Activity Center Resolution for so long as any Series 1996 Activity Center Bonds and Recreation Center Bonds are Outstanding. The Recreation Center Bonds are no longer outstanding, and the Series 1996 Activity Center Bonds are included as Refunded Bonds and are not expected to be outstanding following delivery of the Series 2010A Bonds.
- Direct Payments. See "THE SERIES 2010/2011 BONDS – Designation of the Taxable Series 2010C Bonds as 'Build America Bonds'."
- Proceeds from the sale of a Series of Bonds and moneys and investment earnings thereon, to the extent pledged by the University pursuant to a supplemental resolution.
- Such other revenues as the Regents shall designate as Pledged Revenues.

The following funds and revenues of the University have not been pledged to payment of debt service on the Series 2010/2011 Bonds or other Bonds as part of the Pledged Revenues:

- general account appropriated funds of the State of Idaho (the "**State**"), which by law cannot be pledged; and
- restricted gift and grant revenues, including land grant endowments received pursuant to the University's land grant status.

See "SOURCES OF FUNDING FOR THE UNIVERSITY" and "**APPENDIX A – FINANCIAL STATEMENTS OF THE UNIVERSITY FOR THE YEARS ENDED JUNE 30, 2009 AND JUNE 30, 2008.**"

The revenues pledged to the Series 1996 Activity Center Bonds (as described above) are pledged to the Bonds on a subordinate basis until the retirement of the Series 1996 Activity Center Bonds. Upon the retirement of such Series 1996 Activity Center Bonds, such revenues will become pledged on a first lien basis to the Bonds. See definition of "Pledged Revenues" in "**APPENDIX C – GLOSSARY OF CERTAIN TERMS USED IN THE RESOLUTION AND OFFICIAL STATEMENT**" attached hereto for a description of the change in the definition of Pledged Revenues when the Series 1996 Activity Center Bonds are retired. The Series 1996 Activity Center Bonds are included as Refunded Bonds as described

in "PLAN OF FINANCE" and are not expected to be outstanding following delivery of the Series 2010A Bonds.

**The Series 2010/2011 Bonds are limited obligations of the Regents and do not constitute a debt or liability of the State of Idaho, its Legislature, or any of its political subdivisions or agencies other than the Regents to the extent herein described. The Regents are not authorized to levy or collect any taxes or assessments other than the fees described herein to pay the Series 2010/2011 Bonds. The Regents have no taxing power.**

### **Student Fees**

Under the Idaho Constitution, the Regents cannot charge tuition for Idaho residents attending the University as undergraduate students. However, the Regents have the ability to establish and collect tuition charges for non-resident, graduate and professional students attending the University and to establish and collect student fees from both resident and non-resident students.

The Regents are exclusively empowered to establish student fees and non-resident, graduate and professional tuition. Student fees and tuition charges are not subject to a referendum by students or approval by any other governmental entity. The Regents have established a policy that the University may not request more than a 10% annual increase in the total full-time student fees unless otherwise authorized by the Regents. The Regents' established policy is to announce and conduct a public hearing on the modification of any fees, which has traditionally occurred annually, with fee adjustments effective for the subsequent fall term each year. The Regents increased fees by 6.5% at the April 2009 Regents' meeting, which increase became effective in the Fall of 2009. There is no prohibition, however, which would preclude the Regents from adjusting fees (for collection beginning with the next academic year) at any time.

Student Fees include the Matriculation Fee, the Activity Fees, the Facility Fees, the Technology Fees and Other Fees/Tuition, as further described below. For the Fiscal Year ended June 30, 2008, the total annual Student Fees assessed against full-time undergraduate students who were Idaho residents were \$4,410. For the Fiscal Year ending June 30, 2009, total annual Student Fees assessed against full-time undergraduate students who are Idaho residents were \$4,632. For the Fiscal Year ending June 30, 2010, total annual Student Fees being assessed against full-time undergraduate students who are Idaho residents are \$4,932. See "**APPENDIX B – SCHEDULE OF STUDENT FEES**" for a listing of all Student Fees being assessed for Fiscal Year 2010.

**The Matriculation Fee** – The Matriculation Fee is charged to all full-time students attending the University. The related general education fees for part-time students and summer students are identified by the Regents separately from the Matriculation Fee and are not included in the revenues described below but are part of the Pledged Revenues. See "Other Fees/Tuition" under this caption. The Matriculation Fee is used to provide general operating revenues for University maintenance and operation of physical plant, student services and institutional support. The revenues derived from the Matriculation Fee for the Fiscal Years ended June 30, 2007, June 30, 2008 and June 30, 2009 were \$22,974,576, \$23,225,717, and \$24,336,268, respectively.

**Activity Fees** – The University charges a wide variety of fees to support various programs and activities. See "**APPENDIX B – SCHEDULE OF STUDENT FEES**" for a listing of all Activity Fees being assessed for Fiscal Year 2010. The revenues derived from Activity Fees for the Fiscal Years ended June 30, 2007, June 30, 2008 and June 30, 2009 were \$8,423,161, \$8,370,987, and \$9,229,528, respectively.

**Facility Fees** – The University charges a number of fees ("**Facility Fees**") to support debt service and offset deferred maintenance. The Activity Center Complex Fee, included as a Facility Fee, is pledged on a subordinate basis until the retirement of the Series 1996 Activity Center Bonds. The revenues derived from the Facility Fees for the Fiscal Years ended June 30, 2007, June 30, 2008 and June 30, 2009 were \$5,350,598, \$5,976,647, and \$6,525,453, respectively.

**Technology Fees** – The University currently charges one Technology Fee, the Student Computing and Network Access Fee, to support the University's technological needs. For the Fiscal Years ended June 30, 2007, June 30, 2008 and June 30, 2009 the revenues derived from the Technology Fee were \$1,230,990, \$1,244,631, and \$1,240,702, respectively.

**Other Fees/Tuition** – The University's Other Fees/Tuition currently include the Graduate/Professional Fee, the Law College Dedicated Fee, the Architecture School Dedicated Fee, Non-Resident Tuition, the Inservice Teacher Education Fee, the Western Undergraduate Exchange Fee, Part-time and Summer Fees. The revenues derived from the Other Fees/Tuition for the Fiscal Years ended June 30, 2007, June 30, 2008 and June 30, 2009 were \$17,173,171, \$17,968,685 and \$18,765,983, respectively.

### **Sales and Services Revenues**

Sales and Services Revenues include revenues generated through operations of auxiliary enterprises and revenues generated incidentally to the conduct of instruction, research and public service activities. The majority of these revenues are generated through auxiliaries including the Housing System; the Parking System; the Non-Residential Food Service System; bookstore sales; ticket and event sales; recreation center activity charges; and other miscellaneous operations. See "THE UNIVERSITY" for a description of the University's primary revenue generating facilities. Examples of revenues generated incidentally to education are unrestricted revenues generated by the University's testing and training services, labs, sales of scientific materials, sales of miscellaneous services or products, and sales of agriculture and forest products and publications. Sales and Services Revenues for the Fiscal Years ended June 30, 2007, June 30, 2008 and June 30, 2009 were \$38,730,670, \$38,870,404 and \$38,608,143, respectively. Prior to issuance of the Series 2005A Bonds, the only portion of Sales and Services Revenues that contributed to Pledged Revenues were the net revenues of the Housing System and the Parking System. The 2005A Supplemental Resolution extended the pledge to gross revenues of the Housing System and Parking System, and also pledged the portion of Sales and Service Revenues previously pledged to secure the Series 1996 Activity Center Bonds, including net revenues from the Non-Residential Food Service System and net revenues from the University's bookstore, to the Bonds on a subordinate basis until retirement of the Series 1996 Activity Center Bonds and Recreation Center Bonds. The Recreation Center Bonds are no longer outstanding, and the Series 1996 Activity Center Bonds are expected to be refunded in full using proceeds of the Series 2010A Bonds as described in "PLAN OF FINANCE."

### **Facilities and Administrative Recovery Revenues**

Federal, state, and private funds provided to institutions for scientific research consist of two components. The first component is restricted for use by the institution to pay the direct costs of conducting research, such as the salaries for scientists and materials and labor used to perform each project. The second component is granted to pay for so-called "facilities and administrative costs," which encompass spending by the receiving institution on such items as facilities maintenance and renewal, heating and cooling, libraries, the salaries of departmental and central office staff, and other general administration costs. Such component constituting "facilities and administrative costs" is pledged to the Bonds as F&A Recovery Revenues.



The following table shows F&A Recovery Revenues for the past five Fiscal Years.

<b>Fiscal Year</b>	<b>F&amp;A Recovery Revenues</b>
2005	\$9,494,846
2006	9,524,924
2007	9,290,119
2008	8,878,622
2009	9,457,359

### **Other Operating Revenues**

The University receives other miscellaneous revenues in the course of its operations. Examples of revenues counted in Other Operating Revenues include fines and lease/rental revenues. In the Fiscal Years ended June 30, 2007, June 30, 2008 and June 30, 2009, the University generated Other Operating Revenues in the amounts of \$2,583,091, \$2,593,474 and \$3,747,033, respectively.

### **Investment Income**

Investment Income, which includes all of the University's unrestricted investment income, is pledged to repayment of the Series 2010/2011 Bonds and other Bonds issued under the Resolution, except that the pledge of such income is subordinate to the pledge of the portion of Investment Income pledged under the Activity Center Resolution. The amount of Investment Income pledged to the Bonds will not match the amount of investment income shown in the University's audited financial statements which includes restricted investment income. For the Fiscal Years ended June 30, 2007, June 30, 2008 and June 30, 2009, Investment Income earned by the University was \$5,167,301, \$4,656,208 and \$3,040,962, respectively.

### **Use of Pledged Revenues and Other Revenues Not Otherwise Obligated**

After the University has made the payments and deposits required under the Resolution, Pledged Revenues and other amounts remaining in the Revenue Fund held under the Resolution in excess of the amounts necessary to make the required payments thereunder may be used for any legal purpose of the University, including operations and the redemption or purchase of the Bonds, subject to policies adopted by the Regents.

### **Covenants**

#### *Covenant to Maintain Coverage*

The Regents are obligated under the Resolution to establish and maintain rates, fees, and charges in amounts sufficient to produce Pledged Revenues in each year equal to 100% of the Debt Service on the Bonds and any Additional Bonds outstanding for each Fiscal Year.

#### *Issuance of Additional Bonds*

The Resolution provides that Additional Bonds secured by Pledged Revenues may be issued by the Regents upon the satisfaction of various conditions specified therein. The amount of Additional Bonds that may be issued is not limited by law or the Resolution.

The Resolution provides for the issuance of Additional Bonds to finance projects or to refund the Bonds issued under the Resolution and other obligations of the Regents or the University. In connection

with the issuance of Additional Bonds, the Regents are required to file, among other things, the following documents with the Trustee:

(i) A copy of the supplemental resolution authorizing the issuance of the Additional Bonds.

(ii) A Written Certificate of the University to the effect that, upon the delivery of the Additional Bonds, the University will not be in default in the performance of any of the covenants, conditions, agreements, terms, or provisions of the Resolution or any supplemental resolution with respect to any Bonds.

(iii) For so long as any of the Bonds issued prior to the Series 2005A Bonds are Outstanding, a Consultant's Report, and at any time that all of the Bonds issued prior to the Series 2005A Bonds shall cease to be Outstanding, a Written Certificate signed by an Authorized Officer of the University, in either case setting forth the then estimated completion date and the then estimated cost of construction of the project being financed by the Additional Bonds.

(iv) A Written Certificate of the University showing that Estimated Pledged Revenues (assuming completion of the proposed project on its then estimated completion date) will equal at least 100% of the Debt Service on all Outstanding Bonds and any Additional Bonds proposed to be issued for each Fiscal Year of the University during which any Bonds will be Outstanding following the estimated completion date of the project being financed by the Additional Bonds, if interest during construction of the project being financed by the Additional Bonds is capitalized, or (2) the University's current Fiscal Year and any succeeding Fiscal Year during which any Bonds issued will be Outstanding, if interest during construction of the project being financed by the Additional Bonds is not capitalized.

Refunding Bonds may be issued without compliance with the requirements above provided the Refunding Bonds do not increase Debt Service by more than \$25,000 per year.

**No Debt Service Reserve Account for the Series 2010/2011 Bonds**

The Resolution does not require the funding or maintenance of a Debt Service Reserve Account for the Bonds issued under the Resolution, including the Series 2010/2011 Bonds, unless the Regents determine otherwise pursuant to a supplemental resolution. However, the Debt Service Reserve Accounts which were established in connection with the Series 2005A Bonds and Bonds issued prior thereto will continue to be maintained until such Bonds are retired. **Amounts in the Debt Service Reserve Accounts established for Outstanding Bonds will not be available as security for the Series 2010/2011 Bonds. See "PLAN OF FINANCE."**

**Outstanding Bonds; Additional Bonds**

The Regents have previously issued (i) under the Activity Center Resolution, the Series 1996 Activity Center Bonds currently Outstanding in the aggregate principal amount of \$3,125,000, which have a prior lien on certain Pledged Revenues (see "Pledged Revenues" under this caption) and which are expected to be refunded with proceeds of the Series 2010A Bonds, (ii) under the Recreation Center Resolution, the Recreation Center Bonds which had a prior lien on certain Pledged Revenues (see "Pledged Revenues" under this caption), but which are no longer outstanding, and (iii) under the Resolution, the Bonds which, following refunding of the Series 1997B Bonds using proceeds of the Series 2010A Bonds and the refunding of the Series 2007A Bonds using proceeds of the Series 2011 Bonds expected to be delivered in January of 2011, will be Outstanding in the aggregate principal amount of

\$72,475,000.\* The Series 2010/2011 Bonds will be secured by the Pledged Revenues on a parity lien basis with the Bonds. See "PLAN OF FINANCE" and "SOURCES OF FUNDING FOR THE UNIVERSITY – Schedule of Outstanding Indebtedness."

**In the Resolution, the Regents have covenanted not to issue additional bonds under the Activity Center Resolution or the Recreation Center Resolution.** However, the Regents have the right under the Resolution to issue Additional Bonds if certain conditions for such issuance are met. See "Covenants – Issuance of Additional Bonds" under this caption for a list of some of such conditions.

**PLAN OF FINANCE**

**Sources and Uses of Funds**

The estimated sources and uses of funds relating to the issuance of the Series 2010/2011 Bonds are shown below.

<b>SOURCES OF FUNDS:</b>	<u>Estimated Amounts</u>
Series 2010A Bonds Par Amount .....	\$
Series 2010B Bonds Par Amount .....	
Taxable Series 2010C Bonds Par Amount.....	
Series 2011 Bonds Par Amount (1) .....	
Net Original Issue Discount/Premium .....	
<b>TOTAL SOURCES OF FUNDS .....</b>	<b>\$</b> <u>                    </u>
<b>USES OF FUNDS:</b>	
Deposit to the Series 2010A Escrow Account (2) .....	\$
Deposit to the Series 2010B Project Account (3)	
Deposit to the Series 2010C Project Account (4) .....	
Deposit to the Series 2011 Escrow Account (1)(5).....	
For payment of Series 2010/2011 Costs of Issuance (6) .....	<u>                    </u>
<b>TOTAL USES OF FUNDS.....</b>	<b>\$</b> <u>                    </u>

- (1) See "FORWARD DELIVERY OF SERIES 2011 BONDS."
- (2) See "Series 2010A Refunding Project" under this caption.
- (3) See "Series 2010B Project" under this caption.
- (4) See "Series 2010C Projects" under this caption.
- (5) See "Series 2011 Refunding Project" under this caption.
- (6) Includes Underwriter's discount for Series 2010 Bonds and fee for Series 2011 Bonds, Trustee's fee, verification agent's fees, rating agencies' fees, printing costs and other legal fees and expenses. See "UNDERWRITING" for a discussion of the Underwriter's compensation.

Source: The Underwriter

\* Preliminary, subject to change

### **Series 2010A Refunding Project**

The proceeds from the sale of the Series 2010A Bonds are being issued to provide funds which will be sufficient to refund all the Student Fee Refunding Revenue Bonds, Series 1996 currently Outstanding in the aggregate principal amount of \$3,125,000 (referred to in this Official Statement as the "**Series 1996 Activity Center Bonds**") and the Student Fee Refunding Revenue Bonds, Series 1997B currently Outstanding in the aggregate principal amount of \$7,290,000.

The 2010 Supplemental Resolution authorizes the Regents to enter into an Escrow Agreement with respect to the Series 1996 Activity Center Bonds (the "**Series 2010A Escrow Agreement**") with Wells Fargo Bank, N.A., as Escrow Agent (the "**Escrow Agent**"). The 2010 Supplemental Resolution and the Series 2010A Escrow Agreement provide for the purchase of direct obligations of the United States and the deposit thereof and a cash balance into the Series 2010A Escrow Account (the "**Series 2010A Escrow Account**") created under, and administered pursuant to, the Series 2010A Escrow Agreement to pay the current interest and redemption price on the Series 1996 Activity Center Bonds upon call for redemption on their first call date pursuant to the Series 2010A Escrow Agreement. Upon such a refunding of the Series 1996 Activity Center Bonds, the senior lien on Pledged Revenues granted in favor of such Series 1996 Activity Center Bonds will no longer be in effect. See "SECURITY FOR THE SERIES 2010/2011 BONDS – Pledged Revenues."

### **Series 2010B Project**

The proceeds from the sale of the Series 2010B Bonds will be used by the Regents to payoff a tax-exempt loan from Wells Fargo Bank, N.A. outstanding in the aggregate principal amount of \$10,000,000, the proceeds of which were used to fund improvements to the Kibbie Dome of the University.

### **Series 2010C Project**

The proceeds from the sale of the Taxable Series 2010C Bonds will be used by the Regents to fund life safety and code improvements to the Kibbie Dome on the University's Moscow, Idaho campus (the "**Series 2010C Project**"). Improvements to the Kibbie Dome that will be financed with proceeds of the Taxable Series 2010C Bonds include (i) the replacement of the west wall of the facility with translucent panels that will be part of a non-combustible construction assembly for that wall; (ii) replacement of the east end wall with noncombustible construction; (iii) the addition of west end exiting in the new wall; (iv) the addition of handrails in the seating aisles; and (v) the installation of smoke evacuation and associated fire detection alarm and suppression systems, roof ballasting and other miscellaneous items. The initial construction phase for these improvements was completed in December 2009. Final completion of the improvements is scheduled for October 2011.

### **Series 2011 Refunding Project**

The proceeds from the sale of the Series 2011 Bonds are being issued to provide funds which will be sufficient to refund \$59,500,000 of the Series 2007A Bonds (referred to in this Official Statement, together with the Series 1996 Activity Center Bonds and the Series 1997B Bonds, as the "**Refunded Bonds**"), outstanding in the aggregate principal amount of \$62,095,000. The principal balance of \$2,595,000 of the Series 2007A Bonds not refunded with proceeds of the Series 2011 Bonds will be paid with Pledged Revenues on regularly scheduled principal payment dates as follows: \$1,275,000 will be paid on April 1, 2010 and \$1,320,000 will be paid on April 1, 2011. The Series 2011 Bonds are being offered and will be delivered on a forward delivery basis. See "FORWARD DELIVERY OF SERIES 2011 BONDS."

The 2010 Supplemental Resolution authorizes the Regents to enter into an Escrow Agreement with respect to the Series 2007A Bonds (the "**Series 2011 Escrow Agreement**") with the Escrow Agent. The 2010 Supplemental Resolution and the Series 2011 Escrow Agreement provide for the purchase of direct obligations of the United States and the deposit thereof and a cash balance into the Escrow Account (the "**Series 2011 Escrow Account**") created under, and administered pursuant to, the Series 2011 Escrow Agreement to pay the current interest and redemption price on the Series 2007A Bonds upon call for redemption on their first call date pursuant to the Series 2011 Escrow Agreement.

**Verification of Mathematical Calculations**

Causey Demgen & Moore, Inc. will deliver a report at the time of delivery of the Series 2010A Bonds on the mathematical accuracy of certain computations contained in the schedules provided to them on behalf of the Regents relating to: (a) the adequacy of the funds held in the Series 2010A Escrow Account to pay accrued interest and purchase price on the respective Series 1996 Activity Center Bonds and Series 1997B Bonds due pursuant to calls for redemption, pursuant to the Series 2010A Escrow Agreement; and (b) the computations of the yield on the Series 2010A Bonds through the final call dates of the Series 1996 Activity Center Bonds and the Series 1997B Bonds, respectively, and the funds held in the Series 2010A Escrow Account. Such verification will be based, among other things, upon mathematical computations supplied by the Underwriter in connection with the matters set forth above. See "VERIFICATION AGENT" herein. Co-Bond Counsel will rely on such report in issuing their opinion on the Series 2010 Bonds.

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## DEBT SERVICE REQUIREMENTS

The following table sets forth the Annual Debt Service Requirements for the Regent's currently Outstanding Bonds (taking into account the refunding of the Series 1996 Activity Center Bonds, the Series 1997B Bonds, and the Series 2007A Bonds as well as the issuance of the Series 2010/2011 Bonds):

Fiscal Year	<u>Outstanding Bonds<sup>(1)*</sup></u>		<u>Series 2010 Bonds*</u>		<u>Series 2011 Bonds*</u>		Total*
	<u>Principal<sup>(2)</sup></u>	<u>Interest<sup>(3)</sup></u>	<u>Principal<sup>(2)</sup></u>	<u>Interest<sup>(3)(5)</sup></u>	<u>Principal<sup>(2)</sup></u>	<u>Interest<sup>(4)(5)</sup></u>	
2010	\$4,565,000	\$3,951,331	\$ --	\$ 292,368	\$ --	\$ --	\$ 8,808,699
2011	4,205,000	4,554,125	2,170,000	1,889,853	--	782,836	13,601,815
2012	1,770,000	3,109,088	2,230,000	1,744,334	850,000	3,202,513	12,905,934
2013	1,860,000	3,020,588	2,295,000	1,677,434	890,000	3,160,013	12,903,034
2014	2,855,000	2,925,013	1,245,000	1,602,847	935,000	3,115,513	12,678,372
2015	3,200,000	2,782,263	1,285,000	1,559,272	980,000	3,068,763	12,875,297
2016	3,345,000	2,626,588	1,335,000	1,511,084	1,030,000	3,019,763	12,867,434
2017	2,645,000	2,463,813	--	1,457,684	1,080,000	2,968,263	10,614,759
2018	2,765,000	2,334,025	--	1,457,684	1,135,000	2,914,263	10,605,972
2019	2,890,000	1,970,669	--	1,457,684	1,190,000	2,857,513	10,365,865
2020	2,505,000	1,829,811	--	1,457,684	1,250,000	2,798,013	9,840,508
2021	2,615,000	1,708,254	--	1,457,684	1,315,000	2,735,513	9,831,450
2022	2,270,000	1,581,246	--	1,457,684	1,385,000	3,154,188	9,848,118
2023	1,645,000	1,490,876	560,000	1,457,684	1,460,000	3,077,320	9,690,880
2024	1,700,000	1,425,656	640,000	1,429,684	1,545,000	2,995,268	9,735,608
2025	1,755,000	1,356,361	675,000	1,397,684	1,630,000	2,907,358	9,721,403
2026	1,815,000	1,284,797	705,000	1,363,934	1,725,000	2,813,470	9,707,201
2027	1,660,000	1,210,759	935,000	1,326,922	1,825,000	2,712,902	9,670,582
2028	1,725,000	1,149,173	985,000	1,277,834	1,935,000	2,605,227	9,677,234
2029	1,785,000	1,085,175	1,035,000	1,226,122	2,050,000	2,489,708	9,671,004
2030	1,855,000	1,018,952	1,090,000	1,171,784	2,170,000	2,365,888	9,671,623
2031	1,920,000	950,131	1,145,000	1,114,559	2,305,000	2,233,301	9,667,991
2032	2,000,000	878,899	1,220,000	1,042,997	2,445,000	2,091,082	9,677,978
2033	2,075,000	804,699	1,295,000	966,747	2,600,000	1,938,759	9,680,204
2034	2,150,000	727,717	1,370,000	882,609	2,760,000	1,775,219	9,665,544
2035	2,235,000	647,952	1,430,000	788,216	2,935,000	1,600,235	9,636,402
2036	2,315,000	565,033	1,490,000	689,689	3,125,000	1,412,982	9,597,704
2037	2,400,000	479,147	1,560,000	587,028	3,325,000	1,213,294	9,564,469
2038	2,495,000	390,107	1,630,000	479,544	3,535,000	1,000,494	9,530,145
2039	2,585,000	297,542	1,700,000	367,237	3,765,000	773,901	9,488,680
2040	2,685,000	201,639	1,775,000	250,107	4,005,000	532,188	9,448,933
2041	<u>2,750,000</u>	<u>102,025</u>	<u>1,855,000</u>	<u>127,810</u>	<u>4,265,000</u>	<u>274,666</u>	<u>9,374,501</u>
Total	\$77,040,000	\$50,923,447	\$33,655,000	\$36,971,483	\$61,445,000	\$70,590,405	\$330,625,335

(1) Does not include the Series 1996 Activity Center Bonds and the Series 1997B Bonds expected to be refunded as Refunded Bonds using proceeds of the Series 2010A Bonds. Also does not include the Series 2007A Bonds which are expected to be refunded as Refunded Bonds upon delivery of the Series 2011 Bonds. See "PLAN OF FINANCE" and "FORWARD DELIVERY OF SERIES 2011 BONDS."

(2) Payable April 1.

(3) Payable April 1 and October 1, commencing October 1, 2010.

(4) Interest on the Series 2011 Bonds is payable commencing on April 1, 2011.

(5) Calculated solely for purposes of this Preliminary Official Statement using assumed interest rates.

\* Preliminary, subject to change.

Source: The Underwriter

### PRO FORMA AND HISTORICAL PLEDGED REVENUES

The following table shows the revenue sources that were pledged by the 2005A Supplemental Resolution, which created the General Revenue Bond System. Prior to the creation of the General Revenue Bond System, many of these revenue sources were not pledged to the payment of the Bonds. The Pledged Revenues are shown on a pro forma basis for Fiscal Year 2005 (which include those revenue sources not then pledged) and on a historical basis for Fiscal Years 2006, 2007, 2008 and 2009.

The data for Fiscal Years 2005-2009 is derived from the University's unaudited financial records.

	2005	2006	2007	2008	2009
<b>Source of Pledged Revenues</b>					
Student Fees	\$48,029,987	\$51,976,798	\$55,433,037	\$58,507,332	\$60,456,013
Sales and Services Revenues	35,160,294	39,998,851	38,730,670	38,870,404	38,608,143
Other Operating Revenues	3,285,587	3,973,319	2,583,091	4,994,424	3,747,033
Investment Income <sup>(1)</sup>	2,240,420	3,350,565	4,939,436	4,656,208	3,040,962
F&A Recovery Revenues	9,494,846	9,524,924	9,290,119	8,878,622	9,457,359
<b>Total Pledged Revenues<sup>(2)</sup></b>	<b>\$98,211,134</b>	<b>\$108,824,457</b>	<b>\$110,976,353</b>	<b>\$115,906,990</b>	<b>\$115,309,510</b>
Debt Service on the Series 1996 Activity Center Bonds <sup>(3)</sup>	\$2,341,766	\$2,803,813	\$1,224,718	\$1,067,115	\$855,490
<b>Revenues Available for Debt Service<sup>(3)</sup></b>					
Debt Service on Bonds <sup>(4)</sup>	\$7,499,819	\$8,706,257	\$8,696,341	\$11,564,848	11,567,305
Debt Service Coverage	13.1x	12.5x	12.8x	10.0x	10.0x

(1) Differs from the information in the University's audited financial statements which include restricted investment income.

(2) The Pledged Revenues shown for Fiscal Year 2005 are pro forma and include additional revenues added as Pledged Revenues under the 2005A Supplemental Resolution as though such amounts had been pledged during such Fiscal Year.

(3) Certain Pledged Revenues are pledged to the Bonds on a subordinate basis to the Series 1996 Activity Center Bonds. See "SECURITY FOR THE SERIES 2010/2011 BONDS." The Series 1996 Activity Center Bonds are included as Refunded Bonds and are not expected to be outstanding following issuance of the Series 2010A Bonds. See "PLAN OF FINANCE."

(4) Represents actual debt service on the Outstanding Bonds due and paid during the Fiscal Years as indicated.

Source: The University

The Debt Service Coverage of the Pledged Revenues in 2009 over the maximum annual debt service of Outstanding Bonds (after issuance of the Series 2010/2011 Bonds and assuming refunding of the Series 1996 Activity Center Bonds and the Series 1997A Bonds using proceeds of the Series 2010A Bonds and refunding of the Series 2007A Bonds upon delivery of the Series 2011 Bonds no later than April 1, 2011) would be \_\_\_\_x\* (2009 Pledged Revenues of \$115,309,510 plus a Direct Payment of \$\_\_\_\_\_ which is the lowest annual interest payment expected to be received as a Direct Payment,

divided by maximum annual debt service on the pro forma Outstanding Bonds of \$13,601,815.\*) See "DEBT SERVICE REQUIREMENTS."

## **THE UNIVERSITY**

### **Generally**

Student body representation at the University is from every state in the United States and approximately 80 foreign countries. The University alumni population exceeds 90,000. The University's main campus is located in Moscow, Idaho, a community of approximately 22,500 people in the northern portion of the State, about one-mile east of the Washington border and approximately 80 miles south of Coeur d'Alene, Idaho.

University property includes approximately 11,690 acres and 315 buildings, of which 1,585 acres and 251 buildings are located at its main campus in Moscow. The University operates twelve research centers and institutes and six demonstration and training farms with a total acreage of about 1,000 acres used by forestry and agricultural students. The University owns and actively manages 8,160 acres of forest lands, a wilderness field research station in Idaho's primitive area, a veterinary teaching center, and ten research and extension centers in agricultural areas throughout Idaho. The University also operates a Research Park in Post Falls and Resident Instructional Centers in Boise, Coeur d'Alene and Idaho Falls.

The University's academic structure includes ten degree-granting colleges: the Colleges of Agricultural and Life Science; Art and Architecture; Business and Economics; Education; Engineering; Graduate Studies; Law; Letters, Arts and Social Sciences; Natural Resources; and Science. In addition to degree programs in each of these colleges, the University includes a College of Graduate Studies and offers medical training for students in association with the University of Washington, School of Medicine. The University has several cooperative programs with Washington State University (located in Pullman, Washington, eight miles from Moscow), including a joint veterinary medical program. This cooperative graduate program has veterinary training facilities in Caldwell, Idaho, which are operated by the University. The University has an optional officer education program, leading to a regular or reserve commission in the U.S. Army, Navy, Marines or Air Force.

### **Student Body**

The University admits all Idaho residents who graduate from accredited high schools with an overall grade point average of at least 3.0 and who completed a defined set of core high school classes. Those with less than a 3.0 high school grade point average must meet set ACT or SAT scores. Home school students, graduates of non-accredited high schools, or students not meeting the admission criteria are considered by a special admission committee. Approximately 67% of the University's fall 2009 student body are residents of the State. The tables on the following page set out certain statistics concerning the University's enrollment for the Fall Terms of the years indicated.

\* Preliminary, subject to change. Based on an assumed interest rate of \_\_\_\_% for the Series 2010/2011 Bonds.



**Five-Year Historical Enrollment Summary**

	2005	2006	2007	2008	2009
<b>Students</b>	<b>Fall Semester, 10th Day of Class</b>				
Full-Time Equivalents (FTE)	10,791.9	10,252.5	10,078.1	10,208.85	10,368.2
Head Count	12,476	11,739	11,636	11,791	11,957
<b>Undergraduate Students</b>	<b>Academic Head Count 10th Day of Class, Fall Semester</b>				
Full-time:					
Residents	6,055	5,749	5,627	5,552	5,559
Non-residents	2,335	2,386	2,385	2,553	2,749
Subtotal	8,390	8,135	8,012	8,105	8,308
Part-time:					
Residents	1,173	975	1,045	1,113	999
Non-residents	281	285	291	305	291
Subtotal	1,454	1,260	1,336	1,418	1,290
<b>Graduate Students</b>					
Full-time:					
Residents	799	736	700	696	710
Non-residents	557	509	508	542	607
Subtotal	1,356	1,245	1,208	1,238	1,317
Part-time:					
Residents	885	766	736	722	721
Non-residents	391	333	344	308	321
Subtotal	1,276	1,099	1,080	1,030	1,042
<b>Total Undergraduate</b>	9,844	9,395	9,348	9,523	9,598
<b>Total Graduate Students</b>	2,730	2,344	2,288	2,268	2,359
<b>Grand Total</b>	12,476	11,739	11,636	11,791	11,957
<b>No. of Freshmen</b>	<b>Freshman Class Statistics, 10th Day of Class Fall Semester</b>				
Applying	4,444	4,324	4,577	4,935	5,110
Accepted	3,660	3,460	3,505	3,844	4,068
Enrolled	1,732	1,633	1,659	1,709	1,780
Resident	1,146	1,063	1,114	1,092	1,113
Average ACT Score	22.8	22.9	22.7	23.2	23.3
Average SAT Score	1115	1099	1,093	1108	1098
Average High School GPA	3.37	3.37	3.34	3.36	3.38
Percentage graduating in the top 25% of their high school class:	46.3%	45.2%	42.1%	43.8%	45.8%

Source: The University

**Housing and Student Union Facilities**

The University's housing and student union facilities (the revenues from which constitute Auxiliary Enterprise revenues pledged as part of the Pledged Revenues) currently include (i) 12 residence hall buildings containing dormitory style student living; (ii) four apartment complexes, providing housing for upper class students and students with families; (iii) the Idaho Commons Building (the "**Commons**"); and (iv) the Student Union Building (the "**Student Union**").

*University Residence Halls.* The 12 University residence hall buildings can accommodate up to 1,991 students. The University's residence halls offer a variety of amenities including: (i) computer labs and in-room connections to high-speed networking; (ii) recreational and lounge space; (iii) laundry facilities; (iv) kitchen areas; and (v) academic/study space. Over the past five Fiscal Years, the average occupancy rate for the University's residence halls was 80%, and the occupancy rate for Fall 2009 is 79%.

*University Apartments.* Currently, the University has four apartment complexes, which provide 302 apartments ranging in size from one-bedroom to four bedrooms available for occupancy by students and their families. Amenities available at University apartment complexes include: (i) high-speed internet connections both in apartments and in apartment-complex computer labs; (ii) in-apartment laundry facilities; (iii) play areas; (iv) community centers; and (v) classroom and meeting room facilities. The average occupancy rate for the University's apartments over the past five Fiscal Years is 94.4%, and the occupancy rate for Fall 2009 is 94%.

*Idaho Commons Building.* Completed in 2000, the Idaho Commons Building is designed to be the center of campus life and provide programs, amenities, and services to enhance the educational experience of University students. The Commons is a multi-use facility with approximately 100,000 square feet. The facility houses offices for student government, other student organizations, conference rooms with state of the art technology, and academic support services. In addition, the Commons has an information desk, food court, coffee shop, convenience store, satellite University bookstore, credit union, copy center, art gallery, computer kiosks, ATMs and administrative offices. The facilities infrastructure includes high-speed LAN and video data capabilities, public lounges, wireless network, computer checkout, and flat screen monitors to provide information about building and campus activities.

*Student Union Building.* The approximately 103,500 square foot Student Union is a multi-use facility. Student services were relocated to the Student Union after completion of a renovation in 2000. Currently, the facility houses Student Accounts, the Registrar, Admissions, Student Financial Aid, New Student Services, Jazz Festival, College Assistance Migratory Program, and Student Media Services. In addition, the Student Union has an information desk, conference facilities, including a large ballroom, a movie theatre, and several small meeting rooms, a cafe, ATMs, and a computer lab.

### **Spectator and Recreation Facilities**

The University's spectator and recreation facilities (the revenues from which constitute Auxiliary Enterprise revenues pledged as part of the Pledged Revenues, except for certain revenues with a prior pledge to the Series 1996 Activity Center Bonds) include the Kibbie Dome, the Memorial Gym, the Recreation Center, the Dan O'Brien Track Complex, and the University Golf Course. Following is a brief description of these facilities.

*Kibbie Dome.* The Kibbie Dome was originally constructed in 1972 and is North Idaho's largest athletic spectator facility. It is used for intercollegiate home football games, basketball games, indoor track and field events, as well as high school football playoffs, the Lionel Hampton Jazz Festival, concerts, sport camps, conferences, classes, intramurals, student club activities, and University commencements. In 1984, the "East End" was added to the Kibbie Dome and includes a weight room, recreational and varsity locker rooms, eight racquetball courts, and athletic training rooms and offices. The University recently completed another expansion of the Kibbie Dome to add the "Vandal Athletic Center," which includes a 7,000 square foot weight room, a 1,500 square foot exercise area, an aquatic exercise pool, and a new foyer. Proceeds of the Taxable Series 2010C Bonds will be used to finance the construction of certain improvements to the Kibbie Dome. See "PLAN OF FINANCE – Series 2010C Project."

*Memorial Gym.* The Memorial Gymnasium, constructed in 1928, is the oldest athletic building on campus. The building serves as one of the University's indoor sports and entertainment complexes. In addition to hosting varsity volleyball and basketball, the Memorial Gym is used for concerts, community events, state gymnastics meets, regional basketball tournaments, intramural activities and physical education classes, and houses a gymnasium, multi-purpose room, combative room, locker rooms, and various offices.

*The Recreation Center.* The Student Recreation Center was completed in 2002. It is approximately 85,500 square feet in size, and includes more than 7,200 square feet of open recreational space, two regulation-size basketball courts, a multipurpose gymnasium, a large aerobics/cardiovascular multipurpose workout space, a running track, a climbing wall, a child care center, a first-aid and athletic training area, classroom and activity spaces, a cafeteria, and space for rental of recreational equipment.

*Dan O'Brien Track Complex.* The Dan O'Brien Track, named in 1996 for University alumnus and 1996 Olympic Decathlon Gold Medalist Dan O'Brien, was constructed in 1969, and serves as the University's outdoor varsity and recreational track facility. It consists of a 400-meter, 8-lane track, a long jump area, a throwing area, a high jump area, a pole vault area, coaches' offices, and spectator facilities that accommodate approximately 1,000 spectators.

*University Golf Course.* The University owns and operates an 18-hole golf course on the University's Moscow campus. The course is open to the public approximately eight months each year and provides lessons, cart and club rentals, and a retail pro shop.

### **Parking Facilities**

Currently, the University operates and maintains 99 surface parking lots with a total of approximately 6,000 parking spaces. The University has a comprehensive parking plan to ensure that the parking system is financially self-supporting.

### **Employees and Faculty**

As of December 31, 2009, the University had 3,208 employees, consisting of 911 faculty, 680 Research Assistants/Teaching Assistants (which are not considered to be part of the faculty) and 1,617 staff and administration. The student to faculty ratio in the Fall of 2009 was 17.2 to 1. Employees are not subject to the State's civil service system; however, the University has adopted a personnel policy with respect to classified employees that is substantially similar to the State's civil service system. The University is not a party to any collective bargaining agreements, although there are employee associations that bring any salary issues and concerns to the attention of the University. The University considers its relations with its employees to be good.

### **Employee Retirement Plan; Post Retirement Health Benefits**

Most employees of the University are eligible for one of two retirement plans: the State of Idaho's "Public Employees Retirement System of Idaho" ("**PERSI**") and the "Optional Retirement Plan" ("**ORP**"), which has been offered to non-classified employees since 1990.

PERSI provides a defined benefit plan and covers eligible classified and exempt personnel who work 20 hours or more per week. The membership of PERSI includes employees of the State of Idaho, teachers, firemen, police and employees of political subdivisions, local school districts, colleges and universities.

Faculty and exempt staff hired on or after July 1, 1990, have been enrolled in the ORP and faculty and exempt staff hired before that date were offered a one-time opportunity in 1990 to withdraw from PERSI and join the ORP. The ORP is a portable, defined contribution retirement plan with options offered by Teachers' Insurance and Annuity Association/College Retirement Equities Fund and Variable Annuity Life Insurance Company. The total contribution rate will be the same for all employees, with a portion of the employer's contribution for ORP members being credited to the employee's account and a portion to the PERSI unfunded liability until 2015. The ORP covers eligible exempt personnel who work 20 hours or more per week. Based on the audited financial statements for the Fiscal Year 2009, the University had unfunded obligations for post employment retirement benefits in Fiscal Year 2009 of \$68,808,000.

In addition, the University has taken proactive steps to effectively manage and reduce its GASB 45 liability for obligation of post employment benefits (OPEB) related to retiree health. The University's GASB liability was recorded and recognized on its financial statements for the first time in Fiscal Year 2008. Program changes which include steeper eligibility requirements, retiree cost sharing, integration with Medicare Prescription Drug programs and elimination of some future benefits have reduced the Annual Required Contribution (ARC) from projections of \$28.1 million as forecast in Fiscal Year 2003 to \$6.4 million for Fiscal Year 2009. The University has fully funded its ARC in each Fiscal Year in accordance with GASB 45.

For information concerning post retirement health benefits, see NOTE 13, "POST EMPLOYMENT BENEFITS OTHER THAN PENSIONS AND RETIREE BENEFITS TRUST," of "APPENDIX A – FINANCIAL STATEMENTS OF THE UNIVERSITY FOR THE YEARS ENDED JUNE 30, 2009 AND JUNE 30, 2008."

### **Insurance**

The University maintains liability, property, and employee fidelity insurance in amounts deemed adequate by University officials. The University has a full-time risk management staff that administers insurance coverage and claims, and reviews the adequacy of such policies and verifies the University's compliance with insurance requirements imposed by agreements, such as the Resolution. As of December 31, 2009, the total insured replacement value of the University's buildings, contents and improvements was approximately \$1,409 billion.

The University began self-funding its medical and dental programs for active employee and retiree health starting July 1, 2005. Self-funding is a financial arrangement in which medical claims are administered by a third-party administrator, but paid directly from University funds instead of by an insurer. The financial risk of the self-funding arrangement is managed through the creation of a financial reserve established by the University to fund unexpected claims and incurred-but-not-reported claims in the event that the self-funding arrangement is ever terminated. In addition, the University's financial exposure for unexpected claims are limited through the purchase of reinsurance (stop-loss coverage) for both individual and aggregate claim liability. When comparing self-funded cost to a fully insured program, the University estimates an approximate savings of \$1 million per year in cost under the self-funded health arrangement.

The University continues to take a pro-active approach to managing the rising cost of health care. In January 2008, the University introduced a consumer-directed high deductible plan, programs that create incentives for healthy behaviors, and a cafeteria or menu of benefit options in a program called "CustomChoices". The University believes that this method of delivery, like a consumer-directed approach and rewards for healthy behaviors, helps foster employee accountability and a partnership in the cost and future cost of health care.

## SOURCES OF FUNDING FOR THE UNIVERSITY

The University relies on a number of sources of funding for the achievement of its educational and research missions. The principal sources of revenues are: direct appropriation of State general account revenues by the Idaho Legislature, Student Fees, federal government appropriations and grants, gifts to the University, Investment Income, revenues derived from property holdings of the University, land grant endowments received pursuant to the University's land grant status, Sales and Service Revenues and Other Revenues. See "**APPENDIX A – FINANCIAL STATEMENTS OF THE UNIVERSITY FOR THE YEARS ENDED JUNE 30, 2009 AND JUNE 30, 2008.**" Of these revenue sources, Student Fees, Investment Income, Sales and Services Revenues, and Other Revenues are pledged to the Bonds, including the Series 2010/2011 Bonds, except certain of these revenues are pledged on a subordinate basis to the extent such revenues were previously pledged to the Series 1996 Activity Center Bonds (which are included as Refunded Bonds and expected to no longer be outstanding following delivery of the Series 2010A Bonds). See "**SECURITY FOR THE SERIES 2010/2011 BONDS**" herein for a description of University revenues pledged to the Bonds. The University's other revenue sources not constituting Pledged Revenues are more fully discussed below.

### State Appropriations

Legislatively approved State general account appropriations represent slightly more than 37% percent of the total University budget. The State legislature meets beginning in January of each calendar year and sets budgets and appropriations for all agencies and departments of State government for the Fiscal Year beginning on the ensuing July 1. The legislature may also make adjustments to budgets and appropriations for the Fiscal Year during which the legislature is meeting.

If in the course of a Fiscal Year, the Governor determines that the expenditures authorized by the Legislature for the current Fiscal Year exceed anticipated revenues expected to be available to meet those expenditures, the Governor by executive order may reduce ("**Holdback**") the spending authority on file in the office of the Division of Financial Management for any department, agency, or institution of the State or request a reversion ("**Reversion**") of appropriations back to the State to balance the State budget. If in the course of a Fiscal Year, the Governor determines that the expenditures authorized by the Legislature for the current Fiscal Year exceed anticipated revenues expected to be available to meet those expenditures, the Governor by executive order may reduce ("**Holdback**") the spending authority on file in the office of the Division of Financial Management for any department, agency, or institution of the State or request a reversion ("**Reversion**") of appropriations back to the State to balance the State budget. In Fiscal Year 2010 the following holdbacks were applied: General Education \$5,564,900, Ag Research and Extension, Forest Utilization Research, Idaho Geological Survey \$1,552,400. An additional mid-Fiscal Year 2010 holdback will be applied in the approximate amounts: General Education \$1,337,000, Ag Research and Extension, Forest Utilization Research, Idaho Geological Survey, WWAMI Medical Ed. and WI Vet. Science \$44,200. In Fiscal Year 2009, the University set aside reserves in the event of holdbacks in Fiscal Year 2010.

The table below sets forth the legislative appropriation from the State General Fund for colleges and universities and for the University net of Reversions.

**Schedule of State General Account Appropriations**

Fiscal Year	University of Idaho State Appropriations	Total State Appropriations Colleges & Universities	Total State General Fund	University of Idaho % of Total State General Fund
2010	\$ 99,442,400	\$257,077,300	\$2,742,400,200	3.63%
2009	104,910,700	285,151,500	2,959,283,400	3.55
2008	97,719,700	264,227,700	2,820,674,400	3.46
2007	92,419,000	243,726,400	2,343,077,800	3.94
2006	90,666,200	228,934,100	2,180,928,300	4.16

**Grants and Contracts**

The United States government and various other public and private sponsoring agencies, through various grant and contract programs, provide a substantial percentage of the University's operating revenues. The use of such funds is usually restricted to specific projects. Such revenues include grants and contracts for research, public service, instruction and training programs, fellowships, scholarships, endowment scholarship programs, and student aid programs, and grants for construction projects. The University believes it has complied with all material conditions and requirements of these various grants and contracts.

**Financial Assistance**

Financial assistance, primarily in the form of student loans, scholarships, grants, student employment, awards, and deferred payments, is available to students. The University believes that the amount of available financial aid is adequate. During the 2008–2009 academic year, the total financial assistance to students received at the University was approximately \$98,763,289 million, of which approximately \$55,050,637 million was in the form of direct student loans. No assurance can be given that the level of assistance available in the past will continue.

**Federal Appropriations**

In accordance with the University's designation as a land grant institution, the United States government provides the University with funds for specific programs. Like most federal governmental programs, however, there is no assurance that these funds will continue to be appropriated.

**Land Grant Endowments**

The University is the State's land grant university, and as such is entitled to revenues from certain State lands.

**Budget Process/Financial Reports**

The University operates on an annual budget system. Its Fiscal Year begins July 1 of each year. The budget process, as well as the administration of the expenditures authorized through the process, is administered through the offices of the President and the Vice President for Finance and Administration in collaboration with the departmental faculty and other administrative officers. The internal budget process concludes with a general budget proposal for the following Fiscal Year being submitted in consolidated form by the University administration to the Regents in August of each year.

The University's budget is approved by the Regents prior to the commencement of the Fiscal Year, usually at the June meeting. At that meeting, the Regents, in their capacity as members of the State Board of Education, approve the annual budgets for the other institutions of higher education as well.

### Future Plans

The Regents expect to issue Additional Bonds under the Resolution in the next two to three years to finance capital projects in various stages of planning and the University expects to continue to have a need for maintaining, improving and expanding its capital facilities. Such projects are expected to include renovations of student rooms and repair of various building sub-systems, modernization of building utility systems to enhance research activities in aging science building and renovation of two 1930's buildings for use as a faculty office complex. Sources of funds for these projects include State-appropriated funds, dedicated funds, bonded indebtedness, donations and private support.

### Schedule of Outstanding Indebtedness

Set forth below is the schedule of outstanding indebtedness of the Regents as of December 31, 2009 incurred to provide funding for the University, which does not reflect the issuance of the Series 2010/2011 Bonds or the refunding of the Refunded Bonds.

Name of Issue	Date Incurred	Final Maturity Date	Amount of Original Indebtedness	Amount of Debt Outstanding (December 31, 2009)
<b>General Revenue Bonds</b>				
Student Fee Refunding Revenue Bonds, Series 1997B <sup>(1)(3)</sup>	1997	2016	\$ 12,380,000	\$ 7,290,000
Student Fee Revenue Bonds (University Housing Improvement Projects), Series 2001 <sup>(1)</sup>	2001	2041	40,930,000	1,055,000
Student Fee Refunding and Revenue Bonds, Series 2003 <sup>(1)</sup>	2003	2022	17,585,000	10,015,000
General Revenue Refunding Bonds, Series 2005A <sup>(1)</sup>	2005	2026	30,740,000	28,340,000
Adjustable Rate General Revenue Bonds, Series 2007A <sup>(1)(2)</sup>	2007	2041	62,445,000	62,095,000
Adjustable Rate General Revenue Bonds, Series 2007B <sup>(1)</sup>	2007	2041	<u>35,035,000</u>	<u>35,035,000</u>
Subtotal			<u>\$199,115,000</u>	<u>\$143,955,000</u>
<b>Series 1996 Activity Center Bonds</b>				
Student Fee Refunding Revenue Bonds, Series 1996 <sup>(3)</sup>	1996	2013	\$ 9,285,000	\$ <u>3,125,000</u>
Subtotal			\$ 9,285,000	\$ 3,125,000
Total Bonded Indebtedness <sup>(4)</sup>			<u>\$208,400,000</u>	<u>\$146,955,000</u>
Other indebtedness, consisting of notes payable and line-of-credit with interest rates ranging from 4.75% to 5.00%, due through the year 2019	2002	2019	\$ 3,328,028	\$ 2,673,388

(1) These are the Bonds currently Outstanding under the Resolution.

(2) The Series 2007A Bonds are expected to be refunded in whole using Series 2011 Bonds no later than April 1, 2011. See "PLAN OF FINANCE – Series 2011 Refunding Project" and "FORWARD DELIVERY OF SERIES 2011 BONDS."

(3) The Series 1996 Activity Center Bonds and the Series 1997B Bonds are expected to be refunded in whole using proceeds of the Series 2010A Bonds. See "PLAN OF FINANCE – Series 2010A Refunding Project."

(4) This amount does not take into account the issuance of the Series 2010/2011 Bonds or the refunding of the Series 1997B Bonds, the Series 2007A Bonds and the Series 1996 Activity Center Bonds.

Source: The University

**UNIVERSITY GOVERNANCE AND ADMINISTRATION**

The responsibility for overall management and determination of University policy and standards is vested with the Regents of the University of Idaho who also serve as the Idaho State Board of Education and simultaneously, among other duties, the Trustees for Boise State University, Idaho State University in Pocatello and Lewis-Clark State College in Lewiston and as the State Board for Professional–Technical Education. The combined boards are appointed by the Governor for five–year terms. The membership, terms, residences and occupations are listed below.

**The Board of Regents of the University and The State Board of Education**

<b>Name</b>	<b>Residence</b>	<b>Occupation</b>	<b>Term Expires (March 1)</b>
Paul C. Agidius (President)	Moscow	Attorney	2011
Richard Westerberg (Vice President)	Preston	Chairman – Franklin County Commission	2014
Kenneth Edmunds (Secretary)	Twin Falls	President of the Idaho Youth Soccer Association; Chairman of the Twin Falls Community Foundation; Member of the Southern Idaho Economic Development Organization's Board of Directors	2013
Emma Atchley	Ashton	Board of Directors member for the Bank of Idaho, Teton Regional Land Trust, Flying A Ranch Inc., Cea Corp., and Ashton Hi-Tech Seed Co.	2010
Roderic W. Lewis	Boise	Vice President of Legal Affairs, General Counsel and Corporate Secretary for Micron Technology, Inc. of Boise	2010
Tom Luna*	Boise	State Superintendent of Public Instruction	*
Don Soltman	Twin Lakes	Vice President for Support Services at Kootenai Health	2014
Milford Terrell	Boise	President and owner of DeBest Plumbing & Mechanical.	2012

\* Mr. Luna serves ex-officio to the State Board of Education in his capacity as State Superintendent of Public Instruction, which is a statewide elective office.

The State Board of Education has a full–time professional staff headed by Mike Rush, Executive Director. His appointment became effective May 2008.

**University Officers**

The affairs of the University are managed by the President of the University and the staff. The President is appointed by, reports to, and serves at the pleasure of the Regents. Following is a brief biographical resume of President Nellis and his executive staff at a Vice President level:

*M. Duane Nellis*, President, became the University of Idaho's 17th president in July 2009. He provides robust and engaging leadership for the University of Idaho by supporting its statewide land-grant mission of teaching, research and outreach. He also is guiding the institution to re-envision that mission for the 21st century by focusing on entrepreneurialism, engagement, global connections, sustainability,



diversity and interdisciplinary synergies. Prior to the presidency at the University of Idaho, President Nellis served as provost and senior vice president of Kansas State University and at West Virginia University as dean of the Eberly College of Arts and Sciences, WVU's largest academic college. President Nellis has served in various other leadership positions. He is currently on the Association of Public and Land-Grant Universities Academic Officers Executive Council and is national chair-elect for this group. He served as president of the Association of American Geographers, one of the largest professional geography organizations in the world. He is also past president of the National Council for Geographic Education; past president of Gamma Theta Upsilon, the International Geographic Honor Society; and, he served as one of ten members of the National Council of Colleges of Arts and Sciences Research Universities Committee. He is recognized nationally and internationally for his research utilizing satellite data and geographic information systems to analyze various dimensions of the earth's land surface. President Nellis is a native of the Northwest. Born in Spokane, Wash., he earned his bachelor's degree in geography at Montana State University, and his master's and doctoral degrees in geography at Oregon State University.

*Douglas D. Baker*, Provost and Executive Vice President, assumed his position at the University of Idaho in 2005. He previously served Washington State University as Vice-Provost for Academic Affairs from 1998 to 2005 and Director of the Office of Undergraduate Education from 2003 to 2005. Dr. Baker is fully engaged in active strategic planning and implementation at the University of Idaho and is interested in developing work across organizational units for greater effectiveness. Dr. Baker taught courses in Management, Organizational Behavior, Organizational Design, Strategic Planning, Human Resource Management and Research Methods as a Professor of Management at Washington State University where he began in 1981 as an Assistant Professor. He has received numerous awards for teaching excellence including the Shell Oil Distinguished Undergraduate Teaching Award in 1990 and in 1984. Dr. Baker received his Ph.D. from the University of Nebraska, following baccalaureate and master's degrees from Colorado State University. He has worked as a consultant to national and international businesses.

*Lloyd Mues*, Vice President of Finance and Administration, assumed his position at the University of Idaho on May 2, 2006. He received a Bachelor of Science, Wildlife & Fisheries Resources from the University of Idaho in 1976 and a Masters of Personnel Management from Webster University in Kansas City, Missouri in 1983. He also attended the U.S. Army Organizational Leadership and Management Development Course and the U.S. Army Command and General Staff College in Leavenworth, Kansas. Lloyd served 30 years as a U.S. Army Officer, as well as a professor of Military Science at Portland State University and the University of Idaho. He culminated a federal service career overseeing 56 separate university level Army officer production programs throughout the Pacific Northwest, Alaska, Hawaii, American Samoa and Guam. Lloyd served as the Assistant Vice President of Auxiliary Services at the University of Idaho before being appointed to his current position as the Vice President of Finance and Administration. He lends his extensive experience in the leadership of budget, accounting and investments; business affairs and operations; safety and risk management; human resource operations; information technology systems; auxiliary services; and facilities management.

*John (Jack) K. McIver*, Vice President of Research and Economic Development, assumed his position at the University in June 2008. Dr. McIver received his B.S degree in Mechanical Engineering and Physics at the University of Rochester in 1971, his Masters of Science from the College of Engineering and Applied Sciences at the University of Rochester in 1972, and his Doctorate from the College of Engineering and Applied Sciences at the University of Rochester in 1979. He currently oversees, coordinates and facilitates all University research activities, including sponsored and internally funded research, center and institute research, interdisciplinary research programs, and research related to the University's land grant mission. He has responsibility for all policies and procedures relating to research, technology transfer, economic development, and regulatory compliance and works closely with

the faculty to catalyze, encourage, and support research and scholarly activities. Dr. McIver also has management responsibility for the University of Idaho Office of Research and Economic Development, which includes the Office of Sponsored Programs, the Office of Research Assurances, the University institutes, and the Office of Technology Transfer. He is the principal point of contact for the University in all research related matters and represents the regional, national, and international research interests of the University to major research funding agencies and foundations, to regional and national research consortia, to national laboratories, to federal and state agencies, and to the private sector.

*Christopher D. Murray*, Vice President for University Advancement, assumed his position at the University in May 2006. Mr. Murray received his B.A. degree in Journalism at the University of Southern California in 1983, and his Masters of Business Administration at the University of Southern California in 1995. Prior to joining the University, he held academic positions at the University of Southern California (Director of Corporate Relations, Central Development, from 1991 to 1994; Director of Development, Marshall School of Business, from 1994 to 1996) and the University of Oregon (Associate Dean, External Affairs – Lundquist College of Business, from 1997 to 2006). He served as a director of The Muscular Dystrophy Association (MDA) from 1983 to 1991 and as Executive Director of The Scleroderma Research Foundation from 1996 to 1997. Mr. Murray is responsible for advancement efforts including designing, articulating and leading comprehensive fund raising, providing oversight and alignment of activities in the development office, alumni relations, and marketing communications programs. He also serves as executive director of the University of Idaho Foundation, responsible for organizing, supporting and directing volunteers in fundraising and advancement efforts.

*Kent E. Nelson*, was appointed as General Counsel to the University on September 17, 2006. Prior to his appointment he served from June 1998 to September 2006 as the Senior Deputy Attorney General in the Contracts and Administrative Law Division of the Idaho Attorney General, where he served as special projects counsel to the Idaho Board of Land Commissioners and as general counsel to various state agencies including the State Board of Education and Board of Regents of the University of Idaho. From September 1984 to June 1998 he was in general civil practice in Boise, Idaho with emphasis in real estate, transactions, creditors rights and civil litigation. Mr. Nelson received a bachelor's degree in accounting from the University of Idaho in 1980 and a Juris Doctor in law from the University of Idaho College of Law in 1984.

### **University of Idaho Foundation**

The Foundation is a nonprofit corporation organized under Idaho law in 1970. Its purpose is to receive, manage and otherwise deal in property and apply the income, principal and proceeds of such property for the benefit of the University. A 25-member board of directors, elected annually by the Foundation members, manage the Foundation.

The Foundation receives all gifts to the University and transfers such gifts to the donor-designated area within the University on a regular schedule. In addition, it manages the endowment funds in a pooled investment fund referred to as the Consolidated Investment Trust (the "CIT"). Earnings from the CIT are transferred annually to the University. Some funds invested in the CIT are held in trust for the University and are shown as an asset and liability on the Foundation financial statements.

Since Fiscal Year 2004, the University has been required to discretely present the Foundation as a component unit. Financial information concerning the Foundation is contained in Note 17 to the University's audited financial statements included in **APPENDIX A** hereto.

**TAX MATTERS****Series 2010A Bonds***Federal Income Tax*

In the opinion of Skinner Fawcett, LLP Boise, Idaho and Ballard Spahr LLP, Salt Lake City, Utah, as Co-Bond Counsel to the Regents, interest on the Series 2010A Bonds is excludable from gross income for purposes of federal income tax under existing laws as enacted and construed on the date of initial delivery of the Series 2010A Bonds, assuming the accuracy of the certifications of the Regents and continuing compliance by the Regents with the requirements of the Internal Revenue Code of 1986 (the "**Code**"). Interest on the Series 2010A Bonds is not an item of tax preference for purposes of either individual or corporate federal alternative minimum tax ("**AMT**"); however interest on the Series 2010A Bonds held by a corporation (other than an S corporation, regulated investment company, or real estate investment trust) may be indirectly subject to federal alternative minimum tax because of its inclusion in the adjusted current earning of a corporate holder.

**Series 2010B Bonds and the Series 2011 Bonds***Federal Income Tax*

In the opinion of Co-Bond Counsel, interest on the Series 2010B Bonds and the Series 2011 Bonds is excludable from gross income for purposes of federal income tax under existing laws as enacted and construed on the date of initial delivery of the Series 2010B Bonds and the Series 2011 Bonds, assuming the accuracy of the certifications of the Regents and continuing compliance by the Regents with the requirements of the Code. Interest on the Series 2010B Bonds and the Series 2011 Bonds is exempt from individual and corporate federal AMT and is not includable in adjusted current earnings for purposes of corporate AMT.

**Original Issue Premium**

Certain of the Series 2010A Bonds, the Series 2010B Bonds, or the Series 2011 Bonds (collectively, the "**Premium Bonds**") may be offered at a premium ("**original issue premium**") over their principal amount. For federal income tax purposes, original issue premium is amortizable periodically over the term of such Premium Bonds through reductions in the holder's tax basis for such Premium Bonds for determining taxable gain or loss from sale or from redemption prior to maturity. Amortization of premium does not create a deductible expense or loss. Holders should consult their tax advisors for an explanation of the amortization rules.

**Original Issue Discount**

Certain of the Series 2010A Bonds, the Series 2010B Bonds, or the Series 2011 Bonds (collectively, the "**Discount Bonds**") may be offered at a discount ("**original issue discount**") equal generally to the difference between public offering price and principal amount. Original issue discount on such Discount Bonds accrues as tax-exempt interest periodically over the term of such Discount Bonds. The accrual of original issue discount increases the holder's tax basis in such Discount Bonds for determining taxable gain or loss from sale or from redemption prior to maturity. Holders of such Discount Bonds should consult their tax advisors for an explanation of the accrual rules.

**Taxable Series 2010C Bonds**

*Federal Income Tax*

Interest on the Taxable Series 2010C Bonds is not excludable from gross income for federal income tax purposes.

**Series 2010 Bonds and Series 2011 Bonds**

*State of Idaho Income Tax*

Bond Counsel is also of the opinion that interest on the Series 2010 Bonds and the Series 2011 Bonds is exempt from State of Idaho income taxes under currently existing law.

**No Further Opinion**

Bond Counsel expresses no opinion regarding any other tax consequences relating to ownership or disposition of, or the accrual or receipt of interest on, the Series 2010 Bonds or the Series 2011 Bonds.

**UNDERWRITING**

The Series 2010 Bonds are being purchased by George K. Baum & Company, acting as the Underwriter. The Bond Purchase Agreement relating to the Series 2010 Bonds, entered into between the Underwriter and the Regents, provides that the Underwriter will purchase (A) the Series 2010A Bonds at an aggregate purchase price of \$\_\_\_\_\_, representing (i) the \$\_\_\_\_\_ aggregate par amount of the Series 2010A Bonds, plus (ii) net original issue premium of \$\_\_\_\_\_, minus (iii) net original issue discount of \$\_\_\_\_\_, and minus (iv) an underwriter's discount of \$\_\_\_\_\_; (B) the Series 2010B Bonds at an aggregate purchase price of \$\_\_\_\_\_, representing (i) the \$\_\_\_\_\_ aggregate par amount of the Series 2010B Bonds, plus (ii) net original issue premium of \$\_\_\_\_\_, minus (iii) net original issue discount of \$\_\_\_\_\_, and minus (iv) an underwriter's discount of \$\_\_\_\_\_; and (C) the Taxable Series 2010C Bonds at an aggregate price of \$\_\_\_\_\_, representing (i) the \$\_\_\_\_\_ aggregate par amount of the Taxable Series 2010C Bonds, minus (ii) an underwriter's discount of \$\_\_\_\_\_. After initial public offering, the public offering prices may vary from time to time. Under the Bond Purchase Agreement, the Underwriter is obligated to purchase all of the Series 2010 Bonds if any are purchased. The Underwriter reserves the right to join with dealers and other underwriters in offering the Series 2010 Bonds to the public.

The Underwriter has agreed to purchase the Series 2011 Bonds from the Regents pursuant to the Forward Delivery Contract at an aggregate purchase price of \$\_\_\_\_\_, representing (i) \$\_\_\_\_\_ aggregate par amount of the Series 2011 Bonds, plus (ii) net original issue premium of \$\_\_\_\_\_. The Underwriter is receiving a fee relating to the Series 2011 Bonds from the Regents of \$\_\_\_\_\_ upon execution of the Forward Delivery Contract. The Forward Delivery Contract provides that the Underwriter will purchase all of the Series 2011 Bonds if any are purchased, the obligation to make such purchase being subject to certain terms and conditions set forth in the Forward Delivery Contract, including the approval of certain legal matters by counsel and certain other conditions. See "FORWARD DELIVERY OF SERIES 2011 BONDS."

The Underwriter may offer and sell the Series 2010/2011 Bonds to certain dealers (including dealers depositing the Series 2010/2011 Bonds in investment trusts) and others at prices lower than the

offering prices stated on the cover page of this Official Statement. The initial public offering prices stated on the inside cover page may be changed from time to time by the Underwriter.

### **RATINGS**

Moody's Investors Service, Inc. ("**Moody's**") and Standard & Poor's Ratings Services ("**S&P**") have assigned underlying ratings of "A1" and "A+," respectively, to the Series 2010/2011 Bonds. The ratings reflect only the views of the rating agencies, and an explanation of the significance of the ratings may be obtained from the rating agencies. There is no assurance that such ratings will continue for any given period of time or that the ratings may not be revised or withdrawn entirely if, in the judgment of the rating agencies, circumstances so warrant. Any downward revision or withdrawal of such ratings will be likely to have an adverse effect on the market price or marketability of the Series 2010/2011 Bonds. The Regents, the University and the Underwriter have undertaken no responsibility to oppose any such revision or withdrawal.

### **CONTINUING DISCLOSURE**

Upon delivery of the Series 2010 Bonds, the Regents and the Trustee are entering into a "Continuing Disclosure Agreement" pursuant to which the Regents will provide to the Trustee within 180 days following the end of its Fiscal Year, commencing with the Fiscal Year ended June 30, 2010, a copy of the University's annual audited financial statements and such other specified financial, statistical and operating data for such Fiscal Year in form and scope similar to the financial, statistical and operating data included in this Official Statement. The Regents will also agree to deliver to the Trustee notice of the events, if material, described in paragraph (b)(5)(i)(C) of Rule 15c2-12 as promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "**Rule**"). The Trustee will agree to deliver (i) the information and the notices described in the preceding two sentences upon receipt thereof from the Regents to the Municipal Securities Rulemaking Board's (the "**MSRB**") Electronic Municipal Market System pursuant to the Rule and (ii) any notice of an event described in paragraph (b)(5)(i)(C) of Rule 15c2-12 to the MSRB. The Trustee will also agree that if it has knowledge that the Regents have not delivered the University's annual audited financial statements or have not provided the financial, statistical and operating data as described above it will directly notify the MSRB of the Regents' failure to deliver such information. In connection with delivery of the Series 2011 Bonds, the Regents and the Trustee will be required to enter into a Continuing Disclosure Agreement with similar terms.

The Regents have not failed to perform any obligation with respect to any existing undertaking to provide continuous disclosure under the Rule. A failure by the Regents to comply with the Continuing Disclosure Agreement does not constitute an event of default under the Resolution and the sole remedy of the Bondholders (including any Beneficial Owner) in the event of any failure of the Regents to comply with the Continuing Disclosure Agreement is an action for specific performance.

A failure by the Regents to comply with the Continuing Disclosure Agreements must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Series 2010/2011 Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Series 2010/2011 Bonds and their market price.

**LITIGATION**

The Regents have reported as of the date hereof that there is no litigation pending or threatened that, if decided adversely to the interests of the Regents or the University, would have a materially adverse effect on the operations or financial position of the Regents or the University. As of the date hereof, there is no litigation of any nature now pending or threatened restraining or enjoining the issuance, sale, execution or delivery of the Series 2010/2011 Bonds or in any way contesting or affecting the validity of, or having a material adverse effect on, the Series 2010/2011 Bonds, the pledge and application of Pledged Revenues or the existence or powers of the Regents or the University. As a condition of Settlement of the Series 2011 Bonds, the Regents will be required to provide the report described in "FORWARD DELIVERY OF SERIES 2011 BONDS – Forward Delivery Contract – Conditions of Settlement – Litigation."

**VERIFICATION AGENT**

Causey Demgen & Moore Inc. will deliver its report at the delivery of the Series 2010A Bonds indicating that it has examined, in accordance with the standards established by the American Institute of Certified Public Accountants, the mathematical accuracy of the mathematical computations of the adequacy of the deposit of proceeds of the Series 2010A Bonds under the Series 2010A Escrow Agreement to pay interest of the Series 1996 Activity Center Bonds and the Series 1997B Bonds on their Payment Date and the redemption price of such Refunded Bonds.

**LEGAL MATTERS**

All legal matters incident to the authorization and issuance of the Series 2010 Bonds are subject to the approval of Skinner Fawcett, Boise, Idaho, and Ballard Spahr LLP, Salt Lake City, Utah, as Co-Bond Counsel to the Regents, whose approving opinion will be delivered with the Series 2010 Bonds and the form of which is attached as **APPENDIX F** to this Official Statement. A form of the Co-Bond Counsel opinion required to be delivered on the Settlement Date for the Series 2011 Bonds as described in "FORWARD DELIVERY OF THE SERIES 2011 BONDS" is attached as **Appendix G** hereto. Certain legal matters will be passed upon for the Regents and the University by the University's Counsel, Kent E. Nelson, Esq., Moscow, Idaho and for the Underwriter by Hogan & Hartson LLP, Denver, Colorado.

**INDEPENDENT AUDITORS**

The audited financial statements of the University as of and for the Fiscal Years ended June 30, 2009 and June 30, 2008, included in this Official Statement as **APPENDIX A**, have been audited by Moss Adams LLP, independent auditors, except that the financial statements of the University's discretely presented component unit as described in Note 17 to the University's audited financial statements, and the University of Idaho Health Benefits Trust as described in Note 11 to the University's audited financial statements, were audited by other auditors, as stated in their report appearing therein. These financial statements are the most recent audited financial statements of the University.

Moss Adams LLP has not been engaged to perform and has not performed, since the date of its report, any procedures on the financial statements addressed in the report. Moss Adams LLP has not performed any procedures relating to this Official Statement, and has not consented to the use of the financial statements of the University in this Official Statement.

**MISCELLANEOUS**

This Official Statement, and its distribution and use by the Underwriter, have been duly authorized and approved by the Regents.

**APPENDICES A** through **H** are an integral part of this Official Statement and must be read together with all other parts of this Official Statement.

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

By: \_\_\_\_\_  
Lloyd Mues, Vice President for Finance and  
Administration and Bursar

**APPENDIX A**

**FINANCIAL STATEMENTS OF THE UNIVERSITY  
FOR THE YEARS ENDED JUNE 30, 2009 AND JUNE 30, 2008**



**APPENDIX B**

**SCHEDULE OF STUDENT FEES**

The fee schedule that follows was approved by the Regents at the April 2009 meeting for fees to be assessed during the 2009-2010 academic year. The University bases the Estimated Annual Revenue to be collected from each of the fees on budgeting assumptions of the student fees approved for the current academic year and the number of full-time and part-time students for the previous academic year. The number of students obtained by dividing the Estimated Annual Revenue line items for full-time students is less than the full-time equivalents and fall semester full time enrollees for Fall 2009 shown in the body of the Official Statement under "THE UNIVERSITY – Five-Year Historical Enrollment Summary." This is consistent with historic budgeting assumptions, including consideration of the University's policy to provide fee waivers or discounts to certain scholarship recipients and to certain employees and spouses of certain employees. The University's estimates include certain assumptions concerning refunds, late fees and other variables in individual fees, such that the annual estimated revenues of each fee are not the numerical product of the fee rates times a constant number for students paying such fees, but nonetheless represent the University's best estimate of fee revenues.

## Tuition and Student Fees Academic Year 2009-2010

	Full Time	Part Time	FT & PT
	Amount Per	Amount Per	Estimated
	Semester	Credit Hour	Annual Revenue
<b>Facility Fees</b>			<b>\$6,944,923</b>
Bond Issues:			
Bond Series 1996	\$55.00	\$ 2.00	
Bond Series 1997 A&B	5.00	0.15	
Commons Bond Series 1997	75.00	7.50	
Deferred Maintenance	85.00	--	
Revenue Bond Series 2003	48.25	0.85	
SRC Series 1999	82.00	8.20	
Sweet Ave/Campus Impr Series 1999B	5.00	--	
Subtotal Facility Fees	\$355.25	\$ 18.70	
<b>General Education Operating Budget</b>			<b>26,469,609</b>
Matriculation Fee (Full-time only)	1,527.24	--	
Education Fee - Central (Part-time only)	--	192.50	
<b>Student Computing and Network Access</b>	62.70	6.00	<b>1,320,389</b>
<b>Activity Fees/Dedicated Fees</b>			<b>9,666,682</b>
Alumni Association	\$ 1.00	\$ --	
Associated Students - Incl \$2.00 for Diversity Ctr	94.75	2.60	
Campus Card	8.95	1.50	
Campus Recreation - Intramurals/Sports Clubs	19.25	3.20	
Campus Recreation - SRC Operations / R & R	42.30	2.90	
Commons/Union Operations / R & R	90.65	4.00	
Fine Arts	3.00	--	
HPERD - Locker Services	1.25	1.25	
Intercollegiate Athletics	124.12	3.00	
Kibbie - Mem Gym Cage/Swim Ctr	8.25	1.05	
Kibbie Center Operations	27.13	5.00	
Marching Band	6.25	1.25	
Performing Arts	2.00	--	
Sales Tax	1.61	--	
Spirit Squad	3.00	--	
Student Health	39.80	6.20	
Student Research Grants	6.00	--	
Student Services	33.50	1.85	
Sustainability Center	5.00	--	
Transit Service	3.00	--	
Subtotal Activity/Dedicated Fees	520.81	33.80	
<b>TOTAL</b>	<b>\$2,466.00</b>	<b>\$251.00</b>	
<b>Other Fees/Tuition:</b>			<b>\$22,941,809</b>
Graduate/Professional Fee	\$312.00	\$ 31.00	
Law College Dedicated Fee	3,110.00	311.00	
Architecture Program Dedicated Fee	447.00	45.00	
Bioregional Planning Dedicated Fee	500.00	50.00	
Nonresident Tuition	5,040.00	504.00	
In-Service Fee - Undergraduate	--	83.00	
In-Service Fee - Graduate	--	98.00	
Western Undergraduate Education Fee	1,233.00	--	

## APPENDIX C

GLOSSARY OF CERTAIN TERMS USED IN THE  
RESOLUTION AND OFFICIAL STATEMENT

Except as otherwise expressly provided in the Resolution, as supplemented by Supplemental Resolutions, including the Series 2010 Supplemental Resolution, or this Official Statement or unless the context otherwise requires, the following terms shall have the following meanings (references herein to the "University" shall be deemed to refer to the Regents or other appropriate authority thereof pursuant to the Act and other applicable laws):

Act shall mean the Educational Institutions Act of 1935, codified in Title 33, Chapter 38, Idaho Code, as the same shall be amended from time to time.

Activity Center Complex Fee means the activity center complex fee imposed upon full and part time students attending the University.

Activity Center Resolution means the bond resolution adopted by the Regents on March 15, 1996, providing for the issuance of the Series 1996 Activity Center Bonds, and as from time to time supplemented by supplemental resolutions.

Activity Fees means such fees designated and set from time to time by the Regents or the University, imposed upon each full-time and part-time on-campus student in attendance at the University for activities at the University. Currently such fees include: ASUI general, alumni association fee, campus card, cheerleader program, college dedicated fee, Commons/Union operations, fine arts, intercollegiate athletics, intramural/locker/recreational services, Kibbie Center operations (stadium), marching band, minority student program, sales tax, student advisory services, student recreation center operations, student benefits, health and wellness, and student health services.

Additional Bonds means any bonds which the Regents may issue pursuant to Article VII of the Resolution secured by all or a portion of the Pledged Revenues, as may be amended from time to time.

Adjustable Rate Bonds means the Series 2011 Bonds.

Amendments means, collectively, the 2005 Amendments, the 2007 Amendments, and the 2010 Amendments.

Approving Opinion means an Opinion of Counsel to the effect that an action being taken is authorized by the applicable provisions of the Resolution and will not adversely affect the tax-exempt status of interest on the Tax-Exempt Bonds or the status of the Series 2010C Bonds as Build America Bonds.

Authorized Denomination means \$5,000 or any integral multiple thereof.

Authorized Officer of the University shall mean the Bursar or a representative designated by the Bursar.

Auxiliary Enterprises shall mean all facilities of the University generating Sales and Services Revenues, including the Housing System, Parking System, Non-Residential Food Service System, Bookstore, and recreational and event facilities.

Beneficial Owner(s) shall mean the owners of Bonds and any Additional Bonds issued pursuant to the Resolution, whose ownership is recorded under the Book-Entry-Only System maintained by the Securities Depository as described in the Resolution.

Bond Fund shall mean the fund created by the Resolution, consisting of two accounts: (1) Debt Service Account and (2) Debt Service Reserve Account.

Bond Purchase Agreement means the Bond Purchase Agreement dated \_\_\_\_\_, 2010, between the Regents and the Underwriter pursuant to which the Series 2010A Bonds, the Series 2010B Bonds, and the Taxable Series 2010C Bonds are sold.

Bond Register shall mean the registration records of the Regents, maintained by the Trustee, on which shall appear the names and addresses of the Registered Owners of the Bonds and any Additional Bonds.

Bond Resolution or Resolution shall mean the Bond Resolution adopted by the Regents on November 22, 1991, providing for the issuance of General Revenue Bonds, as from time to time amended and supplemented by Supplemental Resolutions.

Bond Year means the one-year period (or, in the case of the first Bond Year, the shorter period from the date of issue of the Bonds) selected by the University. If no date is selected by the University within five years of the date of delivery of a series of Bonds, each Bond Year shall end at the close of business on the date preceding the anniversary of the date of delivery of a series of Bonds.

Bonds shall mean, collectively, the Bonds issued pursuant to the Resolution and Additional Bonds issued pursuant to any Supplemental Resolutions.

Book-Entry System shall mean the book-entry system of registration of the Bonds and any Additional Bonds as described in the Resolution.

Bookstore means the University's bookstore facilities located on the Moscow campus, in which books, supplies and merchandise are sold.

Bursar means the officer so designated by the University as chief financial officer of the University, currently the Financial Vice President of the University, including any acting Bursar designated by the University.

Business Day means, with respect to the Series 2011 Bonds, a day, other than Saturday or Sunday on which banks located in the State of Idaho or in the city where the principal corporate trust office of the Trustee is located are open for the purpose of conducting commercial banking business.

Cede & Co. shall mean Cede & Co., as nominee of DTC.

Code shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and the regulations promulgated thereunder.

Construction Fund shall mean the special account created by the Resolution, from which the Costs of Acquisition and Construction of a Project shall be paid.

Consultant's Report shall mean a report signed by an independent financial consultant or other independent consultant, selected by the University and approved by the Trustee (which approval shall not unreasonably be withheld), as may be appropriate to the subject of the report, and including:

- (1) a statement that the person or firm making or giving such report has read the pertinent provisions of the Resolution to which such report relates;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the report is based;
- (3) a statement that, in the opinion of such person or firm, sufficient examination or investigation was made as is necessary to enable said independent financial consultant or other independent consultant to express an informed opinion with respect to the subject matter referred to in the report.

Continuing Disclosure Agreement means the Continuing Disclosure Agreements between the Regents and the Trustee as Dissemination Agent with respect to the Series 2010/2011 Bonds.

Conversion or Convert means the adjustment of the rate borne by the Series 2011 Bonds from one Term Interest Rate Period to a Term Interest Rate for another Term Interest Rate Period.

Conversion Date means the date on which the Term Interest Rate Period for the Series 2011 Bonds is changed, or the date of a change of the Term Interest Rate Period for the Series 2011 Bonds specified in a notice given pursuant to the Resolution.

Cost of Acquisition and Construction, with respect to a Project, shall include together with any other proper item of cost not specifically mentioned therein, the cost of demolition, the cost of acquisition and construction of the Project and the financing thereof, the cost, whether incurred by the University or another, of field surveys and advance planning undertaken in connection with the Project, and the cost of acquisition of any land or interest therein required as the sites thereof or for use in connection therewith, the cost of preparation of the sites thereof and of any land to be used in connection therewith, the cost of any indemnity and surety bonds and insurance premiums, allocable administrative and general expenses of the University, allocable portions of inspection expenses, financing charges, legal fees, and fees and expenses of financial advisors and consultants in connection therewith, cost of audits, the cost of all machinery, apparatus and equipment, cost of engineering, the cost of utilities, architectural services, design, plans, specifications and surveys, estimates of cost, the payment of any notes of the University (including any interest and redemption premiums) issued to temporarily finance the payment of any item or items of cost of the Project and payable from the proceeds of the Bonds or any Additional Bonds, and all other expenses necessary or incident to determining the feasibility or practicability of the Project, and such other expenses not specified herein as may be necessary or incident to the construction and acquisition of the Project, the financing thereof and the placing of the same in use and operation.

Cost(s) of Issuance shall mean printing, rating agency fees, legal fees, underwriting fees, fees and expenses of the Trustee, bond insurance premiums, if any, and all other fees, charges, and expenses with respect to or incurred in connection with the issuance, sale, and delivery of a series of Bonds.

Debt Service for any period shall mean, as of any date of calculation, an amount equal to the Principal Installment and interest accruing during such period on the Bonds, plus any Payment due under a Parity Payment Agreement. Such Debt Service on the Bonds shall be calculated on the assumption that no portion of the Bonds Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment of the Principal Installment on the Bonds on the due date thereof. For any Series

of Variable Rate Bonds bearing interest at a variable rate which cannot be ascertained for any particular Fiscal Year, it shall be assumed that such Series of Variable Rate Bonds will bear interest at a fixed rate equal to the higher of (i) the average of the variable rates applicable to such Series of Variable Rate Bonds during any twenty-four month period ending within thirty (30) days prior to the date of computation, or (ii) 110% of the Bond Buyer 25 Revenue Bond Index most recently published prior to the computation date but bearing interest at a fixed rate. There shall be excluded from "Debt Service" (i) interest on Bonds (whether Cross-over Refunding Bonds or Cross-over Refunded Bonds) to the extent that Escrowed Interest is available to pay such interest, and (ii) principal on Cross-over Refunded Bonds to the extent that the proceeds of Cross-over Refunding Bonds are on deposit in an irrevocable escrow in satisfaction of the requirements of Section 57-504, Idaho Code, and such proceeds or the earnings thereon are required to be applied to pay such principal (subject to the possible use to pay the principal of the Cross-over Refunding Bonds under certain circumstances) and such amounts so required to be applied are sufficient to pay such principal.

Debt Service Account shall mean the account of that name created within the Bond Fund by the Resolution.

Debt Service Reserve Account shall mean the account of that name created within the Bond Fund by the Resolution.

DTC means The Depository Trust Company, New York, New York.

Direct Obligations means noncallable Government Obligations.

DTC Participants shall mean those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

Educational Activities Revenues shall mean revenues generated incidentally to the conduct of instruction, research and public service activities, such as unrestricted revenues generated by the University's testing and training services, labs, sales of scientific materials, sales of miscellaneous services and products, and agriculture and forest products.

Escrow Account means the account established under the Escrow Agreement.

Escrow Agent shall mean Wells Fargo Bank, N.A., Boise, Idaho, or its successor in function, which shall supervise the Escrow Account in the Escrow Agreement.

Escrow Agreement means the agreement between the Regents and Trustee, as Escrow Agent, dated the date of delivery of the Series 2010A Bonds, providing for the refunding and redemption of the Refunded Bonds.

Estimated Pledged Revenues means, for any year, the estimated Pledged Revenues for such year, based upon estimates prepared by the Bursar and approved in accordance with procedures established by the Regents. In computing Estimated Pledged Revenues, Pledged Revenues may be adjusted as necessary to reflect any changed schedule of fees or other charges adopted and to become effective not later than the next succeeding Fiscal Year of the University and any estimated gain in enrollments of students subject to payment of fees in the academic year next succeeding the delivery of a series of bonds in connection with which an estimate is made. In estimating Operation and Maintenance Expenses, recognition shall be given to any other revenues which may be designated by the Regents and to any anticipated change in the

Operation and Maintenance Expenses. Amounts reasonably anticipated to be paid from sources other than Pledged Revenues may be excluded from the estimated Operation and Maintenance Expenses.

Event of Default shall mean one or more of the events enumerated in the Resolution.

F&A Recovery Revenues shall mean the revenues received by the University as reimbursement for facility and administrative costs in conjunction with grants and contracts for research activities conducted by the University.

Facility Fees shall mean such fees designated and set from time to time by the Regents or the University, imposed upon each full-time and part-time on-campus student in attendance at the University for facilities at the University. Currently such fees consist of the Student Building Fee, the Residential Campus Development Fee, the Recreation Center Fee, and the Activity Center Complex Fee.

Fiscal Year shall mean the annual accounting period of the University, beginning July 1 in a year and ending June 30 of the following year.

Fitch means Fitch Ratings, its successors and their assigns, and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Regents, with notice to the Liquidity Facility Provider, the Trustee and the Remarketing Agent

Forward Delivery Contract means the Forward Delivery Bond Purchase Contract dated \_\_\_\_\_, 2010, between the Regents and the Underwriter pursuant to which the Series 2011 Bonds are sold.

General Account Appropriated Funds shall mean general account appropriated funds of the State of Idaho which in accordance with governmental accounting standards and the University's audited financial statements are treated as non-operating revenues and accordingly such revenues are not included in the definition of Other Operating Revenues for purposes of generating Pledged Revenues under the Resolution, and in any event are excluded from Pledged Revenues.

General Revenue Bond System means the single revenue bond system created under the Resolution under which the Series 2010/2011 Bonds are issued and Additional Bonds may be issued.

Generally Accepted Accounting Principles shall mean those accounting principles applicable in the preparation of financial statements of business corporations as promulgated by the Financial Accounting Standards Board or such other body recognized as authoritative by the American Institute of Certified Public Accountants.

Government Obligations means solely one or more of the following:

- (a) State and Local Government Series issued by the United States Treasury ("SLGS");
- (b) United States Treasury bills, notes and bonds, as traded on the open market;
- (c) Zero Coupon United States Treasury Bonds; and

(d) Any other direct obligations of or obligations unconditionally guaranteed by, the United States of America (including, without limitation, obligations commonly referred to as "REFCORP strips").

Housing System shall mean the University's system of (i) on campus, student group housing facilities and related facilities, including family student housing; and (ii) the Residence Hall System.

Information Services means Financial Information, Inc.'s "Daily Called Bond Service," 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Kenny Information Services "Called Bond Service," 65 Broadway, 16th Floor, New York, New York 10006; Moody's "Municipal and Government," 99 Church Street, 8th Floor, New York, New York 10007, Attention: Municipal News Reports; and S&P's "Called Bond Record," 55 Water Street, 45th Floor, New York, New York 10041; or to such other addresses and/or such other services providing information with respect to called bonds as the Regents may designate in writing to the Trustee.

Initial Term Interest Rate Period means with respect to the Series 2011 Bonds, the initial Term Interest Rate Period from the Issue Date to April 1, 2021 or earlier as permitted by the terms herein and described in the Terms Certificate.

Investment Income shall include investment earnings on all unrestricted University funds and accounts.

Investment Securities shall mean and include any securities authorized to be acquired by the Treasurer of the State of Idaho pursuant to Section 67-1210 and 67-1210A, Idaho Code, or any successor Code section specifying legal investments.

Issue Date means, with respect to any Series 2010/11 Bonds, the dates on which such Series 2010/11 Bonds are first delivered to the purchasers thereof.

Mandatory Redemption Amount(s) shall mean the mandatory deposits (i) established for the Series 1992A Bonds pursuant to the Resolution, or (ii) as to any Additional Bonds the amounts so designated in a Supplemental Resolution. The portion of any Mandatory Redemption Amount remaining after the deduction of any amounts credited pursuant to the Resolution (or the original amount of any such Mandatory Redemption Amount if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Mandatory Redemption Amount for the purpose of calculation of Mandatory Redemption Amounts due on a future date.

Mandatory Tender Bonds means Series 2011 Bonds which are subject to mandatory tender pursuant to the 2010 Supplemental Resolution.

Matriculation Fee(s) shall mean the student matriculation fee established by the Regents for maintenance and operation of physical plant, student services, and institutional support for full-time students enrolled in academic credit courses and vocational pre-employment, preparatory programs at the University, as said fee now exists and may hereafter be revised by the Regents. The Matriculation Fee shall include general education fees for part-time and summer students which are currently designated by the Regents as the "Part-time Educational Fee" and "Summer School Fee."

Maximum Annual Debt Service shall mean an amount equal to the greatest annual Debt Service with respect to the Bonds for the current or any future Bond Year.

Maximum Interest Rate means, with respect to the Series 2010/2011 Bonds, 12% per annum.



Moody's means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Fitch) designated by the Regents, with notice to the Liquidity Facility Provider, the Trustee and the Remarketing Agent.

Net Proceeds, when used with reference to any series of Bonds, shall mean the aggregate principal amount of the series of Bonds, less the Costs of Issuance.

Net Revenues with respect to the Housing System or any Project, shall mean all revenues, fees, tolls, charges, income, receipts and profits derived by the University from or attributable to a Project including, without limitation, all revenues derived from or attributable to any lease or other contractual arrangement with respect to the use of the Housing System or any Project or the services, output or capacity thereof, or from the sale of any property of the Housing System or any Project permitted under the Resolution, and the proceeds of any insurance covering business interruption loss relating to the Housing System or any Project, all as determined in accordance with Generally Accepted Accounting Principles, less Operation and Maintenance Expenses.

Nominee means Cede & Co., as nominee of DTC, the initial Securities Depository for the Series 2010/2011 Bonds, and any successor nominee of DTC and, if another Securities Depository replaces DTC as Securities Depository under the Resolution, any nominee of such substitute Securities Depository.

Non-Residential Food Service System means the University's system of providing food services for the University's students, faculty, staff, employees and invited guests at all University facilities on the Moscow campus, excluding board charges for food service in the University's Residence Hall System.

Notice by Mail or notice of any action or condition "by Mail" shall mean a written notice meeting the requirements of the 2010 Supplemental Resolution mailed by first class mail, postage prepaid.

Opinion of Counsel means a written opinion of counsel satisfactory to the Regents and not objected to by the Trustee with respect to the Series 2010/2011 Bonds.

Other Fees/Tuition shall consist of the graduate/professional fee, law college dedicated fee, architecture school dedicated fee, non-resident tuition, in service teacher education fee, and the western undergraduate education fee, and such other fees as the University shall hereafter establish.

Other Operating Revenues shall mean revenues received by the University generated from miscellaneous sources, *i.e.*, fines and rent/lease revenues.

Outstanding, when used with reference to the Bonds, as of any particular date, shall mean the Bonds which have been issued, sold and delivered under the Resolution, except (i) the Bonds (or portion thereof) cancelled because of payment or redemption prior to their stated date of maturity, and (ii) the Bonds (or portion thereof) for the payment or redemption of which there has been separately set aside and held money for the payment thereof.

Parking Fees shall mean the fees for use of the Parking System charged to students, faculty, and employees of the University, as established by the Regents and as the same may from time to time be amended in accordance with procedures established by the Regents.

Parking System shall mean the on-campus parking system at the University campus in Moscow, Idaho.

Payment Date means, with respect to the Series 2010 Bonds, each April 1 and October 1, commencing October 1, 2010, and commencing April 1, 2011 with respect to the Series 2011 Bonds.

Pledged Revenues shall include:

A. So long as any Recreation Center Bonds and Series 1996 Activity Center Bonds are outstanding, Pledged Revenues shall include: (i) all Student Fees, except that the pledge of the Recreation Center Fees and Activity Center Complex Fees shall be junior and subordinate to the pledge of such fees under the Recreation Center Resolution and Activity Center Resolution, respectively; (ii) all Sales and Services Revenues, except that the pledge of certain of these revenues shall be junior and subordinate to the pledge of such revenues under the Activity Center Resolution; (iii) the F&A Recovery Revenues; (iv) Other Operating Revenues; (v) Investment Income under the Resolution, except that the pledge of a portion of Investment Income shall be junior and subordinate to the pledge of such income under the Recreation Center Resolution and Activity Center Resolution; (vi) Direct Payments; (vii) proceeds from the sale of a Series of Bonds and moneys and investment earnings thereon, except as otherwise provided in the Resolution or a Supplemental Resolution; and (viii) such other revenues as the Regents shall designate as Pledged Revenues.

B. When the Series 1996 Activity Center Bonds are no longer outstanding, Pledged Revenues shall include: (i) Student Fees, except that the pledge of the Recreation Center Fees shall be junior and subordinate to the pledge of such fees under the Recreation Center Resolution; (ii) Sales and Services Revenues; (iii) the F&A Recovery Revenues; (iv) Other Operating Revenues; (v) Investment Income, except that the pledge of a portion of Investment Income shall be junior and subordinate to the pledge of such income under the Recreation Center Resolution; (vi) Direct Payments; (vii) proceeds from the sale of a Series of Bonds and moneys and investment earnings thereon, except as otherwise provided in the Resolution or a Supplemental Resolution; and (viii) such other revenues as the Regents shall designate as Pledged Revenues.

C. When the Recreation Center Bonds are no longer outstanding, Pledged Revenues shall include: (i) Student Fees, except that the pledge of the Activity Center Complex Fees shall be junior and subordinate to the pledge of such fees under the Activity Center Resolution; (ii) Sales and Services Revenues; (iii) the F&A Recovery Revenues; (iv) Other Operating Revenues; (v) Investment Income, except that the pledge of a portion of Investment Income shall be junior and subordinate to the pledge of such income under the Activity Center Resolution; (vi) Direct Payments; (vii) proceeds from the sale of a Series of Bonds and moneys and investment earnings thereon, except as otherwise provided in the Resolution or a Supplemental Resolution; and (viii) such other revenues as the Regents shall designate as Pledged Revenues.

D. When neither the Recreation Center Bonds nor the Series 1996 Activity Center Bonds shall be outstanding, Pledged Revenues shall include: (i) Student Fees; (ii) Sales and Services Revenues; (iii) the F&A Recovery Revenues; (iv) Other Operating Revenues; (v) Investment Income; (vi) Direct Payments; (vii) proceeds from the sale of a Series of Bonds and moneys and investment earnings thereon, except as otherwise provided in the Resolution or a Supplemental Resolution; and (viii) such other revenues as the Regents shall designate as Pledged Revenues.

Notwithstanding the definitions set forth above and, in particular, notwithstanding clause (viii) of paragraphs A, B, C and D above, in no event shall Pledged Revenues include (i) General Account Appropriated Funds or (ii) Restricted Fund Revenues.

President shall mean the president of the Regents.

Pre-2005 Bonds shall mean all bonds issued under the Resolution and Supplemental Resolutions thereto prior to the issuance of the Series 2005A Bonds.

Principal Installment shall mean, as of any date of calculation and with respect to any series of Bonds then Outstanding, (A) the principal amount of Bonds of such series due on a certain future date for which no Mandatory Redemption Amounts have been established, or (B) the unsatisfied balance (determined as provided in the definition of Mandatory Redemption Amount in this section) of any Mandatory Redemption Amount due on a certain future date for Bonds of such series, plus the amount of the mandatory redemption premiums, if any, which would be applicable upon redemption of such Bonds on such future date in a principal amount equal to such unsatisfied balance of such Mandatory Redemption Amount, or (C) if such future dates coincide as to different Bonds of such series, the sum of such principal amount of Bonds and of such unsatisfied balance of such Mandatory Redemption Amount due on such future date plus such applicable redemption premiums.

Principal Office of the Trustee means the principal corporate trust office of the Trustee designated in writing to the University or such other office designated by the Trustee from time to time.

Private Person shall mean any natural person engaged in a trade or business, the United States of America or any agency thereof, or any trust, estate, partnership, association, company or corporation. A state or local governmental unit is not a private person.

Private Person Use shall mean the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes attendance by the Private Person at municipal meetings or business rental of property to the Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a de minimis fee to cover custodial expenses.

Project shall mean any "project" as defined in the Act that is financed with the proceeds of Bonds or Additional Bonds issued under the Resolution.

Project Account shall mean an account established by the Trustee within the Construction Fund for a Project.

Purchase Date means any date on which any Series 2011 Bond is required to be purchased pursuant to the mandatory tender provisions of the Resolution.

Purchase Price means an amount equal to 100% of the principal amount of any Series 2011 Bond (or the portion thereof) tendered or deemed tendered to the Trustee for purchase pursuant to the mandatory tender provisions of the Resolution, plus accrued and unpaid interest thereon to but not including the date of purchase.

Rating Agency means Fitch, S&P, Moody's or any other nationally recognized rating agency, in each case then providing or maintaining a rating on the Series 2010/2011 Bonds at the request of the Regents.

Rebate Fund means the fund by that name established by the Resolution.

Record Date shall mean the 15th day of the calendar month next preceding any interest payment date, as provided in the Resolution.

Recreation Center Bonds means the bonds issued by the Regents under the Recreation Center Resolution (and no longer Outstanding as of June 30, 2009) described as follows: \$20,115,000 Student Fee Revenue Bonds (Recreation Center Project), Series 1999, dated February 15, 1999.

Recreation Center Fee means the recreation facility fee imposed upon full and part time students attending the University as assessed by the Regents.

Recreation Center Resolution means the bond resolution adopted by the Regents on January 25, 1999, providing for the issuance of the Recreation Center Bonds.

Refunded Bonds means that portion of the Regents of the University of Idaho Student Fee Refunding Revenue Bonds, Series 1996 and the Student Fee Refunding Revenue Bonds, Series 1997B, as specified in the Terms Certificate.

Refunding Proceeds shall mean the portion of the monies due the Regents from the Underwriter to purchase the Series 2010A Bonds and paid to the Escrow Agent by the Underwriter pursuant to the 2010 Supplemental Resolution for purposes of refunding the Refunded Bonds.

Regents shall mean the Board of Regents of the University of Idaho.

Registered Owner or Owner(s) shall mean the person or persons in whose name or names the Bonds shall be registered in the Bond Register maintained by the Trustee in accordance with the terms of the Resolution.

Remarketing Agent means George K. Baum & Company, as the initial Remarketing Agent for the Series 2011 Bonds, and any successor thereof appointed pursuant to the 2010 Supplemental Resolution.

Remarketing Agreement means, initially, a Remarketing Agreement between the Regents and George K. Baum & Company relating to the Series 2011 Bonds, and any other Remarketing Agreement meeting the requirements of the 2010 Supplemental Resolution.

Replacement Bonds shall mean the Bonds described as such in the Resolution, and any Additional Bonds issued as Replacement Bonds in accordance therewith.

Representations Letter means the Blanket Letter of Representations dated June 18, 1999, from the University to DTC.

Residence Hall System means the University's on-campus residence hall housing facilities, including the Wallace Residence Hall and Cafeteria Complex, the McConnell Residence Hall, the Gault-Upham Residence Hall and the Theophilus Tower Residence Hall, and food service and dining facilities and related and subordinate facilities.

Restricted Fund Revenues shall mean all revenues that the University is obligated to spend in accordance with restrictions imposed by external third parties, such as revenues from grants, contracts, gifts and scholarships.

Revenue Fund shall mean the Revenue Fund established by the Resolution.

S&P means Standard & Poor's Ratings Services, its successors and their assigns, and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency (other than Fitch or Moody's) designated by the Regents, with notice to the Trustee.

Sales and Services Revenues shall include all revenues generated through operations of the Auxiliary Enterprises and the Educational Activities Revenues.

Secretary means the secretary of the Regents.

Securities Depository shall mean DTC, or any successor Securities Depository appointed pursuant to the Resolution.

Series 1996 Activity Center Bonds means the following bonds issued by the Regents under the Activity Center Resolution (Outstanding as of the date of this Official Statement): \$9,285,000 Student Fee Refunding Revenue Bonds, Series 1996 dated March 15, 1996.

Series 2005A Bonds means the \$30,740,000 principal amount of General Revenue Refunding Bonds, Series 2005A.

Series 2007A Bonds means the \$62,445,000 Adjustable Rate General Revenue Refunding Bonds, Series 2007A.

Series 2007B Bonds means the \$35,035,000 Adjustable Rate General Revenue Refunding Bonds, Series 2007B.

Series 2010 Costs of Issuance shall mean the Costs of Issuance incurred in connection with the issuance, sale and delivery of the Series 2010/11 Bonds.

Series 2010 Costs of Issuance Fund shall mean the fund established pursuant to Resolution hereof into which shall be deposited the portion of the proceeds of the Series 2010/11 Bonds necessary to pay the Series 2010 Costs of Issuance, as further provided in the Resolution.

Series 2010/2011 Bondholder, Holder and Bondholder means the holder of any Series 2010/2011 Bond.

Series 2010/11 Bonds means collectively, the Series 2010A Bonds, the Series 2010B Bonds, the Taxable Series 2010C Bonds, and the Series 2011 Bonds.

Series 2010A Bonds means \$\_\_\_\_\_ principal amount of General Revenue Refunding Bonds, Series 2010A.

Series 2010B Bonds means \$\_\_\_\_\_ principal amount of General Revenue Bonds, Series 2010B.

Series 2010C Project Account means the account established under the 2010 Supplemental Resolution into which shall be deposited the Project Proceeds.

Series 2011 Bonds means \$\_\_\_\_\_ principal amount of General Revenue Refunding Bonds, Series 2011.

Student Building Fee means the Student Building Fee designated and set from time to time by the Regents, imposed upon each full-time and part-time on-campus student in attendance at the University.

Student Fees shall consist of the Matriculation Fee, the Activity Fees, the Facility Fees, the Technology Fee, and the Other Fees/Tuition.

Supplemental Resolution means any resolution amending or supplementing the terms of the Resolution in full force and effect which has been duly adopted and approved by the University under the Act; but only if and to the extent that such Supplemental Resolution is adopted in accordance with the provisions of the Resolution.

Taxable Series 2010C Bonds means \$\_\_\_\_\_ principal amount of Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy - Build America Bonds).

Tax-Exempt Bonds means the Series 2010A Bonds, the Series 2010B Bonds and the Series 2011 Bonds.

Technology Fee shall include the Student Computing and Network Access Fee to support the University's technological operations, as assessed against full-time and part-time students at the University and as said fees now exist and may hereafter be revised by the Regents or the University.

Term Interest Rate Period means each period determined by the University pursuant to the Resolution during which the Series 2011 Bonds bear interest at a Term Interest Rate; provided that each such period shall be for a term of approximately one month, approximately three months, approximately six months, approximately nine months, approximately one year or any multiple of approximately six months above one year in each case ending on a day preceding a Business Day; provided, however, that notwithstanding the foregoing any Term Interest Rate Period which ends on the day immediately preceding the maturity date of such Series 2011 Bonds may include a period of time from the Payment Date immediately preceding the maturity date of such Series 2011 Bonds to the day immediately preceding the maturity date of such Series 2011 Bonds even if the time remaining to such day is not one of the periods specified above; and provided, further, that notwithstanding the foregoing any Term Interest Rate Period may end on the day immediately preceding the maturity date of such Series 2011 Bonds whether or not such maturity date is a Business Day.

Terms Certificate means a certificate of the Regents signed by the Bursar or authorized designee in substantially the form attached to the 2010 Supplemental Resolution, specifying certain terms of the Series 2010/2011 Bonds.

Trustee shall mean Wells Fargo Bank, N.A., Boise, Idaho, which shall also act as bond registrar, authenticating agent, paying agent and transfer agent with respect to the Series 2010/2011 Bonds, or its successors in functions, as now or hereafter designated.

2005 Amendments means amendments to the Resolution as described in the 2005 Supplemental Resolution.

2005A Supplemental Resolution means the Supplemental Resolution of the Regents adopted on January 24, 2005.

2007 Amendments means amendments to the Resolution as described in the 2007 Supplemental Resolution.

2007 Supplemental Resolution means the Supplemental Resolution of the Regents adopted on October 11, 2007, authorizing the Series 2007 Bonds and making the 2007 Amendments.

2010 Amendments means amendments to the Resolution as described in the 2010 Supplemental Resolution.

2010 Supplemental Resolution means the Supplemental Resolution of the Regents adopted on February 18, 2010, authorizing the Series 2010/2011 Bonds and making the 2010 Amendments.

Underwriter shall mean George K. Baum and Company, or its successor in function, as the original purchaser of the Series 2010/2011 Bonds.

University shall mean the University of Idaho, at Moscow, Idaho, a body politic and corporate pursuant to the provisions of Article 9, Section 10, Idaho Constitution and Section 33-2801, Idaho Code.

Written Certificate of the University shall mean an instrument in writing signed on behalf of the University by a duly authorized officer thereof. Every Written Certificate of the University, and every certificate or opinion of counsel, consultants, accountants or engineers provided for in the Resolution shall include: (A) a statement that the person making such certificate, request, statement or opinion has read the pertinent provisions of the Resolution to which such certificate, request, statement or opinion relates; (B) a brief statement as to the nature and scope of the examination or investigation upon which the certificate, request, statement or opinion is based; (C) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; and (D) with respect to any statement relating to compliance with any provision hereof, a statement whether or not, in the opinion of such person, such provision has been complied with.

## APPENDIX D

## SUMMARY OF THE RESOLUTION

[To be updated]

The following is a summary of certain provisions of the Resolution as supplemented and amended by Supplemental Resolutions, including the Supplemental Resolution adopted February 18, 2010 (the "**2010 Supplemental Resolution**"), and is not to be considered a full statement thereof. Reference is made to the Resolution and the 2010 Supplemental Resolution. The Resolution and all Supplemental Resolutions are on file at the University, c/o Lloyd Mues, Bursar, Administration Building, Room 211, P.O. Box 443168, Moscow, Idaho 83844-3168; or at the office of the Trustee, Wells Fargo Bank, N.A., 877 Main Street, Third Floor, Boise, Idaho 83702. See also "THE SERIES 2010/2011 BONDS" and "SECURITY FOR THE SERIES 2010/2011 BONDS" in the body of the Official Statement.

## GENERAL PROVISIONS RELATING TO THE BONDS

Authorization of Bonds

Bonds designated as "General Revenue Bonds" are authorized to be issued by the Regents under the Resolution. The maximum principal amount of the Bonds which may be issued is not limited; provided, however, that the Regents reserve the right to limit or restrict the aggregate principal amount of the Bonds which may at any time be issued or Outstanding under the Resolution. Bonds may be issued in such Series as from time to time shall be established and authorized by the Regents subject to the provisions of the Resolution. The Bonds may be issued in one or more Series pursuant to one or more Supplemental Resolutions. The designation of the Bonds shall include, in addition to the name "General Revenue Bonds," such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as the Regents may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs. Each Bond shall recite in substance that it is payable from and secured by the Pledged Revenues of the University pledged for the payment thereof.

Terms of Bonds

The principal of and interest on, and the redemption price of the Bonds shall be payable in lawful money of the United States of America at the principal corporate trust office of the Trustee or of any Paying Agent at the option of a Registered Owner. Payment of interest on any fully registered Bond shall be (i) made to the Registered Owner thereof and shall be paid by check or draft mailed to the Registered Owner thereof as of the close of business on the Record Date at his address as it appears on the registration books of the Trustee or at such other address as is furnished to the Trustee in writing by such Registered Owner, or (ii) with respect to units of \$500,000 or more of Bonds, made by wire transfer to the Registered Owner as of the close of business on the Record Date next preceding the interest payment date if such Registered Owner shall provide written notice to the Trustee not less than fifteen (15) days prior to such interest payment date at such wire transfer address as such Registered Owner shall specify, except, in each case, that, if and to the extent that there shall be a default in the payment of the interest due on any interest payment date, such defaulted interest shall be paid to the Registered Owners in whose name any such Bond is registered at the close of business on the fifth Business Day next preceding the date of payment of such defaulted interest.



The Bonds of any Series may be issued only in fully registered form without coupons in authorized denominations.

Execution of Bonds

The Bonds shall be signed on behalf of the Regents by the manual or facsimile signature of its President, attested by the manual or facsimile signature of its Secretary, and countersigned by the manual or facsimile signature of the Bursar of the University, and the seal of the University shall be thereunto affixed by the Secretary of the Regents, which may be by a facsimile of the University's seal which is imprinted upon the Bonds.

Transfer or Exchange of Bonds

Any Bond shall be transferable by the Registered Owner thereof in person, or by his attorney duly authorized in writing, upon presentation and surrender of such Bond at the principal corporate trust office of the Trustee for cancellation and issuance of a new Bond registered in the name of the transferee, in exchange therefor; provided, however, the Trustee shall not be required to transfer the Bonds within fifteen (15) calendar days of a principal or interest payment.

Lost, Stolen, Mutilated or Destroyed Bonds

In case any Bond shall be lost, stolen, mutilated or destroyed, the Trustee may authenticate and deliver a new Bond or Bonds of like date, denomination, interest rate, maturity, number, tenor and effect to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the University and the Trustee in connection therewith and upon his filing with the University and the Trustee evidence satisfactory to the University and the Trustee of his ownership thereof, and upon furnishing the University and the Trustee with indemnity satisfactory to the University and the Trustee.

Registration

In the Resolution, the University adopts a system of registration with respect to the Bonds as required by Title 57, chapter 9, Idaho Code, as amended.

Notice of Redemption

A. Notice of Redemption. Notice of any redemption of Bonds shall be sent by the Trustee by first-class mail, postage prepaid, not less than thirty-five (35) nor more than sixty (60) days prior to the date fixed for redemption, to (i) the Registered Owner of each Bond to be redeemed at the address shown on the Bond Register, (ii) one or more Information Services, and (iii) the Remarketing Agent, if any. Notice of redemption to the Information Services shall be given by facsimile confirmed by first class mail or in such other manner as is acceptable to such institutions. This requirement shall be deemed to be complied with when notice is mailed as provided, regardless of whether or not it is actually received by the Registered Owner of any Bond to be redeemed.

Each notice of redemption with respect to the Series 2010/2011 Bonds shall state the date of such notice, the Issue Date, the redemption date, the redemption price, the place of redemption (including the name and appropriate address or addresses of the Trustee) and, if less than all of the Series 2010/2011 Bonds are to be redeemed, the distinctive certificate numbers of the Series 2010/2011 Bonds to be redeemed and, in the case of Series 2010/2011 Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice shall also state that the interest on the Series 2010/2011 Bonds designated for redemption shall cease to accrue from and after such redemption

date and that on said date there will become due and payable on each of said Series 2010/2011 Bonds the principal amount thereof to be redeemed, interest accrued thereon, if any, to the redemption date and the premium, if any, thereon (such premium to be specified) and shall require that such Series 2010/2011 Bonds be then surrendered at the address or addresses of the Trustee specified in the redemption notice. Notwithstanding the foregoing, failure by the Trustee to give notice pursuant to this paragraph to the Remarketing Agent, if any, or any one or more of the Information Services or the insufficiency of any such notices shall not affect the sufficiency of the proceedings for redemption. Failure to mail the notices required by this paragraph to any Holder of any Series 2010/2011 Bonds designated for redemption, or any defect in any notice so mailed and shall not affect the validity of the proceedings for redemption of any other Series 2010/2011 Bonds.

With respect to any notice of redemption of Series 2010/2011 Bonds by the University, unless at the time of giving such notice the Trustee shall hold moneys sufficient to pay the principal of, premium, if any, and interest to the redemption date on the Series 2010/2011 Bonds to be redeemed, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of funds sufficient to pay the principal of, and premium, if any, and interest on, such Series 2010/2011 Bonds to be redeemed, and that if such funds shall not have been so received said notice shall be of no force and effect, Series 2010/2011 Bonds shall not be subject to redemption on such date and the Series 2010/2011 Bonds shall not be required to be redeemed on such date. In the event that such notice of redemption contains such a condition and such funds are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, to the persons and in the manner in which the notice of redemption was given, that such funds were not so received.

B. Effect of Redemption. When so called for redemption, such Bonds shall cease to accrue interest on the specified redemption date, provided funds for redemption are on deposit at the place of payment at that time, and such Bonds shall not be deemed to be Outstanding as of such redemption date.

C. Voluntary Redemption Notice. In addition to the notice required by subsection A above, further notice may be given by the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed in said subsection A.

- (1) Each further notice of redemption given may contain the following information:
  - (a) the redemption date;
  - (b) the redemption price;
  - (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed;
  - (d) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date;
  - (e) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Trustee;
  - (f) the CUSIP numbers of all Bonds being redeemed;

- (g) the date of issue of the Bonds as originally issued;
- (h) the rate of interest borne by each Bond being redeemed;
- (i) the maturity date of each Bond being redeemed; and
- (j) any other descriptive information needed to identify accurately the Bonds being redeemed.

(2) Each further notice of redemption may be sent at least thirty-five (35) days before the redemption date by registered or certified mail or overnight delivery service to:

(a) all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds, such depositories being:

- (i) Depository Trust Company, New York, New York; and
- (ii) Philadelphia Depository Trust Company, Philadelphia, Pennsylvania; and to
- (iii) Midwest Depository Trust Company, Chicago, Illinois.

(b) one or more of the national information services that disseminate notices of redemption of obligations such as the Bonds (such as Moody's Municipal and Government or Standard & Poor's Called Bond Record).

(3) Each such further notice may be published one time in The Bond Buyer, published in New York, New York, or, if such publication is impractical or unlikely to reach a substantial number of the Registered Owners of the Bonds, in some other financial newspaper or journal which regularly carries notices of redemption of other obligations similar to the Bonds, such publication to be made at least thirty (30) days prior to the date fixed for redemption.

(4) Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

D. Open Market Purchase. In the Resolution, the University reserves the right to purchase the Bonds on the open market at a price equal to or less than par. In the event the University purchases Bonds at a price (exclusive of accrued interest) of less than the principal amount thereof, Bonds so purchased shall be credited at the par amount thereof against the Debt Service requirement next becoming due. In the event the University purchases term Bonds at a price (exclusive of accrued interest) of less than the principal amount thereof, term Bonds so purchased shall be credited against the Mandatory Redemption Amounts next becoming due. All Bonds so purchased shall be credited against the Mandatory Redemption Amounts next becoming due. All Bonds so purchased shall be cancelled.

Book-Entry-Only System

The Series 2010/2011 Bonds shall initially be registered on the Bond Register in the name of Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Series 2010/2011 Bonds, except in the event the Trustee issues Replacement Bonds as provided in the Resolution.

Additional Bonds

The University reserves the right to issue Additional Bonds secured equally and ratably with all Bonds issued under the Resolution by a pledge of (i) Pledged Revenues and (ii) the funds established by the Resolution, upon the conditions set forth in Article VII of the Resolution and as described in the Official Statement.

Investment of Funds

Monies held by the University or the Trustee in funds or accounts under the Resolution shall be invested in Investment Securities.

**TERMS OF THE SERIES 2010/2011 BONDS; PROVISIONS APPLICABLE  
TO THE SERIES 2010/2011 BONDS**

Authorized Denominations

Each Series of the Series 2010/2011 Bonds will be issued as fully registered bonds without coupons in denominations of \$5,000 or any integral multiple thereof.

Interest Rate Determination Methods; Conversion to Term Interest Rate Period

*Term Interest Rate for the Series 2011 Bonds*

(i) Determination of Term Interest Rate. During each Term Interest Rate Period, the Series 2011 Bonds shall bear interest at the applicable Term Interest Rate, which shall be determined by the Remarketing Agent not later than 4:00 p.m. (New York City time) on the Business Day preceding the first day of such Term Interest Rate Period. Initially, the Series 2011 Bonds will bear interest at the Term Interest Rates set forth on the inside cover page hereof. The Term Interest Rate shall be the rate determined by the Remarketing Agent (in part, on the basis of examination of obligations comparable to such Series 2011 Bonds known to the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Series 2011 Bonds, would enable the Remarketing Agent to sell such Series 2011 Bonds on such Business Day at a price equal to the principal amount thereof (except that the Series 2011 Bonds may be initially sold at a premium for the Initial Term Interest Period). Upon determination of each Term Interest Rate, the Remarketing Agent shall provide written notice of such Term Interest Rate to the Trustee.

(ii) Conversion to Term Interest Rate Period. The University by written direction to the Trustee and the Remarketing Agent, delivered at least thirty-five (35) days prior to the proposed Conversion Date to a Term Interest Rate Period, accompanied by an Approving Opinion, may elect to Convert the Series 2011 Bonds from one Term Interest Rate Period to another Term Interest Rate Period, and shall determine the duration of any such new Term Interest Rate Period which shall be one of the periods specified in the definition "Term Interest Rate Period." Such direction (A) shall specify the Conversion Date to such Term Interest Rate Period which shall be (1) the Payment Date next succeeding the last day of the then-current Term Interest Rate Period which is not less than thirty-five (35) days following the date of receipt by the Trustee of such direction, or (2) any date on which such Series 2011 Bonds may be optionally redeemed at par pursuant to the 2010 Supplemental Resolution hereof not less than thirty-five (35) days following the date of receipt by the Trustee of such direction; and (B) shall specify the last day thereof.

(iii) Notice of Conversion to Term Interest Rate Period. The Trustee shall give notice by first class mail of each Conversion to a Term Interest Rate Period to the Bondholders not less than thirty (30) days prior to the Conversion Date for such Term Interest Rate Period. Such notice shall state (A) that the interest rate on such Series 2011 Bonds will continue to be a Term Interest Rate Period, (B) the Conversion Date for, and final date of, such Term Interest Rate Period, (C) the day by which the Term Interest Rate for such Term Interest Rate Period shall be determined, (D) the manner by which such Term Interest Rate may be obtained, (E) the Payment Date or Dates with respect to such Term Interest Rate Period, (F) such Series 2011 Bonds shall be purchased on such effective date pursuant to the 2010 Supplemental Resolution, (G) the procedures for the purchase provided for in clause (F) above, (H) the redemption provisions that will pertain to such Series 2011 Bonds during such Term Interest Rate Period and (I) the ratings which are expected to be assigned to such Series 2011 Bonds upon such Conversion to the Term Interest Rate Period.

(iv) Restriction on Conversion. Until a date after April 1, 2021, the Series 2011 Bonds shall not Convert to a different Term Interest Rate Period at the option of the University.

(v) The determination of the interest rate on the Series 2011 Bonds by the Remarketing Agent shall be conclusive and binding upon the Bondholders, the Regents and the Trustee.

Redemption of the Series 2010/2011 Bonds

The Series 2010/2011 Bonds of each Series are subject to redemption, in whole, or in part by lot in Authorized Denominations, prior to their maturity date, by the University as follows:

(a) *Optional Redemption of Series 2010A Bonds.* The Series 2010A Bonds are not subject to optional redemption prior to their stated maturity.

(b) *Optional Redemption of Series 2010B Bonds.* The Series 2010B Bonds maturing on or before April 1, 2020, shall not be subject to call or redemption prior to their stated dates of maturity, except for extraordinary redemption as provided in the Resolution. On any Payment Date on or after April 1, 2020, at the election of the University, the Series 2010B Bonds maturing after April 1, 2021, and not called in accordance with mandatory redemption provisions, shall be subject to redemption, in whole or in part, in maturities selected by the University and within each maturity as selected by lot by the Trustee, upon notice as hereinafter provided, at par, plus accrued interest to the redemption date.

(c) *Optional Redemption of Taxable Series 2010C Bonds.* The Taxable Series 2010C Bonds maturing on or before April 1, 2020, shall not be subject to call or redemption prior to their stated dates of maturity, except for extraordinary redemption as provided in the Resolution. On any Payment Date on or after April 1, 2020, at the election of the University, the Taxable Series 2010C Bonds maturing after April 1, 2021, and not called in accordance with mandatory redemption provisions, shall be subject to redemption, in whole or in part, in maturities selected by the University and within each maturity as selected by lot by the Trustee, upon notice as hereinafter provided, at par, plus accrued interest to the redemption date.

(d) *Optional Redemption of Series 2011 Bonds.* The Series 2011 Bonds shall be subject to redemption, in whole or in part, by lot in Authorized Denominations, prior to their maturity date, by the University during any Term Interest Rate Period for the Series 2011 Bonds, except during the Initial Term Interest Rate Period, during which such period the Series 2011 Bonds shall not be subject to optional redemption, on any day during the periods specified below, at the redemption prices (expressed as percentages of principal amount of the Series 2011 Bonds

(or portions thereof) to be redeemed) hereinafter indicated, plus accrued interest to the redemption date:

<u>Lesser of Length of Term Interest Rate Period or Length of Time to Maturity</u>	<u>Redemption Dates and Prices</u>
Greater than 10 years	At any time on or after the 5th anniversary of the effective date commencing such Term Interest Rate Period at 102%, declining ½% annually on each subsequent anniversary date to 100%
Greater than 6 and less than or equal to 10 years	At any time on or after the 3rd anniversary of the effective date commencing such Term Interest Rate Period at 101 ½%, declining ½% annually on each subsequent anniversary date to 100%
Greater than 4 and less than or equal to 6 years	At any time on or after the 2nd anniversary of the effective date commencing such Term Interest Rate Period at 101%, declining ½% annually on each subsequent anniversary date to 100%
Greater than 3 and less than or equal to 4 years	At any time on or after the 2nd anniversary of the effective date commencing such Term Interest Rate Period at 100 ½%, declining ½% annually on the next anniversary date to 100%
Greater than 2 and less than or equal to 3 years	At any time on or after the 1st anniversary of the effective date commencing such Term Interest Rate Period at 100 ½% declining ½% annually on the next anniversary date to 100%
Greater than 1 and less than or equal to 2 years	At any time on or after the 1st anniversary of the effective date commencing such Term Interest Rate Period at 100% annually
Less than or equal to 1 year	On the Payment Date which is six months after the effective date of such Term Interest Rate Period at 100%

Mandatory Sinking Fund Redemption. The Series 2010 Bonds shall be subject to mandatory sinking fund redemption as described in "THE SERIES 2010/2011 BONDS – Redemption Prior to Maturity." Upon redemption of any Series 2010 Bonds other than by application of such mandatory sinking fund redemption, an amount equal to the principal amount so redeemed will be credited toward a part or all of any one or more of such mandatory sinking fund redemption amounts for the Series 2010 Bonds in such order of mandatory sinking fund date as shall be directed by the University.

Extraordinary Redemption of Series 2010B Bonds and Series 2010C Bonds. In the event that the University shall determine, pursuant to the terms of the Resolution, not to rebuild, replace, restore, or repair damaged or destroyed portions of the Series 2010 Project, then the Series 2010B Bonds and Series 2010C Bonds shall be subject to redemption, in whole or in part, at par plus accrued interest to the date of redemption, on the next applicable interest payment date, solely from, and to the extent of, insurance proceeds available to the Trustee for such payment.

Mandatory Tender for Purchase

The Series 2011 Bonds shall be subject to mandatory tender for purchase at the applicable Purchase Price, payable from the sources specified in the 2010 Supplemental Resolution in immediately available funds on the effective date of any new Term Interest Rate Period for the Series 2011 Bonds.

The Trustee shall give Notice by Mail to the Holders of the Series 2011 Bonds, not later than the thirtieth (30th) day prior to the date on which such Series 2011 Bonds are subject to mandatory tender pursuant to 2010 Supplemental Resolution, which notice shall be the same notice as the notice described under "Interest Rate Determination Methods - *Term Interest Rate for the Series 2011 Bonds* - Notice of Conversion to Term Interest Rate Period" above.

Upon the giving of notice to Bondholders of the mandatory tender of the Series 2011 Bonds for purchase pursuant to 2010 Supplemental Resolution, such Series 2011 Bonds shall be subject to such mandatory tender for purchase notwithstanding that the events described in such notice have not occurred on the Purchase Date specified in such notice, including the failure to convert to a new Term Interest Rate Period for such Series 2011 Bonds.

Delivery of Series 2011 Bonds; Series 2011 Bonds Deemed Purchased

With respect to any Book-Entry Bond, delivery of such Series 2011 Bond to the Trustee in connection with any mandatory tender for purchase pursuant to the Resolution shall be effected by the making of, or the irrevocable authorization to make, appropriate entries on the books of DTC or any DTC Participant to reflect the transfer of the beneficial ownership interest in such Series 2011 Bond to the account of the Trustee, or to the account of a DTC Participant acting on behalf of the Trustee. With respect to any Series 2011 Bond which is not a Book-Entry Bond, delivery of such Series 2011 Bond to the Trustee in connection with any mandatory tender pursuant to 2010 Supplemental Resolution shall be effected by physical delivery of such Series 2011 Bond to the Trustee at its Principal Office, by 1:00 p.m. (New York City time) on the Purchase Date, accompanied by a notice of transfer thereof, in a form satisfactory to the Trustee, executed in blank by the Holder thereof with the signature of such Holder guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs.

The Trustee agreed to accept and hold all Series 2011 Bonds delivered to it pursuant to the Resolution in trust for the benefit of the respective Bondholders or Beneficial Owners which shall have so delivered such Series 2011 Bonds until the Purchase Price of such Series 2011 Bonds shall have been delivered to or for the account of or to the order of such Holders or Beneficial Owners pursuant to the Resolution. Any Series 2011 Bonds registered for transfer to new purchasers and delivered to the Trustee as described in the Resolution shall be held in trust by the Trustee for the benefit of such new purchasers until delivery to such new purchasers.

If the Series 2011 Bonds are not Book-Entry Bonds, a principal amount of Series 2011 Bonds equal to the amount of Series 2011 Bonds successfully remarketed by the Remarketing Agent shall be delivered by the Trustee to such persons as shall be designated by the Remarketing Agent. Such Series 2011 Bonds shall be held available at the Principal Office of the Trustee and shall be picked up by the Remarketing Agent at or after 1:00 p.m. (New York City time) on the Purchase Date against delivery of funds for deposit into the Remarketing Account of the Bond Purchase Fund equal to the Purchase Price of such Series 2011 Bonds that have been remarketed. If the Series 2011 Bonds are Book-Entry Bonds, transfer of ownership of the remarketed Series 2011 Bonds shall be effected in accordance with the procedures of DTC and the DTC Participants for the delivery of funds for deposit into the Remarketing

Account of the Bond Purchase Fund equal to the Purchase Price of such Series 2011 Bonds that have been remarketed.

The Trustee shall, as to any Series 2011 Bonds which have not been delivered to it as described above, (i) notify the Remarketing Agent in writing of such nondelivery and (ii) place a stop transfer against an appropriate amount of Series 2011 Bonds registered in the name of the Holder of such Series 2011 Bonds on the Bond Register. The Trustee shall place and maintain such stop transfer commencing with the lowest serial number Series 2011 Bond registered in the name of such Holder until stop transfers have been placed against an appropriate amount of Series 2011 Bonds until the appropriate Series 2011 Bonds are delivered to the Trustee. Upon such delivery, the Trustee shall make any necessary adjustments to the Bond Register.

The Purchase Price of Series 2011 Bonds to be purchased upon optional or mandatory tender as described herein is to be paid by the Trustee from moneys on deposit in the applicable account of the Bond Purchase Fund at or before 4:00 p.m. (New York City time) on the Purchase Date upon surrender to the Trustee of the tendered Series 2011 Bonds.

If moneys sufficient to pay the Purchase Price of Series 2011 Bonds to be purchased pursuant to the Resolution shall be held by the Trustee on the date such Series 2011 Bonds are to be purchased, such Series 2011 Bonds shall be deemed to have been purchased for all purposes of this Resolution, irrespective of whether or not such Series 2011 Bonds shall have been delivered to the Trustee or transferred on the books of DTC, and neither the former Holder nor the former Beneficial Owner of such Series 2011 Bonds shall have any claim thereon, under this Resolution or otherwise, for any amount other than the Purchase Price thereof.

In the event of non-delivery of any Series 2011 Bond to be purchased pursuant to the 2010 Supplemental Resolution, the Trustee shall segregate and hold uninvested the moneys for the Purchase Price of such Series 2011 Bonds in trust, without liability for interest thereon, for the benefit of the former Holders of such Series 2011 Bonds, who shall, except as provided in the following sentence, thereafter be restricted exclusively to such moneys for the satisfaction of any claim for the Purchase Price of such Series 2011 Bonds. Any moneys which the Trustee shall segregate and hold in trust for the payment of the Purchase Price of any Series 2011 Bond and remaining unclaimed for four (4) years after the applicable Purchase Date shall to the extent permitted by law be paid, upon the written request of the University, to the University. After the payment of such unclaimed moneys to the University, the former Holder of such Series 2011 Bond shall look only to the University for the payment thereof.

Bond Purchase Funds

The 2010 Supplemental Resolution creates and establishes with the Trustee a trust fund designated the "Bond Purchase Fund." There shall also be created and established a separate account in the Bond Purchase Fund designated the "Remarketing Account."

Remarketing Account. All moneys received by the Trustee on behalf of purchasers of Series 2011 Bonds pursuant to the provisions of the 2010 Supplemental Resolution described under "Remarketing of Purchased Bonds" below are required to be (i) deposited in the Remarketing Account within the Bond Purchase Fund, (ii) held in trust in accordance with the provisions hereof and (iii) paid out as described under "Deposits and Disbursements from the Remarketing Account" below.

The funds held by the Trustee in the Purchase Fund shall not be considered Pledged Revenues as that term is defined in the Resolution. The moneys in the Bond Purchase Fund shall be used solely to pay the Purchase Price of Series 2011 Bonds as provided and may not be used for any other purposes. All



amounts held in the Bond Purchase Fund and the Remarketing Account shall be held in trust by the Trustee for the benefit of the Bondholders or Beneficial Owners of tendered Series 2011 Bonds.

Remarketing of Purchased Bonds

Not later than 9:30 a.m. (New York City time) on each Purchase Date occurring pursuant to the Resolution, the Trustee shall give notice by telephone to the Remarketing Agent specifying the principal amount of all Outstanding Series 2011 Bonds which are subject to mandatory tender on such Purchase Date pursuant to the 2010 Supplemental Resolution (the "Mandatory Tender Bonds") and the names of the registered owner or owners thereof. The Remarketing Agent shall thereupon offer for sale at par plus accrued interest and use its best efforts to find purchasers for such Mandatory Tender Bonds.

Not later than 11:00 a.m. (New York City time) on the Business Day immediately preceding each Purchase Date described in the immediately preceding paragraph, the Trustee shall give notice by telephone to the Remarketing Agent of the accrued amount of the interest payable as of the Purchase Date specified in such notice from the Trustee on, and confirming the aggregate principal amount of, the Mandatory Tender Bonds.

With respect to any mandatory tender of Series 2011 Bonds that are being remarketed, not later than 10:30 a.m. (New York City time) on each Purchase Date with respect to Mandatory Tender Bonds, the Remarketing Agent shall give Electronic Notice (promptly confirmed in writing) to the University and the Trustee of the amount of remarketing proceeds that the Remarketing Agent has received and the principal amount of Mandatory Tender Bonds which have not been remarketed in accordance with the Remarketing Agreement.

If the Remarketing Agent's notice pursuant to the 2010 Supplemental Resolution indicates that such Remarketing Agent does not have sufficient remarketing proceeds to purchase all the Mandatory Tender Bonds to be purchased on such Purchase Date, the Trustee shall immediately give notice to the University.

Deposits into Remarketing Account

The 2010 Supplemental Resolution requires that the terms of any sale by the Remarketing Agent of tendered Series 2011 Bonds shall provide for the payment of the Purchase Price for tendered Series 2011 Bonds by the Remarketing Agent to the Trustee for deposit in the Remarketing Account of the Bond Purchase Fund in immediately available funds at or before 2:00 p.m. (New York City time) on the Purchase Date. The Remarketing Agent shall cause to be paid to the Trustee on each Purchase Date for tendered Series 2011 Bonds the amount specified in the notice given by the Remarketing Agent in connection with the remarketing of the Series 2011 Bonds.

Disbursements from the Bond Purchase Fund

Moneys in the Bond Purchase Fund shall be applied at or before 4:00 p.m. (New York City time) to the purchase of Series 2011 Bonds as provided in the 2010 Supplemental Resolution by the Trustee, on each Purchase Date, as follows:

- (i) First, moneys constituting funds in the Remarketing Account shall be used by the Trustee on any Purchase Date to purchase tendered Series 2011 Bonds at the Purchase Price.

(ii) Second, in the event such moneys in the Series 2011 Remarketing Account on any Purchase Date are insufficient to purchase all tendered Series 2011 Bonds [the Trustee shall follow the procedures described in "Inadequate Funds to Pay Purchase Price" below].

Notwithstanding anything to the contrary in the 2010 Supplemental Resolution, if the Series 2011 Bonds are Book Entry Bonds, payment of the Purchase Price for tendered Series 2011 Bonds shall be made in accordance with the rules and procedures of DTC, including the timing requirements of DTC.

The Trustee shall, as to any Series 2011 Bonds which have not been delivered to it as described under "Delivery of Series 2011 Bonds; Series 2011 Bonds Deemed Purchased" above, (i) notify the Remarketing Agent in writing of such nondelivery and (ii) place a stop transfer against an appropriate amount of Series 2011 Bonds registered in the name of the Holder of such Series 2011 Bonds on the Bond Register. The Trustee shall place and maintain such stop transfer commencing with the lowest serial number Series 2011 Bond registered in the name of such Holder until stop transfers have been placed against an appropriate amount of Series 2011 Bonds until the appropriate Series 2011 Bonds are delivered to the Trustee. Upon such delivery, the Trustee shall make any necessary adjustments to the Bond Register.

Inadequate Funds to Pay Purchase Price

If sufficient funds are not available for the purchase of all Series 2011 Bonds tendered or deemed tendered on any Purchase Date, all such Series 2011 Bonds shall bear interest at the Bond Buyer Revenue Bond Index consistent with the number of years between the applicable Purchase Date and the final maturity of the Mandatory Tender Bonds plus 150 basis points (provided that such rate shall not exceed the Maximum Rate) from the date of such failed purchase until all such Series 2011 Bonds are purchased in accordance with the 2010 Supplemental Resolution, and all tendered Series 2011 Bonds shall be returned to their respective owners. Neither the University, the Regents, nor the Trustee shall have any obligation to purchase the Series 2011 Bonds tendered or deemed tendered under the 2010 Supplemental Resolution. Notwithstanding any other provision of the Resolution, any such failure to purchase all Series 2011 Bonds tendered or deemed tendered on any Purchase Date pursuant to the 2010 Supplemental Resolution shall not constitute an Event of Default thereunder. Any calculation of interest rate with respect to the Mandatory Tender Bonds shall be calculated by the Remarketing Agent. In the absence of the Remarketing Agent, the Trustee shall calculate such interest rate.

**PLEDGE OF REVENUES; ESTABLISHMENT OF FUNDS AND ACCOUNTS**

Pledge of Pledged Revenues

In the Resolution, the University pledges for the payment of the Bonds, equally and ratably, the Pledged Revenues, provided, however, that the pledge of certain such Pledged Revenues to the Bonds is subordinate to the pledge of such revenues to Outstanding Series 1996 Activity Center Bonds and the Recreation Center Bonds for so long as such Bonds are outstanding. As of the date hereof, the Recreation Center Bonds are no longer outstanding. The Refunded Bonds include all of the Series 1996 Activity Center Bonds. The Pledged Revenues shall not, except as provided in the Resolution, be used for any other purpose while any of the Bonds issued under the Resolution, including the Series 2010/2011 Bonds, remain Outstanding. Except as provided in the Resolution, including with respect to the Outstanding Series 1996 Activity Center Bonds and the Recreation Center Bonds, this pledge shall constitute a first and exclusive lien on the Pledged Revenues for the payment of the Bonds in accordance with the terms of the Resolution.

Confirmation and Establishment of Funds

The following Funds are established under the Resolution:

- A. Revenue Fund to be held by the University;
- B. Construction Fund to be held by the University;
- C. Bond Fund, consisting of a Debt Service Account and a Debt Service Reserve Account (only with respect to the Pre-2005 Bonds and the Series 2005A Bonds), to be held by the Trustee;
- D. Cost of Issuance Fund to be held by the University;
- E. Rebate Fund to be held by the University.

The 2010 Supplemental Resolution creates (i) the "Bond Purchase Fund" and within such fund the "Remarketing Account."

The 2010 Supplemental Resolution also creates in the Construction Fund the "Series 2010 Project Account" and the "Series 2010 Costs of Issuance Account," both of which accounts are to be held by the University.

The Escrow Agreement creates an "Escrow Account" in connection with the refunding of the Refunded Bonds. The Trustee may establish one or more separate and segregated subaccounts within the Debt Service Account or the Debt Service Reserve Account, if any, from time to time as shall be necessary.

Revenue Fund; Bond Fund; Flow of Funds

A. Required Deposits. The University shall deposit as received all Pledged Revenues into the Revenue Fund. The University shall deposit into the Debt Service Account in the Bond Fund the accrued interest, if any, received from the sale of a series of Bonds to the initial purchasers thereof. The University shall also deposit into the Debt Service Account the portion, if any, of the Net Proceeds designated as capitalized interest on a series of Bonds.

B. Permitted Deposits. At any time the University may deposit into the Revenue Fund or the Bond Fund such other funds and revenues that do not constitute Pledged Revenues, as the University may in its discretion determine.

C. Required Transfers. Moneys in the Revenue Fund shall be transferred to the Trustee for deposit in the Debt Service Account in the Bond Fund not later than five (5) days before any Payment Date, an amount equal to Debt Service coming due on such Payment Date. There may be credited against the foregoing transfer, however, any moneys deposited in the Debt Service Account which are available to pay Debt Service on the Bonds and which have not previously been taken as a credit against the required transfers. Moneys in the Revenue Fund shall secondarily be transferred to the Trustee for deposit in the Debt Service Reserve Account in the Bond Fund as soon as practicable after moneys are withdrawn from the Debt Service Reserve Account in accordance with the Resolution.

The Trustee shall pay out of the Debt Service Account to the Registered Owners of the Bonds entitled to such payment on or before each Payment Date the amount of Debt Service payable on such date.

D. Remaining Amounts. Amounts remaining in the Revenue Fund at any time in excess of the amounts necessary to make the payments required above may be applied by the University, free and clear of the lien of the Resolution, to the extent permitted by law, (i) to the redemption of Bonds in accordance with the Resolution or (ii) for any other lawful purpose of the University.

Construction Fund/Project Account

There shall be paid into the Construction Fund the amounts required to be so paid by the provisions of the Resolution or any Supplemental Resolution.

The University may establish within the Construction Fund separate Project Accounts and may establish one or more subaccounts in each Project Account. Income received from the investment of moneys in any Project Account in the Construction Fund shall be credited to such Project Account. Upon completion of any Project, the relevant Project Account shall be closed, and all remaining amounts in such Project Account shall be transferred to the Debt Service Account in the Bond Fund.

Before any payment is made from any Project Account in the Construction Fund, the University shall execute a Written Certificate showing with respect to each payment to be made the name of the person to whom payment is due and the amount to be paid and certifying that the obligation to be paid was incurred and is a proper charge against the Project Account in the Construction Fund and in a reasonable amount against the Project Account in the Construction Fund and has not been theretofore included in a prior Written Certificate, and that insofar as any such obligation was incurred for work, materials, equipment or supplies, such work was actually performed, or such materials, equipment or supplies were actually installed in furtherance of the acquisition of the Project or delivered at the site of the Project for that purpose or delivered for storage or fabrication or as a progress payment due on equipment being fabricated to order.

Before any payment is made from the Project Account in the Construction Fund for the payment of Costs of Issuance, the University shall execute its Written Certificate, signed by an Authorized Officer of the University, stating, in respect of each payment to be made, (a) the name and address of the person, firm or corporation to whom payment is due, (b) the amount to be paid, (c) the particular item of the Cost of Issuance to be paid, and (d) that the cost or obligation in this stated amount is a proper item of the Cost of Issuance and has not been paid.

Bond Fund – Debt Service Reserve Account

There is no Debt Service Reserve Account for the Series 2010/2011 Bonds and the Series 2010/2011 Bonds are not secured by amounts on deposit in the Debt Service Reserve Accounts established with respect to Pre-2005 Bonds and the Series 2005 Bonds. See "SECURITY FOR THE SERIES 2010/2011 BONDS – No Debt Service Reserve Account for the Series 2010/2011 Bonds" in the front portion of the Official Statement to which this **Appendix D** is attached.

A. The University may not substitute a Reserve Account Credit Enhancement for the funds on deposit in the Debt Service Reserve Account, without the prior written consent of all insurers of Outstanding Pre-2005 Bonds and the Series 2005 Bonds. Funds on deposit in the Debt Service Reserve Account shall be invested in Investment Securities having an average aggregate weighted term to maturity of not greater than five (5) years.

B. If on any Payment Date the amount in the Debt Service Account is less than the amount required to pay such Debt Service, the Trustee shall apply amounts from the Debt Service Reserve Account to the extent necessary to make said payments.

C. Any deficiency in the Debt Service Reserve Account created by a withdrawal as authorized by the preceding paragraph shall be replaced as soon as practicable by deposits of legally available moneys from the Revenue Fund, as provided in the Resolution, until the Debt Service Reserve Account is restored to the Reserve Account Requirement.

### PAYMENT AGREEMENTS

The Resolution authorizes the Regents to enter into a Payment Agreement and to make a Payment Agreement Payment thereunder on a parity of lien with the payment of the Bonds if the Payment Agreement satisfies the requirements for Additional Bonds described in the Resolution (See "SECURITY FOR THE SERIES 2010/2011 BONDS – Covenants – *Issuance of Additional Bonds*" in the front part of the Official Statement to which this **Appendix D** is attached for a description of requirements for issuance of Additional Bonds), taking into consideration regularly scheduled Payment Agreement Payments and Receipts (if any) under the Payment Agreement. The following shall be conditions precedent to the use of any Payment Agreement on a parity with the Bonds:

(i) The University shall obtain an opinion of Bond Counsel on the due authorization and execution of such Payment Agreement, the validity and enforceability thereof and opining that the action proposed to be taken is authorized or permitted by the Resolution or the applicable provisions of any Supplemental Resolution and will not adversely affect the excludability for federal income tax purposes of the interest on any Outstanding Bonds.

(ii) Prior to entering into a Payment Agreement, the University shall adopt a resolution which shall:

A. set forth the manner in which the Payments and Receipts are to be calculated and a schedule of Payment Agreement Payment Dates;

B. establish general provisions for the rights of the parties to Payment Agreements; and

C. set forth such other matters as the University deems necessary or desirable in connection with the management of Payment Agreements as are not clearly inconsistent with the provisions of the Resolution.

The Payment Agreement may oblige the University to pay, on one or more scheduled and specified Payment Agreement Payment Dates, the Payments in exchange for the Payor's obligation to pay or to cause to be paid to the University, on scheduled and specified Payment Agreement Payment Dates, the Receipts. The University may also enter into Payment Agreements that are not reciprocated by the other party to the agreement.

If the University enters into a Parity Payment Agreement, Payments shall be made from the Debt Service Account and Annual Debt Service shall include any regularly scheduled University Payments adjusted by any regularly scheduled Receipts during a Fiscal Year. Receipts shall be paid directly into the Debt Service Account. Obligations to make unscheduled payments, such a termination payments, may not be entered into on a parity with the Bonds. To the extent that a Parity Payment Agreement has been designated as a hedge of the interest rate features of either Fixed Rate Bonds or Bonds bearing variable rates of interest, Annual Debt Service during the term of such Parity Payment Agreement shall be modified to reflect such Parity Payment Agreement.

Nothing in the Resolution precludes the University from entering into Payment Agreements with a claim on Pledged Revenues junior to that of the Bonds. Furthermore, nothing in the Resolution precludes the University from entering into obligations on a parity with the Bonds in connection with the use of Payment Agreements or similar instruments if the University obtains an opinion of Bond Counsel that the obligations of the University thereunder are consistent with the Resolution.

For purposes of the foregoing Payment Agreements provisions of the Resolution, the following terms have the following meanings:

"Payment" means any payment required to be made by or on behalf of the University under a Payment Agreement and which is determined according to a formula set forth in the Payment Agreement.

"Parity Payment Agreement" means a Payment Agreement under which the University's payment obligations are expressly stated to be secured by a pledge of and lien on Pledged Revenues on an equal and ratable basis with the Pledged Revenues required to be paid into the Bond Fund to pay and secure the payment of the principal of and interest on Outstanding Bonds.

"Payment Agreement" means a written agreement, for the purpose of managing or reducing the University's exposure to fluctuations or levels of interest rates, currencies or commodities or for other interest rate, investment, asset or liability management purposes, entered into on either a current or forward basis by the University and a Qualified Counterparty, all as authorized by any applicable laws of the State. Such agreement may or may not be characterized by a structure of reciprocity of payment.

"Payment Agreement Payment Date" means any date specified in the Payment Agreement on which a Payment or Receipt is due and payable under the Payment Agreement.

"Receipt" means any payment (designated as such by a resolution) to be made to, or for the benefit of, the University under a Payment Agreement by the Payor.

"Payor" means a Qualified Counterparty to a Payment Agreement that is obligated to make one or more payments thereunder.

"Qualified Counterparty" means a party (other than the University or a party related to the University) who is the other party to a Payment Agreement that has or whose obligations are unconditionally guaranteed by a party whose long term debt is rated "A" or higher by Moody's and S&P and who is otherwise qualified to act as the other party to a Payment Agreement under any applicable laws of the State of Idaho.

### **THE REMARKETING AGENT FOR THE SERIES 2011 BONDS**

George K. Baum & Company has been appointed as the initial Remarketing Agent with respect to the Series 2011 Bonds. Any subsequent Remarketing Agent shall be appointed by the University, subject to the conditions of the 2010 Supplemental Resolution set forth below. A Remarketing Agent shall be a bank, trust company or member of the Financial Industry Regulatory Authority organized and doing business under the laws of any state of the United States of America or the District of Columbia and shall have together with its parent, if any, a capitalization of at least fifteen million dollars (\$15,000,000) as shown in its or its parent's most recently published annual report.

The Regents shall enter into a Remarketing Agreement in substantially the form before the Regents at the time of adoption of the 2010 Supplemental Resolution with each Remarketing Agent and

such other parties as shall be appropriate, pursuant to which such Remarketing Agent shall designate its Principal Office and agree particularly (but without limitation): (i) to perform the duties and comply with the requirements imposed upon it by the Remarketing Agreement and this Resolution; and (ii) to keep such books and records with respect to its activities as Remarketing Agent as shall be consistent with prudent industry practice and to make such books and records available for inspection by each of the Trustee and the University at all reasonable times. The Remarketing Agent shall not be entitled to any compensation from the Trustee but rather shall only be entitled to compensation from the University.

(c) The Regents shall furnish a copy of the Remarketing Agreement to the Trustee.

(d) The Remarketing Agent may resign by notifying the University and the Trustee at least sixty (60) days before the effective date of such resignation. The University may remove the Remarketing Agent pursuant to the terms of the Remarketing Agreement. In addition, the Remarketing Agent may terminate its obligations under the Remarketing Agreement pursuant to the terms thereof.

### **COVENANTS CONCERNING THE TRUSTEE**

Wells Fargo Bank, N.A., as successor to First Security Bank, N.A., acts as Trustee under the Resolution and also acts as paying agent, bond registrar, authenticating agent, and transfer agent with respect to the Bonds. The Trustee makes no representations as to the validity or sufficiency of the Resolution or of any Bonds issued thereunder or as to the security afforded by the Resolution, and the Trustee shall not incur any liability in respect thereof. The Trustee shall not be liable in connection with the performance of its duties under the Resolution except for its own negligence, misconduct or default.

The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in the Resolution. In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by the Resolution and use the same degree of care and skill in its exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

The Trustee, after a successor Trustee has been duly appointed and has accepted the duties of Trustee in writing, may at any time resign and be discharged of the duties and obligations created by the Resolution by giving not less than sixty (60) days' written notice to the University and to insurers of any outstanding Bonds.

The Trustee may be removed at any time by the University or by insurers of outstanding Bonds, so long as the respective insurer of any Bonds is not in default under its respective policy. Any Trustee appointed in succession to the Trustee shall (1) be a bank or trust company or national banking association, duly authorized to exercise trust powers, and (2) have a reported capital and surplus of not less than \$75,000,000.

### **MODIFICATION OR AMENDMENT OF RESOLUTION**

The Resolution or any Supplemental Resolution and the rights and obligations of the University and of the Registered Owners of the Bonds may be modified or amended at any time by a Supplemental Resolution and pursuant to the affirmative vote at a meeting of Registered Owners, or with the written consent without a meeting, (1) of the Registered Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding, (2) in case less than all of the several Series of Bonds

then Outstanding are affected by the modification or amendment, of the Registered Owners of at least sixty percent (60%) in principal amount of the Bonds of each Series so affected and then Outstanding, and (3) in case the modification or amendment changes the terms of any Mandatory Redemption Amounts, of the Registered Owners of at least sixty percent (60%) in principal amount of the Bonds of the particular Series and maturity entitled to such Mandatory Redemption Amounts and then Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified Series remain Outstanding, the consent of the Registered Owners of Bonds of such Series shall not be required and Bonds of such Series shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this section. No such modification or amendment shall (x) extend the fixed maturity of any Bond, or reduce the principal amount or redemption price thereof, or reduce the rate or extend the time of payment of interest thereon, without the consent of the Registered Owner of each Bond so affected, or (y) reduce the aforesaid percentage of Bonds required for the affirmative vote or written consent to an amendment or modification of the Resolution, without the consent of the Registered Owners of all of the Bonds then Outstanding, or (z) without its written consent thereto, modify any of the rights or obligations of the Trustee.

The Resolution or any Supplemental Resolution and the rights and obligations of the University and of the Registered Owners of the Bonds may also be modified or amended at any time by a Supplemental Resolution, without the consent of any Registered Owners, but only to the extent permitted by law and only for any one or more of the following purposes:

(1) to add to the covenants and agreements of the University in the Resolution contained, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved in the Resolution to or conferred upon the University;

(2) to make such provisions for the purpose of curing any ambiguity, or of curing or correcting any defective provision contained in the Resolution, or in regard to questions arising under the Resolution, as the University may deem necessary or desirable, and which shall not adversely affect the interests of the Trustee or the Registered Owners of the Bonds;

(3) to provide for the issuance of a Series of Bonds, and to provide the terms and conditions under which such Series of Bonds may be issued, subject to and in accordance with the provisions of Article VII of the Resolution;

(4) to provide for the issuance of the Bonds pursuant to a book-entry system or as uncertificated public obligations pursuant to the provisions of the Registered Public Obligations Act, Chapter 9 of Title 57, Idaho Code; and

(5) during the term of any credit enhancement agreements (including, without limitation, standby bond purchase agreements and letters of credit) permitted in Section 57-231, Idaho Code, to amend any provisions of the Resolution which is intended solely to be for the benefit of the issuer of the credit enhancement agreement.

Such Supplemental Resolution shall become effective as of the date of its adoption or such later date as shall be specified in such Supplemental Resolution.

Copies of any modification or amendment to the Resolution shall be sent to any rating agency maintaining a rating on the Bonds at least ten (10) days prior to the effective date thereof.



**EVENTS OF DEFAULT AND REMEDIES OF REGISTERED OWNERS**

Events of Default

If any one or more of the following Events of Default shall occur, it is an "event of default" under the Resolution:

(1) failure to make the due and punctual payment of any Principal Installment of a Bond when and as the same shall become due and payable, whether at maturity, by call for redemption, or declaration or otherwise;

(2) failure to make the due and punctual payment of any installment of interest on any Bond or any Mandatory Redemption Amount, when and as such interest installment or any Mandatory Redemption Amount shall become due and payable;

(3) failure by the University to perform or observe any other of the covenants, agreements, or conditions on its part in the Bond Resolution or in the Bonds contained, and such default shall continue for a period of thirty (30) days after written notice thereof to the University by the Trustee specifying such failure and requiring the same to be remedied, which period of thirty (30) days may not be extended by more than thirty (30) additional days without the prior written consent of all insurers of outstanding Bonds issued under the Resolution;

(4) a judgment for the payment of money shall be rendered against the University, and any such judgment shall not be discharged within one hundred twenty (120) days of the entry thereof, or an appeal shall not be taken therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, in such manner as to set aside or stay the execution of or levy under such judgment, or order, decree or process or the enforcement thereof;

(5) dissolution or liquidation of the University or the filing by the University of a voluntary petition in bankruptcy, or the commission by the University of any act of bankruptcy, or adjudication of the University as a bankrupt, or assignment by the University for the benefit of its creditors, or the entry by the University into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the University in any proceeding for its reorganization instituted under the provisions of the federal bankruptcy act, as amended, or under any similar act in any jurisdiction which may now be in effect or which may hereafter be enacted;

(6) if an order or decree shall be entered, with the consent or acquiescence of the University, appointing a receiver or receivers of the Project, or any part thereof, or if such order or decree, having been entered without the consent and acquiescence of the University, shall not be vacated or discharged or stayed within ninety (90) days after the entry thereof; and

(7) any event of default specified in a Supplemental Resolution;

then, and in each and every such case, so long as such Event of Default shall not have been remedied, unless the Outstanding amount of the Bonds shall have already become due and payable, the Trustee (by thirty (30) days' written notice to the University), or the Registered Owners of not less than twenty five percent (25%) of the Bonds then Outstanding (by notice in writing to the University and the Trustee) may declare the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately and upon any such declaration the same shall become and be immediately due and payable, anything in the Resolution or in the Bonds contained to the contrary notwithstanding.

Notwithstanding the foregoing, neither the Registered Owners of twenty-five percent (25%) of the Noninsured Bonds then Outstanding, nor the Owners of twenty-five percent (25%) of any series of Bonds then Outstanding, nor the Trustee, may declare any other series of Bonds immediately due and payable without the prior written consent of the relevant insurer of such series of Bonds.

Rights and Remedies of Registered Owners

A. No Registered Owner of any Bond shall have any right to institute any proceeding, judicial or otherwise, with respect to the Resolution, or for the appointment of a receiver or trustee, or for any other remedy thereunder, unless

(1) such Registered Owner has previously given written notice to the Trustee of a continuing Event of Default;

(2) the Registered Owners of not less than twenty-five percent (25%) in principal amount of the Bonds shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee;

(3) such Registered Owners have offered to the Trustee reasonable indemnity against the costs, expenses, and liabilities to be incurred in compliance with such request;

(4) the Trustee for sixty (60) days after its receipt of such notice, request, and offer of indemnity has failed to institute any such proceedings; and

(5) no direction inconsistent with such written request has been given to the Trustee during such sixty (60) day period by the Registered Owners of a majority in principal amount of the Bonds; it being understood and intended that no one or more Registered Owner of Bond shall have any right in any manner whatever by virtue of, or by availing of, any provision of the Resolution to affect, disturb, or prejudice the rights of any other Registered Owner of Bonds, or to obtain or to seek to obtain priority or preference over any other Registered Owner, or to enforce any right under the Resolution, except in the manner provided and for the equal and ratable benefit of all the Registered Owners of Bonds.

B. The Registered Owners of a majority in principal amount of the Outstanding Bonds shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, provided that:

(1) such direction shall not be in conflict with any rule of law or the Resolution,

(2) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Registered Owners not taking part in such direction, and

(3) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

**DEFEASANCE**

A. If the University shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of all Bonds the principal of or redemption price, if applicable, and interest due or to become due thereon, if applicable, at the times and in the manner stipulated therein and in the Resolution,

or such Bonds shall have been deemed to have been paid as provided in the Supplemental Resolution authorizing a Series of Bonds, then the pledge of any Pledged Revenues, and other moneys, securities and funds pledged under the Resolution and all covenants, agreements and other obligations of the University to the Registered Owners, shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the University to be prepared and filed with the University and, upon the request of the University, shall execute and deliver to the University all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the University all moneys or securities held by it pursuant to the Resolution which are not required for the payment of principal or redemption price, if applicable, on Bonds.

B. Bonds or interest installments the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Trustee (through deposit by the University of funds for such payment or redemption or otherwise) at the maturity shall be deemed to have been paid within the meaning and with the effect expressed in subsection (A) of this section. All Outstanding Bonds of any Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in subsection (A) of this section if (1) in case any of said Bonds are to be redeemed on any date prior to their maturity, the University shall have given to the Trustee in form satisfactory to it irrevocable instructions to mail to the Registered Owners of such Bonds, notice of redemption of such Bonds on said date, (2) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Investment Securities, as approved by insurers of any Outstanding Bonds, (including any Investment Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal or redemption price, as applicable, and interest due and to become due, if applicable, on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be, without adversely affecting the tax-exempt status of the interest on said Bonds taxable under the Code, and (3) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the University shall have given the Trustee in form satisfactory to it irrevocable instructions to mail, first class postage prepaid, a notice to the Registered Owners of such Bonds that the deposit required by (2) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal or redemption price, as applicable, and interest due and to become due if applicable on said Bonds.

The 2007 Supplemental Resolution amended the defeasance provisions of the Resolution described in paragraph (B)(2) above to permit investment of escrowed funds in certain noncallable governmental obligations without consent of insurers of any Outstanding Bonds to such investment.

## APPENDIX E

## DEPOSITORY TRUST COMPANY INFORMATION

*The following information concerning DTC and DTC's book-entry-only system has been extracted from a schedule prepared by DTC entitled "SAMPLE OFFERING DOCUMENT LANGUAGE DESCRIBING BOOK-ENTRY-ONLY ISSUANCE," a source that the Regents, the University and the Underwriter believe to be reliable, but the Regents, the University and the Underwriter take no responsibility for the accuracy thereof. The contents of the DTC website referenced below are not incorporated in this Official Statement by such reference.*

The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the Series 2010/2011 Bonds. The Series 2010/2011 Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered certificate will be issued for each of the Series 2010/2011 Bonds, as set forth on the cover page hereof, each in the aggregate principal amount of each maturity of the Series 2010/2011 Bonds and deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("**Direct Participants**") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("**DTCC**"). DTCC is the holding company for DTC, National Securities Clearing Corporation, and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("**Indirect Participants**"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of Series 2010/2011 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2010/2011 Bonds on DTC's records. The ownership interest of each actual purchaser of Series 2010/2011 Bonds ("**Beneficial Owner**") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in Series 2010/2011 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2010/2011 Bonds, except in the event that use of the book-entry system for a series of Series 2010/2011 Bonds is discontinued.

To facilitate subsequent transfers, all the Series 2010/2011 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of a series of Series 2010/2011 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of Series 2010/2011 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts Series 2010/2011 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

As long as the book-entry system is used for Series 2010/2011 Bonds, the Trustee and the Regents will give any notices required to be given to Owners of Series 2010/2011 Bonds only to DTC. Any failure of DTC to advise any Direct Participant, or of any Direct Participant to notify any Indirect Participant, or of any Direct Participant or Indirect Participant to notify any Beneficial Owner, of any such notice and its content or effect will not affect the validity of the action premised on such notice. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the Series 2010/2011 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2010/2011 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Resolution. For example, Beneficial Owners of Series 2010/2011 Bonds may wish to ascertain that the nominee holding the Series 2010/2011 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners, in the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them. Redemption notices shall be sent to DTC as long as it is securities depository for the Series 2010/2011 Bonds. If less than all of the Series 2010/2011 Bonds of a single maturity are being redeemed, DTC's practice is to determine by lot the amount of interest of each Direct Participant in such issue to be redeemed. Redemption notices shall be sent to DTC. If less than all of the Series 2010/2011 Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Series 2010/2011 Bonds unless authorized by a Direct Participant on accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Regents as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2010/2011 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium, if any, and interest payments on the Series 2010/2011 Bonds are to be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Regents or Paying Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or its nominee, the Paying Agent or the Regents, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal of, premium, if any, and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Regents or the Paying Agent; disbursement of such

payments to Direct Participants shall be the responsibility of DTC; and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2010/2011 Bonds at any time by giving reasonable notice to the Regents or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, certificates for the Series 2010/2011 Bonds are required to be printed and delivered.

The Regents may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, certificates for the Series 2010/2011 Bonds will be printed and delivered.

**APPENDIX F**

**OPINION OF CO-BOND COUNSEL FOR SERIES 2010 BONDS**

[To be inserted]

**APPENDIX G**

**FORM OF CO-BOND COUNSEL OPINION FOR SERIES 2011 BONDS**

[To be inserted]



**APPENDIX H**  
**INVESTOR FORWARD DELIVERY AGREEMENT**

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THE REGENTS OF THE UNIVERSITY OF IDAHO

Supplemental Resolution Authorizing the  
Issuance and Sale of

up to \$13,000,000  
General Revenue Refunding Bonds  
Series 2010A,

up to \$12,000,000  
General Revenue Bonds  
Series 2010B,

up to \$16,000,000  
Taxable General Revenue Bonds  
Series 2010C (Issuer Subsidy–Build America Bonds),

and

up to \$67,000,000  
Adjustable Rate General Revenue Refunding Bonds  
Series 2011

Adopted February 18, 2010

Table of Contents

	Page
ARTICLE I DEFINITIONS	
Section 1.1	Definitions.....108
Section 1.2	Authority for Supplemental Resolution; References to University .....113
ARTICLE II AUTHORIZATION, TERMS AND ISSUANCE OF SERIES 2010/2011 BONDS	
Section 2.1	Authorization of Series 2010/2011 Bonds, Principal Amount, Designation and Series; Confirmation of Pledged Revenues .....114
Section 2.2	Finding and Purpose .....114
Section 2.3	Issue Date.....115
Section 2.4	Series 2010/2011 Bonds .....115
Section 2.5	Sale of Series 2010/2011 Bonds. ....117
Section 2.6	Delivery of Series 2010/2011 Bonds .....118
Section 2.7	Form of Series 2010/2011 Bonds .....119
Section 2.8	Book-Entry Only System.....119
Section 2.9	Successor Securities Depository .....120
Section 2.10	Submittal to Attorney General .....120
Section 2.11	Consent to Amendments .....120
Section 2.12	Further Authority .....121
Section 2.13	Build America Bonds Election .....121
ARTICLE III CREATION OF ACCOUNTS; APPLICATION OF SERIES 2010/2011 BOND PROCEEDS	
Section 3.1	Pledge of Pledged Revenues .....122
Section 3.2	Creation of Funds and Accounts.....122
Section 3.3	Application of Proceeds of Series 2010/2011 Bonds .....122
Section 3.4	Investment of Moneys.....123
Section 3.5	Repayment to the Regents .....123
Section 3.6	Redemption of Refunded Bonds.....123
ARTICLE IV REDEMPTION OF SERIES 2010/2011 BONDS	
Section 4.1	Redemption of Series 2010/2011 Bonds.....124
Section 4.2	Mandatory Sinking Fund Redemption.....125
Section 4.3	Extraordinary Redemption of Series 2010B Bonds and Series 2010C Bonds.....125
Section 4.4	Selection of Series 2010/2011 Bonds for Redemption .....125
Section 4.5	Notice of Redemption .....126
Section 4.6	Partial Redemption of Series 2010/2011 Bonds .....127
Section 4.7	Effect of Redemption .....127
Section 4.8	Mandatory Tender for Purchase for Series 2011 Bonds.....127

Section 4.9 Delivery of Series 2011 Bonds .....128  
 Section 4.10 Series 2011 Bonds Deemed Purchased.....128  
 Section 4.11 Bond Purchase Fund .....129  
 Section 4.12 Deposit of Series 2011 Bonds.....129  
 Section 4.13 Remarketing of Series 2011 Bonds.....130  
 Section 4.14 Deposits into Remarketing Account .....130  
 Section 4.15 Disbursements from the Bond Purchase Fund.....131  
 Section 4.16 Inadequate Funds to Pay Purchase Price .....131

**ARTICLE V  
 THE REMARKETING AGENT**

Section 5.1 Appointment, Duties and Qualifications of Remarketing Agent.....133

**ARTICLE VI  
 AMENDMENTS TO RESOLUTION**

Section 6.1 Amendment to Article I .....134  
 Section 6.2 Amendment to Article VIII.....134  
 Section 6.3 Amended and Restated Resolution .....136

**ARTICLE VII  
 MISCELLANEOUS**

Section 7.1 Governing Law .....137  
 Section 7.2 Partial Invalidity.....137  
 Section 7.3 Beneficiaries .....137  
 Section 7.4 Savings Clause .....137  
 Section 7.5 Conflicting Resolutions .....137

EXHIBIT A FORM OF SERIES [2010 [A][B][C]] [2011] BOND..... A-139  
EXHIBIT B PARAMETERS .....B-148  
EXHIBIT C TERMS CERTIFICATE.....C-150

**SUPPLEMENTAL RESOLUTION**

A SUPPLEMENTAL RESOLUTION of the Regents of the University of Idaho authorizing the issuance and sale of (i) General Revenue Refunding Bonds, Series 2010A, in the principal amount of up to \$13,000,000 (the “Series 2010A Bonds”); (ii) General Revenue Bonds, Series 2010B, in the principal amount of up to \$12,000,000 (the “Series 2010B Bonds”); (iii) Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy–Build America Bonds), in the principal amount of up to \$16,000,000 (the “Series 2010C Bonds”); and (iv) Adjustable Rate General Revenue Refunding Bonds, Series 2011, in the principal amount of up to \$67,000,000 (the “Series 2011 Bonds” and collectively with the Series 2010A Bonds, the Series 2010B Bonds, and the Series 2010C Bonds, the “Series 2010/2011 Bonds”), authorizing the execution and delivery of Bond Purchase Agreements related to the Series 2010/2011 Bonds, and providing for other matters relating to the authorization, issuance, sale and payment of the Series 2010/2011 Bonds.

WHEREAS, the University of Idaho (the “University”) is a state institution of higher education and body politic and corporate organized and existing under and pursuant to the Constitution and laws of the State of Idaho; and

WHEREAS, the Regents of the University of Idaho (the “Regents”) are authorized, pursuant to the Educational Institutions Act of 1935, the same being Chapter 38, Title 33, Idaho Code (the “Act”), and the Constitution of the State of Idaho, to issue bonds for “projects” as defined in said Act; and

WHEREAS, the Regents are authorized pursuant to said Act and pursuant to Title 57, Chapter 5, Idaho Code, to issue refunding bonds and bonds for “projects” as defined in said Act; and

WHEREAS, on November 22, 1991, the Regents adopted a Resolution, which has been subsequently amended and supplemented (as so amended and supplemented, the “Resolution” or “Bond Resolution”) relating to the issuance and sale of \$6,000,000 Facility Revenue Bonds, Series 1992A (the “Series 1992A Bonds”), and providing among other things for the issuance of additional bonds for future projects or refunding purposes (the “Additional Bonds”), with payment of the Series 1992A Bonds and any Additional Bonds secured by Pledged Revenues (as defined in the Resolution); and

WHEREAS, the University is authorized under the provisions of Article VII of the Resolution to issue series of Additional Bonds upon compliance with the requirements of Section 7.2 of the Resolution; and

WHEREAS, on March 15, 1996, the Regents adopted a resolution providing for the issuance and sale of \$9,285,000 in aggregate principal amount of Student Fee Refunding Revenue Bonds, Series 1996 (the “Series 1996 Bonds”); and

WHEREAS, on January 21, 1997, the Regents adopted a resolution supplementing the Resolution and providing for the issuance and sale of \$1,550,000 in aggregate principal amount of Student Fee Refunding Revenue Bonds, Series 1997A

(Taxable) (the “Series 1997A Bonds”) and \$12,380,000 in aggregate principal amount of Student Fee Refunding Revenue Bonds, Series 1997B (Tax-Exempt) (the “Series 1997B Bonds”) and together with the Series 1997A Bonds, the “Series 1997 Bonds”) as Additional Bonds thereunder; and

WHEREAS, on January 24, 2005, the Regents adopted a resolution (the “2005A Supplemental Resolution”) supplementing the Resolution and providing for the issuance and sale of \$30,740,000 in aggregate principal amount of General Revenue Refunding Bonds, Series 2005A (the “Series 2005A Bonds”) as Additional Bonds thereunder; and

WHEREAS, on October 11, 2007, the Regents adopted a resolution supplementing the Resolution and providing for the issuance and sale of \$62,445,000 in aggregate principal amount of University of Idaho Adjustable Rate General Revenue Refunding Bonds, Series 2007A (the “Series 2007A Bonds”) and \$35,035,000 in aggregate principal amount of Adjustable Rate General Revenue Bonds, Series 2007B; and

WHEREAS, in conjunction with the authorization of the issuance of the Series 2005A Bonds, the Regents created a single revenue bond system (the “General Revenue Bond System”) under the Resolution under which the Series 2005A Bonds were issued and Additional Bonds of the University (including the Series 2010/2011 Bonds) may be issued and to enhance the security and source of payment of the Series 2005A Bonds and such Additional Bonds; and

WHEREAS, the Regents have determined that certain of the Series 1996 Bonds and Series 1997B Bonds as more fully described herein (collectively, the “Refunded Bonds”) can be refunded in accordance with the Act, and to achieve savings and other objectives that the Regents find to be beneficial to the University in accordance with Title 57, chapter 5, Idaho Code; and

WHEREAS, the Regents have determined that the financing and refinancing of certain improvements to the University’s Kibbie Dome (collectively, the “Series 2010 Project”) can be financed as a “project” in accordance with the Act; and

WHEREAS, the Regents have determined that by means of a forward purchase arrangement the Series 2007A Bonds can be refunded in accordance with the Act, and to achieve savings and other objectives that the Regents find to be beneficial to the University in accordance with Title 57, chapter 5, Idaho Code; and

WHEREAS, in order to refund the Refunded Bonds, finance the Series 2010 Project and refund the Series 2007A Bonds, the Regents desire to issue the Series 2010/2011 Bonds; and

WHEREAS, the Regents propose to issue the Series 2010/2011 Bonds provided that the initial owners of the Series 2010/2011 Bonds shall be deemed to give their consent to the adoption of the 2010 Amendments (as defined herein) upon the purchase of the Series 2010/2011 Bonds; and

NOW, THEREFORE, BE IT RESOLVED BY THE REGENTS OF THE UNIVERSITY OF IDAHO AS FOLLOWS:

**ARTICLE I**

**DEFINITIONS**

Section 1.1 Definitions.

(a) Except as provided in subparagraph (b) of this Section, all defined terms contained in this Supplemental Resolution shall have the same meanings as set forth in the Resolution.

(b) As used in this Supplemental Resolution, unless the context shall otherwise require, the following terms shall have the following meanings:

“2010 Amendments” means the amendments to the Resolution as described in Article VI of this Supplemental Resolution.

“Approving Opinion” means an Opinion of Counsel to the effect that an action being taken is authorized by the applicable provisions of the Resolution and will not adversely affect (i) the tax-exempt status of interest on the Series 2010A Bonds, the Series 2010B Bonds, or the Series 2011 Bonds, or (ii) the status of the Series 2010C Bonds as Build America Bonds.

“Authorized Denomination” means \$5,000 or any integral multiple thereof.

“Bond Purchase Agreement” means the Bond Purchase Agreement between the Regents and the Underwriter pursuant to which the Series 2010A Bonds, the Series 2010B Bonds, and the Series 2010C Bonds are to be sold. (The Series 2011 Bonds are to be sold pursuant to the Series 2011 Bond Purchase Agreement.).

“Bond Purchase Fund” means the fund by that name created by Section 4.12 of this Supplemental Resolution.

“Business Day” means, with respect to the Series 2011 Bonds, a day, other than Saturday or Sunday on which banks located in the State of Idaho or in the city where the principal corporate trust office of the Trustee is located are open for the purpose of conducting commercial banking business.

“Continuing Disclosure Agreement” means, collectively, the Continuing Disclosure Agreements between the Regents and the Trustee, as Dissemination Agent, with respect to (i) the Series 2010A, 2010B, and 2010C Bonds, and (ii) the Series 2010/2011 Bonds.



“Conversion” or “Convert” means the adjustment of the rate borne by the Series 2011 Bonds from one Term Interest Rate Period to a Term Interest Rate for another Term Interest Rate Period.

“Conversion Date” means the date on which the Term Interest Rate Period for the Series 2011 Bonds is changed, or the date of a change of the Term Interest Rate Period for the Series 2011 Bonds specified in a notice given pursuant to Section 2.4.

“Electronic Notice” means notice through telecopy, telegraph, telex, facsimile transmission, internet, e-mail or other electronic means of communication.

“Fitch” means Fitch Ratings, its successors and their assigns, and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Regents, with notice to the Trustee.

“Information Services” means Financial Information, Inc.’s “Daily Called Bond Service,” 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Kenny Information Services “Called Bond Service,” 65 Broadway, 16th Floor, New York, New York 10006; Moody’s “Municipal and Government,” 99 Church Street, 8th Floor, New York, New York 10007, Attention: Municipal News Reports; and S&P’s “Called Bond Record,” 55 Water Street, 45th Floor, New York, New York 10041; or to such other addresses and/or such other services providing information with respect to called bonds as the Regents may designate in writing to the Trustee.

“Initial Term Interest Rate Period” means with respect to the Series 2011 Bonds, the initial Term Interest Rate Period from the Issue Date to April 1, 2021 or earlier as permitted by the terms herein and described in the Terms Certificate.

“Issue Date” means, with respect to any Series 2010 Bonds, the date on which such Series 2010 Bonds are first delivered to the purchasers thereof.

“Mandatory Tender Bonds” is defined in Section 4.14 of this Supplemental Resolution.

“Maximum Interest Rate” means 12% per annum.

“Moody’s” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Fitch) designated by the Regents, with notice to the Trustee.

“Nominee” means Cede & Co., as nominee of DTC, the initial Securities Depository for the Series 2010/2011 Bonds, and any successor nominee of DTC and, if another Securities Depository replaces DTC as Securities Depository hereunder, any nominee of such substitute Securities Depository.

“Notice by Mail” or “notice” of any action or condition “by Mail” shall mean a written notice meeting the requirements of this Supplemental Resolution mailed by first class mail, postage prepaid.

“Opinion of Counsel” means a written opinion of counsel satisfactory to the Regents and not objected to by the Trustee with respect to the Series 2010/2011 Bonds.

“Parameters” means the maximum terms established hereby for the Series 2010/2011 Bonds, within which the terms of the Series 2010/2011 Bonds may be established in the Terms Certificate, such Parameters being set in Exhibit B attached hereto.

“Payment Date” means each April 1 and October 1, commencing (i) April 1, 2010 for the Series 2010A Bonds, Series 2010B Bonds, and Series 2010C Bonds and (ii) April 1, 2011 for the Series 2011 Bonds.

“Preliminary Official Statement” means the Preliminary Official Statement of the Regents with respect to the Series 2010/2011 Bonds.

“Principal Office” of the Trustee means the principal corporate trust office of the Trustee designated in writing to the University or such other office designated by the Trustee from time to time.

“Project Proceeds” means the portion of the proceeds due the University from the Underwriter to purchase the Series 2010B Bonds and the Series 2010C Bonds pursuant to Section 3.3(b) of this Supplemental Resolution for purposes of financing and refinancing the Series 2010 Project.

“Purchase Date” means any date on which any Series 2011 Bond is required to be purchased pursuant to Section 4.8.

“Purchase Price” means an amount equal to 100% of the principal amount of any Series 2011 Bond (or the portion thereof) tendered or deemed tendered to the Trustee for purchase pursuant to Section 4.8, plus accrued and unpaid interest thereon to but not including the date of purchase.

“Rating Agency” means Fitch, S&P, Moody’s or any other nationally recognized rating agency, in each case then providing or maintaining a rating on the Series 2010/2011 Bonds at the request of the Regents.

“Refunded Bonds” means that portion of the Series 1996 Bonds and Series 1997B Bonds as specified in the Terms Certificate.

“Refunding Proceeds” shall mean the portion of the proceeds due the Regents from the Underwriter to purchase the Series 2010A Bonds pursuant to Section 3.3(a) of this Supplemental Resolution for purposes of refunding the Refunded Bonds.

“Remarketing Account” means the subaccount by that name created within the Bond Purchase Fund by Section 4.12 of this Resolution.

“Remarketing Agent” means the initial Remarketing Agent for the Series 2011 Bonds designated in Section 5.1 and any successor thereto appointed pursuant to Section 5.1.

“Remarketing Agreement” means any agreement or agreements meeting the requirements of Section 5.1.

“Resolution” shall mean the Resolution adopted by the Regents on November 22, 1991, as previously amended and supplemented, including the Amendments as defined in the Supplemental Resolution dated January 24, 2005 and the Supplemental Resolution dated October 11, 2007 and as amended and supplemented by this Supplemental Resolution, including the 2010 Amendments.

“S&P” means Standard & Poor’s Ratings Services, its successors and their assigns, and, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency (other than Fitch or Moody’s) designated by the Regents, with notice to the Trustee.

“Series 2010/2011 Bondholder,” “Holder” and “Bondholder” means the holder of any Series 2010/2011 Bond.

“Series 2010/2011 Bonds” means collectively, the Series 2010A Bonds, the Series 2010B Bonds, the Series 2010C Bonds, and the Series 2011 Bonds.

“Series 2010/2011 Costs of Issuance” shall mean the Costs of Issuance incurred in connection with the issuance, sale and delivery of the Series 2010/2011 Bonds.

“Series 2010/2011 Costs of Issuance Fund” shall mean the fund established pursuant to Section 3.2(b) hereof into which shall be deposited the portion of the proceeds of the Series 2010/2011 Bonds necessary to pay the Series 2010/2011 Costs of Issuance, as further provided in Article III hereof.

“Series 2010 Project” means the financing and refinancing of certain improvements to the University’s Kibbie Dome and related improvements.

“Series 2010B Project Account” means the account established under Section 3.2(a) hereof into which shall be deposited the Project Proceeds related to the Series 2010B Bonds.

“Series 2010C Project Account” means the Account established under Section 3.2(a) hereof into which shall be deposited the Project Proceeds related to the Series 2010C Bonds.

“Series 2011 Refunding Proceeds” shall mean the portion of the proceeds due the Regents from the Underwriter to purchase the Series 2011 Bonds pursuant to Section 3.3(c) of this Supplemental Resolution for purposes of refunding certain of the Series 2007A Bonds as specified in the Terms Certificate.

“Series 2010A Bonds” means the General Revenue Refunding Bonds, Series 2010A, of the Regents authorized by this Supplemental Resolution.

“Series 2010B Bonds” means the General Revenue Bonds, Series 2010B, of the Regents authorized by this Supplemental Resolution.

“Series 2010C Bonds” means the Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy–Build America Bonds), of the Regents authorized by this Supplemental Resolution.

“Series 2011 Bond Purchase Agreement” means the Forward Delivery Bond Purchase Agreement between the Regents and the Underwriter pursuant to which the Series 2011 Bonds are to be sold on a forward delivery basis.

“Series 2011 Bonds” means the Adjustable Rate General Revenue Refunding Bonds, Series 2011, or such name as the Regents may designate upon issuance of the Series 2011 Bonds, of the Regents authorized by this Supplemental Resolution.

“Supplemental Resolution” means this Supplemental Resolution adopted by the Regents on February 18, 2010, authorizing the Series 2010/2011 Bonds.

“Term Interest Rate” means a non-variable interest rate or rates for the Series 2011 Bonds established for a Term Interest Rate Period in accordance with Section 2.4.

“Term Interest Rate Period” means each period determined by the University pursuant to Section 2.4 during which the Series 2011 Bonds bear interest at a Term Interest Rate; provided that each such period shall be for a term of approximately one month, approximately three months, approximately six months, approximately nine months, approximately one year or any multiple of approximately six months above one year in each case ending on a day preceding a Business Day; provided, however, that notwithstanding the foregoing any Term Interest Rate Period which ends on the day immediately preceding the maturity date of such Series 2011 Bonds may include a period of time from the Payment Date immediately preceding the maturity date of such Series 2011 Bonds to the day immediately preceding the maturity date of such Series 2011 Bonds even if the time remaining to such day is not one of the periods specified above; and provided, further, that notwithstanding the foregoing any Term Interest Rate Period may end on the day immediately preceding the maturity date of such Series 2011 Bonds whether or not such maturity date is a Business Day.

“Terms Certificate” means one or more certificates of the Regents signed by the Bursar, or authorized designee, in substantially the form of Exhibit C attached hereto, specifying certain terms of the Series 2010/2011 Bonds.

“Underwriter” means George K. Baum & Company, or its successor in function, as the original purchaser of the Series 2010/2011 Bonds.

Section 1.2 Authority for Supplemental Resolution; References to University.  
This Supplemental Resolution is adopted pursuant to the provisions of the Act and the Resolution. References herein to the “University” shall be deemed to refer to the Regents or other appropriate authority thereof pursuant to the Act and other applicable laws.

## ARTICLE II

## AUTHORIZATION, TERMS AND ISSUANCE OF SERIES 2010/2011 BONDS

Section 2.1 Authorization of Series 2010/2011 Bonds, Principal Amount, Designation and Series; Confirmation of Pledged Revenues. The Series 2010/2011 Bonds are hereby authorized for issuance, to be sold at a price not less than par subject to the Parameters, in order to provide sufficient funds for (i) the refunding of the Refunded Bonds, (ii) the financing of the Series 2010 Project, (iii) refunding of the Series 2007A Bonds, and (iv) paying costs of issuance, and in accordance with and subject to the terms, conditions and limitations established in the Resolution, as previously amended and as amended by this Supplemental Resolution. The Series 2010/2011 Bonds shall be issued only in fully registered form, without coupons. The Series 2010/2011 Bonds are secured by the pledge of the Pledged Revenues under Section 5.1 of the Resolution equally and ratably with all Outstanding Bonds issued under the Resolution.

Section 2.2 Finding and Purpose. The Regents hereby find, determine and declare:

(a) pursuant to Section 33-3804(i) and Section 57-504, Idaho Code, the Refunded Bonds and the Series 2007A Bonds can be refunded with a debt service savings and to the benefit and advantage of the University;

(b) pursuant to Section 33-3805, Idaho Code, the Series 2010 Project is desirable and necessary for the proper operation of the University and is economically feasible;

(c) pursuant to Section 33-3805A, Idaho Code, the Series 2010 Project will not require state general account appropriated funds for construction, operation or maintenance;

(d) pursuant to Section 33-3806, Idaho Code, fees, rentals and other charges from those that are served by the Series 2010 Project shall be the same as those applicable to any existing project similar in nature and purpose, provided that there may be allowed reasonable differentials based on the condition, type, location and relative convenience of such other project, but the differentials shall be uniform as to all those similarly accommodated;

(e) pursuant to Section 33-3809, Idaho Code, this Supplemental Resolution does not contract a debt on behalf of, or in any way obligate the State of Idaho, or pledge, assign or encumber in any way, or permit the pledging, assigning or encumbering in any way of, appropriations made by the Legislature, or revenue derived from the investment of the proceeds of the sale, and from the rental of such lands as have been set aside by the Idaho Admission Bill approved July 3, 1890, or other legislative enactments of the United States, for the use and benefit of the respective state educational institutions;

(f) pursuant to Section 33-3810, Idaho Code, the Series 2010/2011 Bonds shall be exclusively obligations of the University, payable only in accordance with the terms thereof and shall not be obligations general, special or otherwise of the State of Idaho; and

(g) the applicable requirements of Article VII of the Resolution relating to issuance of Additional Bonds will have been complied with upon the delivery of the Series 2010/2011 Bonds.

Section 2.3 Issue Date. The respective Series 2010/2011 Bonds shall be dated the date of original delivery of each such series.

Section 2.4 Series 2010/2011 Bonds.

(a) The Series 2010A Bonds shall be limited to the respective aggregate principal amount specified in the Terms Certificate, but within the Parameters, and shall be designated “General Revenue Refunding Bonds, Series 2010A.” The Series 2010B Bonds shall be limited to the respective aggregate principal amount specified in the Terms Certificate, but within the Parameters, and shall be designated “General Revenue Bonds, Series 2010B.” The Series 2010C Bonds shall be limited to the respective aggregate principal amount specified in the Terms Certificate, but within the Parameters, and shall be designated “Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy–Build America Bonds).” The Series 2011 Bonds shall be limited to the respective aggregate principal amount specified in the Terms Certificate, but within the Parameters, and shall be designated “Adjustable Rate General Revenue Refunding Bonds, Series 2011,” or such other designation as the Regents may determine upon the issuance of said Bonds. The Series 2010/2011 Bonds may have serial or other maturities prior to their mandatory tender dates, if any, may be initially sold at a premium, may have separate bonds with different interest rates but the same maturity, and to the extent that any Series 2010/2011 Bonds have a maturity date or Term Interest Rate Period prior to their mandatory tender dates, if any, such bonds may be assigned a different interest rate, all within the Parameters and as specified in the Terms Certificate.

The Series 2010/2011 Bonds shall bear interest at the rates and mature on the dates and in the principal amounts in each year as specified in the Terms Certificate. The Series 2010/2011 Bonds shall bear interest from the respective dates of original delivery, payable on the dates as specified in the Terms Certificate. Interest on the Series 2010/2011 Bonds shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months.

(b) Term Interest Rate for the Series 2011 Bonds.

(i) Determination of Term Interest Rate. During each Term Interest Rate Period, the Series 2011 Bonds shall bear interest at the applicable Term Interest Rate, which shall be determined by the

Remarketing Agent not later than 4:00 p.m. (New York City time) on the Business Day preceding the first day of such Term Interest Rate Period. The Term Interest Rate shall be the rate determined by the Remarketing Agent (in part, on the basis of examination of obligations comparable to such Series 2011 Bonds known to the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Series 2011 Bonds, would enable the Remarketing Agent to sell such Series 2011 Bonds on such Business Day at a price equal to the principal amount thereof (except that the Series 2011 Bonds may be initially sold at a premium for the Initial Term Interest Rate Period). Upon determination of each Term Interest Rate, the Remarketing Agent shall provide written notice of such Term Interest Rate to the Trustee.

(ii) Conversion to New Term Interest Rate Period. The University by written direction to the Trustee and the Remarketing Agent, delivered at least thirty-five (35) days prior to the proposed Conversion Date to a new Term Interest Rate Period, accompanied by an Approving Opinion, may elect to Convert the Series 2011 Bonds from one Term Interest Rate Period to another Term Interest Rate Period, and shall determine the duration of any such new Term Interest Rate Period which shall be one of the periods specified in the definition “Term Interest Rate Period.” Such direction (A) shall specify the Conversion Date to such new Term Interest Rate Period which shall be (1) the Payment Date next succeeding the last day of the then-current Term Interest Rate Period which is not less than thirty-five (35) days following the date of receipt by the Trustee of such direction, or (2) any date on which such Series 2011 Bonds may be optionally redeemed at par pursuant to Section 4.1 hereof not less than thirty-five (35) days following the date of receipt by the Trustee of such direction; and (B) shall specify the last day thereof.

(iii) Notice of Conversion to Term Interest Rate Period. The Trustee shall give notice by first class mail of each Conversion to a Term Interest Rate Period to the Bondholders not less than thirty (30) days prior to the Conversion Date for such Term Interest Rate Period. Such notice shall state (A) that the interest rate on such Series 2011 Bonds will continue to be a Term Interest Rate Period, (B) the Conversion Date for, and final date of, such Term Interest Rate Period, (C) the day by which the Term Interest Rate for such Term Interest Rate Period shall be determined, (D) the manner by which such Term Interest Rate may be obtained, (E) the Payment Date or Dates with respect to such Term Interest Rate Period, (F) such Series 2011 Bonds shall be purchased on such effective date pursuant to Section 4.9, (G) the procedures for the purchase provided for in clause (F) above, (H) the redemption provisions that will pertain to such Series 2011 Bonds during such Term Interest Rate Period and (I) the ratings which are expected to be assigned to such Series 2011 Bonds upon such Conversion to the Term Interest Rate Period.



(c) The determination of the interest rate on the Series 2011 Bonds by the Remarketing Agent (or the Trustee in the absence of the Remarketing Agent) shall be conclusive and binding upon the Bondholders, the Regents and the Trustee.

**Section 2.5 Sale of Series 2010/2011 Bonds.**

(a) The Series 2010A Bonds authorized to be issued herein are hereby authorized for sale to the Underwriter in a principal amount (plus any original issue discount or premium) in compliance with the Parameters and as specified in the Terms Certificate. The Series 2010A Bonds may be sold with an Underwriter's discount or fee (but without a net reoffering discount) not exceeding the Parameters and as specified in the Terms Certificate, on the terms and conditions set forth in the Bond Purchase Agreement.

(b) The Series 2010B Bonds authorized to be issued herein are hereby authorized for sale to the Underwriter in a principal amount (plus any original issue discount or premium) in compliance with the Parameters and as specified in the Terms Certificate. The Series 2010B Bonds may be sold with an Underwriter's discount or fee (but without a net reoffering discount) not exceeding the Parameters and as specified in the Terms Certificate, on the terms and conditions set forth in the Bond Purchase Agreement.

(c) The Series 2010C Bonds authorized to be issued herein are hereby authorized for sale to the Underwriter in a principal amount not exceeding the Parameters and as specified in the Terms Certificate. The Series 2010C Bonds may be sold with an Underwriter's discount or fee (but without a net reoffering discount) not exceeding the Parameters and as specified in the Terms Certificate, on the terms and conditions set forth in the Bond Purchase Agreement.

(d) To evidence the acceptance of the Bond Purchase Agreement, the Bursar is hereby authorized to execute and deliver the Bond Purchase Agreement in substantially the form presented at this meeting and with such final rates and terms for the Series 2010A Bonds, Series 2010B Bonds and Series 2010C Bonds as are within the Parameters.

(e) The Series 2011 Bonds authorized to be issued herein are hereby authorized for sale to the Underwriter in a principal amount (plus any original issue premium) not exceeding the Parameters and as specified in the Terms Certificate. The Series 2011 Bonds may be sold with an Underwriter's discount or fee (but without a net reoffering discount) not exceeding the Parameters and as specified in the Terms Certificate, on the terms and conditions set forth in the Series 2011 Bond Purchase Agreement. To evidence the acceptance of the Series 2011 Bond Purchase Agreement, the Bursar is hereby authorized to execute and deliver, the Series 2011 Bond Purchase Agreement in substantially

the form presented at this meeting and with such final rate and terms for the Series 2011 Bonds as are within the Parameters.

(f) The Preliminary Official Statement of the Regents prepared in connection with the offering of the Series 2010/2011 Bonds, in substantially the form presented at this meeting, with such changes, omissions, insertions and revisions as the Bursar shall approve, is hereby authorized for use by the Underwriter for distribution to prospective purchasers of the Series 2010/2011 Bonds and other interested persons. The Bursar or authorized designee is hereby authorized to sign a certificate to “deem final” the Preliminary Official Statement pursuant to SEC Rule 15c2-12 in connection with the offering of the Series 2010/2011 Bonds.

In order to comply with subsection (b)(5) of SEC Rule 15c2-12, the Underwriter shall provide in the Bond Purchase Agreement and the Series 2011 Bond Purchase Agreement that it is a condition to delivery of the Series 2010/2011 Bonds that the Regents and the Trustee shall have executed and delivered the related Continuing Disclosure Agreement. The Continuing Disclosure Agreement is proposed to be entered into between the Trustee and Regents and is hereby approved in all respects in substantially the form presented to the Regents with such changes, omissions, insertions and revisions as the Bursar shall approve, and the Bursar or authorized designee is hereby authorized to execute and deliver the Continuing Disclosure Agreement with respect to both the Series 2010A, 2010B, and 2010C Bonds and the Series 2011 Bonds.

The Bursar of the University and the President, Vice President, Vice President for Finance and Administration, and Secretary of the Regents, and any authorized designee of the same, are, and each of them is, hereby authorized to do or perform all such acts as may be necessary or advisable to comply with this Supplemental Resolution and/or the Bond Purchase Agreement and the Series 2011 Bond Purchase Agreement and to carry the same into effect.

The final Official Statement of the Regents for the sale of the Series 2010/2011 Bonds, in substantially the form of the Preliminary Official Statement presented at this meeting, with such changes, omissions, insertions and revisions as the Bursar shall approve, is hereby authorized, and the Bursar shall sign such final Official Statement and deliver such final Official Statement to the Underwriter for distribution to prospective purchasers of the Series 2010/2011 Bonds and other interested persons, which signature shall evidence such approval.

Section 2.6 Delivery of Series 2010/2011 Bonds. The Series 2010/2011 Bonds shall be delivered to the Underwriter upon compliance with the provisions of the Resolution, at such times and places as provided in, and subject to, the provisions of the Bond Purchase Agreement and the Series 2011 Bond Purchase Agreement.

Section 2.7 Form of Series 2010/2011 Bonds. The form of the Series 2010/2011 Bonds is attached to this Supplemental Resolution as Exhibit A and is incorporated herein by this reference.

Section 2.8 Book-Entry Only System.

(a) The Series 2010/2011 Bonds shall initially be registered on the Bond Register in the name of Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Series 2010/2011 Bonds, except in the event the Trustee issues Replacement Bonds as provided below. It is anticipated that during the term of the Series 2010/2011 Bonds, the Securities Depository will make book-entry transfers among the DTC Participants and receive and transmit payments of principal of and interest on the Series 2010/2011 Bonds until and unless the Trustee authenticates and delivers Replacement Bonds to the Beneficial Owners as described below. So long as any of the Series 2010/2011 Bonds are registered in the name of Cede & Co, as nominee of the DTC, all payments with respect to principal of, premium, if any, and interest on the Series 2010/2011 Bonds and all notices with respect to the Series 2010/2011 Bonds shall be made and given in the manner provided in the Representations Letter.

(b) If the Securities Depository determines to discontinue providing its services with respect to the Series 2010/2011 Bonds and the University cannot obtain a qualified successor Securities Depository, or if the University determines not to use the Book-Entry System of the Securities Depository, the University shall execute and the Trustee shall authenticate and deliver one or more Series 2010/2011 Bond certificates (the “Replacement Bonds”) to the DTC Participants in principal amounts and maturities corresponding to the identifiable Beneficial Owners’ interests in the Series 2010/2011 Bonds, with such adjustments as the Trustee may find necessary or appropriate as to accrued interest and previous calls for redemption, if any. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Series 2010/2011 Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Trustee, to the extent applicable with respect to such Replacement Bonds.

(c) With respect to Series 2010/2011 Bonds registered in the name of Cede & Co. as nominee for the Securities Depository, neither the University nor the Trustee shall have any responsibility to any Beneficial Owner with respect to:

- (i) the sending of transaction statements, or maintenance, supervision, or review of records of the Securities Depository;

(ii) the accuracy of the records of the Securities Depository or Cede & Co. with respect to any ownership interest in the Series 2010/2011 Bonds;

(iii) the payment to any Beneficial Owner, or any person other than the Securities Depository, of any amount with respect to principal of, interest on, or redemption premium, if any, on the Series 2010/2011 Bonds; or

(iv) any consent given or other action taken by the Securities Depository or Cede & Co. as owner of the Series 2010/2011 Bonds.

(d) The University has executed and delivered to DTC the Representations Letter with respect to Bonds issued under the Resolution. Such Representations Letter is for the purpose of effectuating the initial Book-Entry System for the Series 2010/2011 Bonds through DTC as Securities Depository and shall not be deemed to amend, supersede or supplement the terms of this Bond Resolution which are intended to be complete without reference to the Representations Letter. In the event of any conflict between the terms of the Representations Letter and the terms of this Supplemental Resolution, the terms of this Supplemental Resolution shall control. The Securities Depository may exercise the rights of a Registered Owner hereunder only in accordance with the terms hereof applicable to the exercise of such rights.

Section 2.9 Successor Securities Depository. In the event the Securities Depository resigns, is unable to properly discharge its responsibilities or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable state or federal statute or regulation, the Trustee, with the written consent of the University, may appoint a successor Securities Depository, provided the Trustee receives written evidence satisfactory to the Trustee with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable state or federal statute or regulation. Upon the appointment of a successor Securities Depository, the Trustee shall cause the authentication and delivery of Series 2010/2011 Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

Section 2.10 Submittal to Attorney General. There shall promptly be submitted to the Attorney General of the State of Idaho by the Secretary of the Regents a certified copy of this Supplemental Resolution, together with the proceedings had in its adoption, in order that the Attorney General may examine into and pass upon the validity of the Series 2010/2011 Bonds and the regularity of such proceedings, in the manner and with the effect specified in chapter 38 of Title 33, Idaho Code, as amended.

Section 2.11 Consent to Amendments. As the initial purchaser and initial Holder of the Series 2010/2011 Bonds, the Underwriter shall be deemed to have

consented to all Amendments to date of the Resolution, including, without limitation, the 2010 Amendments pursuant to this Supplemental Resolution.

Section 2.12 Further Authority. The Bursar or any authorized designee thereof and such other officers of the Regents or University as may be required, are hereby authorized and directed to execute all such certificates, documents and other instruments as may be necessary or advisable to provide for the issuance, sale, registration and delivery of the Series 2010/2011 Bonds, including, without limitation, the Official Statement, the Remarketing Agreement and the Terms Certificate.

Section 2.13 Build America Bonds Election. The Regents and the University may irrevocably elect in the Terms Certificate to (A) issue the Series 2010C Bonds as Build America Bonds and (B) receive Direct Payments with respect to the Series 2010C Bonds.

ARTICLE III

CREATION OF ACCOUNTS; APPLICATION OF SERIES 2010/2011 BOND

PROCEEDS

Section 3.1 Pledge of Pledged Revenues. Subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth herein, all of the Pledged Revenues are hereby irrevocably pledged as described in Section 5.3 of the Resolution first, to the payment of the principal of, premium, if any, and interest on all Bonds Outstanding under the Resolution (including the Series 2010/2011 Bonds), second, to the replenishment of any Debt Service Reserve Account as may be required by Section 5.5 of the Resolution, and thereafter for the purposes specified in Section 5.3D of the Resolution.

Section 3.2 Creation of Funds and Accounts. In connection with the issuance of the Series 2010/2011 Bonds, the University hereby establishes the following funds and accounts:

- (a) Within the Construction Fund, the Series 2010B Project Account (related to the Series 2010B Bonds) and Series 2010C Project Account (related to the Series 2010C Bonds) to be held by the University; and
- (b) the Series 2010/2011 Costs of Issuance Fund, to be held by the University.

Section 3.3 Application of Proceeds of Series 2010/2011 Bonds. Proceeds of the sale of the Series 2010/2011 Bonds shall be applied as follows:

- (a) The Refunding Proceeds, in the amount specified in the Terms Certificate, shall be transferred to an escrow account for the refunding of the Refunded Bonds on the Issue Date of the Series 2010A Bonds. The Terms Certificate may provide further direction and authorization for the delivery of an escrow agreement or similar escrow directions for the redemption and defeasance of the Refunded Bonds. The Trustee is hereby authorized to give conditional notices of redemption related to the Series 1996 Bonds and the Series 1997B Bonds making up the Refunded Bonds in accordance with the terms of governing resolutions and related agreements of such bonds;
- (b) The Project Proceeds, in the amount specified in the Terms Certificate, shall be deposited to the Series 2010B Project Account and Series 2010C Project Account as applicable, held by the University. Upon completion of the Series 2010 Project and payment of all costs related thereto, any remaining proceeds in the Series 2010B Project Account and Series 2010C Project Account shall be transferred by the University to the Trustee for deposit

in the Debt Service Account in the Bond Fund for payment of the Series 2010B Bonds and the Series 2010C Bonds, respectively;

(c) The Series 2011 Refunding Proceeds, in the amount specified in the Terms Certificate, shall be transferred to an escrow account sufficient, without consideration for any investment earnings thereon, for the refunding of the Series 2007A Bonds within 90 days of the Issue Date of the Series 2011 Bonds. The Terms Certificate may provide further direction and authorization for the delivery of an escrow agreement or similar escrow directions for the redemption and defeasance of that portion of the Series 2007A Bonds described in the Terms Certificate. The Trustee is hereby authorized to give conditional notice of redemption for the refunded Series 2007A Bonds in accordance with the Resolution and related agreements of the Series 2007A Bonds; and

(d) The amount necessary to pay the Series 2010/2011 Costs of Issuance, in the amount specified in the Terms Certificate, shall be deposited to the Series 2010/2011 Costs of Issuance Fund held by the University. Any balance remaining in the Series 2010/2011 Costs of Issuance Fund, after payment of the Series 2010/2011 Costs of Issuance, shall be deposited to the Series 2010 Project Account.

Section 3.4 Investment of Moneys. Any moneys in any of the funds and accounts to be established by the Trustee pursuant to this Supplemental Resolution (other than the Bond Purchase Fund) shall be invested pursuant to the terms of the Resolution.

Notwithstanding the foregoing provisions of this Section 3.4, any moneys held in the Bond Purchase Fund shall be held uninvested.

Section 3.5 Repayment to the Regents. When there are no longer any Series 2010/2011 Bonds Outstanding under the Resolution, and all fees, charges and expenses of the Trustee, the Regents and the Remarketing Agent have been paid or provided for, and all other amounts payable hereunder have been paid, the Trustee shall pay to the University any amounts remaining in any fund established and held hereunder for the Series 2010/2011 Bonds.

Section 3.6 Redemption of Refunded Bonds. Upon delivery of the Series 2010A Bonds, the University elects to redeem (i) the Series 1996 Bonds that are a component of the Refunded Bonds on April 1, 2010 and (ii) the Series 1997B Bonds that are a component of the Refunded Bonds on May 15, 2010. Upon delivery of the Series 2011 Bonds, the University elects to redeem the Series 2007A Bonds to be refunded (as determined in the Terms Certificate) on April 1, 2011.

ARTICLE IV

REDEMPTION OF SERIES 2010/2011 BONDS

Section 4.1 Redemption of Series 2010/2011 Bonds.

(a) *Optional Redemption of Series 2010A Bonds.* Series 2010A Bonds are not subject to optional redemption prior to their stated maturity.

(b) *Optional Redemption of Series 2010B and Series 2010C Bonds.* Series 2010B and Series 2010C Bonds maturing on or before April 1, 2020, shall not be subject to call or redemption prior to their stated dates of maturity, except for extraordinary redemption as provided in Section 4.3 hereof. On any Payment Date on or after April 1, 2020, at the election of the University, the Series 2010B Bonds and Series 2010C Bonds maturing after April 1, 2021, and not called in accordance with mandatory redemption provisions, shall be subject to redemption, in whole or in part, in maturities selected by the University and within each maturity as selected by lot by the Trustee, upon notice as hereinafter provided, at par, plus accrued interest to the redemption date.

(c) *Optional Redemption of Series 2011 Bonds.* Except as provided in Section 4.16 hereof (in the event sufficient funds are not available for the purchase of all Series 2011 Bonds tendered or deemed tendered on any Purchase Date), the Series 2011 Bonds shall be subject to redemption, in whole or in part, by lot in Authorized Denominations, prior to their maturity date, by the University during any Term Interest Rate Period for the Series 2011 Bonds, except during the Initial Term Interest Rate Period, during which such period the Series 2011 Bonds shall not be subject to optional redemption, on any day during the periods specified below, at the redemption prices (expressed as percentages of principal amount of the Series 2011 Bonds (or portions thereof) to be redeemed) hereinafter indicated, plus accrued interest to the redemption date:

<u>Lesser of Length of Term Interest Rate Period or Length of Time to Maturity</u>	<u>Redemption Dates and Prices</u>
Greater than 10 years	At any time on or after the 5th anniversary of the effective date commencing such Term Interest Rate Period at 102%, declining ½% annually on each subsequent anniversary date to 100%
Greater than 6 and less than or equal to 10 years	At any time on or after the 3rd anniversary of the effective date commencing such Term Interest Rate Period at 101 ½%, declining ½% annually on each subsequent anniversary date to 100%
Greater than 4 and less than or equal to 6 years	At any time on or after the 2nd anniversary of the effective date commencing such Term Interest Rate Period at 101%, declining ½% annually on each subsequent anniversary date to 100%
Greater than 3 and less than or equal to 4 years	At any time on or after the 2nd anniversary of the



	effective date commencing such Term Interest Rate Period at 100 ½%, declining ½% annually on the next anniversary date to 100%
Greater than 2 and less than or equal to 3 years	At any time on or after the 1st anniversary of the effective date commencing such Term Interest Rate Period at 100 ½% declining ½% annually on the next anniversary date to 100%
Greater than 1 and less than or equal to 2 years	At any time on or after the 1st anniversary of the effective date commencing such Term Interest Rate Period at 100% annually
Less than or equal to 1 year	On the Payment Date which is six months after the effective date of such Term Interest Rate Period at 100%

Section 4.2 Mandatory Sinking Fund Redemption. The Series 2010/2011 Bonds shall be subject to mandatory sinking fund redemption pursuant to the Terms Certificate. In addition, the Series 2011 Bonds shall be subject to mandatory sinking fund redemption pursuant to the Terms Certificate and/or pursuant to terms provided by the Remarketing Agent with the consent of the University upon any Conversion. Upon redemption of any Series 2011 Bonds other than by application of such mandatory sinking fund redemption, an amount equal to the principal amount so redeemed will be credited toward a part or all of any one or more of such mandatory sinking fund redemption amounts for the Series 2011 Bonds in such order of mandatory sinking fund date as shall be directed by the University.

Section 4.3 Extraordinary Redemption of Series 2010B Bonds and Series 2010C Bonds. In the event that the University shall determine, pursuant to Section 9.11 of the Resolution, not to rebuild, replace, restore, or repair damaged or destroyed portions of the Series 2010 Project, then the Series 2010B Bonds and Series 2010C Bonds shall be subject to redemption in whole or in part, at par plus accrued interest to the date of redemption, on the next applicable interest payment date, solely from, and to the extent of, insurance proceeds available to the Trustee for such payment.

Section 4.4 Selection of Series 2010/2011 Bonds for Redemption. The principal amount of one or more series of the Series 2010/2011 Bonds to be redeemed shall be as specified by the University. If less than all of the Series 2010/2011 Bonds of a series and maturity are called for redemption, the Trustee shall select the Series 2010/2011 Bonds or any given portion thereof of such series and maturity to be redeemed by lot in such manner as it may determine. For the purpose of any such selection the Trustee shall assign a separate number for each minimum Authorized Denomination of each Series 2010/2011 Bond of such Series and maturity of a denomination of more than such minimum; provided, that following any such selection, the portion of such Series 2010/2011 Bond to remain Outstanding shall be in an Authorized Denomination. The Trustee shall promptly notify the University in writing of the numbers of the Series 2010/2011 Bonds or portions thereof so selected for redemption. Notwithstanding the foregoing, if less than all of the Series 2010/2011 Bonds of a series and maturity are to be redeemed at any time while the Series 2010/2011 Bonds of such series and maturity are

Book-Entry Bonds, selection of the Series 2010/2011 Bonds to be redeemed shall be made in accordance with customary practices of DTC or any other applicable Securities Depository, as the case may be.

**Section 4.5**    Notice of Redemption.

(a) Unless waived by any Holder of the Series 2010/2011 Bonds, the Trustee, for and on behalf of the University, shall give notice of the redemption of any Series 2010/2011 Bond pursuant to the terms of the Resolution, including the following: by first class mail, postage prepaid, not less than thirty-five (35) days nor more than sixty (60) days prior to the redemption date to (i) the registered owner of such Series 2010/2011 Bond at the address shown on the Bond Register on the date such notice is mailed; (ii) one or more Information Services; and (iii) the Remarketing Agent, if any. Notice of redemption to the Information Services shall be given by facsimile confirmed by first class mail or in such other manner as is acceptable to such institutions. Each notice of redemption shall state the date of such notice, the Issue Date, the redemption date, the redemption price, the place of redemption (including the name and appropriate address or addresses of the Trustee) and, if less than all of the Series 2010/2011 Bonds are to be redeemed, the distinctive certificate numbers of the Series 2010/2011 Bonds to be redeemed and, in the case of Series 2010/2011 Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice shall also state that the interest on the Series 2010/2011 Bonds designated for redemption shall cease to accrue from and after such redemption date and that on said date there will become due and payable on each of said Series 2010/2011 Bonds the principal amount thereof to be redeemed, interest accrued thereon, if any, to the redemption date and the premium, if any, thereon (such premium to be specified) and shall require that such Series 2010/2011 Bonds be then surrendered at the address or addresses of the Trustee specified in the redemption notice. Notwithstanding the foregoing, failure by the Trustee to give notice pursuant to this paragraph to the Remarketing Agent, if any, or any one or more of the Information Services or the insufficiency of any such notices shall not affect the sufficiency of the proceedings for redemption. Failure to mail the notices required by this paragraph to any Holder of any Series 2010/2011 Bonds designated for redemption, or any defect in any notice so mailed and shall not affect the validity of the proceedings for redemption of any other Series 2010/2011 Bonds.

(b) With respect to any notice of redemption of Series 2010/2011 Bonds by the University, unless at the time of giving such notice the Trustee shall hold moneys sufficient to pay the principal of, premium, if any, and interest to the redemption date on the Series 2010/2011 Bonds to be redeemed, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of funds sufficient to pay the principal of, and premium, if any, and interest on, such Series 2010/2011 Bonds to be redeemed, and that if such funds shall not have

been so received said notice shall be of no force and effect, Series 2010/2011 Bonds shall not be subject to redemption on such date and the Series 2010/2011 Bonds shall not be required to be redeemed on such date. In the event that such notice of redemption contains such a condition and such funds are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, to the persons and in the manner in which the notice of redemption was given, that such funds were not so received.

Section 4.6 Partial Redemption of Series 2010/2011 Bonds. Upon surrender of any Series 2010/2011 Bond redeemed in part only, the Trustee shall exchange the Series 2010/2011 Bond redeemed for a new Series 2010/2011 Bond of like tenor and in an Authorized Denomination without charge to the Holder in the principal amount of the portion of the Series 2010/2011 Bond not redeemed. In the event of any partial redemption of a Series 2010/2011 Bond which is registered in the name of the Nominee, DTC may elect to make a notation on the Series 2010/2011 Bond certificate which reflects the date and amount of the reduction in principal amount of said Series 2010/2011 Bond in lieu of surrendering the Series 2010/2011 Bond certificate to the Trustee for exchange. The Regents, the Trustee and the University shall be fully released and discharged from all liability upon, and to the extent of, payment of the redemption price for any partial redemption and upon the taking of all other actions required hereunder in connection with such redemption.

Section 4.7 Effect of Redemption. Notice of redemption having been duly given as aforesaid, and funds for payment of the redemption price being held by the Trustee, the Series 2010/2011 Bonds so called for redemption shall, on the redemption date designated in such notice, become due and payable at the redemption price specified in such notice, interest on the Series 2010/2011 Bonds so called for redemption shall cease to accrue, said Series 2010/2011 Bonds shall cease to be entitled to any lien, benefit or security under the Resolution, and the Holders of said Series 2010/2011 Bonds shall have no rights in respect thereof except to receive payment (but only from the funds provided in connection with such redemption) of the redemption price thereof (including interest, if any, accrued to the redemption date), without interest accruing on any funds held after the redemption date to pay such redemption price.

All Series 2010/2011 Bonds fully redeemed pursuant to the provisions of this Article IV shall upon surrender thereof be cancelled by the Trustee, who shall deliver a certificate evidencing such cancellation to the University. The Trustee shall destroy such Series 2010/2011 Bonds.

Section 4.8 Mandatory Tender for Purchase for Series 2011 Bonds.

(a) The Series 2011 Bonds shall be subject to mandatory tender for purchase at the applicable Purchase Price, payable from the sources specified in Section 4.15 in immediately available funds on the effective date of any new Term Interest Rate Period for the Series 2011 Bonds.

(b) The Trustee shall give Notice by Mail to the Holders of the Series 2011 Bonds, not later than the thirtieth (30th) day prior to the date on which such Series 2011 Bonds are subject to mandatory tender pursuant to this Section 4.8, which notice shall be the same notice as the notice required by Section 2.4(b)(iii).

(c) Upon the giving of notice to Bondholders of the mandatory tender of the Series 2011 Bonds for purchase pursuant to this Section 4.8, such Series 2011 Bonds shall be subject to such mandatory tender for purchase notwithstanding that the events described in such notice have not occurred on the Purchase Date specified in such notice, including the failure to convert to a new Term Interest Rate Period for such Series 2011 Bonds.

Section 4.9 Delivery of Series 2011 Bonds. (a) With respect to any Book-Entry Bond, delivery of such Series 2011 Bond to the Trustee in connection with any mandatory tender for purchase pursuant to Section 4.8 shall be effected by the making of, or the irrevocable authorization to make, appropriate entries on the books of DTC or any DTC Participant to reflect the transfer of the beneficial ownership interest in such Series 2011 Bond to the account of the Trustee, or to the account of a DTC Participant acting on behalf of the Trustee. With respect to any Series 2011 Bond which is not a Book-Entry Bond, delivery of such Series 2011 Bond to the Trustee in connection with any mandatory tender pursuant to Section 4.8 shall be effected by physical delivery of such Series 2011 Bond to the Trustee at its Principal Office, by 1:00 p.m. (New York City time) on the Purchase Date, accompanied by a notice of transfer thereof, in a form satisfactory to the Trustee, executed in blank by the Holder thereof with the signature of such Holder guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs.

(b) If the Series 2011 Bonds are not Book-Entry Bonds, a principal amount of Series 2011 Bonds equal to the amount of Series 2011 Bonds successfully remarketed by the Remarketing Agent shall be delivered by the Trustee to such persons as shall be designated by the Remarketing Agent. Such Series 2011 Bonds shall be held available at the Principal Office of the Trustee and shall be picked up by the Remarketing Agent at or after 1:00 p.m. (New York City time) on the Purchase Date against delivery of funds for deposit into the Remarketing Account of the Bond Purchase Fund equal to the Purchase Price of such Series 2011 Bonds that have been remarketed. If the Series 2011 Bonds are Book-Entry Bonds, transfer of ownership of the remarketed Series 2011 Bonds shall be effected in accordance with the procedures of DTC and the DTC Participants for the delivery of funds for deposit into the Remarketing Account of the Bond Purchase Fund equal to the Purchase Price of such Series 2011 Bonds that have been remarketed.

Section 4.10 Series 2011 Bonds Deemed Purchased.

(a) If moneys sufficient to pay the Purchase Price of Series 2011 Bonds to be purchased pursuant to Section 4.8 shall be held by the Trustee on

the date such Series 2011 Bonds are to be purchased, such Series 2011 Bonds shall be deemed to have been purchased for all purposes of this Resolution, irrespective of whether or not such Series 2011 Bonds shall have been delivered to the Trustee or transferred on the books of DTC, and neither the former Holder nor the former Beneficial Owner of such Series 2011 Bonds shall have any claim thereon, under this Resolution or otherwise, for any amount other than the Purchase Price thereof.

(b) In the event of non-delivery of any Series 2011 Bond to be purchased pursuant to Section 4.8, the Trustee shall segregate and hold uninvested the moneys for the Purchase Price of such Series 2011 Bonds in trust, without liability for interest thereon, for the benefit of the former Holders of such Series 2011 Bonds, who shall, except as provided in the following sentence, thereafter be restricted exclusively to such moneys for the satisfaction of any claim for the Purchase Price of such Series 2011 Bonds. Any moneys which the Trustee shall segregate and hold in trust for the payment of the Purchase Price of any Series 2011 Bond and remaining unclaimed for four (4) years after the applicable Purchase Date shall to the extent permitted by law be paid, upon the written request of the University, to the University. After the payment of such unclaimed moneys to the University, the former Holder of such Series 2011 Bond shall look only to the University for the payment thereof.

**Section 4.11 Bond Purchase Fund.**

(a) There shall be created and established with the Trustee a trust fund designated the “Bond Purchase Fund.” There shall also be created and established a separate account in the Bond Purchase Fund designated the “Remarketing Account.”

(i) All moneys received by the Trustee on behalf of purchasers of Series 2011 Bonds pursuant to Section 4.15 shall be (i) deposited in the Remarketing Account within the Bond Purchase Fund, (ii) held in trust in accordance with the provisions hereof and (iii) paid out in accordance with Section 4.16.

(ii) The funds held by the Trustee in the Purchase Fund shall not be considered Pledged Revenues as that term is defined in the Resolution. The moneys in the Bond Purchase Fund shall be used solely to pay the Purchase Price of Series 2011 Bonds as provided and may not be used for any other purposes. All amounts held in the Bond Purchase Fund and the Remarketing Account shall be held in trust by the Trustee for the benefit of the Bondholders or Beneficial Owners of tendered Series 2011 Bonds.

**Section 4.12 Deposit of Series 2011 Bonds.** Subject to Section 4.16 hereof, the Trustee agrees to accept and hold all Series 2011 Bonds delivered to it pursuant to this Resolution in trust for the benefit of the respective Bondholders or Beneficial Owners

which shall have so delivered such Series 2011 Bonds until the Purchase Price of such Series 2011 Bonds shall have been delivered to or for the account of or to the order of such Holders or Beneficial Owners pursuant to Section 4.13. Any Series 2011 Bonds registered for transfer to new purchasers and delivered to the Trustee as described in Section 4.15 shall be held in trust by the Trustee for the benefit of such new purchasers until delivery to such new purchasers.

**Section 4.13 Remarketing of Series 2011 Bonds.**

(a) Not later than 9:30 a.m. (New York City time) on each Purchase Date occurring pursuant to Section 4.8, the Trustee shall give notice by telephone to the Remarketing Agent specifying the principal amount of all Outstanding Series 2011 Bonds which are subject to mandatory tender on such Purchase Date pursuant to Section 4.8 (the “Mandatory Tender Bonds”) and the names of the registered owner or owners thereof. The Remarketing Agent shall thereupon offer for sale at par plus accrued interest and use its best efforts to find purchasers for such Mandatory Tender Bonds.

(b) Not later than 11:00 a.m. (New York City time) on the Business Day immediate preceding each Purchase Date described in this Section 4.13, the Trustee shall give notice by telephone to the Remarketing Agent of the accrued amount of the interest payable as of the Purchase Date specified in such notice from the Trustee on, and confirming the aggregate principal amount of, the Mandatory Tender Bonds.

(c) With respect to any mandatory tender of Series 2011 Bonds that are being remarketed, not later than 10:30 a.m. (New York City time) on each Purchase Date with respect to Mandatory Tender Bonds, the Remarketing Agent shall give Electronic Notice (promptly confirmed in writing) to the University and the Trustee of the amount of remarketing proceeds that the Remarketing Agent has received and the principal amount of Mandatory Tender Bonds which have not been remarketed in accordance with the Remarketing Agreement.

(d) If the Remarketing Agent’s notice pursuant to this Section 4.13 indicates that such Remarketing Agent does not have sufficient remarketing proceeds to purchase all the Mandatory Tender Bonds to be purchased on such Purchase Date, the Trustee shall immediately give notice to the University.

**Section 4.14 Deposits into Remarketing Account.** The terms of any sale by the Remarketing Agent of tendered Series 2011 Bonds shall provide for the payment of the Purchase Price for tendered Series 2011 Bonds by the Remarketing Agent to the Trustee for deposit in the Remarketing Account of the Bond Purchase Fund in immediately available funds at or before 2:00 p.m. (New York City time) on the Purchase Date. The Remarketing Agent shall cause to be paid to the Trustee on each Purchase Date for tendered Series 2011 Bonds the amount specified in the notice given by the Remarketing Agent pursuant to Section 4.13.

Section 4.15 Disbursements from the Bond Purchase Fund.

(a) Moneys in the Bond Purchase Fund shall be applied at or before 4:00 p.m. (New York City time) to the purchase of Series 2011 Bonds as provided herein by the Trustee, on each Purchase Date, as follows:

First, moneys constituting funds in the Remarketing Account shall be used by the Trustee on any Purchase Date to purchase tendered Series 2011 Bonds at the Purchase Price.

Second, in the event such moneys in the Series 2011 Remarketing Account on any Purchase Date are insufficient to purchase all tendered Series 2011 Bonds the Trustee shall follow the procedures described in Section 4.16.

Notwithstanding anything to the contrary in this Section, if the Series 2011 Bonds are Book Entry Bonds, payment of the Purchase Price for tendered Series 2011 Bonds shall be made in accordance with the rules and procedures of DTC, including the timing requirements of DTC.

(b) The Trustee shall, as to any Series 2011 Bonds which have not been delivered to it as required by Section 4.9 hereof, (i) notify the Remarketing Agent in writing of such nondelivery and (ii) place a stop transfer against an appropriate amount of Series 2011 Bonds registered in the name of the Holder of such Series 2011 Bonds on the Bond Register. The Trustee shall place and maintain such stop transfer commencing with the lowest serial number Series 2011 Bond registered in the name of such Holder until stop transfers have been placed against an appropriate amount of Series 2011 Bonds until the appropriate Series 2011 Bonds are delivered to the Trustee. Upon such delivery, the Trustee shall make any necessary adjustments to the Bond Register.

Section 4.16 Inadequate Funds to Pay Purchase Price. If sufficient funds are not available for the purchase of all Series 2011 Bonds tendered or deemed tendered on any Purchase Date, (i) all tendered Series 2011 Bonds shall be returned to their respective owners, (ii) all outstanding Series 2011 Bonds shall bear interest at the Bond Buyer 25 Revenue Bond Index plus 150 basis points (provided that such rate shall not exceed the Maximum Rate) from the date of such Purchase Date through the final maturity of such Series 2011 Bonds, and (iii) notwithstanding anything to the contrary herein, all such Series 2011 Bonds shall not be subject to optional redemption prior to maturity through the date preceding the ten year anniversary of the applicable Purchase Date (on such ten year anniversary date and thereafter, such Series 2011 Bonds shall be subject to optional redemption, in whole or in part, by lot in Authorized Denominations, prior to their maturity date, by the University on any date, at a redemption price equal to the principal amount of the Series 2011 Bonds (or portions thereof) to be redeemed, plus accrued interest to the redemption date). Neither the University, the Regents, nor the Trustee shall have any obligation to purchase the Series 2011 Bonds tendered or deemed tendered hereunder. Notwithstanding any other provision of the Resolution, any failure to

purchase all Series 2011 Bonds tendered or deemed tendered on any Purchase Date pursuant to this Section 4.16 shall not constitute an Event of Default hereunder. Any calculation of interest rate with respect to the Series 2011 Bonds shall be calculated by the Remarketing Agent. In the absence of the Remarketing Agent, the Trustee shall calculate such interest rate.



ARTICLE V

THE REMARKETING AGENT

Section 5.1 Appointment, Duties and Qualifications of Remarketing Agent.

(a) George K. Baum & Company is hereby appointed the Remarketing Agent. Any subsequent Remarketing Agent shall be appointed by the University, subject to the conditions set forth below. A Remarketing Agent shall be a bank, trust company or member of the Financial Industry Regulatory Authority organized and doing business under the laws of any state of the United States of America or the District of Columbia and shall have together with its parent, if any, a capitalization of at least fifteen million dollars (\$15,000,000) as shown in its or its parent's most recently published annual report.

(b) The Regents shall enter into a Remarketing Agreement in substantially the form before the Regents at the time of adoption of this Resolution with each Remarketing Agent and such other parties as shall be appropriate, pursuant to which such Remarketing Agent shall designate its Principal Office and agree particularly (but without limitation): (i) to perform the duties and comply with the requirements imposed upon it by the Remarketing Agreement and this Resolution; and (ii) to keep such books and records with respect to its activities as Remarketing Agent as shall be consistent with prudent industry practice and to make such books and records available for inspection by each of the Trustee and the University at all reasonable times. The Remarketing Agent shall not be entitled to any compensation from the Trustee but rather shall only be entitled to compensation from the University.

(c) The Regents shall furnish a copy of the Remarketing Agreement to the Trustee.

(d) The Remarketing Agent may resign by notifying the University and the Trustee at least sixty (60) days before the effective date of such resignation. The University may remove the Remarketing Agent pursuant to the terms of the Remarketing Agreement. In addition, the Remarketing Agent may terminate its obligations under the Remarketing Agreement pursuant to the terms thereof.

ARTICLE VI

AMENDMENTS TO RESOLUTION

The University hereby adopts the 2010 Amendments to the Resolution as further described in this Article VI. The 2010 Amendments shall take effect upon the issuance of the Series 2010A, 2010B, and 2010C Bonds.

Section 6.1 Amendment to Article I.

(a) Section 1.1 of Article I is hereby amended to include the following definitions:

“Build America Bonds” means the interest subsidy bonds issuable by the University under Sections 54AA and 6431 of the Code and a “qualified bond” under Section 54AA(g)(2) of the Code or such other tax credit bonds of substantially similar nature which may be hereafter authorized.

“Direct Payments” means the interest subsidy payments received by the University from the United States Treasury pursuant to Section 6431 of the Code or other similar programs with respect to Bonds issued under the Resolution.

(b) Paragraphs A, B, C, and D of the definition of “Pledged Revenues” in Section 1.1 of Article I are each hereby amended by inserting the following provision and renumbering the subsequent provisions as follows:

(vi) Direct Payments; (vii) proceeds from the sale of a Series of Bonds and moneys and investments earning thereon, except as otherwise provided in this Bond Resolution or a Supplemental Resolution; and (viii) such other revenues as the Regents shall designate as Pledged Revenues.

Section 6.2 Amendment to Article VIII. Article VIII of the Resolution is hereby amended to include the following Section:

Section 8.7 Direct Payment Authorization

A. The University hereby authorizes and directs the Trustee to take all necessary actions to effectively carry out the duties required to apply for and accept Direct Payments from the Internal Revenue Service on behalf of the University under Sections 54AA and 6431 of the Code or such other tax provisions of substantially similar nature which may be hereafter authorized. Upon receipt of any Direct Payments, the Trustee shall promptly deposit such payment in the Bond Fund for use in paying debt service on the Bonds. Failure by the Trustee to prepare or file the Form 8038-CP shall not affect any payment obligations of the University hereunder. The University hereby authorizes and direct the Trustee to take all actions necessary to prepare and file the IRS Form 8038-CP, or take such other or additional actions as may be required from time to time under the Code as are within its power and are requested by the University

and agreed to by the Trustee, to request the Direct Payments. The Form 8038-CP shall authorize the Direct Payments requested in accordance with this clause (A) to be paid to the Trustee.

B. For fixed rate bonds, at least one hundred and five (105) days prior to each Payment Date with respect to the Bonds, the Trustee shall deliver to the University by a delivery method that provides the Trustee with evidence of delivery (i) a completed Form 8038-CP, which is to be signed by an Authorized Officer of the University, and (ii) a certification by an authorized officer of the Trustee stating that, to its knowledge, the Form 8038-CP is accurate and complete. The form and the certification shall be sent to the attention of the Bursar. The University shall return such signed Form 8038-CP to the Trustee not later than ninety (90) days prior to each Payment Date with respect to the Bonds, by a delivery method which provides the University with evidence of delivery. Not more than ninety (90) and not less than seventy (70) days prior to each Payment Date for the Bonds, the Trustee shall file, or cause to be filed a Form 8038-CP with the Internal Revenue Service Center, Ogden, Utah 84201, or any successor location specified by the Internal Revenue Service, or take such other or additional actions as may be required from time to time under the Code as are within its power and are requested by the University and agreed to by the Trustee, to request the Direct Payments with respect to such Payment Date. Upon completion of filing, the Trustee shall deliver a copy of such Form 8038-CP to the University.

C. For variable rate bonds, no more than five (5) days after the last Payment Date within the calendar quarter period for which reimbursement is being requested, the Trustee shall deliver to the University by a delivery method that provides the Trustee with evidence of delivery (i) a completed Form 8038-CP, which is to be signed by an Authorized Officer of the University, and (ii) a certification by an authorized officer of the Trustee stating that, to its knowledge, the Form 8038-CP is accurate and complete. The form and certification shall be sent to the attention of the Bursar. The University shall return such signed Form 8038-CP to the Trustee not later than twenty (20) days after the last Payment Date within the calendar quarter period for which reimbursement is being requested with respect to the Bonds, by a delivery method which provides the University with evidence of delivery. Not more than 35 days after the last Payment Date within the calendar quarter period for which reimbursement is being requested, the Trustee shall file or cause to be filed a Form 8038-CP with the Internal Revenue Service Center, Ogden, Utah 84201, or any successor location specified by the Internal Revenue Service, or take such other or additional actions as are within its power and are requested by the University and agreed to by the Trustee, to request the Direct Payments with respect to such prior Payment Dates. Upon completion and filing, the Trustee shall deliver a copy of such Form 8038-CP to the University.

Section 6.3 Amended and Restated Resolution. The University is hereby authorized to incorporate the amendments and other provisions of this Supplemental Resolution into the Resolution as an amendment and restatement of the same.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Governing Law. By the acceptance of the Series 2010/2011 Bonds, the Holders of the Series 2010/2011 Bonds shall be deemed to agree that the rights of the Holders of the Series 2010/2011 Bonds shall be governed by the laws of the State of Idaho.

Section 7.2 Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided in this Supplemental Resolution on the part of the University (or of the Trustee or of any paying agent) to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Supplemental Resolution or of the Series 2010/2011 Bonds; but the Holders of the Series 2010/2011 Bonds shall retain all the rights and benefits accorded to them under the Act or any other applicable provisions of law.

Section 7.3 Beneficiaries. This Supplemental Resolution shall be deemed to be a contract between the Regents, the Trustee, and the Holders of the Series 2010/2011 Bonds.

Section 7.4 Savings Clause. Except as amended by this Supplemental Resolution, the Resolution shall remain in full force and effect.

Section 7.5 Conflicting Resolutions. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

[The next page is the signature page.]

ADOPTED AND APPROVED this 18th day of February, 2010.

THE REGENTS OF THE UNIVERSITY  
OF IDAHO

[SEAL]

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

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

ATTEST:

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

EXHIBIT A

FORM OF SERIES [2010 [A][B][C]] [2011] BOND

R-\_\_\_\_\_ \$\_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF IDAHO  
UNIVERSITY OF IDAHO  
[TAXABLE] GENERAL REVENUE [REFUNDING] BONDS  
[SERIES [2010 [A][B][C]] [2011]  
[(ISSUER SUBSIDY-BUILD AMERICA BONDS)]

[Initial Term] [Mandatory  
Interest Rate Maturity Date Tender Date] Dated Date CUSIP

Registered Owner: CEDE & CO.

Principal Amount: \_\_\_\_\_ DOLLARS\*\*\*\*\*

KNOW ALL MEN BY THESE PRESENTS that the University of Idaho, a body politic and corporate and an institution of higher education of the State of Idaho (the "University"), for value received, hereby promises to pay, from the Bond Fund hereinafter defined, to the registered owner identified above, or registered assigns, on the maturity date specified above, the principal sum indicated above, and to pay interest thereon from the Bond Fund from the dated date hereof, or the most recent date to which interest has been paid or duly provided for, at the rate per annum specified above, payable on each Payment Date, until the date of maturity or prior redemption of this Bond.

This Bond is an obligation of the University payable solely in accordance with the terms hereof and is not an obligation, general, special, or otherwise of the State of Idaho, does not constitute a debt, legal, moral, or otherwise, of the State of Idaho, and is not enforceable against the State, nor shall payment hereof be enforceable out of any funds of the University other than the revenues, fees, and charges pledged thereto in the Resolution (defined herein). Pursuant to the Resolution, certain revenues have been pledged and will be set aside into the Bond Fund (as defined in the Resolution) to provide for the prompt payment of the principal of, interest on, and redemption price of the Bonds of which this Bond is a part. For a more particular description of the Bond Fund, the revenues to be deposited therein, and the nature and extent of the security afforded thereby, reference is made to the provisions of the Resolution.

The principal of, premium, if any, and interest on this Bond are payable in lawful money of the United States of America to the registered owner hereof whose name and address shall appear on the registration books of the University (the "Bond Register")

maintained by the Corporate Trust Department of Wells Fargo Bank, N. A. (the “Trustee”), in Boise, Idaho. Interest shall be paid to the registered owner whose name appears on the Bond Register on the fifteenth day of the calendar month next preceding the interest payment date, at the address appearing on the Bond Register, and shall be paid by check or draft of the Trustee mailed to such registered owner on the due date at the address appearing on the Bond Register, or at such other address as may be furnished in writing by such registered owner to the Trustee. Principal shall be paid to the registered owner upon presentation and surrender of this Bond at the principal corporate trust office of the Trustee, on or after the date of maturity or prior redemption.

This Bond is one of a duly authorized issue of Bonds of like date, tenor, and effect, except for variations required to state numbers, denominations, rates of interest, and dates of maturity, aggregating \$\_\_\_\_\_ in principal amount. The Bonds are issued pursuant to and in full compliance with the Constitution and statutes of the State of Idaho, particularly Chapter 38, Title 33, Idaho Code, and proceedings duly adopted and authorized by the Regents on behalf of the University, more particularly the Resolution adopted by the Regents on November 22, 1991, as previously amended, supplemented, and restated from time to time, including with respect to the Bonds by a Supplemental Resolution adopted by the Regents on \_\_\_\_\_, 2010, authorizing the issuance of the Bonds (collectively, the “Resolution”). All capitalized terms used but not herein defined shall have the meanings ascribed to them in the Resolution.

This Bond is one of the [Taxable] General Revenue [Refunding] Bonds, Series [2010 [A][B][C]] [2011] [(Issuer Subsidy–Build America Bonds)], of the University (the “Series \_\_\_\_\_ Bonds”) issued under the provisions of Chapter 38, Title 33, Idaho Code, for the purpose of providing funds with which to (i) [refund certain outstanding bonds of the University (the “Refunded Bonds”)] [[finance] [refinance] certain improvements to the University’s Kibbie Dome and related improvements (the “Series 2010 Project”)] and (ii) pay issuance expenses properly incident thereto. In addition to the Series \_\_\_\_\_ Bonds, the University is also issuing its [Taxable] General Revenue [Refunding] Bonds, Series [2010 [A][B][C]] [2011] [(Issuer Subsidy–Build America Bonds)], [Taxable] General Revenue [Refunding] Bonds, Series [2010 [A][B][C]] [2011] [(Issuer Subsidy–Build America Bonds)] and [Taxable] General Revenue [Refunding] Bonds, Series [2010 [A][B][C]] [2011] [(Issuer Subsidy–Build America Bonds)]. The principal of, interest on, and redemption price of the Series \_\_\_\_\_ Bonds is payable from revenues and funds of the University pledged therefor and certain other fees and revenues, as more particularly set forth in the Resolution.

The Series \_\_\_\_\_ Bonds are issuable as fully registered bonds without coupons in Authorized Denominations of \$5,000 or any integral multiple in excess thereof. Subject to the limitations and upon payment of the charges, if any, provided in the Resolution, Bonds may be exchanged at the Principal Office of the Trustee for a like aggregate principal amount of Series \_\_\_\_\_ Bonds of other Authorized Denominations.



This Series \_\_\_\_\_ Bond is transferable by the Holder hereof, in person, or by its attorney duly authorized in writing, at the Principal Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Resolution, and upon surrender and cancellation of this Series \_\_\_\_\_ Bond. Upon such transfer a new fully registered Bond or Bonds of like tenor in Authorized Denominations, for the same aggregate principal amount, will be issued to the transferee in exchange herefor.

[The term of the Series 2011 Bonds will be divided into consecutive Term Interest Rate Periods, as provided in the Resolution, during each of which the Series 2011 Bonds shall bear interest at Term Interest Rates. The initial Term Interest Rate Period for the Series 2011 Bonds shall end on the day before the Mandatory Tender Date specified above. The Term Interest Rate Period for the Series 2011 Bonds may be subsequently changed from time to time by the University, without the consent of the Holders of the Series 2011 Bonds, as provided in the Resolution. The Trustee shall give notice to Holders of the Series 2011 Bonds, as provided in the Resolution, prior to any change in the Term Interest Rate Period.]

Each Bond shall bear interest from the Payment Date to which interest has been paid as of the date on which it is authenticated or, if it is authenticated on or before the Record Date for the first Payment Date, from the Issue Date; provided, however, that if, at the time of authentication of any Bond, interest is in default on Outstanding Bonds, such Bond shall bear interest from the Payment Date to which interest has previously been paid or made available for payment on the Outstanding Bonds. Notwithstanding the foregoing, if any Bond is authenticated as of a day during the period from the day after the Record Date immediately preceding an Payment Date to such Payment Date, inclusive, such Bond shall bear interest from such Payment Date; provided, however, that if the Regents shall default in the payment of interest due on such Payment Date, then such Bond shall bear interest as provided in the preceding sentence. Both the principal of and premium, if any, on the Series 2010/2011 Bonds shall be payable upon surrender thereof at the Principal Office of the Trustee.

Interest on the Series 2010/2011 Bonds will be paid on each Payment Date provided that if any Payment Date is not a Business Day, such interest shall be paid as provided above on the next succeeding Business Day with the same effect as if made on the day such payment was due. Interest on the Series 2010/2011 Bonds shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months. Interest on the Series 2010/2011 Bonds shall bear interest from and including the Issue Date until payment of the principal or redemption price thereof has been made or provided for on the due date thereof, whether at maturity, upon redemption or otherwise.

[George K. Baum & Company (the “Remarketing Agent”) has been appointed as Remarketing Agent (as described in the Resolution) for the Series 2011 Bonds. The Remarketing Agent may be removed or replaced in accordance with the provisions of the Remarketing Agreement and the Resolution.]

[Determination of the interest rate for the Series 2011 Bonds by the Remarketing Agent shall be conclusive and binding upon the Bondholders, the Regents, the University and the Trustee.]

[Any notice of tender of Bonds delivered to the Trustee in accordance with the Resolution shall be irrevocable with respect to the purchase for which such notice was delivered and shall be binding upon any subsequent Bondholder of the Bond to which it relates, including any Bond issued in exchange therefor or upon the registration of transfer thereof, and as of the date of such notice, the Holder of the Series 2011 Bonds specified therein shall not have any right to optionally tender for purchase such Bonds prior to the date of purchase specified in such notice.]

This Bond shall be subject to mandatory tender for purchase at a purchase price equal to 100% of the principal amount hereof, plus accrued interest, if any, to the Purchase Date on the effective date of any new Term Interest Rate Period for this Bond.

So long as this Bond is held in book-entry form, delivery of this Bond to the Trustee in connection with any mandatory tender for purchase pursuant to the Resolution shall be effected by the making of, or the irrevocable authorization to make, appropriate entries on the books of DTC or any DTC Participant to reflect the transfer of the beneficial ownership interest in such Bond to the account of the Trustee, or to the account of a participant acting on behalf of the Trustee. If this Bond is not held in book-entry form, delivery of this Bond to the Trustee in connection with any mandatory tender pursuant to the Resolution shall be effected by physical delivery of such Bond to the Trustee at its Principal Office, by 1:00 p.m. (New York City time) on the Purchase Date, accompanied by an instrument of transfer thereof, in a form satisfactory to the Trustee, executed in blank by the Holder thereof with the signature of such Holder guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs.

So long as this Bond is held in book-entry form, payment of the Purchase Price of this Bond in connection with any mandatory tender shall be effected in accordance with the Representation Letter.

If moneys sufficient to pay the Purchase Price of Bonds to be purchased pursuant to the Resolution shall be held by the Trustee on the Purchase Date, any such Bonds to be so purchased which are not delivered by the Holders thereof to the Trustee or transferred to the Trustee on the registration books of DTC, as applicable, on the Purchase Date will be deemed to have been delivered for purchase, or transferred on the registration books of DTC, as applicable, on such date and to have been purchased. The former Holders of such Bonds, or Beneficial Owners with respect to Book-Entry Bonds, will thereafter have no rights with respect to such Bonds except to receive payment of the Purchase Price therefor upon surrender of such Bonds to the Trustee or the transfer, on the registration books of DTC, of the beneficial interest in such Book-Entry Bonds.

BY ACCEPTANCE OF THIS BOND, THE HOLDER HEREBY AGREES THAT IF THIS BOND IS TO BE PURCHASED AND IF MONEYS SUFFICIENT TO

PAY THE PURCHASE PRICE SHALL BE HELD BY THE TRUSTEE ON THE PURCHASE DATE, THIS BOND SHALL BE DEEMED TO HAVE BEEN PURCHASED AND SHALL BE PURCHASED ACCORDING TO THE TERMS OF THE RESOLUTION FOR ALL PURPOSES OF THE RESOLUTION, WHETHER OR NOT THIS BOND SHALL HAVE BEEN DELIVERED TO THE TRUSTEE, AND THE HOLDER OF THIS BOND SHALL HAVE NO CLAIM HEREON, UNDER THE RESOLUTION OR OTHERWISE, FOR ANY AMOUNT OTHER THAN THE PURCHASE PRICE HEREOF.]

The Series 2010/2011 Bonds are subject to redemption, including mandatory sinking fund redemption, with notice, in whole, or in part, in Authorized Denominations, prior to their maturity date, as described in the Resolution.

\*\*The Series 2010/2011 Bonds are initially issued in the form of a separate single certificated fully registered Bond for each maturity and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”).\*\*

\*\*Unless this Bond is presented by an Authorized Officer of DTC to the University or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an Authorized Officer of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an Authorized Officer of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.\*\*

\*\*Upon any partial redemption of this Bond, Cede & Co., in its discretion, may request the Trustee to authenticate a new Series 2010/2011 Bond or shall make an appropriate notation on this Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case this Bond must be presented to the Trustee prior to payment.\*\*

\*\*The Series 2010/2011 Bonds shall not be transferable or exchangeable except as set forth in the Resolution.\*\*

This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing upon presentation and surrender of this Bond at the principal corporate trust office of the Trustee. Upon such transfer, a new Bond, of the same denomination, maturity, and interest rate will be issued to the transferee in exchange therefor.

Reference is hereby made to the Resolution for the covenants and declarations of the University and other terms and conditions under which this Bond and the Series 2010/2011 Bonds of this issue have been issued. The covenants contained herein and in the Resolution may be discharged by making provisions at any time for the payment of the principal of and interest on this Bond in the manner provided in the Resolution.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been manually signed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions, and things required by the Constitution and statutes of the State of Idaho to exist, to have happened, been done, and performed precedent to and in the issuance of this Bond have happened, been done, and performed, and that the issuance of this Bond and the Series 2010/2011 Bonds of this issue does not violate any Constitutional, statutory, or other limitation upon the amount of bonded indebtedness that the University may incur.

IN WITNESS WHEREOF, the Board of Regents of the University of Idaho (the “Regents”), has caused this Bond to be executed by the manual or facsimile signature of the President of the Regents and of the Bursar of the University and attested by the manual or facsimile signature of the Secretary of the Regents, and a facsimile or original of the official seal of the University to be imprinted hereon, as of the dated date set forth above.

THE REGENTS OF THE UNIVERSITY  
OF IDAHO

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

COUNTERSIGNED:

(SEAL)

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

ATTEST:

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

**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the [Taxable] General Revenue [Refunding] Bonds, Series [2010 [A][B][C]] [2011] [(Issuer Subsidy–Build America Bonds)], of the University of Idaho, described in the within-mentioned Resolution.

WELLS FARGO BANK, N.A., as Trustee

By: \_\_\_\_\_  
Authorized Signature

Date of Authentication: \_\_\_\_\_

**VALIDATION CERTIFICATE**

I hereby certify that I have examined a certified copy of the record of proceedings taken preliminary to and in the issuance of the within bond; that such proceedings and such bond conform to and show lawful authority for the issuance thereof in accordance with the provisions of Title 57, Chapter 5 and Title 33, Chapter 38, Idaho Code, as amended. Such bond has been issued in accordance with the Constitution and laws of the State of Idaho and shall in any suit, action or proceeding involving its validity be conclusively deemed to be fully authorized by Title 57, Chapter 5 and Title 33, Chapter 38, Idaho Code, and to have been issued, sold, executed, and delivered in conformity with the Constitution and laws of the State of Idaho and to be valid and binding and enforceable in accordance with its terms, and such bond is incontestable for any cause.

By: \_\_\_\_\_  
Attorney General

ASSIGNMENT

FOR VALUE RECEIVED, \_\_\_\_\_,  
the undersigned sells, assigns and transfers unto:

\_\_\_\_\_  
(Social Security or Other Identifying Number of Assignee)

\_\_\_\_\_  
(Please Print or Typewrite Name and Address of Assignee)

the within Bond and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ of \_\_\_\_\_ to transfer the said  
bond on the books kept for registration thereof with full power of substitution in the  
premises.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

NOTICE: The signature on this assignment must correspond with the name(s) of the Registered owner as it appears upon the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

SIGNATURE GUARANTEED:

\_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company and must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B

PARAMETERS

SERIES 2010A BONDS, SERIES 2010B BONDS, AND SERIES 2010C BONDS:

The Purchase Price for the Series 2010A Bonds, Series 2010B Bonds, and Series 2010C Bonds, collectively, shall not be less than the aggregate par amount thereof.

SERIES 2010A BONDS:

Principal amount not to exceed \$13,000,000.

Interest Rate not to exceed 8.0% per annum.

Underwriter's Discount or fee not to exceed .425% of the principal amount of the Bonds plus any reoffering premium, as more fully described in the Bond Purchase Agreement.

Final Maturity not to exceed 10 years from date of issuance.

SERIES 2010B BONDS:

Principal amount not to exceed \$12,000,000.

Interest Rate not to exceed 8.0% per annum.

Underwriter's Discount or fee not to exceed .425% of the principal amount of the Bonds plus any reoffering premium, as more fully described in the Bond Purchase Agreement.

Final Maturity not to exceed 25 years from date of issuance.

SERIES 2010C BONDS:

Principal amount not to exceed \$16,000,000.

Interest Rate not to exceed 8.0% per annum.

Underwriter's Discount or fee not to exceed .750% of the principal amount of the Bonds plus any reoffering premium, as more fully described in the Bond Purchase Agreement.

Final Maturity not to exceed 35 years from date of issuance.



SERIES 2011 BONDS:

Principal amount not to exceed \$67,000,000.

Initial Term Interest Rate not to exceed 8.0% per annum.

Underwriter's Discount or fee not to exceed .425% of the principal amount of the Bonds plus any reoffering premium, as more fully described in the Series 2011 Bond Purchase Agreement.

Final Maturity not to exceed 35 years from date of issuance.

Purchase Price: not less than the par amount of the Bonds thereof.

EXHIBIT C

TERMS CERTIFICATE

In connection with a Supplemental Resolution of the Regents (the “Regents”) of the University of Idaho adopted on February 18, 2010 (the “2010 Supplemental Resolution”) authorizing the issuance and sale of the Regent’s General Revenue Refunding Bonds, Series 2010A (the “Series 2010A Bonds”); General Revenue Bonds, Series 2010B (the “Series 2010B Bonds”); Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy–Build America Bonds) (the “Series 2010C Bonds”); and Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the “Series 2011 Bonds” and collectively with the Series 2010A Bonds, the Series 2010B Bonds, and the Series 2010C Bonds, the “Series 2010/2011 Bonds”), the undersigned hereby executes and delivers this Terms Certificate (as such term is defined in the 2010 Supplemental Resolution) specifying certain terms of the Series 2010/2011 Bonds:

Series 2010A Bonds:

- a. Principal amount: \$\_\_\_\_\_
- b. Dated Date: \_\_\_\_\_, 2010
- c. Date of Delivery: \_\_\_\_\_, 2010
- d. Closing Date: \_\_\_\_\_, 2010, or such other date agreed upon by the Underwriters and the University
- e. Underwriter’s discount or fee of \$\_\_\_\_\_
- f. Purchase Price: \_\_\_\_\_
- g. Maturity Date(s) and Interest Rate(s):
- h. Mandatory Sinking Fund Redemption Schedule (See Attached Schedule A-1 as attached hereto)
- i. Sources and Uses of Series 2010A Bond proceeds:
- j. Refunded Bonds:
- k. Redemption/Refunding/Defeasance instructions and authorization of an escrow agreement:

Series 2010B Bonds:

- a. Principal amount: \$\_\_\_\_\_
- b. Dated Date: \_\_\_\_\_, 2010
- c. Date of Delivery: \_\_\_\_\_, 2010
- d. Closing Date: \_\_\_\_\_, 2010, or such other date agreed upon by the Underwriter and the University
- e. Underwriter's discount or fee of \$\_\_\_\_\_
- f. Purchase Price: \_\_\_\_\_
- g. Maturity Date(s), and Interest Rate(s):
- h. Mandatory Sinking Fund Redemption Schedule (See Attached Schedule A-1 as attached hereto)
- i. Sources and Uses of Series 2010B Bond proceeds:

Series 2010C Bonds:

- a. Principal amount: \$\_\_\_\_\_
- b. Dated Date: \_\_\_\_\_, 2010
- c. Date of Delivery: \_\_\_\_\_, 2010
- d. Closing Date: \_\_\_\_\_, 2010, or such other date agreed upon by the Underwriter and the University
- e. Underwriter's discount or fee of \$\_\_\_\_\_
- f. Purchase Price: \_\_\_\_\_
- g. Maturity Date(s), and Interest Rate(s):
- h. Mandatory Sinking Fund Redemption Schedule (See Attached Schedule A-1 as attached hereto)
- i. Sources and Uses of Series 2010C Bond proceeds;
- j. Build America Bonds Election:

Series 2011 Bonds:

- a. Principal amount: \$\_\_\_\_\_
- b. Dated Date: \_\_\_\_\_, 2011
- c. Date of Delivery: \_\_\_\_\_, 2011
- d. Closing Date: \_\_\_\_\_, 2011, or such other date agreed upon by the Underwriter and the University
- e. Underwriter's discount or fee of \$\_\_\_\_\_
- f. Purchase Price: \_\_\_\_\_ (not less than the par amount thereof plus \$\_\_\_\_\_ of original issue premium.)
- g. Maturity Date(s), Initial Term Interest Rate Period(s) and Initial Term Interest Rate(s):
- h. Mandatory Sinking Fund Redemption Schedule (See Attached Schedule A-1 as attached hereto)
- i. Sources and Uses of Series 2011 Bond proceeds:
- j. Refunded Bonds:
- k. Mandatory Tender Date (as applicable) for Initial Term Interest Rate Period:
- l. Redemption/Refunding/Defeasance Instructions
- m. Series 2007A Bonds to be refunded:
- n. Redemption/Refunding/Defeasance instructions and authorization of an escrow agreement:

Executed and delivered this \_\_\_\_\_, 2010 on behalf of the Regents pursuant to the 2010 Supplemental Resolution.

THE REGENTS OF THE UNIVERSITY  
OF IDAHO

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

Schedule A-1

Series 2010A Bonds

Redemption Date [( <u>April 1</u> )]	Principal <u>Amount</u>
	\$

Series 2010B Bonds

Redemption Date [( <u>April 1</u> )]	Principal <u>Amount</u>
	\$

Series 2010C Bonds

Redemption Date [ <u>April 1</u> ]	Principal <u>Amount</u>
	\$

Series 2011 Bonds

Redemption Date [ <u>April 1</u> ]	Principal <u>Amount</u>
	\$

**BOND PURCHASE AGREEMENT**

March \_\_, 2010

The Regents of the University of Idaho  
University of Idaho  
Administration Building, Room 211  
851 Campus Drive  
Moscow, Idaho 83844-3168

\$ \_\_\_\_\_  
**THE REGENTS OF THE UNIVERSITY OF IDAHO**  
consisting of

\$ \_\_\_\_\_  
General Revenue  
Refunding Bonds,  
Series 2010A

\$ \_\_\_\_\_  
General Revenue Bonds,  
Series 2010B

\$ \_\_\_\_\_  
Taxable General  
Revenue Bonds,  
Series 2010C  
(Issuer Subsidy – Build America  
Bonds)

Ladies and Gentlemen:

The undersigned, George K. Baum & Company (the "**Underwriter**"), offers to enter into this Bond Purchase Agreement (this "**Bond Purchase Agreement**") with the Regents of the University of Idaho (the "**Regents**") which, upon your acceptance of this offer, will be binding upon you and upon the Underwriter. *Terms used herein that are not otherwise defined herein shall have the same meanings assigned to them in the Resolution (as hereinafter defined).*

This offer is made subject to your acceptance of this Bond Purchase Agreement on or before 5:00 p.m. Pacific Time, on March \_\_, 2010, and, if not so accepted by the Regents, will be subject to withdrawal by the Underwriter upon notice delivered to the Regents at its address set forth above, at any time prior to the acceptance hereof by the Regents. This offer is also subject to the provisions included in this Bond Purchase Agreement.

1. Purchase and Sale of the Series 2010 Bonds. Upon the terms and conditions and in reliance upon the respective representations, warranties and covenants herein, the Underwriter hereby agrees to purchase from the Regents, and the Regents hereby agree to sell and deliver to the Underwriter, all (but not less than all) of the Regents' (a) General Revenue Refunding Bonds, Series 2010A (the "**Series 2010A Bonds**"), at an aggregate purchase price of \$\_\_\_\_\_ (the "**Series 2010A Purchase Price**"), representing (i) the \$\_\_\_\_\_ aggregate principal amount of the Series 2010A Bonds, [plus (ii) net original issue premium of \$\_\_\_\_\_] [minus (ii) net original issue discount of \$\_\_\_\_\_], minus (iii) an Underwriter's discount of \$\_\_\_\_\_; (b) General Revenue Bonds, Series 2010B (the "**Series 2010B Bonds**") at an aggregate purchase price of \$\_\_\_\_\_ (the "**Series 2010B Purchase Price**"), representing (i) the \$\_\_\_\_\_

aggregate principal amount of the Series 2010B Bonds, [plus (ii) net original issue premium of \$\_\_\_\_\_] [minus (ii) net original issue discount of \$\_\_\_\_\_], minus (iii) an Underwriter's discount of \$\_\_\_\_\_; and (c) Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy – Build America Bonds) (the "**Taxable Series 2010C Bonds**") and, together with the Series 2010A Bonds and the Series 2010B Bonds, the "**Series 2010 Bonds**") at an aggregate purchase price of \$\_\_\_\_\_ (the "**Series 2010C Purchase Price**" and, together with the Series 2010A Purchase Price and the Series 2010B Purchase Price, the "**Purchase Price**"), representing (i) the \$\_\_\_\_\_ aggregate principal amount of the Taxable Series 2010C Bonds, minus (ii) an Underwriter's discount of \$\_\_\_\_\_. Payment of the Purchase Price for the Series 2010 Bonds shall be made through wire transfer of immediately available federal funds to the Trustee for the account of the Regents at or prior to the Closing (as defined herein), and, upon satisfaction of the conditions for the issuance and sale of the Series 2010 Bonds set forth herein, the Series 2010 Bonds shall be released for delivery no later than the Closing (as defined herein).

The Series 2010 Bonds will be issued in accordance with the provisions of the Educational Institutions Act, constituting chapter 38, Title 33, Idaho Code (the "**Act**"), the Constitution of the State of Idaho (the "**State**"), and pursuant to a Supplemental Resolution with respect to the Series 2010 Bonds and the Regents' Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the "**Series 2011 Bonds**") adopted by the Regents on February 18, 2010 (the "**2010 Supplemental Resolution**") supplementing that certain Resolution adopted by the Regents on November 22, 1991 (as subsequently amended and supplemented, the "**Original Resolution**" and, together with the 2010 Supplemental Resolution, referred to herein as the "**Resolution**"). Each Series of the Series 2010 Bonds shall mature on April in each of the years and amounts, and bear interest at the rates, all as set forth on Schedule 1 hereto and subject to further terms as are reflected in the Official Statement (as hereinafter defined).

The Regents will apply the proceeds of the Series 2010 Bonds to refund the outstanding Student Fee Refunding Revenue Bonds, Series 1996 and the Student Fee Refunding Revenue Bonds, Series 1997B, both issued by the Regents (the "**Refunded Bonds**"), to finance certain capital improvements at the Moscow campus of the University of Idaho (the "**University**"), to repay a bank loan the proceeds of which were used to finance certain capital improvements to the University's facilities, and to pay costs of issuance associated with the Series 2010 Bonds and the Series 2011 Bonds.

2. Authority of the Underwriter. The Underwriter hereby represents and warrants that it has full corporate power and authority to execute and deliver this Bond Purchase Agreement and to perform all acts on its part herein required.

3. Public Offering of the Series 2010 Bonds. The Underwriter agrees to make a bona fide public offering of the Series 2010 Bonds at not in excess of the initial public offering price therefor as set forth on the inside cover page of the final Official Statement, as defined below. In connection with the public offering of the Series 2010 Bonds, the Regents shall cause the preparation of the Official Statement, with completion of information relating to the interest rate, selling compensation, aggregate principal amount, delivery date, ratings and other terms of the Series 2010 Bonds depending on such matters as acceptable to the Regents and the Underwriter to reflect such terms as contemplated by this Bond Purchase Agreement and with such other additions, deletions and revisions as shall be acceptable to the Regents and the



Underwriter. Copies of the Official Statement, signed by authorized representatives of the Regents will be delivered to the Underwriter within seven (7) business days of the date of this Bond Purchase Agreement, in sufficient quantity as may be reasonably requested by the Underwriter in order for the Underwriter to comply with the rules of the Municipal Securities Rulemaking Board (the "**MSRB**"). The Regents hereby authorize the use by the Underwriter of the Official Statement in connection with the offering of the Series 2010 Bonds to the public.

The Underwriter reserves the right (a) to over-allot or effect transactions that stabilize or maintain the market price of the Series 2010 Bonds at a level above that which might otherwise prevail in the open market, and (b) to discontinue such stabilizing, if commenced, at any time. A public offering shall include an offering to a representative number of institutional investors or registered investment companies, regardless of the number of such investors to which the Series 2010 Bonds are sold.

Following the Closing Date, the Underwriter shall submit electronically a copy of the Official Statement to the MSRB at its Electronic Municipal Market Access system in accordance with the rules of the MSRB.

The Regents agree that if, through the 25th day after the Closing Date, the Regents become aware of the occurrence of an event that might cause the Official Statement to contain an untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, to notify the Underwriter, and, if in the opinion of the Underwriter such event requires the preparation and distribution of a supplement or an amendment to the Official Statement, the Regents, at their expense, at the request of the Underwriter, shall cause such a supplement or an amendment, satisfactory to the Underwriter, to be prepared and delivered to the Underwriter in such quantities as the Underwriter may reasonably request.

4. Representations, Warranties and Agreements by the Regents. In order to induce the Underwriter to enter into this Bond Purchase Agreement, and in consideration of the foregoing and of the execution and delivery of this Bond Purchase Agreement by the Underwriter, the Regents represent and warrant to and covenant with the Underwriter that, as of the date hereof and on and as of the date of the Closing:

(a) The Regents are a body politic and corporate organized and existing under and pursuant to the Constitution and laws of the State, have full legal right, power and authority pursuant to the Constitution, the Act and the Resolution to consummate all transactions contemplated by (i) this Bond Purchase Agreement, the Resolution, the Escrow Agreement dated as of March \_\_, 2010 (the "**2010A Escrow Agreement**") between the Regents and Wells Fargo Bank, N.A., as the escrow agent (the "**Escrow Agent**"), the Continuing Disclosure Agreement dated as of March \_\_, 2010 between the Regents and the Trustee, as dissemination agent (collectively, the "**Regents' Documents**"), the Series 2010 Bonds and any and all other agreements and instruments relating to the issuance and sale of the Series 2010 Bonds; and (ii) the Preliminary Official Statement relating to the Series 2010 Bonds and the Series 2011 Bonds, including all appendices thereto, dated March \_\_, 2010 (the "**Preliminary Official Statement**") and the final Official Statement, including all appendices thereto, dated as

of the date hereof (the final Official Statement, including all appendices, supplements and amendments thereto, collectively is referred to as the "**Official Statement**"); to enter into the Regents' Documents; to issue the Series 2010 Bonds; to approve the Official Statement; to carry out all of its obligations thereunder and to comply with the terms and conditions hereof and thereof applicable to the Regents.

(b) The Regents have duly adopted the Resolution and have duly authorized all necessary action to be taken by them for: (i) the issuance and sale of the Series 2010 Bonds upon the terms and conditions set forth herein, in the Official Statement, and in the Resolution; (ii) the approval and execution, as relevant, of each Regents' Document and the Series 2010 Bonds; and (iii) the execution, delivery or receipt of and performance of the Regents' obligations under each Regents' Document and the Series 2010 Bonds, and any and all such other agreements and documents as may be required to be executed, delivered or received by the Regents in order to carry out, effectuate and consummate the transactions contemplated herein and therein.

(c) The Regents have previously provided the Underwriter with the Preliminary Official Statement, and as of its date, the Preliminary Official Statement has been "deemed final" by the Regents for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended (the "**Rule**").

(d) The Regents have never failed to comply in all material respects with any continuing disclosure undertaking with regard to the Rule to provide annual reports or notices of material events specified in the Rule.

(e) The Regents have duly approved and authorized the execution, delivery and distribution of the Official Statement.

(f) The information contained in the Official Statement with respect to forward-looking statements and in the sections thereof titled "INTRODUCTION – The Regents and the University of Idaho" and "– Purpose of the Series 2010/2011 Bonds," "SECURITY FOR THE SERIES 2010/2011 BONDS," "PLAN OF FINANCE – Series 2010A Refunding Project," "– Series 2010B Project," "– Series 2010C Project," and "– Series 2011 Refunding Project," "PRO FORMA AND HISTORICAL PLEDGED REVENUES," "THE UNIVERSITY," "SOURCES OF FUNDING FOR THE UNIVERSITY," "UNIVERSITY GOVERNANCE AND ADMINISTRATION," "CONTINUING DISCLOSURE" and "LITIGATION" and in Appendices A and B (collectively, all such sections and appendices are herein referred to as the "**Relevant Portions**") is, and at the Closing will be, true and correct in all material respects and does not, and at the Closing will not, contain any untrue or misleading statement of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) At the time of the Regents' acceptance hereof and (unless an event occurs of the nature described in the last paragraph of Section 3 hereof) at all times subsequent thereto during the period up to and including twenty-five (25) days after the Closing Date, the information contained in the Relevant Portions of the Official Statement does

not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) If the information contained in the Relevant Portions of the Official Statement is supplemented or amended pursuant to the last paragraph of Section 3 hereof, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto during the period up to and including twenty-five (25) days after the Closing Date, the information contained in the foregoing sections of the Official Statement, as so supplemented or amended, will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(i) Neither the execution and delivery of any Regents' Document, the Series 2010 Bonds, nor the consummation of the transactions contemplated herein or therein or the compliance with the provisions hereof or thereof, will conflict with, or constitute on the part of the Regents a violation of, or a breach of or default under, (i) any indenture, mortgage, commitment, note or other agreement or instrument to which the Regents is a party or by which it is bound, or (ii) any existing law, statute, rule, regulation (other than any state blue sky law) or resolution or judgment, order or decree of any court or governmental agency or body having jurisdiction over the Regents or any of its activities or properties. All consents, approvals, certificates of need, authorizations and orders of governmental or regulatory authorities (other than any state blue sky authorities) which are required for the execution and delivery of, consummation of the transactions contemplated by, and compliance with the provisions of, the Regents' Documents and the Series 2010 Bonds by the Regents have been obtained or will be obtained when required.

(j) Except as is specifically disclosed in the Official Statement, 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, to the knowledge of the Regents, threatened against or affecting (i) the financial condition of the Regents, the University, the Series 2010A Refunding Project, the Series 2010B Project, the Series 2010C Project, the application of the Pledged Revenues to payment of the Series 2010 Bonds or the operation by the Regents or the University of its properties, or (ii) the corporate existence of the Regents, the offices held by the members of the Regents and officers of the University and their respective rights or powers, their legal existence, or the actions taken or contemplated to be taken by them, or (iii) the transactions contemplated in the Regents' Documents or the Series 2010 Bonds, or (iv) the validity or enforceability in accordance with their respective terms of the Series 2010 Bonds, any Regents' Document or any material agreement or instrument by which the Regents, the University or their respective properties is or may be bound, and, to the knowledge of the Regents, is there any basis therefor wherein an unfavorable decision, ruling or finding would materially adversely affect any of the foregoing described in clauses (i) through (iv).

(k) The Regents will not take or omit to take any action which will in any way cause or result in the proceeds of the sale of the Series 2010 Bonds being applied in a

manner other than as provided in the Resolution and the 2010A Escrow Agreement or as described in the Official Statement.

(l) The Regents have not been at any time in default as to principal or interest with respect to any obligation issued by or guaranteed by the Regents or with respect to which the Regents are an obligor.

(m) The audited financial statements of the University for the periods ended June 30, 2009 and June 30, 2008 are a fair presentation of the financial position of the University, the results of the University's operations and the University's changes in its net assets for the periods specified as of the dates indicated.

(n) Except as described in the Preliminary Official Statement, since June 30, 2009, there has been no material adverse change in the condition, financial or otherwise, of the University from that set forth in the audited financial statements as of and for the period ended that date; and except as described in the Preliminary Official Statement, the University, since June 30, 2009, has not incurred any material liabilities, directly or indirectly, except in the ordinary course of the University's operations.

(o) Between the date of this Agreement and the date of the Closing, except as contemplated by the Official Statement, the Regents will not incur and will not cause the University to incur any material liabilities, direct or contingent, or enter into any material transaction, in either case other than in the ordinary course of business.

(p) As of the date of this Bond Purchase Agreement, no event of default has occurred and is continuing and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute an event of default under any instrument to which the Regents or the University is a party and which is material to the business or operations of the Regents or the University.

(q) The Regents agree to furnish or cause to be furnished such information, execute or cause to be executed such instruments and take such other action in cooperation with Underwriter's Counsel as it may reasonably request (i) in any endeavor to qualify the Series 2010 Bonds for offering and sale under the securities or "Blue Sky" laws or regulations of such jurisdictions of the United States of America as the Underwriter may request, (ii) for the application for exemption from such qualification, (iii) for the determination of the Series 2010 Bonds' eligibility for investment under the laws of such jurisdictions as the Underwriter designates and (iv) to provide for the continuance of such qualifications or exemptions in effect for so long as required for distribution or marketing of the Series 2010 Bonds, but not to exceed six (6) months after the date of Closing; provided, however, that the Regents shall not be required to qualify to do business in any jurisdiction where it is not now so qualified, or to take any such action which would subject it to general service of process in any jurisdiction where it is not now so subject.

(r) The Regents will comply and will use its best efforts to insure compliance with the applicable representations, warranties, covenants and obligations of the Regents contained in this Bond Purchase Agreement.

(s) Any certificate signed by any officer of the Regents or the University and delivered to the Underwriter shall be deemed a representation and warranty by the Regents to the Underwriter as to the truth of the statements therein contained

5. Closing. At 9 a.m., Pacific Time, on March \_\_, 2010, or at such other time and/or date as shall have been mutually agreed upon by the Regents and the Underwriter (the "**Closing Date**"), the Regents will deliver, or cause to be delivered, to the Underwriter through the facilities of DTC the Series 2010 Bonds in definitive form duly executed by the Regents and authenticated by the Wells Fargo Bank, N.A., as Trustee in accordance with the Resolution, by delivering one fully registered Bond for each maturity of a Series of the Series 2010 Bonds in the principal amount of the related maturity of each Series of the Series 2010 Bonds, registered in the name of Cede & Co., as nominee of DTC, to the Trustee as custodian for DTC; and the Underwriter will accept such delivery of the Series 2010 Bonds and pay the Purchase Price of the Series 2010 Bonds to the Trustee for the account of the Regents by wire transfer or other direct transfer of immediately available funds payable to the order of the Trustee.

The activities relating to the final execution and delivery of the Series 2010 Bonds and the final execution and delivery of the Regents' Documents and the certificates, opinions and other instruments as described in Section 7 of this Bond Purchase Agreement shall occur at the offices of Skinner Fawcett LLP, Boise, Idaho or at such other location which shall be mutually agreed upon by the Regents and the Underwriter. The payment of the Purchase Price for the Series 2010 Bonds and simultaneous delivery of the Series 2010 Bonds to the Underwriter is herein referred to as the "**Closing**."

The Series 2010 Bonds will be made available for inspection by the Underwriter, at such place in Boise, Idaho as the Underwriter and the Trustee shall agree, not less than 24 hours prior to the Closing. The definitive Series 2010 Bonds shall bear proper CUSIP numbers (provided, however, that neither the printing of the wrong CUSIP number on any Series 2010 Bond nor the failure to print a CUSIP number thereon shall constitute cause to refuse to accept delivery of any Series 2010 Bond).

6. Termination. The Underwriter shall have the right to terminate its obligations hereunder by notice given to the Regents prior to delivery of and payment for the Series 2010 Bonds, if at any time prior to such time:

(a) Legislation not yet introduced in Congress shall be enacted or actively considered for enactment by the Congress, or recommended by the President of the United States of America to the Congress for passage, or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration, a decision by a court of the United States of America or the United States Tax Court shall be rendered, or a ruling, regulation (proposed, temporary or final) or Official Statement by or on behalf of the Treasury Department of the United States of America, the Internal Revenue Service or other

agency or department of the United States of America shall be made or proposed to be made which has the purpose or effect, directly or indirectly, of imposing federal income taxes upon interest on the Series 2010A Bonds or the Series 2010B Bonds or affecting the tax treatment of "Qualified Build America Bonds" like the Taxable Series 2010C Bonds under the Internal Revenue Code of 1986, as amended (the "**Code**"); or

(b) Any other action or event shall have transpired which has the purpose or effect, directly or indirectly, of materially adversely affecting the federal income tax consequences of any of the transactions contemplated in connection herewith or contemplated by the Official Statement, and, in the reasonable judgment of the Underwriter, materially adversely affects the market for the Series 2010 Bonds or the sale, at the contemplated offering prices (or yields), by the Regents, of the Series 2010 Bonds; or

(c) Legislation shall be enacted, or actively considered for enactment by the Congress, with an effective date on or prior to the date of Closing, or a decision by a court of the United States of America shall be rendered, or a ruling or regulation by the Securities and Exchange Commission (the "**SEC**") or other governmental agency having jurisdiction over the subject matter shall be made, the effect of which is that (i) the Series 2010 Bonds are not exempt from the registration, qualification or other requirements of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or (ii) the Resolution is not exempt from the registration, qualification or other requirements of the Trust Indenture Act of 1939, as amended and as then in effect; or

(d) A stop order, ruling or regulation by the SEC shall be issued or made, the effect of which is that the issuance, offering or sale of the Series 2010 Bonds, as contemplated herein or in the Official Statement, is in violation of any provision of the Securities Act of 1933, as amended and as then in effect, the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect; or

(e) There shall exist any fact or there shall occur any event which, in the reasonable judgment of the Underwriter, either (i) makes untrue or incorrect in any material respect any statement or information contained in the Official Statement or (ii) is not reflected in the Official Statement but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect and, in either such event the Regents refuse to permit the Official Statement to be supplemented to correct or supply such statement or information, or the Official Statement as so corrected or supplemented is such as, in the judgment of the Underwriter, would materially adversely affect the market for the Series 2010 Bonds or the sale, at the contemplated offering prices (or yields), by the Regents of the Series 2010 Bonds; or

(f) There shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the reasonable judgment of the Underwriter, impractical or inadvisable to proceed with the offering or

delivery of the Series 2010 Bonds as contemplated by the final Official Statement (exclusive of any amendment or supplement thereto); or

(g) Trading in the Regents' outstanding securities shall have been suspended by the Securities and Exchange Commission or trading in securities generally on the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on such Exchange; or

(h) A banking moratorium shall have been declared either by federal or New York State authorities; or

(i) There occurs any material adverse change in the affairs, operation or financial condition of the University, except as set forth or contemplated in the Official Statement, the effect of which is, in the reasonable judgment of the Underwriter, to materially adversely affect the market for the Series 2010 Bonds or the sale, at the contemplated prices (or yields) by the Regents of the Series 2010 Bonds; or

(j) The Official Statement is not executed, approved and delivered in accordance with the terms hereof; or

(k) In the reasonable judgment of the Underwriter, the market price of the Series 2010 Bonds, or the market price generally of obligations of the general character of the Series 2010 Bonds, would be adversely affected because: (i) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange, or (ii) the New York Stock Exchange or other national securities exchange, or any governmental authority, shall impose, as to the Series 2010 Bonds or similar obligations, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, underwriters; or

(l) Any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance, sale or delivery of the Series 2010 Bonds or in any way contesting or affecting any authority for or the validity of the Series 2010 Bonds, the Regents' Documents, or the existence or powers of the Regents or any of the transactions described herein or in the Official Statement; or

(m) Any rating on the Series 2010 Bonds or other Bonds of the Regents which are secured by a pledge of the Pledged Revenues on a parity with the pledge of the Series 2010 Bonds thereon is reduced or withdrawn or placed on credit watch with negative outlook by any major credit rating agency.

7. Conditions to Purchase. The Underwriter has executed and delivered this Bond Purchase Agreement in reliance upon the representations, warranties and obligations of the Regents contained herein. Accordingly, the Underwriter's obligations under this Bond Purchase Agreement shall be subject to the following conditions:

(a) The representations and warranties of the Regents contained herein shall be true and correct in all material respects at the date hereof and at and as of the Closing, as if made at and as of the Closing and will be confirmed by certificates of the appropriate Regents' or University official or officials, dated the Closing Date, and the statements made in all certificates and other documents delivered to the Underwriter at the Closing pursuant hereto shall be true, complete and correct in all material respects at the Closing; and the Regents shall be in compliance with each of the warranties, agreements and covenants made by them in this Bond Purchase Agreement.

(b) At the Closing, the following conditions shall have been satisfied:

(1) the Series 2010 Bonds shall be executed by the Regents, authenticated by the Trustee and delivered to the Underwriter for purchase as described in Section 5 hereof;

(2) all actions which, in the opinion of Bond Counsel and the Underwriter, shall be necessary in connection with the transactions contemplated hereby, shall have been duly taken and shall be in full force and effect;

(3) the Regents shall perform or shall have performed all of their obligations required under or specified in this Bond Purchase Agreement and the Official Statement to be performed at or prior to the Closing;

(4) all necessary resolutions and other official action of the Regents relating to the Regents' Documents and the issuance and sale of the Series 2010 Bonds, and all necessary resolutions and other official action of the Regents relating to all other agreements or documents to be executed and delivered by the Regents in connection with the issuance and sale of the Series 2010 Bonds shall have been taken and shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect, except with the consent of the Underwriter;

(5) each of the Regents' Documents and the Series 2010 Bonds shall have been fully executed by the relevant parties and shall be in full force and effect;

(6) the Official Statement, executed by the Regents and in form and substance acceptable to the Underwriter, shall have been delivered to the Underwriter; and

(7) evidence satisfactory to the Underwriter of filing a report with the State Treasurer pursuant to Idaho Code Section 67-1222 shall have been delivered to the Underwriter.

(c) At or prior to the Closing, the Underwriter shall receive the following documents in such number of counterparts as shall be mutually agreeable to the Regents and the Underwriter:



(1) Certified copies of the 2010 Supplemental Resolution and all resolutions of the Regents relating to the Series 2010 Bonds and approving the execution and delivery of each Regents' Document and the Official Statement;

(2) Copies of the Series 2010 Bonds;

(3) Executed copies of the 2010A Escrow Agreement, the Continuing Disclosure Agreement, a Tax Certificate delivered by the Regents, and the Representations Letter;

(4) The Official Statement executed on behalf of the Regents by their duly authorized officer;

(5) The approving opinion of Co-Bond Counsel, dated the Closing Date, in substantially the form set forth in Appendix F to the Official Statement;

(6) A supplemental opinion of Co-Bond Counsel, dated the Closing Date, in substantially the form set forth in **Exhibit A** hereto;

(7) An opinion of Co-Bond Counsel addressed to the Regents and the Underwriter, in a form satisfactory to the Underwriter, to the effect that the Taxable Series 2010C Bonds qualify as "build America bonds" under section 54AA(d) of the Code and "qualified bonds" under section 54AA(g) of the Code; and, if such opinion is not addressed to the Underwriter, a letter of Co-Bond Counsel, dated the Closing Date and addressed to the Underwriter, to the effect that the foregoing opinion addressed to the Regents may be relied upon by the Underwriter as if such opinion were addressed to it;

(8) An opinion of Underwriter's Counsel, dated the Closing Date, in substantially the form acceptable to the Underwriter;

(9) A certificate of the Attorney General of the State, dated the Closing Date, relating to validity of the Series 2010 Bonds;

(10) An opinion of Counsel to the Regents and the University addressed to the Underwriter, the Regents, and Co-Bond Counsel, dated the Closing Date, in form and substance satisfactory to the Underwriter, to the effect that (i) the University is an institution of higher education and a body politic of the State, duly and validly created and existing pursuant to the laws of the State with, and the Regents have, full legal right, power and authority to issue the Series 2010 Bonds, to adopt the Resolution, to pledge the Pledged Revenues, to enter into the Regents' Documents, and to consummate the transactions contemplated by the Resolution and the Regents' Documents, (ii) the Resolution was duly adopted by the Regents, (iii) the adoption of the Resolution by the Regents and the execution and delivery of the Regents' Documents and the performance by the Regents or the University of the transactions contemplated thereby will not conflict with or constitute a breach of, or default under, any provision of the applicable law, rule, regulation, ordinance, judgment, order or decree to which the Regents or the

University is subject, or any commitment, note, agreement or other instrument to which the University or Regents is a party or by which it or any of their respective property is bound; (iv) the Relevant Portions of the Official Statement are true and correct in all material respects and do not omit to state a material fact; (v) except as disclosed in the Official Statement, there is no action, suit, proceeding, official inquiry or investigation, at law or in equity, pending, or to the knowledge of such Counsel, threatened (and there is no basis for such action, suit, proceeding, official inquiry or investigation) which (1) questions the existence or powers of the Regents or the University or any of their respective officers; (2) seeks to prohibit, restrain or enjoin the sale, issuance or delivery of the Series 2010 Bonds or the authorization, execution and delivery of the Resolution or any Regent Document or validity of the proceedings taken by the Regents in connection with the issuance of the Series 2010 Bonds; or (3) challenges the powers of the Regents or the University to pledge and collect Pledged Revenues and other funds and accounts pledged to the payment of the Series 2010 Bonds under the Resolution;

(11) Letters from Moody's and S&P to the effect that each Series of the Series 2010 Bonds have received ratings of "A1" from Moody's and "A+" from S&P, both of which ratings shall be in effect at Closing;

(12) A certificate of the Regents, dated the Closing Date, in substantially the form acceptable to the Co-Bond Counsel and the Underwriter;

(13) A certificate of the Trustee and the Escrow Agent, dated the Closing Date, to the effect that the Trustee and the Escrow Agent (i) are duly organized and validly existing under the laws of the United States of America, with full corporate trust powers, (ii) have full right, power and authority to enter into and perform the obligations under the Resolution and the 2010A Escrow Agreement, respectively and (iii) have validly accepted their respective obligations under the Resolution and the 2010A Escrow Agreement, which obligations are legally valid and binding obligations of the Trustee and the Escrow Agent, respectively;

(14) The verification report of Causey, Demgen & Moore, Inc. addressed to the Regents and the Underwriter stating that Causey, Demgen & Moore, Inc. has reviewed and verified the mathematical accuracy of certain computations relating the adequacy of the maturing principal amounts of securities to be held pursuant to the 2010A Escrow Agreement and interest to be earned thereon to pay the principal or redemption price of and interest on the Refunded Bonds, as such principal or redemption price and interest become due and payable;

(15) A certificate of the Regents, dated the Closing Date, required by Sections 7.2 (2) and 7.2(4) of the Original Resolution;

(16) A Consultant's Report required by Section 7.2(3) of the Original Resolution; and

(17) Such additional legal opinions, certificates, proceedings, instruments and other documents as Co-Bond Counsel may reasonably request to evidence compliance by the Regents with legal requirements, the truth and accuracy, as of the time of Closing, of the respective representations of the Underwriter, the Regents herein contained and the due performance or satisfaction by each of them at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by each of them.

If the Regents shall be unable to satisfy the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement, or if the obligations of the Underwriter to place and accept delivery of the Series 2010 Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriter nor the Regents shall be under further obligation hereunder; except that the Regents' obligations to pay fees and expenses, as provided in Section 9 hereof, shall continue in full force and effect. The Underwriter shall have the right to waive any of the conditions to its obligations contained in this Bond Purchase Agreement.

8. Survival of Representations, Warranties and Agreements. All representations, warranties and agreements of the Regents and the Underwriter shall remain operative and in full force and effect, regardless of any investigations made by or on behalf of the Underwriter or the Regents and shall survive the Closing. The obligations of the Regents and the Underwriter under Section 9 hereof shall survive the Closing and any termination of this Bond Purchase Agreement by the Underwriter pursuant to the terms hereof.

9. Fees and Expenses. The Regents will pay or cause to be paid all reasonable expenses incident to the performance of its obligations under this Bond Purchase Agreement, including, but not limited to, mailing or delivery of the Series 2010 Bonds, costs of printing of the Series 2010 Bonds, the Preliminary Official Statement, the final Official Statement and any amendment or supplement to the Official Statement, fees and disbursements of Co-Bond Counsel and Underwriter's Counsel, fees and expenses of the accountants of and counsel to the Regents, any fees of the Verification Agent, any fees charged by rating agencies for the ratings of the Series 2010 Bonds, and any fees and expenses of the Trustee, the Escrow Agent and the paying agent for the Refunded Bonds.

10. Blue Sky Qualification. The Regents covenant with the Underwriter that the Regents will cooperate, at the expense of the Regents, with the Underwriter in qualifying the Series 2010 Bonds for offer and sale under the securities or Blue Sky laws of such jurisdictions of the United States of America as the Underwriter may request; provided, however, that the Regents shall not be required to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in any jurisdiction in which it is not otherwise subject to taxation. The Regents consent to the use by the Underwriter in the course of its compliance with the securities or Blue Sky laws of the various jurisdictions of the documents relating to the Series

2010 Bonds, subject to the right of the Regents to withdraw such consent for cause by written notice to the Underwriter.

11. Notices. Any notice or other communication to be given to the Regents under this Bond Purchase Agreement may be given by delivering the same in writing at its address set forth above and to the attention of President and any notice or other communication to be given to the Underwriter under this Bond Purchase Agreement may be given by delivering the same in writing to George K. Baum & Company, 1400 Wewatta Street, Suite 800, Denver, Colorado 80202, Attention: Lee White, Executive Vice President and Manager.

12. Benefit. This Bond Purchase Agreement is made solely for the benefit of the Regents and the Underwriter (including the successors or assigns of the Underwriter) and no other person, including any purchaser of the Series 2010 Bonds, shall acquire or have any right hereunder or by virtue hereof. This Bond Purchase Agreement shall be binding upon the successor and assigns, if any, of the Regents and the Underwriter.

13. Governing Law. This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State, without giving effect to its principles of conflicts of laws.

[Signature Page Follows]

14. Effective Date. This Bond Purchase Agreement shall become effective upon your acceptance hereof and may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

Very truly yours,

GEORGE K. BAUM & COMPANY

By: \_\_\_\_\_  
Authorized Representative

Accepted and agreed to as of  
the date first above written:

THE REGENTS OF THE UNIVERSITY OF IDAHO

By: \_\_\_\_\_  
Lloyd Mues, Vice President for Finance  
and Administration and Bursar

Time of Execution: \_\_\_\_\_

SCHEDULE 1

MATURITIES, PRINCIPAL AMOUNTS,  
INTEREST RATES AND YIELDS

\$ \_\_\_\_\_

THE REGENTS OF THE UNIVERSITY OF IDAHO  
General Revenue Refunding Bonds, Series 2010A

<u>Maturity Date</u> <u>(April 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>
	\$ _____	_____ %	_____ %

[\$ \_\_\_\_\_ % Term Bond due April 1, 20\_\_ Yield \_\_\_\_\_%]

\$ \_\_\_\_\_ \*

THE REGENTS OF THE UNIVERSITY OF IDAHO  
General Revenue Bonds, Series 2010B

<u>Maturity Date</u> <u>(April 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>
	\$ _____	_____ %	_____ %

[\$ \_\_\_\_\_ % Term Bond due April 1, 20\_\_ Yield \_\_\_\_\_%]

\$ \_\_\_\_\_ \*

THE REGENTS OF THE UNIVERSITY OF IDAHO  
Taxable General Revenue Bonds, Series 2010C  
(Issuer Subsidy – Build America Bonds)

<u>Maturity Date</u> <u>(April 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>
	\$ _____	_____ %	_____ %

[\$ \_\_\_\_\_ % Term Bond due April 1, 20\_\_ Yield \_\_\_\_\_%]

EXHIBIT A

Supplemental Opinion of Co-Bond Counsel

[To be updated]

[Skinner Fawcett Letterhead]

[Ballard Spahr Letterhead]

George K. Baum & Company  
Denver, Colorado

Re: \$\_\_\_\_\_ The Regents of the University of Idaho, General Revenue Refunding Bonds, Series 2010A, General Revenue Bonds, Series 2010B, and Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy – Build America Bonds)

This letter is being delivered to you pursuant to Section 7(c)(6) of the Bond Purchase Agreement (the "Purchase Agreement") dated March \_\_, 2010 between George K. Baum & Company (the "Underwriter"), and the Regents of the University of Idaho (the "Regents"), which Purchase Agreement relates to the purchase by the Underwriter of \$\_\_\_\_\_ aggregate principal amount of the Regents' General Revenue Refunding Bonds, Series 2010A (the "Series 2010A Bonds"), \$\_\_\_\_\_ aggregate principal amount of the Regents' General Revenue Bonds, Series 2010B Bonds (the "Series 2010B Bonds"), and \$\_\_\_\_\_ aggregate principal amount of the Regents' Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy – Build America Bonds) (the "Taxable Series 2010C Bonds" and, together with the Series 2010A Bonds and the Series 2010B Bonds, the "Series 2010 Bonds"). Capitalized terms which are used herein but which are not otherwise defined shall have the meanings assigned to them in the Purchase Agreement.

We have acted as co-bond counsel to the Regents in connection with the issuance of the Series 2010 Bonds and, in that capacity, have examined executed counterparts of the Purchase Agreement, the Resolution, and the Official Statement of the Regents with respect to the Series 2010 Bonds dated March \_\_, 2010 (the "Official Statement"). We have also examined the originals or copies, certified or otherwise identified to our satisfaction, of such other documents, records and other instruments as we have deemed necessary or advisable for purposes of this letter.

On the basis of such examination, we are of the opinion as of the date hereof and under currently existing law as follows:

1. The Purchase Agreement, the 2010A Escrow Agreement and the Continuing Disclosure Agreement have each been duly authorized, executed and delivered by the Regents.

2. The Series 2010 Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Resolution is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

3. The statements contained in the Official Statement under the captions "INTRODUCTION – Authority for Issuance; – Terms of the Series 2010/2011 Bonds; – Payment and Security for the Series 2010/2011 Bonds," "THE SERIES 2010/2011 BONDS," "SECURITY FOR THE SERIES 2010/2011 BONDS – Pledged Revenues, – Covenants, – No Debt Service Reserve Account for the Series 2010/2011 Bonds;" and "TAX MATTERS," and in APPENDIX C, APPENDIX D and APPENDIX F to the Official Statement insofar as the statements contained under such captions purport to summarize and/or extract certain provisions of the Series 2010 Bonds, the Resolution, the 2010A Escrow Agreement and our opinion with respect to the status of interest on the Series 2010A Bonds, the Series 2010B Bonds or the Taxable Series 2010C Bonds, present an accurate summary and/or extract of such provisions in all material respects.

Because the primary purpose of our professional engagement as co-bond counsel was not to establish factual matters and because of the wholly or partially nonlegal character of many determinations involved in the preparation of the Official Statement, except with regards to the matters contained in Paragraph 3 above, we are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of any of the statements contained in the Official Statement and make no representation that we have independently verified the accuracy, completeness or fairness of any such statements. However, in our capacity as co-bond counsel, during the course of preparation of the Official Statement, we met in conferences with representatives of and counsel to the Regents and the University, your representatives and counsel, and others, during which conferences the contents of the Official Statement and related matters were discussed. Based on our participation in the above-mentioned conferences, and in reliance thereon and on the certificates and other documents herein mentioned, we advise you that no information came to the attention of the attorneys in our firm rendering legal services in such connection which caused them to believe that the Official Statement as of its date and as of the date of this letter contained or contains any untrue statement of a material fact or omitted or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (except that no opinion or belief is expressed herein as to financial statements, financial, economic demographic or statistical data, forecasts, charts, estimates, projections, assumptions, expressions of opinion, any information about book-entry and The Depository Trust Company, and information contained in Appendix A, Appendix B, and Appendix E to the Official Statement).

We have on this day rendered our approving opinion as Co-Bond Counsel to the Regents with respect to the Series 2010 Bonds. You are entitled to rely on such opinion as if it were addressed to you.

This letter is furnished by us as co-bond counsel to the Regents. No attorney-client relationship has existed or exists between our firm and you in connection with the Series 2010



Bonds or by virtue of this letter. We disclaim any obligation to update this letter. This letter is delivered to you solely for your benefit and may not be relied upon by any other persons. This letter is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person. This letter is not intended to, and may not, be relied upon by the owners of the Series 2010 Bonds or by any party to whom it is not addressed.

Very truly yours,

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**FORWARD DELIVERY  
BOND PURCHASE CONTRACT**

Relating to

\$ \_\_\_\_\_

THE REGENTS OF THE UNIVERSITY OF IDAHO  
Adjustable Rate General Revenue Refunding Bonds  
Series 2011

March \_\_, 2010

The Regents of the University of Idaho  
University of Idaho  
Administration Building, Room 211  
851 Campus Drive  
Moscow, Idaho 83844-3168

Ladies and Gentlemen:

The undersigned, George K. Baum & Company (the "**Underwriter**"), offers to enter into this Forward Delivery Bond Purchase Contract (this "**Purchase Contract**") with the Board of Regents of The University of Idaho (the "**Regents**"). Terms used herein that are not otherwise defined shall have the meanings assigned to them in the Resolution (as hereinafter defined).

This offer is made subject to your acceptance of this Purchase Contract on or before 5:00 p.m., Pacific Daylight Time on March \_\_, 2010, and if not so accepted will be subject to withdrawal by the Underwriter upon notice delivered to the Regents at any time prior to the acceptance hereof by the Regents.

1. Purchase and Sale of the Bonds. Upon the terms and conditions and in reliance upon the representations, warranties and covenants herein, the Underwriter hereby agrees to purchase from the Regents, and the Regents hereby agree to sell and deliver to the Underwriter, in the manner provided herein, all (but not less than all) of the \$\_\_\_\_\_ aggregate principal amount of The Regents of The University of Idaho Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the "**Bonds**"), at a purchase price equal to \$\_\_\_\_\_ (representing the aggregate principal amount of the Bonds of \$\_\_\_\_\_ plus an original issue premium of \$\_\_\_\_\_).

2. Terms of Bonds. The Bonds shall be as described in, and shall be issued and secured under the provisions of, the resolution adopted by the Regents on November 22, 1991, as restated, amended and supplemented (the "**Original Resolution**"), and as amended and supplemented by a supplemental resolution adopted by the Regents on February 18, 2010 authorizing the issuance of the Bonds (the "**2010 Supplemental Resolution**" and, with the Original Resolution, the "**Resolution**"). The Bonds shall be dated their date of delivery and shall have the maturity, shall bear interest from delivery to the end of the Initial Term Interest Rate Period at the initial rate and shall have the other characteristics and terms all as set forth on

**Schedule 1** hereto and in the Form of Bond set forth in the 2010 Supplemental Resolution. George K. Baum & Company will serve as a remarketing agent for the Bonds (the "**Remarketing Agent**") pursuant to a Remarketing Agreement relating to the Bonds (the "**Remarketing Agreement**") between the Regents and the Remarketing Agent.

3. Purpose. As set forth in the Official Statement, the proceeds of the Bonds will be used to refund all of the outstanding General Revenue Refunding Bonds, Series 2007A, issued by the Regents under the Original Resolution (the "**Refunded Bonds**").

4. All Bonds Must be Delivered. It shall be a condition of the obligation of the Regents to sell and deliver the Bonds to the Underwriter, and of the obligation of the Underwriter to purchase and accept delivery of the Bonds, that the entire \$\_\_\_\_\_ aggregate principal amount of the Bonds shall be sold and delivered by the Regents and accepted and paid for by the Underwriter at the Settlement.

5. Public Offering and Official Statement. (a) The Underwriter agrees to make a bona fide public offering of the Bonds so delivered at a price not in excess of the initial public offering price as set forth on the cover page of the Official Statement (as defined below). The Underwriter reserves the right (a) to over-allot or effect transactions that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market, and (b) to discontinue such stabilizing, if commenced, at any time. A public offering shall include an offering to a representative number of institutional investors or registered investment companies, regardless of the number of such investors to which the Bonds are sold.

(b) The Regents hereby authorize the Underwriter to use the Resolution, this Purchase Contract, the Official Statement and the information contained in any of those documents in connection with the public offering and sale of the Bonds. The Regents confirm their consent to the use by the Underwriter prior to the date hereof of the Preliminary Official Statement relating to the Bonds, dated February \_\_, 2010 (the "**Preliminary Official Statement**"), in connection with the preliminary public offering and sale of the Bonds. The Regents agree to cooperate with the Underwriter to provide a supply of final Official Statements within seven business days of the date hereof in sufficient quantity as may be reasonably requested by the Underwriter in order for the Underwriter to comply with the rules of the Municipal Securities Rulemaking Board (the "**MSRB**").

(c) Notwithstanding any prior amendments or supplements to the Official Statement made pursuant to this Section, the Regents, in cooperation with the Underwriter, shall prepare an updated Official Statement dated a date between December \_\_, 2010 and \_\_\_\_\_ \_\_, 2011 (both dates inclusive) relating to the Bonds (the "**Updated Official Statement**"), which, as of such date, will be correct and complete in all material respects and will not contained any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Regents shall provide to the Underwriter, on or before \_\_\_\_\_ \_\_, 2011, a copy of the Updated Official Statement, manually executed by the Vice President for Finance and Administration and Bursar of the Regents, and at least \_\_\_\_\_ (\_\_) printed, conformed copies of the Updated Official statement, or such greater quantity as the Underwriter shall reasonably require. As used in the Purchase Contract, the term "**Official Statement**" shall mean (1) at any

point in time during the period of the date of the Official Statement mentioned in subsection (b) of this Section and (2) from and after the date of delivery of the Updated Official Statement, the Updated Official Statement. References herein as of a specific date to the Official Statement shall mean the Official Statement applicable on such date in accordance with the preceding sentence.

(d) The Regents agree that they will notify the other party hereto if, within the period from the date of this Purchase Contract to and including the date which is 25 days following the end of the Underwriting Period (as hereinafter defined), the Regents discover any pre-existing or subsequent fact or becomes aware of the occurrence of any event, in any such case which might cause the Official Statement (as the same may have been theretofore supplemented or amended) to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. If, in the opinion of counsel to the Underwriter, the preparation and publication of a supplement or amendment to the Official Statement is, as a result of such fact or event (or any other event which becomes known to the Regents or the Underwriter during such period), necessary so that the Official Statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Regents will, at their expense, supplement or amend the Official Statement in such a manner so that the Official Statement, as so supplemented or amended, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and furnish copies of such supplement or amendment to the Underwriter in such numbers as the Underwriter may reasonably request.

(e) For purposes of this Purchase Contract, the "End of the Underwriting Period" shall mean the day of the Settlement, or, if the Regents have been notified in writing by the Underwriter, on or prior to the date of the Settlement, that the end of the underwriting period within the meaning of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended ("**Rule 15c2-12**") will not occur on the date of the Settlement, such later date on which the "end of the underwriting period" has in fact occurred within such meaning. In the event that the Regents have been given notice pursuant to the preceding sentence that the "end of the underwriting period" will not occur on the date of the Settlement, the Underwriter agrees to notify the Regents in writing of the date it does occur as soon as practicable following the "end of the underwriting period" for all purposes of Rule 15c2-12; provided, however, that if the Underwriter has not otherwise so notified the Regents of the "end of the underwriting period" by the 180th day after the Settlement, then the "end of the underwriting period" shall be deemed to occur on such 180th day unless otherwise agreed to by the Regents.

(f) At any time prior to the End of the Underwriting Period, the Underwriter may from time to time request, and, if such request is made, the Regents shall deliver to the Underwriter as soon as practicable thereafter, a certificate of the Regents signed by the Vice President for Finance and Administration and Bursar of the Regents in the form set forth as **Exhibit A** hereto, dated a date (and speaking as of such date) not earlier than the date of such request.

6. Representations, Warranties and Covenants of the Regents. On the date hereof, the Regents represent, warrant, and agree as follows:

(a) The Regents are a body politic and corporate organized and existing under and pursuant to the Constitution and laws of the State, have full legal right, power and authority pursuant to the Constitution, the Act and the Resolution to consummate all transactions contemplated by (i) this Purchase Contract, the Resolution, the Escrow Agreement dated as of \_\_\_\_\_, 2011 (the "**2011 Escrow Agreement**") between the Regents and Wells Fargo Bank, N.A., as the Escrow Agent (the "**Escrow Agent**"), the Continuing Disclosure Agreement relating to the Bonds between the Regents and the Trustee, as dissemination agent (the "**Continuing Disclosure Agreement**") and the Remarketing Agreement (collectively, the "**Regents' Documents**"), the Bonds and any and all other agreements and instruments relating to the issuance and sale of the Bonds; and (ii) the Preliminary Official Statement relating to the Bonds, including all appendices thereto, dated March \_\_, 2010 (the "**Preliminary Official Statement**") and the final Official Statement, including all appendices thereto, dated as of the date hereof (the final Official Statement, including all appendices, supplements and amendments thereto, collectively is referred to as the "**Official Statement**"); to enter into the Regents' Documents; to issue the Bonds; to approve the Official Statement; to carry out all of its obligations thereunder and to comply with the terms and conditions hereof and thereof applicable to the Regents.

(b) The Regents have duly adopted the Resolution and have duly authorized all necessary action to be taken by them for: (i) the issuance and sale of the Bonds upon the terms and conditions set forth herein, in the Official Statement, and in the Resolution; (ii) the approval and execution, as relevant, of each Regents' Document and the Bonds; and (iii) the execution, delivery or receipt of and performance of the Regents' obligations under each Regents' Document and the Bonds, and any and all such other agreements and documents as may be required to be executed, delivered or received by the Regents in order to carry out, effectuate and consummate the transactions contemplated herein and therein.

(c) The Regents have previously provided the Underwriter with the Preliminary Official Statement, and as of its date, the Preliminary Official Statement has been "deemed final" by the Regents for purposes of Rule 15c2-12.

(d) The Regents have never failed to comply in all material respects with any continuing disclosure undertaking with regard to Rule 15c2-12 to provide annual reports or notices of material events specified in Rule 15c2-12.

(e) The Regents have duly approved and authorized the execution, delivery and distribution of the Official Statement.

(f) The information contained in the Official Statement with respect to forward-looking statements and in the Sections thereof titled "INTRODUCTION – The Regents and the University of Idaho" and "– Purpose of the Series 2010/2011 Bonds," "SECURITY FOR THE SERIES 2010/2011 BONDS," "PLAN OF FINANCE – Series 2010A Refunding Project," "– Series 2010B Project," "– Series 2010C Project," and "– Series 2011 Refunding Project," "PRO FORMA AND HISTORICAL PLEDGED REVENUES," "THE UNIVERSITY," "SOURCES

OF FUNDING FOR THE UNIVERSITY," "UNIVERSITY GOVERNANCE AND ADMINISTRATION," "CONTINUING DISCLOSURE" and "LITIGATION" and in Appendices A and B (collectively, all such Sections and appendices are herein referred to as the "**Relevant Portions**") is, and at the Closing and at the Settlement will be, true and correct in all material respects and does not, and at the Closing and at the Settlement will not, contain any untrue or misleading statement of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) At the time of the Regents' acceptance hereof and (unless an event occurs of the nature described in Section 5(d) hereof) at all times subsequent thereto during the period up to and including twenty-five (25) days after the Closing Date and the Settlement, the information contained in the Relevant Portions of the Official Statement does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) If the information contained in the Relevant Portions of the Official Statement is supplemented or amended pursuant to Section 5(d) hereof, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto during the period up to and including twenty-five (25) days after the Closing Date and the Settlement, the information contained in the foregoing Sections of the Official Statement, as so supplemented or amended, will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(i) Neither the execution and delivery of any Regents' Document, the Bonds, nor the consummation of the transactions contemplated herein or therein or the compliance with the provisions hereof or thereof, will conflict with, or constitute on the part of the Regents a violation of, or a breach of or default under, (i) any indenture, mortgage, commitment, note or other agreement or instrument to which the Regents are a party or by which it is bound, or (ii) any existing law, statute, rule, regulation (other than any state blue sky law) or resolution or judgment, order or decree of any court or governmental agency or body having jurisdiction over the Regents or any of its activities or properties. All consents, approvals, certificates of need, authorizations and orders of governmental or regulatory authorities (other than any state blue sky authorities) which are required for the execution and delivery of, consummation of the transactions contemplated by, and compliance with the provisions of, the Regents' Documents and the Bonds by the Regents have been obtained or will be obtained when required.

(j) Except as is specifically disclosed in the Official Statement, 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, to the knowledge of the Regents, threatened against or affecting (i) the financial condition of the Regents, the University, the Series 2011 Refunding Project, the application of the Pledged Revenues to payment of the Bonds or the operation by the Regents or the University of its properties, or (ii) the corporate existence of the Regents, the offices held by the members of the Regents and officers of the University and their respective rights or powers, their legal existence, or the actions taken or contemplated to be taken by them, or (iii) the transactions contemplated in the Regents' Documents or the Bonds, or (iv) the validity or

enforceability in accordance with their respective terms of the Bonds, any Regents' Document or any material agreement or instrument by which the Regents, the University or their respective properties is or may be bound, and, to the knowledge of the Regents, is there any basis therefor wherein an unfavorable decision, ruling or finding would materially adversely affect any of the foregoing described in clauses (i) through (iv).

(k) The Regents will not take or omit to take any action which will in any way cause or result in the proceeds of the sale of the Bonds being applied in a manner other than as provided in the Resolution or as described in the Official Statement.

(l) The Regents have not been at any time in default as to principal or interest with respect to any obligation issued by or guaranteed by the Regents or with respect to which the Regents are an obligor.

(m) The audited financial statements of the University for the periods ended June 30, 2009 and June 30, 2008 are a fair presentation of the financial position of the University, the results of the University's operations and the University's changes in its net assets for the periods specified as of the dates indicated.

(n) Except as specifically disclosed in the Official Statement, since June 30, 2009, there has been no material adverse change in the condition, financial or otherwise, of the University from that set forth in the audited financial statements as of and for the period ended that date; and except as specifically disclosed in the Official Statement, the University, since June 30, 2009, has not incurred any material liabilities, directly or indirectly, except in the ordinary course of the University's operations.

(o) Between the date of this Agreement and the dates of the Closing and the Settlement, except as contemplated by the Official Statement, the Regents will not incur and will not cause the University to incur any material liabilities, direct or contingent, or enter into any material transaction, in either case other than in the ordinary course of business.

(p) As of the date of this Purchase Contract, no event of default has occurred and is continuing and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute an event of default under any instrument to which the Regents or the University is a party and which is material to the business or operations of the Regents or the University.

(q) The Regents agree to furnish or cause to be furnished such information, execute or cause to be executed such instruments and take such other action in cooperation with Underwriter's Counsel as it may reasonably request (i) in any endeavor to qualify the Bonds for offering and sale under the securities or "Blue Sky" laws or regulations of such jurisdictions of the United States of America as the Underwriter may request, (ii) for the application for exemption from such qualification, (iii) for the determination of the Bonds' eligibility for investment under the laws of such jurisdictions as the Underwriter designates and (iv) to provide for the continuance of such qualifications or exemptions in effect for so long as required for distribution or marketing of the Bonds, but not to exceed six (6) months after the date of Closing and the Settlement; provided, however, that the Regents shall not be required to qualify to do



business in any jurisdiction where it is not now so qualified, or to take any such action which would subject it to general service of process in any jurisdiction where it is not now so subject.

(r) The Regents will comply and will use its best efforts to insure compliance with the applicable representations, warranties, covenants and obligations of the Regents contained in this Purchase Contract.

(s) Any certificate signed by any officer of the Regents or the University and delivered to the Underwriter shall be deemed a representation and warranty by the Regents to the Underwriter as to the truth of the statements therein contained.

(t) The Regents are not contemplating any action in the future which, to their knowledge, would result in a material adverse change in the market price or marketability of the Bonds.

(u) The Regents will promptly notify the Underwriter as soon as it may become aware of any fact which, in its reasonable judgment, casts doubt on or questions the ability of the Regents (1) to refund Refunded Bonds pursuant to the Resolution, (2) to issue, sell and deliver the Bonds as provided for by this Purchase Contract, or (3) to perform any of its other obligations in a timely manner pursuant to this Purchase Contract.

(v) The Regents shall take no action including, without limitation, the issuance of additional debt other than the Series 2010 Bonds, the effect of which will be to prevent the issuance and delivery of any of the Bonds on the date of the Settlement.

7. Closing. At 9:00 a.m., Pacific Daylight Time on March \_\_, 2010, or such other date and time as shall have been mutually agreed upon by the Regents and the Underwriter, the certificates, opinions and other documents required by Section 8 below shall be executed and delivered (all of the foregoing actions are herein referred to collectively as the "**Closing**"). The Closing shall take place at the offices of Skinner Fawcett, LLC in Boise, Idaho, or at such other location as shall be mutually agreed upon by the Regents and the Underwriter. Assuming the Closing is completed in accordance with the provisions of this Purchase Contract, then, subject to the provisions of this Purchase Contract, the Underwriter shall be obligated to purchase the Bonds and pay the Purchase Price therefor (and the Regents shall be obligated to issue and deliver such Bonds) at the Settlement.

8. Closing Conditions. (a) The Underwriter's obligations under this Purchase Contract shall be conditioned upon the performance by the Regents of their obligations to be performed hereunder, and the applicable conditions of Section 10 hereof having been satisfied, and the tender by the Regents of their performance at the Closing as described in Section 7 hereof, which Closing shall not be completed unless the Underwriter shall receive at the time of the Closing the following:

(a) Certified copies of the 2010 Supplemental Resolution and all resolutions of the Regents relating to the Bonds and approving the execution and delivery of each Regents' Document and the Official Statement;

(b) The Official Statement executed on behalf of the Regents by their duly authorized officer;

(c) A letter dated the date of the Closing of Skinner Fawcett, LLC and Ballard Spahr LLP ("**Co-Bond Counsel**"), dated the Closing Date, in substantially the form set forth in **Exhibit B** hereto;

(d) An opinion of Underwriter's Counsel, dated the Closing Date, in substantially the form acceptable to the Underwriter;

(e) An opinion of Counsel to the Regents and the University addressed to the Underwriter, the Regents, and Co-Bond Counsel, dated the Closing Date, in form and substance satisfactory to the Underwriter, to the effect that (i) the University is an institution of higher education and a body politic of the State, duly and validly created and existing pursuant to the laws of the State with, and the Regents have, full legal right, power and authority to issue the Bonds, to adopt the Resolution, to pledge the Pledged Revenues, to enter into the Regents' Documents, and to consummate the transactions contemplated by the Resolution and the Regents' Documents, (ii) the Resolution was duly adopted by the Regents, (iii) the adoption of the Resolution by the Regents and the execution and delivery of the Regents' Documents and the performance by the Regents or the University of the transactions contemplated thereby will not conflict with or constitute a breach of, or default under, any provision of the applicable law, rule, regulation, ordinance, judgment, order or decree to which the Regents or the University is subject, or any commitment, note, agreement or other instrument to which the University or Regents is a party or by which it or any of their respective property is bound; (iv) the Relevant Portions of the Official Statement are true and correct in all material respects and do not omit to state a material fact; and (v) except as disclosed in the Official Statement, there is no action, suit, proceeding, official inquiry or investigation, at law or in equity, pending, or to the knowledge of such Counsel, threatened (and there is no basis for such action, suit, proceeding, official inquiry or investigation) which (1) questions the existence or powers of the Regents or the University or any of their respective officers; (2) seeks to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or the authorization, execution and delivery of the Resolution or any Regent Document or validity of the proceedings taken by the Regents in connection with the issuance of the Bonds; or (3) challenges the powers of the Regents or the University to pledge and collect Pledged Revenues and other funds and accounts pledged to the payment of the Bonds under the Resolution;

(f) Letters from Moody's and S&P to the effect that the Bonds have received ratings of "A1" from Moody's and "A+" from S&P;

(g) A certificate of the Regents, dated the Closing Date, in substantially the form acceptable to the Co-Bond Counsel and the Underwriter;

(h) Forward purchase letter agreement(s) in the form attached as Appendix H to the Official Statement;

(i) A certificate of the Trustee dated the Closing Date, to the effect that the Trustee (i) is duly organized and validly existing under the laws of the United States of America, with

full corporate trust powers, (ii) has full right, power and authority to enter into and perform the obligations under the Resolution, and (iii) has validly accepted its obligations under the Resolution, which obligations are legally valid and binding obligations of the Trustee; and

(j) Such additional legal opinions, certificates, proceedings, instruments and other documents as Co-Bond Counsel may reasonably request to evidence compliance by the Regents with legal requirements, the truth and accuracy, as of the time of Closing, of the respective representations of the Underwriter, the Regents herein contained and the due performance or satisfaction by each of them at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by each of them.

(b) All the opinions, letters, certificates, instruments and other documents mentioned above shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Underwriter.

9. Settlement. At 9:00 a.m. Pacific Daylight Time on January \_\_, 2011, or at such later date, but not later than April 1, 2011 as may be mutually agreed upon by the Regents and the Underwriter, (a) the Regents will, subject to the terms and conditions hereof, deliver the Bonds to the Underwriter in the form of one bond registered in the name of George K. Baum & Company, or as otherwise requested by the Underwriter, duly executed and authenticated, in the aggregate principal amount of \$\_\_\_\_\_ (the "**Initial Bonds**"), and deliver to the Underwriter the other documents required by Section 10 hereof; and (b) the Underwriter will, subject to the terms and conditions hereof, accept such delivery and pay or cause to be paid the Purchase Price of the Bonds as set forth in Section 1 hereof by wire transfer in immediately available funds for unconditional credit to the Regents (all of the foregoing described transactions are herein called the "**Settlement**"). Delivery and payment as aforesaid shall be made at the offices of Skinner Fawcett, LLC in Boise, Idaho, or such other place as shall have been mutually agreed upon by the Regents and the Underwriter.

Upon surrender of the Initial Bonds for exchange, definitive Bonds shall be issued in the form of one typewritten or printed Bond certificate, registered the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York ("**DTC**"), in the aggregate principal amount of \$\_\_\_\_\_. Delivery of the definitive Bonds as aforesaid shall be made at the place in New York, New York designated by DTC. The definitive Bonds shall be made available to the Underwriter at a location in New York, New York at least two full business days before the date of the Settlement for purposes of inspection. The definitive Bonds shall bear a proper CUSIP number (provided, however, that neither the printing of the wrong CUSIP number on any Bond nor the failure to print a CUSIP number thereon shall constitute cause to refuse to accept delivery of any Bond).

10. Settlement Conditions. (a) The Underwriter's obligation under this Purchase Contract to purchase, to accept delivery of and to pay for the Bonds at the Settlement shall be conditioned upon the performance of the Regents of their obligations to be performed hereunder, including, without limitation, the Closing having been completed, and the Regents having tendered performance of its obligations under Section 9 hereof with respect to the Settlement, which Settlement shall not be completed unless the Underwriter shall receive at the time of the Settlement the following:

(1) The Updated Official Statement, executed on behalf of the Regents by the Vice President for Finance and Administration and Bursar of the Regents;

(2) The Remarketing Agreement, executed by the Regents and the Remarketing Agent;

(3) The Continuing Disclosure Agreement, executed by the Regents and the Trustee;

(4) The 2011 Escrow Agreement, executed by the Regents and the Escrow Agent;

(5) A certificate of the Regents to the effect that the Resolution is in full force and effect, with such changes or amendments as may have been agreed to by the Underwriter, together with a copy of any such changes or amendments (to the extent the same were not provided at the Closing pursuant to Section 8) certified by the Vice President for Finance and Administration and Bursar of the Regents;

(6) An unqualified opinion of Co-Bond Counsel dated the date of the Settlement, in substantially the form attached to the Official Statement as Appendix G, together with a letter of Co-Bond Counsel, dated the date of the Settlement and addressed to the Underwriter entitling the Underwriter to rely upon such opinion as if the same were addressed to it;

(7) A supplemental opinion of Co-Bond Counsel, dated the Settlement Date, in substantially the form attached to this Purchase Contract as **Exhibit C**;

(8) An opinion of the Underwriter's Counsel, dated the Settlement Date, in form and substance satisfactory to the Underwriter;

(9) An opinion of Counsel to the Regents and the University addressed to the Underwriter, the Regents, and Co-Bond Counsel, dated the Settlement Date, in form and substance satisfactory to the Underwriter, to the effect that (i) the Relevant Portions of the Official Statement are true and correct in all material respects and do not omit to state a material fact; and (ii) except as disclosed in the Official Statement, there is no action, suit, proceeding, official inquiry or investigation, at law or in equity, pending, or to the knowledge of such Counsel, threatened (and there is no basis for such action, suit, proceeding, official inquiry or investigation) which (1) questions the existence or powers of the Regents or the University or any of their respective officers; (2) seeks to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or the authorization, execution and delivery of the Resolution or any Regent Document or validity of the proceedings taken by the Regents in connection with the issuance of the Bonds; or (3) challenges the powers of the Regents or the University to pledge and collect Pledged Revenues and other funds and accounts pledged to the payment of the Bonds under the Resolution;

(10) A certificate dated the date of the Settlement signed by the Vice President for Finance and Administration and Bursar of the Regents to the effect that, except to the

extent disclosed in the Official Statement, no litigation is pending or, to his knowledge, threatened in any court to restrain or enjoin the issuance or delivery of the Bonds, or the collection or application of revenues and funds pledged to pay the principal of and interest on the Bonds, or the pledge thereof, or in any way contesting or affecting the validity of the Bonds, the Resolution or this Purchase Contract, or contesting the powers of the Regents or contesting the authorization of the Bonds or the Resolution, or contesting in any way the accuracy, completeness, or fairness of the Preliminary Official Statement or the Official Statement;

(11) A certificate dated the date of the Settlement signed by the Vice President for Finance and Administration and Bursar of the Regents, to the effect that, to the best of his knowledge, (i) the representations and warranties of the Regents contained herein are true and correct in all material respects on and as of the date of Settlement as if made on the date of Settlement; (ii) the Official Statement does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) no event affecting the Regents, the University or the Pledged Revenues has occurred since the date of the Official Statement which is materially adverse and is necessary to disclose the Official Statement in order to make the statements and information therein not misleading in any respect; and (iv) there has not been any material adverse change in the financial condition of the Regents, the University or the Pledged Revenues from that reflected in the Regents' financial statements and the financial information contained in the Official Statement;

(12) A certificate dated the date of the Settlement signed by the Vice President for Finance and Administration and Bursar of the Regents to the effect that the Regents have complied with all conditions on its part to be performed or satisfied at or prior to the Settlement pursuant to this Purchase Contract;

(13) A certificate of the Escrow Agent dated the Closing Date, to the effect that the Escrow Agent (i) is duly organized and validly existing under the laws of the United States of America, with full corporate trust powers, (ii) has full right, power and authority to enter into and perform the obligations under the 2011 Escrow Agreement, and (iii) has validly accepted its obligations under the 2011 Escrow Agreement, which obligations are legally valid and binding obligations of the Escrow Agent; and

(14) Appropriate documentation that evidences that all cash required to be delivered to the trustee for the Refunded Bonds has been delivered, all as described in the Official Statement;

(15) A certificate of the Vice President for Finance and Administration and Bursar of the Regents stating in effect that the information supplied to the Underwriter relating to the outstanding principal amount of Refunded Bonds, including their interest rates and redemption dates, is true and correct in all material respects;

(16) Evidence that provisions have been made to insure that the Refunded Bonds have been or will be called for redemption on April 1, 2011;

(17) A certificate dated the date of the Settlement by an appropriate official of the Regents to the effect that, on the basis of the facts, estimates, and circumstances in effect on the date of delivery of the Bonds, it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code");

(18) A certificate of the Attorney General of the State, dated the date of the Settlement, relating to validity of the Bonds;

(19) A certificate of the Regents dated the date of the Settlement, required by Sections 7.2(2) and 7.2(4) of the Original Resolution;

(20) Letters from S&P and Moody's stating the respective then current ratings on the Bonds; and

(21) Such additional legal opinions, certificates, instruments, and other documents as the Underwriter may reasonably request to evidence the truth, accuracy, and completeness, as of the date hereof and as of the date of Closing, of the Regents' representations and warranties contained herein and of the statements and information contained in the Official Statement, and the due performance and satisfaction by the Regents at or prior to the date of the Settlement of all agreements then to be performed and all conditions then to be satisfied by the Regents.

(b) All the opinions, letters, certificates, instruments and other documents mentioned above shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Underwriter.

11. Conditions Precedent to Underwriter's Obligations. The Underwriter has entered into this Purchase Contract in reliance upon the representations, warranties and agreements of the Regents contained herein and to be contained in the documents and instruments to be delivered at the Closing and the Settlement, and upon the performance by the Regents of their obligations hereunder and under such documents and instruments, both as of the date hereof and as of the dates of the Closing and the Settlement. Accordingly, the Underwriter's obligations under this Purchase Contract to purchase and pay for the Bonds shall be subject to the performance by the Regents of their obligations hereunder and under such documents and instruments at or prior to the Closing and the Settlement. The Underwriter's obligations under this Purchase Contract shall also be subject to the following conditions:

(a) The representations and warranties of the Regents contained herein shall be true, complete, and correct in all material respects at the date hereof and on and as of the dates of the Closing and the Settlement, as if made on such dates;

(b) At the time of the Closing and the Settlement, the Resolution, as certified by the Vice President for Finance and Administration and Bursar of the Regents, shall have been duly adopted and shall be in full force and effect and shall not have been amended, modified, or supplemented, and the Official Statement shall not have been amended, modified, or

supplemented, except as contemplated by Section 5 of this Purchase Contract or as may have otherwise been agreed to by the Underwriter;

(c) At the time of the Closing and the Settlement, this Purchase Contract shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriter;

(d) At the time of the Closing and the Settlement, there shall have been no material adverse change in the financial condition of the Regents, the University or the Pledged Revenues from that reflected in the Regents' financial statements and the financial information contained in the Updated Official Statement; and

(e) At the time of the Closing, the Regents shall not have failed to pay principal or interest when due on any of its outstanding obligations for borrowed money or otherwise be in default on any such obligation, and there shall not exist any event that notice would constitute a default.

12. Termination of Agreement. (a) The Underwriter may terminate this Purchase Contract without liability therefor except as set forth in Section 13 hereof, by notification to the Regents if at any time on or after the acceptance by the Regents of this Purchase Contract and on or prior to the Closing:

(i) Legislation not yet introduced in Congress shall be enacted or actively considered for enactment by the Congress, or recommended by the President of the United States of America to the Congress for passage, or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration, a decision by a court of the United States of America or the United States Tax Court shall be rendered, or a ruling, regulation (proposed, temporary or final) or Official Statement by or on behalf of the Treasury Department of the United States of America, the Internal Revenue Service or other agency or department of the United States of America shall be made or proposed to be made which has the purpose or effect, directly or indirectly, of imposing federal income taxes upon interest on the Bonds under the Internal Revenue Code of 1986, as amended (the "**Code**"); or

(ii) Any other action or event shall have transpired which has the purpose or effect, directly or indirectly, of materially adversely affecting the federal income tax consequences of any of the transactions contemplated in connection herewith or contemplated by the Official Statement, and, in the reasonable judgment of the Underwriter, materially adversely affects the market for the Bonds, at the contemplated offering price (or yield), by the Regents, of the Bonds; or

(iii) Legislation shall be enacted, or actively considered for enactment by the Congress, with an effective date on or prior to the date of Closing, or a decision by a court of the United States of America shall be rendered, or a ruling or regulation by the Securities and Exchange Commission (the "**SEC**") or other governmental agency having jurisdiction over the subject matter shall be made, the effect of which is that (i) the Bonds

are not exempt from the registration, qualification or other requirements of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or (ii) the Resolution is not exempt from the registration, qualification or other requirements of the Trust Indenture Act of 1939, as amended and as then in effect; or

(iv) A stop order, ruling or regulation by the SEC shall be issued or made, the effect of which is that the issuance, offering or sale of the Bonds, as contemplated herein or in the Official Statement, is in violation of any provision of the Securities Act of 1933, as amended and as then in effect, the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect; or

(v) There shall exist any fact or there shall occur any event which, in the reasonable judgment of the Underwriter, either (i) makes untrue or incorrect in any material respect any statement or information contained in the Official Statement or (ii) is not reflected in the Official Statement but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect and, in either such event the Regents refuse to permit the Official Statement to be supplemented to correct or supply such statement or information, or the Official Statement as so corrected or supplemented is such as, in the judgment of the Underwriter, would materially adversely affect the market for the Bonds or the sale, at the contemplated offering price (or yield), by the Regents of the Bonds; or

(vi) There shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the reasonable judgment of the Underwriter, impractical or inadvisable to proceed with the offering or delivery of the Bonds as contemplated by the final Official Statement (exclusive of any amendment or supplement thereto); or

(vii) Trading in the Regents' outstanding securities shall have been suspended by the Securities and Exchange Commission or trading in securities generally on the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on such Exchange; or

(viii) A banking moratorium shall have been declared either by federal or New York State authorities; or

(ix) There occurs any material adverse change in the affairs, operation or financial condition of the University, except as set forth or contemplated in the Official Statement, the effect of which is, in the reasonable judgment of the Underwriter, to materially adversely affect the market for the Bonds or the sale, at the contemplated prices (or yields) by the Regents of the Bonds; or

(x) The Official Statement is not executed, approved and delivered in accordance with the terms hereof; or



(xi) In the reasonable judgment of the Underwriter, the market price of the Bonds, or the market price generally of obligations of the general character of the Bonds, would be adversely affected because: (i) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange, or (ii) the New York Stock Exchange or other national securities exchange, or any governmental authority, shall impose, as to the Bonds or similar obligations, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, underwriters; or

(xii) Any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance, sale or delivery of the Bonds or in any way contesting or affecting any authority for or the validity of the Bonds, the Regents' Documents, or the existence or powers of the Regents or any of the transactions described herein or in the Official Statement; or

(xiii) Any rating on the Bonds or other bonds of the Regents which are secured by a pledge of the Pledged Revenues on a parity with the pledge of the Bonds thereon is reduced or withdrawn or placed on credit watch with negative outlook by any major credit rating agency.

(b) The Underwriter may terminate this Purchase Contract, without liability therefor except as set forth in Section 13 hereof, by notification to the Regents if, at any time on or prior to the date of the Settlement, (1) a Change in Law, (2) any legislation enacted by the Congress of the United States or introduced therein or recommended for passage by the President of the United States (if such enacted, introduced or recommended legislation has a proposed effective date which is on or before the date of Settlement), (3) any law, rule or regulation proposed or enacted by any governmental body, department or agency (if such proposed or enacted law, rule or regulation has a proposed effective date which is on or before the date of Settlement), or (4) any judgment, ruling or order issued by any court or administrative body, in any such case, affecting the Underwriter, would prohibit (or have the retroactive effect of prohibiting, if enacted, adopted, passed or finalized) the Underwriter from purchasing the Bonds as provided herein or effectuating the sale of the Bonds or beneficial ownership interests therein to the public; provided, however, that in the case of the foregoing clauses (1), (2), (3), and (4), such Change in Law, legislation, rule or regulation or judgment, ruling or order shall have become effective; been enacted, introduced or recommended; been proposed or enacted or been issued; as the case may be, subsequent to the date of this Purchase Contract. As used herein, "**Change in Law**" means any change in or addition to applicable state or federal law, whether statutory, constitutional or as interpreted by the courts, including any changes in or new rules, regulations or other pronouncements or interpretations by state or federal agencies, from that which exists on the date of this Purchase Contract.

13. Termination and Its Effect. (a) In the event the Regents are unable, after using their best efforts, to satisfy the conditions herein to the completion of the Closing (unless waived by the Underwriter) by the time such completion is required, then this Purchase Contract shall terminate, and neither the Regents nor the Underwriter shall have any further obligation or liability to, or any rights against, the other.

(b) If the Closing shall have occurred, in the event the Regents are unable, after using their best efforts, to satisfy the conditions herein to the completion of the Settlement (unless waived by the Underwriter) by the time such completion is required, or are otherwise unable, after using their best efforts, to satisfy the conditions to the obligation of the Underwriter to purchase, accept delivery of and pay for the Bonds as set forth in this Purchase Contract (unless waived by the Underwriter) by the time such completion is required, then this Purchase Contract shall terminate, and neither the Regents nor the Underwriter shall have any further obligation or liability to, or any rights against, the other except as otherwise provided in this Purchase Contract.

(c) In the event the Underwriter fails to purchase, accept delivery of and pay for the Bonds as provided herein for a reason permitted hereunder, then this Purchase Contract shall terminate, and neither the Underwriter nor the Regents shall have any further obligation or liability to, or any rights against, the other except as otherwise provided in this Purchase Contract.

(d) In the event the Underwriter terminates this Purchase Contract as permitted in Section 12 hereof, then this Purchase Contract shall terminate, and neither the Underwriter nor the Regents shall have any further obligation or liability to, or any against, the other.

(e) Notwithstanding the foregoing, the provisions of Sections 14 and 16 hereof shall survive any termination of this Purchase Contract.

14. Fees and Expenses. (a) The Underwriter shall be under no obligation to pay, and the Regents shall pay, all reasonable expenses incident to the performance of the Regents' obligations under this Purchase Contract, including but not limited to: (1) the fees and disbursements of Co-Bond Counsel and of Underwriter's Counsel; (2) the fees and expenses of the accountants of and counsel to the Regents, and of any other experts or consultants retained by the Regents; (3) any fees charged by the rating agencies for the ratings of the Bonds; (4) any fees and disbursements for the Trustee, the Escrow Agent and paying agent for the Refunded Bonds; (5) the cost of printing of the Bonds, the Resolution, the Preliminary Official Statement, the Official Statement, the Updated Official Statement, and any amendment or supplement thereto; and (6) all other miscellaneous and closing costs not paid by the Underwriter as provided in subparagraph (b) of this Section 14.

(b) The Underwriter shall pay all advertising expenses in connection with the offering of the Bonds.

(c) The Regents shall pay to the Underwriter at the Closing underwriting compensation in an amount equal to \$\_\_\_\_\_ (the "**Underwriter Fee**"). In the event that this Purchase Contract is terminated following the Closing or a Settlement of the Bonds does not occur in connection with the Bonds (other than resulting from a default by the Regents under this Purchase Contract), the Underwriter shall be obligated to reimburse the Regents in the amount of the Underwriter Fee.

15. Notice. Any notice or other communication to be given to the Regents under this Purchase Contract may be given by delivering the same in writing at the address for the Regents set forth above, and any notice or other communication to be given to the Underwriter under the Purchase Contract may be given by delivering the same in writing to George K. Baum &

Company, 1400 Wewatta Street, Suite 800, Denver, Colorado 80202, Attention: Lee White, Executive Vice President and Manager.

16. Benefit. This Purchase Contract is made solely for the benefit of the Regents and the Underwriter (including its successors or assigns) and no other person shall acquire or have any right hereunder or by virtue hereof. The Regents' representations, warranties, and agreements contained in this Purchase Contract shall remain operative and in full force and effect, regardless of (a) any investigations made by or on behalf of the Underwriter and (b) delivery of any payment for the Bonds hereunder; and the Regents' representations and warranties contained in Section 6 of this Purchase Contract shall remain operative and in full force and effect, regardless of any termination of this Purchase Contract.

17. Effective Date. This Purchase Contract shall become effective upon the execution of the acceptance hereof by the Regents and shall be valid and enforceable as the time of such acceptance.

18. Governing Law. This Purchase Contract shall be interpreted under and enforced in accordance with the laws of the State.

19. Severability. The invalidity of any provisions of this Purchase Contract shall not impair the validity of any other provision. If any provision of this Purchase Contract is determined by a court of competent jurisdiction to be unenforceable, such provision shall be deemed severable, and the Purchase Contract may be enforced with such provisions severed or as modified by such court.

20. Amendments. This Purchase Contract may be amended only by a writing signed by the parties hereto.

Very truly yours,

GEORGE K. BAUM & COMPANY

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

ACCEPTED:

This \_\_\_\_ day of March, 2010.

REGENTS OF THE UNIVERSITY OF IDAHO

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

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

Schedule 1

\$ \_\_\_\_\_  
 BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO  
 Adjustable Rate General Revenue Refunding Bonds  
 Series 2011

Maturity and Interest Rates. The captioned Bonds will mature on the date and in the amount and will bear interest at the Initial Term Interest Rate for the Initial Term Interest Rate Period set forth below:

<u>Maturity Date</u>	<u>Maturity Amount</u>	<u>End of Initial Term Interest Rate Period</u>	<u>Initial Term Interest Rate</u>
April 1, ____	\$	April 1, 2021	%

**GENERAL DESCRIPTION OF BONDS**

The Bonds will bear interest from the Settlement Date and will be payable April 1 and October 1 of each year, commencing on April 1, 2011, until maturity.

The Bonds are subject to mandatory tender and redemption prior to maturity as described in the Official Statement.

The Bonds shall be initially issued as one bond and registered in the name of the Underwriter. Bonds registered in the name of the Underwriter shall, immediately following their delivery, be exchanged for Bonds registered in the name of Cede & Co., as nominee of The Depository Trust Company, pursuant to the Book-Entry Only System described in the Resolution. Beneficial ownership of the Bonds may be acquired in denominations of \$5,000 or integral multiples thereof.

**EXHIBIT A**

**CERTIFICATE**

I, the Vice President for Finance and Administration and Bursar of the Board of Regents of the University of Idaho (the "Regents"), hereby certify that the Official Statement of the Regents (dated March \_\_, 2010) relating to The Regents of the University of Idaho Adjustable Rate General Revenue Refunding Bonds, Series 2011, as the same may have been amended or supplemented to the date hereof, does not contain an untrue statement of a material fact or omit to state a fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading. I have made such inquiries as were necessary for me to render this certificate.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Title: Vice President for Finance and  
Administration and Bursar

**EXHIBIT B**

CLOSING LETTER OF CO-BOND COUNSEL

The Board of Regents of the  
University of Idaho  
Moscow, Idaho

George K. Baum & Company  
Denver, Colorado

[Closing Date]

Ladies and Gentlemen:

Attached as Appendix G to the hereinafter mentioned Official Statement of the Regents of the University of Idaho (the "**Regents**") is our proposed form of legal opinion regarding, among other things, the authorization, issuance, validity and enforceability of the Regents' Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the "**Bonds**") and the exclusion of interest on the Bonds from gross income for federal income tax purposes, subject to the conditions and qualifications stated therein. Assuming satisfaction by the Regents and the Underwriter (as defined in the Purchase Contract hereinafter referred to) of their respective obligations to be satisfied in the Forward Delivery Bond Purchase Contract dated March \_\_, 2010 between the Regents and the Underwriter (the "**Purchase Contract**"), and the issuance of the Bonds, and no change in any applicable law, regulations or rulings, or in interpretations thereof, or in any other facts or circumstances (tax or otherwise) which, in our view, affect or are material to our opinion (including, without limitation, the existence of any litigation), we will be able to issue our opinion on the date of the Settlement (as defined in the Purchase Contract) in substantially the form attached as Appendix G to the Official Statement of the Regents dated March \_\_, 2010 relating to the Bonds.

Very truly yours,

EXHIBIT C

SUPPLEMENTAL OPINION OF CO-BOND COUNSEL

\_\_\_\_\_, 2011

The Board of Regents of the  
University of Idaho  
Moscow, Idaho

George K. Baum & Company  
Denver, Colorado

Re: The Regents of the University of Idaho  
Adjustable Rate General Revenue Refunding Bonds, Series 2011

Ladies and Gentlemen:

We have acted as co-bond counsel with reference to the above issue of bonds (the "**Bonds**") which are authorized to be issued by a resolution adopted by the Regents of the University of Idaho (the "**Regents**") on February 18, 2010. The Bonds are being sold to George K. Baum & Company (the "**Underwriter**") pursuant to a Forward Delivery Bond Purchase Contract dated March \_\_, 2010, between the Regents and the Underwriter (the "**Purchase Contract**"). Capitalized terms used, and not defined, herein have the meanings set forth in the Purchase Contract.

We have acted as co-bond counsel to the Regents in connection with the issuance of the Bonds and, in that capacity, have examined executed counterparts of the Purchase Contract, the Resolution, and the Official Statement of the Regents with respect to the Bonds dated March \_\_, 2010, as amended and supplemented on \_\_\_\_\_ \_\_, 2011 (the "**Official Statement**"). We have also examined the originals or copies, certified or otherwise identified to our satisfaction, of such other documents, records and other instruments as we have deemed necessary or advisable for purposes of this letter.

On the basis of such examination, we are of the opinion as of the date hereof and under currently existing law as follows:

1. The Purchase Contract and the Continuing Disclosure Agreement have each been duly authorized, executed and delivered by the Regents.
2. The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Resolution is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.



3. The statements contained in the Official Statement under the captions "INTRODUCTION – Authority for Issuance; – Terms of the Series 2010/2011 Bonds; – Payment and Security for the Series 2010/2011 Bonds," "THE SERIES 2010/2011 BONDS," "SECURITY FOR THE SERIES 2010/2011 BONDS – Pledged Revenues, – Covenants, – No Debt Service Reserve Account for the Series 2010/2011 Bonds;" and "TAX MATTERS," and in APPENDIX C, APPENDIX D and APPENDIX G to the Official Statement insofar as the statements contained under such captions purport to summarize and/or extract certain provisions of the Bonds, the Resolution and our opinion with respect to the tax-exempt status of interest on the Bonds, present an accurate summary and/or extract of such provisions in all material respects.

Because the primary purpose of our professional engagement as co-bond counsel was not to establish factual matters and because of the wholly or partially nonlegal character of many determinations involved in the preparation of the Official Statement, except with regards to the matters contained in Paragraph 3 above, we are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of any of the statements contained in the Official Statement and make no representation that we have independently verified the accuracy, completeness or fairness of any such statements. However, in our capacity as co-bond counsel, during the course of preparation of the Official Statement, we met in conferences with representatives of and counsel to the Regents and the University, your representatives and counsel, and others, during which conferences the contents of the Official Statement and related matters were discussed. Based on our participation in the above-mentioned conferences, and in reliance thereon and on the certificates and other documents herein mentioned, we advise you that no information came to the attention of the attorneys in our firm rendering legal services in such connection which caused them to believe that the Official Statement as of its date and as of the date of this letter contained or contains any untrue statement of a material fact or omitted or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (except that no opinion or belief is expressed herein as to financial statements, financial, economic demographic or statistical data, forecasts, charts, estimates, projections, assumptions, expressions of opinion, any information about book-entry and The Depository Trust Company, and information contained in Appendix A, Appendix B, and Appendix E to the Official Statement).

We have on this day rendered our approving opinion as co-bond counsel to the Regents with respect to the Bonds. You are entitled to rely on such opinion as if it were addressed to you.

This letter is furnished by us as co-bond counsel to the Regents. No attorney-client relationship has existed or exists between our firm and you in connection with the Bonds or by virtue of this letter. We disclaim any obligation to update this letter. This letter is delivered to you solely for your benefit and may not be relied upon by any other persons. This letter is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person. This letter is not intended to, and may not, be relied upon by the owners of the Bonds or by any party to whom it is not addressed.

Respectfully submitted,

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**CONTINUING DISCLOSURE AGREEMENT**

**Between**

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

**and**

**WELLS FARGO BANK, N.A.**  
**as Trustee and Dissemination Agent**

---

**Dated as of March \_\_, 2010**

---

**Relating to**

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

**\$ \_\_\_\_\_**  
**General Revenue Refunding Bonds, Series 2010A,**

**\$ \_\_\_\_\_**  
**General Revenue Bonds, Series 2010B,**

**and**

**\$ \_\_\_\_\_**  
**Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy – Build America Bonds)**

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## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "**Agreement**") dated as of March \_\_, 2010, is entered into by and between THE REGENTS OF THE UNIVERSITY OF IDAHO (the "**Regents**"), a body politic and corporate organized and existing under and pursuant to the Constitution and laws of the State of Idaho (the "**University**"), and WELLS FARGO BANK, N.A., (the "**Trustee**" and as more particularly defined below, the "**Dissemination Agent**") in connection with the issuance by the Regents of its \$\_\_\_\_\_ General Revenue Refunding Bonds, Series 2010A, \$\_\_\_\_\_ General Revenue Bonds, Series 2010B, and \$\_\_\_\_\_ Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy – Build American Bonds) (collectively, the "**Bonds**"). The Bonds are being issued pursuant to a Supplemental Resolution adopted by the Regents on February 18, 2010 (the "**2010 Supplemental Resolution**") supplementing that certain Resolution adopted by the Regents on November 22, 1991 (as subsequently amended and supplemented and together with the 2010 Supplemental Resolution, referred to herein as the "**Resolution**").

The Regents covenant and agree as follows:

SECTION 1. Purpose of the Agreement. This Agreement is being executed and delivered by the Regents for the benefit of the Bondowners and in order to allow the Participating Underwriters (as defined by Rule 15c2-12) to comply with Rule 15c2-12.

SECTION 2. Definitions. In addition to the definitions set forth in the Resolution, which apply to any capitalized term used in this Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"**Annual Financial Information**" means the financial information or operating data with respect to the University and the Pledged Revenues, delivered at least annually pursuant to Section 3 hereof, of the type set forth in the Official Statement, including but not limited to, such Pledged Revenues and debt service coverage information of the type set forth under the caption "PRO FORMA AND HISTORICAL PLEDGED REVENUES," provided that such information shall be provided only on an actual basis, financial information and operating data set forth under the captions "SECURITY FOR THE SERIES 2010/2011 BONDS – Student Fees," "– Sales and Services Revenues," "– Facilities and Administrative Recovery Revenues," "– Other Operating Revenues" and "– Investment Income," "THE UNIVERSITY – Housing and Student Union Facilities," "SOURCES OF FUNDING FOR THE UNIVERSITY – State Appropriations," "– Schedule of Outstanding Indebtedness," the table titled "Five-Year Historical Enrollment Summary" under the caption "THE UNIVERSITY – Student Body," and the table in Appendix B titled "Tuition and Student Fees Academic Year 2009-2010."

"**Audited Financial Statements**" means the annual financial statements for the University, prepared in accordance with generally accepted accounting principles as in effect from time to time, audited by a firm of certified public accountants.

"**Bondowner**" or "**owner of the Bonds**" means the registered owner of the Bonds, and so long as the Bonds are subject to the book-entry system, any Beneficial Owner as such term is defined in the Resolution.

"**Dissemination Agent**" means Wells Fargo Bank, N.A., acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Regents and which has filed with the Trustee under the Resolution a written acceptance of such designation.

"**Events**" means any of the events listed in Section 4(a) of this Agreement.

"**MSRB**" means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission to receive reports pursuant to Rule 15c2-12. Unless otherwise designated by the MSRB or the Securities and Exchange Commission, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) system of the MSRB, currently located at <http://emma.msrb.org>.

"**Official Statement**" means the final Official Statement dated March \_\_, 2010 delivered in connection with the original issue and sale of the Bonds.

"**Rule 15c2-12**" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. Provision of Annual Information.

(a) Commencing with the Fiscal Year ended June 30, 2010, and annually while the Bonds remain outstanding, the Regents shall provide to the Dissemination Agent Annual Financial Information and Audited Financial Statements.

(b) Such Annual Financial Information shall be provided by the Regents not later than 180 days after the end of each Fiscal Year. The Audited Financial Statements will be provided when available but in no event later than 180 days after the end of each Fiscal Year.

(c) The Regents may provide Annual Financial Information and Audited Financial Statements with respect to the University and the Pledged Revenues by specific cross-reference to other documents which have been submitted by the Dissemination Agent to the repositories or the MSRB or filed with the Securities and Exchange Commission. If the document so referenced is a final official statement within the meaning of Rule 15c2-12, such final official statement must also be available from the MSRB. The Regents shall clearly identify each such other document so incorporated by cross-reference.

(d) The Dissemination Agent shall provide Annual Financial Information and Audited Financial Statements to the MSRB on or before the tenth day after the Dissemination Agent receives such Annual Financial Information and Audited Financial Statements. The Regents shall include with each submission of Annual Financial Information to the Dissemination Agent a written representation addressed to the Dissemination Agent to the effect that the Annual Financial Information is the Annual Financial Information required by this Agreement and that it complies with the applicable requirements of this Agreement.

SECTION 4. Reporting of Events.

(a) This Section 4 shall govern the giving of notices of the occurrence of any of the following Events with respect to the Bonds:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.

4.       Unscheduled draws on any credit enhancement relating to the Bonds reflecting financial difficulties.
5.       Substitution of credit or liquidity providers, or their failure to perform.
6.       Adverse tax opinions or events affecting the tax-exempt status of the Bonds.
7.       Modifications to the rights of the security holders.
8.       Bond calls (other than mandatory sinking fund redemption).
9.       Defeasances.
10.      Release, substitution or sale of property securing repayment of the securities.
11.      Rating changes.

(b)       At any time when the Bonds are Outstanding and the Regents obtain knowledge of the occurrence of an Event, the Regents shall determine if such Event would constitute material information for owners of Bonds, *provided*, that any Event under subsection (a)(7), (8) or (11) will always be deemed to be material.

(c)       If the Regents determine that knowledge of the occurrence of an Event would be material, the Regents shall provide, in a timely manner, to the Dissemination Agent and the Dissemination Agent shall promptly file a notice of such occurrence with the MSRB. Notwithstanding the foregoing, notice of Events described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds pursuant to the Resolution.

(d)       The Dissemination Agent, if the Dissemination Agent is also the Trustee, shall promptly advise the Regents whenever, in the course of performing its duties as Trustee under the Resolution, it identifies an occurrence of an Event which, if material, would require the Regents to provide a notice pursuant to subsection (c) above; provided that the failure of the Dissemination Agent so to advise the Regents of such occurrence shall not constitute a breach by the Dissemination Agent, in its capacity as Trustee, of any of its duties and responsibilities hereunder or under the Resolution.

(e)       At any time the Bonds are outstanding, the Dissemination Agent shall, without further direction or instruction from the Regents, provide in a timely manner to the MSRB notice of any failure by the Regents to provide Annual Financial Information and Audited Financial Statements as specified in Section 3 hereof.

SECTION 5. Concerning the Dissemination Agent.

(a)       The Dissemination Agent shall not have any obligation to examine or review the Annual Financial Information and Audited Financial Statements and neither shall it have a duty to verify the accuracy or completeness of the Annual Financial Information and Audited Financial Statements.

(b)       Solely for the purpose of (i) defining the standards of care and performance, including indemnification, applicable to the Dissemination Agent in the performance of its obligations under this Agreement, (ii) the manner of execution by the Dissemination Agent of those obligations, and (iii) matters of removal, resignation, succession of the Dissemination Agent under this Agreement, Article

VIII of the Resolution is hereby made applicable to this Agreement as if this Agreement was (solely for this purpose) contained in the Resolution; provided that the Dissemination Agent shall have only such duties under this Agreement as are specifically set forth in this Agreement. Except as provided in Section 4(e) hereof, the Dissemination Agent shall have no duty to investigate or monitor compliance by the Regents with the terms of this Agreement.

SECTION 5. Term. This Agreement shall be in effect from and after the issuance and delivery of the Bonds and shall extend to the earliest of (a) the date all principal and interest on the Bonds shall have been deemed paid pursuant to the terms of the Resolution; (b) the date that the Regents shall no longer constitute an "obligated person" with respect to the Bonds within the meaning of Rule 15c2-12; and (c) the date on which those portions of Rule 15c2-12 which require this Agreement are determined to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Bonds, which determination may be made in any manner deemed appropriate by the Regents, including by an opinion of any attorney or firm of attorneys experienced in federal securities laws selected by the Regents. The Regents shall provide a notice of any such termination with the Dissemination Agent who shall file such notice with the MSRB.

SECTION 6. Amendment; Waiver. Notwithstanding any other provision of this Agreement, the Regents may amend this Agreement, and any provision of this Agreement may be waived, if such amendment or waiver is consistent with Rule 15c2-12. Written notice of any such amendment or waiver shall be provided by the Regents to the Dissemination Agent who shall file it with the MSRB, and the Annual Financial Information shall explain the reasons for the amendment and the impact of any change in the type of information being provided. If any amendment changes the accounting principles to be followed in preparing financial statements, the Annual Financial Information for the year in which the change is made will present a comparison between the financial statement or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 7. Additional Information. Nothing in this Agreement shall be deemed to prevent the Regents from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other annual information or notice of occurrence of an event which is not an Event, in addition to that which is required by this Agreement; provided that the Regents shall not be required to do so. If the Regents choose to include any annual information or notice of occurrence of an event in addition to that which is specifically required by this Agreement, the Regents shall have no obligation under this Agreement to update such information or include it in any future annual filing or notice of occurrence of an Event.

SECTION 8. Default and Enforcement. If the Regents fail to comply with any provision of this Agreement, any Bondowner may take action to seek specific performance by court order to compel the Regents to comply with its undertaking in this Agreement; provided that any Bondowner seeking to require the Regents to so comply shall first provide at least 30 days' prior written notice to the Regents of the Regents' failure (giving reasonable details of such failure), following which notice the Regents shall have 30 days to comply and, provided further, that only the owners of no less than a majority in aggregate principal amount of the Bonds may take action to seek specific performance in connection with a challenge to the adequacy of the information provided by the Regents in accordance with this Agreement, after notice and opportunity to comply as provided herein, and such action shall be taken only in a court of jurisdiction in the State of Idaho. A DEFAULT UNDER THIS AGREEMENT SHALL NOT BE DEEMED AN EVENT OF DEFAULT UNDER THE RESOLUTION OR THE BONDS, AND THE SOLE REMEDY UNDER THIS AGREEMENT IN THE EVENT OF ANY FAILURE OF THE REGENTS TO COMPLY WITH THIS AGREEMENT SHALL BE AN ACTION TO COMPEL PERFORMANCE.

SECTION 9. Beneficiaries. The Agreement shall inure solely to the benefit of the Regents, the Participating Underwriters and owners from time to time of the Bonds, and shall create no rights in any other person or entity.

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

By: \_\_\_\_\_  
Lloyd Mues, Vice President for Finance and Administration and Bursar

**WELLS FARGO BANK, N.A., as Trustee and Dissemination Agent**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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**CONTINUING DISCLOSURE AGREEMENT**

**Between**

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

**and**

**WELLS FARGO BANK, N.A.**  
**as Trustee and Dissemination Agent**

\_\_\_\_\_  
**Dated as of \_\_\_\_\_, 2011**  
\_\_\_\_\_

**Relating to**

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

**\$\_\_\_\_\_**  
**Adjustable Rate General Revenue Refunding Bonds, Series 2011**

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## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "**Agreement**") dated as of \_\_\_\_\_, 2011, is entered into by and between THE REGENTS OF THE UNIVERSITY OF IDAHO (the "**Regents**"), a body politic and corporate organized and existing under and pursuant to the Constitution and laws of the State of Idaho (the "**University**"), and WELLS FARGO BANK, N.A., (the "**Trustee**" and as more particularly defined below, the "**Dissemination Agent**") in connection with the issuance by the Regents of its \$\_\_\_\_\_ Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the "**Bonds**"). The Bonds are being issued pursuant to a Supplemental Resolution adopted by the Regents on February 18, 2010 (the "**2010 Supplemental Resolution**") supplementing that certain Resolution adopted by the Regents on November 22, 1991 (as subsequently amended and supplemented and together with the 2010 Supplemental Resolution, referred to herein as the "**Resolution**").

The Regents covenant and agree as follows:

SECTION 1. Purpose of the Agreement. This Agreement is being executed and delivered by the Regents for the benefit of the Bondowners and in order to allow the Participating Underwriters (as defined by Rule 15c2-12) to comply with Rule 15c2-12.

SECTION 2. Definitions. In addition to the definitions set forth in the Resolution, which apply to any capitalized term used in this Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"**Annual Financial Information**" means the financial information or operating data with respect to the University and the Pledged Revenues, delivered at least annually pursuant to Section 3 hereof, of the type set forth in the Official Statement, including but not limited to, such Pledged Revenues and debt service coverage information of the type set forth under the caption "PRO FORMA AND HISTORICAL PLEDGED REVENUES," provided that such information shall be provided only on an actual basis, financial information and operating data set forth under the captions "SECURITY FOR THE SERIES 2010/2011 BONDS – Student Fees," "– Sales and Services Revenues," "– Facilities and Administrative Recovery Revenues," "– Other Operating Revenues" and "– Investment Income," "THE UNIVERSITY – Housing and Student Union Facilities," "SOURCES OF FUNDING FOR THE UNIVERSITY – State Appropriations," "– Schedule of Outstanding Indebtedness," the table titled "Five-Year Historical Enrollment Summary" under the caption "THE UNIVERSITY – Student Body," and the table in Appendix B titled "Tuition and Student Fees Academic Year 2009-2010."

"**Audited Financial Statements**" means the annual financial statements for the University, prepared in accordance with generally accepted accounting principles as in effect from time to time, audited by a firm of certified public accountants.

"**Bondowner**" or "**owner of the Bonds**" means the registered owner of the Bonds, and so long as the Bonds are subject to the book-entry system, any Beneficial Owner as such term is defined in the Resolution.

"**Dissemination Agent**" means Wells Fargo Bank, N.A., acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Regents and which has filed with the Trustee under the Resolution a written acceptance of such designation.

"**Events**" means any of the events listed in Section 4(a) of this Agreement.

"**MSRB**" means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission to receive reports pursuant to Rule 15c2-12. Unless otherwise designated by the MSRB or the Securities and Exchange Commission, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) system of the MSRB, currently located at <http://emma.msrb.org>.

"**Official Statement**" means the final Official Statement dated March \_\_, 2010 delivered in connection with the original issue and sale of the Bonds.

"**Rule 15c2-12**" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. Provision of Annual Information.

(a) Commencing with the Fiscal Year ended June 30, 2010, and annually while the Bonds remain outstanding, the Regents shall provide to the Dissemination Agent Annual Financial Information and Audited Financial Statements.

(b) Such Annual Financial Information shall be provided by the Regents not later than 180 days after the end of each Fiscal Year. The Audited Financial Statements will be provided when available but in no event later than 180 days after the end of each Fiscal Year.

(c) The Regents may provide Annual Financial Information and Audited Financial Statements with respect to the University and the Pledged Revenues by specific cross-reference to other documents which have been submitted by the Dissemination Agent to the repositories or the MSRB or filed with the Securities and Exchange Commission. If the document so referenced is a final official statement within the meaning of Rule 15c2-12, such final official statement must also be available from the MSRB. The Regents shall clearly identify each such other document so incorporated by cross-reference.

(d) The Dissemination Agent shall provide Annual Financial Information and Audited Financial Statements to the MSRB on or before the tenth day after the Dissemination Agent receives such Annual Financial Information and Audited Financial Statements. The Regents shall include with each submission of Annual Financial Information to the Dissemination Agent a written representation addressed to the Dissemination Agent to the effect that the Annual Financial Information is the Annual Financial Information required by this Agreement and that it complies with the applicable requirements of this Agreement.

SECTION 4. Reporting of Events.

(a) This Section 4 shall govern the giving of notices of the occurrence of any of the following Events with respect to the Bonds:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on any credit enhancement relating to the Bonds reflecting financial difficulties.

5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions or events affecting the tax-exempt status of the Bonds.
7. Modifications to the rights of the security holders.
8. Bond calls (other than mandatory sinking fund redemption).
9. Defeasances.
10. Release, substitution or sale of property securing repayment of the securities.
11. Rating changes.

(b) At any time when the Bonds are Outstanding and the Regents obtain knowledge of the occurrence of an Event, the Regents shall determine if such Event would constitute material information for owners of Bonds, *provided*, that any Event under subsection (a)(7), (8) or (11) will always be deemed to be material.

(c) If the Regents determine that knowledge of the occurrence of an Event would be material, the Regents shall provide, in a timely manner, to the Dissemination Agent and the Dissemination Agent shall promptly file a notice of such occurrence with the MSRB. Notwithstanding the foregoing, notice of Events described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds pursuant to the Resolution.

(d) The Dissemination Agent, if the Dissemination Agent is also the Trustee, shall promptly advise the Regents whenever, in the course of performing its duties as Trustee under the Resolution, it identifies an occurrence of an Event which, if material, would require the Regents to provide a notice pursuant to subsection (c) above; provided that the failure of the Dissemination Agent so to advise the Regents of such occurrence shall not constitute a breach by the Dissemination Agent, in its capacity as Trustee, of any of its duties and responsibilities hereunder or under the Resolution.

(e) At any time the Bonds are outstanding, the Dissemination Agent shall, without further direction or instruction from the Regents, provide in a timely manner to the MSRB notice of any failure by the Regents to provide Annual Financial Information and Audited Financial Statements as specified in Section 3 hereof.

**SECTION 5. Concerning the Dissemination Agent.**

(a) The Dissemination Agent shall not have any obligation to examine or review the Annual Financial Information and Audited Financial Statements and neither shall it have a duty to verify the accuracy or completeness of the Annual Financial Information and Audited Financial Statements.

(b) Solely for the purpose of (i) defining the standards of care and performance, including indemnification, applicable to the Dissemination Agent in the performance of its obligations under this Agreement, (ii) the manner of execution by the Dissemination Agent of those obligations, and (iii) matters of removal, resignation, succession of the Dissemination Agent under this Agreement, Article VIII of the Resolution is hereby made applicable to this Agreement as if this Agreement was (solely for this purpose) contained in the Resolution; provided that the Dissemination Agent shall have only such duties under this Agreement as are specifically set forth in this Agreement. Except as provided in Section

4(e) hereof, the Dissemination Agent shall have no duty to investigate or monitor compliance by the Regents with the terms of this Agreement.

SECTION 5. Term. This Agreement shall be in effect from and after the issuance and delivery of the Bonds and shall extend to the earliest of (a) the date all principal and interest on the Bonds shall have been deemed paid pursuant to the terms of the Resolution; (b) the date that the Regents shall no longer constitute an "obligated person" with respect to the Bonds within the meaning of Rule 15c2-12; and (c) the date on which those portions of Rule 15c2-12 which require this Agreement are determined to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Bonds, which determination may be made in any manner deemed appropriate by the Regents, including by an opinion of any attorney or firm of attorneys experienced in federal securities laws selected by the Regents. The Regents shall provide a notice of any such termination with the Dissemination Agent who shall file such notice with the MSRB.

SECTION 6. Amendment; Waiver. Notwithstanding any other provision of this Agreement, the Regents may amend this Agreement, and any provision of this Agreement may be waived, if such amendment or waiver is consistent with Rule 15c2-12. Written notice of any such amendment or waiver shall be provided by the Regents to the Dissemination Agent who shall file it with the MSRB, and the Annual Financial Information shall explain the reasons for the amendment and the impact of any change in the type of information being provided. If any amendment changes the accounting principles to be followed in preparing financial statements, the Annual Financial Information for the year in which the change is made will present a comparison between the financial statement or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 7. Additional Information. Nothing in this Agreement shall be deemed to prevent the Regents from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other annual information or notice of occurrence of an event which is not an Event, in addition to that which is required by this Agreement; provided that the Regents shall not be required to do so. If the Regents choose to include any annual information or notice of occurrence of an event in addition to that which is specifically required by this Agreement, the Regents shall have no obligation under this Agreement to update such information or include it in any future annual filing or notice of occurrence of an Event.

SECTION 8. Default and Enforcement. If the Regents fail to comply with any provision of this Agreement, any Bondowner may take action to seek specific performance by court order to compel the Regents to comply with its undertaking in this Agreement; provided that any Bondowner seeking to require the Regents to so comply shall first provide at least 30 days' prior written notice to the Regents of the Regents' failure (giving reasonable details of such failure), following which notice the Regents shall have 30 days to comply and, provided further, that only the owners of no less than a majority in aggregate principal amount of the Bonds may take action to seek specific performance in connection with a challenge to the adequacy of the information provided by the Regents in accordance with this Agreement, after notice and opportunity to comply as provided herein, and such action shall be taken only in a court of jurisdiction in the State of Idaho. A DEFAULT UNDER THIS AGREEMENT SHALL NOT BE DEEMED AN EVENT OF DEFAULT UNDER THE RESOLUTION OR THE BONDS, AND THE SOLE REMEDY UNDER THIS AGREEMENT IN THE EVENT OF ANY FAILURE OF THE REGENTS TO COMPLY WITH THIS AGREEMENT SHALL BE AN ACTION TO COMPEL PERFORMANCE.

SECTION 9. Beneficiaries. The Agreement shall inure solely to the benefit of the Regents, the Participating Underwriters and owners from time to time of the Bonds, and shall create no rights in any other person or entity.

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

By: \_\_\_\_\_  
Lloyd Mues, Vice President for Finance and Administration and Bursar

**WELLS FARGO BANK, N.A., as Trustee and Dissemination Agent**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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**ESCROW AGREEMENT**

Dated as of March 1, 2010

Between

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

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ESCROW AGREEMENT

This ESCROW AGREEMENT, dated as of March 1, 2010, between the REGENTS OF THE UNIVERSITY OF IDAHO (the "Issuer"), a state institution of higher education and body politic and corporate under the laws of the State of Idaho and Wells Fargo Bank, National Association, Boise, Idaho (in its capacity as escrow agent hereunder, the "Escrow Agent"), a national banking association organized and existing under the laws of the United States of America;

WITNESSETH

WHEREAS, the Issuer has heretofore issued its Student Fee Refunding Revenue Bonds, Series 1996 (the "1996 Bonds") and its Student Fee Refunding Revenue Bonds, Series 1997B (the "1997B Bonds (collectively the "Prior Obligations"); and,

WHEREAS, the Issuer has determined to cause the refunding of the Prior Obligations set forth on Exhibit "A".

WHEREAS, in order to accomplish the refunding, the Issuer has authorized the execution and delivery of Issuer's General Revenue Refunding Bonds, Series 2010A (the "Bonds") in the aggregate principal amount of \$\_\_\_\_\_ pursuant to the provisions of Issuer's General Bond Resolution adopted on November 22, 1991, and Supplemental Resolution adopted on February 18, 2010 (collectively, the "Resolution");

WHEREAS, the Issuer and the Escrow Agent are entering into this Escrow Agreement in order to provide for the advance refunding and defeasance of certain of the Prior Obligations; and

NOW, THEREFORE, to secure all Prior Obligations referenced in Exhibit "A", the payment of the principal thereof and interest thereon, the Issuer does hereby sell, assign, transfer, set over and pledge unto the Escrow Agent its successors in the trust and its assigns forever, all of the right, title and interest of the Issuer in and to all amounts in the funds established hereunder,

TO HAVE AND TO HOLD the same and any other revenues, property, contracts or contract rights, accounts receivable, chattel paper, investments, general intangibles or other rights and the proceeds thereof, which may, by delivery, assignment or otherwise, be subject to the lien and security created by this Escrow Agreement.

IN ESCROW AND TRUST, NEVERTHELESS, for the equal and ratable benefit and security of all present and future holders of such Prior Obligations, without preference, priority or distinction as to such Prior Obligations.

**SECTION 1. Creation of Escrow Fund.** There is hereby created and established with the



Escrow Agent a special and irrevocable escrow fund designated the University of Idaho 2010 Refunding Escrow Fund (the "Escrow Fund") to be held by the Escrow Agent as a trust fund for the benefit of the owners of said Prior Obligations. The Escrow Fund shall be held by the Escrow Agent separate and apart from other funds of the Issuer and of the Escrow Agent.

**SECTION 2. Receipt of Funds.** The Escrow Agent hereby acknowledges receipt of the sum of \$ \_\_\_\_\_ from the proceeds of the Bonds.

**SECTION 3. Application of Proceeds of Bonds.**

(a) Upon receipt by the Escrow Agent of the amount of the proceeds of the Bonds as set forth in Section 2 hereof the Escrow Agent shall immediately deposit said amount in the Escrow Fund.

The Escrow Agent shall apply \$ \_\_\_\_\_ of the amount to be deposited in the Escrow Fund pursuant to this Section 3 to the purchase of non callable United States Treasury Obligations, as described in Exhibit "B" hereto (the "Government Obligations") with \$ \_\_\_\_\_ remaining to be held in cash . The Escrow Agent acknowledges receipt of book entry credit for the Government Obligations from an office of the Federal Reserve Bank.

(b) In reliance on the computations prepared by George K. Baum & Company and verified by Causey Demgen & Moore, Inc., attached hereto as Exhibit "C", the Issuer represents that the amounts deposited in the Escrow Fund pursuant to this Escrow Agreement together with income from the investment thereof, will provide sufficient funds to redeem on April 1, 2010 all of the 1996 Bonds set forth in Exhibit "A-1" and to pay interest thereon through April 1, 2010, to redeem on May 15, 2010 all of the 1997B Bonds set forth in Exhibit "A-2" and to pay the interest thereon through May 15, 2010.

Any portion of the amounts received from the Government Obligations not needed at the time of receipt to make the payments of interest and principal and premium to the holders of the Prior Obligations shall remain uninvested in the Escrow Fund until applied for such purpose. For the purposes of the immediately preceding sentence "uninvested" shall mean (i) cash, if in an amount of less than \$5,000, or (ii) the purchase of additional Government Obligations bearing interest at such other rate or rates not exceeding the yield on the Bonds as stated in Issuer's Tax Certificate of even date herewith or as may be authorized by an approving opinion of nationally recognized bond counsel to the effect that such use of funds will not cause the Bonds or the Prior Obligations to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended; provided, however, that such additional Government Obligations shall be in an amount at least equal to their purchase price and shall mature on or before the dates and in the amounts needed to pay principal and interest on the said Prior Obligations. The Escrow Agent shall at no time invest any amounts held in the Escrow Fund in any unit trust or mutual fund, nor shall the Escrow Agent enter into any agreement or contract for the investment of cash balances held in the Escrow Fund provided that the Escrow Agent may enter into one or more of said investments if the Escrow Agent has received the written opinions of Moody's Investors Service and Standard & Poor's that the rating on the Prior Obligations will not be lowered or withdrawn as a result of such investment.

**SECTION 4. Issuance Costs.** All costs and expenses related to the issuance of the Bonds shall be paid from the proceeds of the Bonds or other legally available sources of the Issuer.

**SECTION 5. Application of Escrow.** The Escrow Agent agrees that the amounts deposited in the Escrow Fund pursuant to Section 3 hereof and the interest income to be earned thereon and any other moneys and investments deposited in the Escrow Fund will be held in trust for the holders of the said Prior Obligations described on Exhibit "A-1". The Escrow Agent shall cause to be applied the principal of, and interest earned, on the Government Obligations (a) to the redemption on April 1, 2010 of all said 1996 Bonds set forth in Exhibit "A-1", and payment of all interest due thereon until April 1, 2010 accrued thereon, (b) to the redemption on May 15, 2010 of all said 1997B Bonds set forth in Exhibit "A-2" and payment of all interest due thereon until May 15, 2010.

**SECTION 6. Investment of Escrow Funds.**

(a) Except as provided in Section 3 hereof, the Escrow Agent shall have no power or duty to invest any funds held under this Escrow Agreement or to sell, transfer or otherwise dispose of or make substitutions of the Government Obligations.

(b) The Issuer and Escrow Agent hereby covenant that no part of the moneys or funds held at any time in the Escrow Fund shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause the Bonds or the Prior Obligations or the obligations to which they relate to be "arbitrage bonds" as defined in subsections (a) and (b) of Section 148 of the Internal Revenue Code of 1986, as amended, and to be subject to treatment under subsection 103(b)(2) of the Internal Revenue Code of 1986 as obligations not described in subsection 103(a)(1).

(c) At the written request of the Issuer and upon compliance with the conditions hereinafter stated, the Escrow Agent shall have the power to sell, transfer or otherwise dispose of or request the redemption of the Government Obligations acquired hereunder and to substitute therefor non callable United States Treasury Obligations meeting the requirements of this subsection (the "Substitute Government Obligations"). The Escrow Agent shall purchase such Substitute Government Obligations with the proceeds derived from the sale, transfer, disposition or redemption of the Government Obligations, together with any other funds available for such purpose. Any such transaction may be effected only if (i) an independent certified public accountant shall certify or have certified that after such transaction (A) the principal amount of and interest on the Government Obligations to be held in the Escrow Fund, after giving effect to such transaction (including the Substitute Government Obligations to be acquired), will, together with any other cash to be held in the Escrow Fund, after giving effect to such transaction, be sufficient to pay without regard to further investment, as the same become due at maturity or earlier redemption, all principal of and premium, if any, and interest on the Prior Obligations that have not been paid previously, and (B) the amounts and dates of the anticipated payments from the Escrow Fund to the registered owners of the Prior Obligations will not be diminished or postponed thereby; and (ii) an opinion of counsel

nationally recognized on the subject of municipal bonds shall be delivered to the Escrow Agent, which opinion shall be to the effect that such transaction will not result in the interest on the Prior Obligations or the Bonds becoming subject to federal income taxes then in effect. At no time shall the Escrow Agent invest any amounts held in the Escrow Fund in any unit trust or mutual fund provided that the Escrow Agent may enter into one or more of said investments if the Escrow Agent has received the written opinions of Moody's Investors Service and Standard and Poor's that the rating on the Prior Obligations will not be lowered or withdrawn as a result of such investment.

**SECTION 7. Notice to Bond Holders and Redemption.** The Escrow Agent acknowledges receipt of a certified copy of the Resolution, in which the refunding of the said Prior Obligations is approved, and the Issuer hereby irrevocably directs the redemption and notices of the refunding of the Prior Obligations as described herein. The Escrow Agent further agrees for each of the Prior Obligations set forth in Exhibits "A-1" through "A-2" hereto, to cause a notice of the refunding of the Prior Obligations, in the applicable form attached hereto in Exhibit "D" to be mailed as soon as possible by certified mail, postage prepaid, to all registered owners of the Prior Obligations, to each insurer of the Prior Obligations, to Moody's Investment Service, New York, New York, and to Standard and Poor's, New York, New York and by certified or registered mail or overnight delivery service, to all registered securities depositories and to national information services that disseminate redemption notices.

The Escrow Agent has caused a notice of redemption, in substantially the form as provided in Exhibit "E" attached hereto, of the 1996 Bonds set forth in Exhibit "A-1" hereto to be mailed by the Trustee and the insurer for the 1996 Bonds to all registered owners of the said 1996 Bonds at least thirty-five (35) days and not more than sixty (60) days prior to April 1, 2010. The Escrow Agent will cause a notice of redemption, substantially in the form set forth in Exhibit "F" attached hereto, of the 1997B Bonds set forth in Exhibit "A-2" hereto to be mailed by the Trustee and the insurer for the 1997B Bonds and to all registered owners of said 1997B Bonds at least thirty-five (35) and not more than sixty (60) days prior to May 15, 2010. . A similar notice shall have been sent by certified or registered mail simultaneously and preferably not less than thirty-five (35) days prior to the said redemption date, or as soon thereafter as possible, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the said Prior Obligations (such depositories including Depository Trust Company of New York, New York and other similar holders) and to one or more national information services that disseminate notices of redemption of obligations such as the Prior Obligations (such as MUNIFACTS). On April 1, 2010, the Escrow Agent shall cause to be redeemed from monies in the Escrow Fund all 1996 Bonds set forth in Exhibit "A-1," and on May 15, 2010 all 1997B Bonds set forth in Exhibit "A-2".

**SECTION 8. Disposition of Remaining Amounts, If Any.** On or after May 15, 2010, after payment of the principal of, and interest on, all the Prior Obligations set forth in Exhibits "A-1 through A-2" has been made, all remaining moneys and securities in the Escrow Fund shall be transferred by the Escrow Agent to the Issuer, and provided that such amounts may be paid to such other person or applied to such other purpose as may be approved in a written opinion of nationally recognized bond counsel satisfactory to the Issuer to the effect that such other application of such amounts will not cause the Bonds to become "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986.

**SECTION 9. Lien and Irrevocable Pledge; Perfection of Security.** The Escrow Fund created hereby is hereby irrevocably pledged to the payment of the Prior Obligations irrevocable and the holders of the Prior Obligations shall have an express lien on and security interest in all amounts deposited in the Escrow Fund, including all amounts representing principal and all amounts representing interest on the Government Obligations in the Escrow Fund, until used and applied in accordance herewith. The Issuer agrees that financing statements may be filed with respect to this Escrow Agreement in such manner and in such places as may be required by law to fully protect the security of the holders of the Prior Obligations and the right, title and interest of the Escrow Agent, to all amounts deposited in the Escrow Fund and the principal and interest with respect to the Government Obligations, and shall take or cause to be taken all action necessary to preserve the aforesaid security so long as any of the Prior Obligations remain unpaid.

**SECTION 10. Escrow Agent Compensation and Liability; Resignation.**

(a) The Escrow Agent shall be compensated for its reasonable fees, expenses and disbursements, including legal fees, as more particularly set out in Exhibit "G" attached hereto. This right to receive compensation notwithstanding, the Escrow Agent acknowledges that it has no claim for any such payment under the Resolution, and that it has no lien on the moneys in the Escrow Fund for any such payment. On May 15, 2010, the Escrow Agent shall submit to the Issuer a report covering all money it shall have received and all payments it shall have made or caused to be made hereunder.

(b) The Escrow Agent may act in reliance upon any signature believed by it to be genuine, and may assume that any person purporting to give any notice or receipt or advice or make any statements in connection with the provisions hereof has been duly authorized to do so.

(c) The Escrow Agent may act relative hereto in reliance upon advice of nationally recognized bond counsel in reference to any matter connected herewith, and shall not be liable for any mistake of fact or error of judgment, or for any acts or omissions of any kind, unless caused by its negligence or willful misconduct. None of the provisions contained in this Escrow Agreement shall require the Escrow Agent to use or advance its own funds in the performance of any of its duties or the exercise of any of its rights or powers hereunder. The Escrow Agent's liabilities and obligations in connection with this Escrow Agreement are confined to those specifically described herein. The Escrow Agent shall not be responsible or liable for the sufficiency, correctness, genuineness or validity of the Government Obligations or any Substitute Government Obligations deposited with it.

(d) The Escrow Agent may resign and be discharged of its duties hereunder provided that: (i) it has given thirty (30) days written notice to the Issuer of such resignation; (ii) the Issuer has appointed a successor to the Escrow Agent hereunder; (iii) the Escrow Agent and the Issuer have received an instrument of acceptance executed by the successor to the Escrow Agent and (iv) the Escrow Agent has delivered to its successor hereunder all of the escrowed documents, Government Obligations, moneys and

investments held by the Escrow Agent in the Escrow Fund. Such resignation shall take effect only upon the occurrence of all of the events listed in clauses (i) through (iv) above. Upon receipt by the Issuer of the written notice described in clause (i) above, the Issuer shall use its best efforts to obtain a successor to the Escrow Agent hereunder as soon as possible.

**SECTION 11. Governing Law, Counterparts, Termination.** This Escrow Agreement may be executed in several counterparts as part of one and the same instrument and shall be governed by the laws of the State of Idaho. This Escrow Agreement shall terminate when the principal of, and premium and interest on, all the said Prior Obligations has been paid.

**SECTION 12. Amendments or Supplements.** This Escrow Agreement shall not be repealed, revoked, rescinded, altered, amended or supplemented in whole or in part without the written consent of 100% of the then holders of the said unpaid Prior Obligations and the Bond Insurers for the Prior Obligations, and the written consent of the Escrow Agent; provided, however, that this Escrow Agreement may be amended with the consent of the Issuer and the Escrow Agent with written notice to Trustee for the Prior Obligations to correct, cure or supplement any ambiguous or defective provision in a manner not inconsistent with the security of the holders of the said Prior Obligations, upon delivery of an opinion of nationally recognized bond counsel satisfactory to the Issuer that such amendment will not adversely affect the exemption from federal income tax of the interest on either the Prior Obligations or the Bonds. The Escrow Agent shall give notice (including draft copies of such amendments) to the bond insurers of the Prior Obligations, Moody's Investors Service, Standard & Poor's or any other rating service then rating the Bonds or the Prior Obligations, as the case may be, of any amendment proposed pursuant to this Section if the Bonds or the Prior Obligations have been assigned a rating by either such agency.

**SECTION 13. Severability.** If any one or more of the covenants or agreements provided in this Escrow Agreement on the part of the Issuer or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Escrow Agreement. In such event, the Escrow Agent shall give notice thereof to Moody's Investors Service and Standard and Poor's.

**SECTION 14. Successors and Assigns and Bond Insurers are Third Party Beneficiaries.** All of the covenants, promises and agreements in this Escrow Agreement contained by or on behalf of the Issuer or the Escrow Agent shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not. The bond insurers for the Prior Obligations shall be deemed third party beneficiaries of this Escrow Agreement.

**SECTION 15. Headings.** Any headings preceding the text of the several Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Escrow Agreement, nor shall they affect its meaning, construction or effect.

**SECTION 16. Notices.** Any notices or communications to or among the Escrow Agent, the Issuer or the Trustee of Prior Obligations may be given as follows:

To the Issuer:

University of Idaho  
Finance and Administration  
Administration Building, Room 213  
Moscow, Idaho 83844-3166  
Attention: Vice President for Finance  
and Administration  
Telephone: (208) 885-6530 Fax: (208) 885-8931.

To the Escrow Agent:

Wells Fargo Bank, National Association  
877 W. Main St., 3rd Floor  
MAC Code U 1858-033  
Boise, Idaho 83702  
Attn: Corporate Trust Department Telephone: (208) 393-  
5491 Fax: (208) 393-5404

To the Trustee of Prior Obligations:

Wells Fargo Bank, National Association  
877 W. Main St., 3rd Floor  
MAC Code U 1858-033  
Boise, Idaho 83702  
Attn: Corporate Trust Department  
Telephone: (208) 393-5491 Fax: (208) 393-5404

Addresses for Bond Insurers shall be those on file with the Escrow Agent which is also Trustee for the Prior Obligations. Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

IN WITNESS WHEREOF, the parties hereto have each caused this Escrow Agreement to be executed by their duly authorized officers as of the date first above written.

**THE REGENTS OF THE UNIVERSITY  
OF IDAHO**

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

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Escrow Agent**

By: \_\_\_\_\_  
AUTHORIZED OFFICER

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**EXHIBIT "A-1"**

Schedule of the Regents of the University of Idaho  
Student Fee Refunding Revenue Bonds, Series 1996

<u>Maturity Date</u> <u>(April 1)</u>	<u>Par Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
	(to come)		

NOTE: The above 1996 Bonds are in denominations of \$5,000 each, or integral multiples thereof, and are not callable prior to April 1, 2006 (for 1996 Bonds maturing on April 1, 2007 and thereafter). 1996 Bonds maturing on April 1, 2007 and thereafter are callable at the option of the Issuer on April 1, 2006 and any interest payment date thereafter in inverse order of maturity and by lot within a maturity in such manner as the Trustee shall determine at the redemption price of 100% (for 1996 Bonds redeemed on or after April 1, 2007 ) and accrued interest to the date fixed for redemption.

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**EXHIBIT "A-2"**

Schedule of the Regents of the University of Idaho  
Student Fee Refunding Revenue Bonds, Series 1997B

<u>Maturity Date</u> <u>(May 15)</u>	<u>Par Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
(to come)			

NOTE: The above 1997B Bonds are in denominations of \$5,000 each, or integral multiples thereof, and are not callable prior to May 15, 2007. The 1997B Bonds maturing on May 15, 2008 and thereafter are callable on May 15, 2007 and any date thereafter in inverse order of maturity (and by lot within a maturity in such manner as the Trustee shall determine) at the redemption price of 100% (for 1997B Bonds redeemed on or after May 15, 2008) of the principal amount thereof and accrued interest to the date fixed for redemption.

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**EXHIBIT "B"**

The Government Obligations set forth on Schedule B-1 attached hereto shall be purchased pursuant to Section 3 of this Escrow Agreement.

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**EXHIBIT "C"**

**REFUNDING REPORT**

Prepared By George K. Baum & Company

With Verification by Causey, Demgen & Moore, Inc.

**[attached]**

**EXHIBIT "D-1"**

FORM OF NOTICE OF REFUNDING

Regents of the University of Idaho  
Student Fee Refunding Revenue Bonds, Series 1996

NOTICE IS HEREBY GIVEN that, for the payment of the interest and principal of the above-designated Bonds, (the "Bonds") as are more fully described on Schedule "1" attached hereto, funds have been deposited in escrow with Wells Fargo Bank, National Association, of Boise, Idaho, which, except to the extent maintained in cash, have been invested in direct obligations of the United States of America. The projected principal payments to be received from such investments and the projected interest income therefrom have been calculated to be sufficient to pay the interest on all said Bonds through April 1, 2010, and to redeem on April 1, 2010, the Bonds which mature on April 1, 2010 and thereafter at the redemption price of 100% of the par amount thereof plus accrued interest to the date of redemption.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Trustee**

By: \_\_\_\_\_  
Authorized Officer

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**SCHEDULE "1"**  
TO NOTICE OF REFUNDING

Regents of the University of Idaho  
Student Fee Refunding Revenue Bonds, Series 1996

Maturity Date <u>(April 1)</u>	<u>Par Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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(to come)

NOTE: The above 1996 Bonds are in denominations of \$5,000 each, or integral multiples thereof, and are not callable prior to April 1, 2006 (for 1996 Bonds maturing on April 1, 2007 and thereafter). 1996 Bonds maturing on April 1, 2007 and thereafter are callable at the option of the Issuer on April 1, 2006 and any interest payment date thereafter in inverse order of maturity and by lot within a maturity in such manner as the Trustee shall determine at the redemption price of 100% (for 1996 Bonds redeemed on or after April 1, 2007) and accrued interest to the date fixed for redemption.

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**EXHIBIT "D-2"**

FORM OF NOTICE OF REFUNDING

Regents of the University of Idaho  
Student Fee Refunding Revenue Bonds, Series 1997B

NOTICE IS HEREBY GIVEN that, for the payment of the interest and principal of the above-designated Bonds, (the "Bonds") as are more fully described on Schedule "1" attached hereto, funds have been deposited in escrow with Wells Fargo Bank, National Association, of Boise, Idaho, which, except to the extent maintained in cash, have been invested in direct obligations of the United States of America. The projected principal payments to be received from such investments and the projected interest income therefrom have been calculated to be sufficient to pay the interest on all said Bonds through May 15, 2010, and to redeem on May 15, 2010, the Bonds which mature on May 15, 2010, and thereafter at the redemption price of 100% of the par amount thereof plus accrued interest to the date of redemption.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Trustee**

By: \_\_\_\_\_  
Authorized Officer

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**SCHEDULE "1"**  
TO NOTICE OF REFUNDING

Regents of the University of Idaho  
Student Fee Refunding Revenue Bonds, Series 1997B

<u>Maturity Date</u> <u>(May 15)</u>	<u>Par Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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(to come)

NOTE: The above 1997B Bonds are in denominations of \$5,000 each, or integral multiples thereof, and are not callable prior to May 15, 2007. The 1997B Bonds maturing on May 15, 2008 and thereafter are callable on May 15, 2007 and any date thereafter in inverse order of maturity (and by lot within a maturity in such manner as the Trustee shall determine) at the redemption price of 100% (for 1997B Bonds redeemed on or after May 15, 2008) of the principal amount thereof and accrued interest to the date fixed for redemption.

**EXHIBIT "E"**

NOTICE OF REDEMPTION  
To the Owners of

Regents of the University of Idaho  
Student Fee Refunding Revenue Bonds, Series 1996

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the resolution (the "Resolution") adopted by the Regents of the University (the "Issuer") on March 15, 1996, authorizing the issuance of the Issuer's above-referenced bonds (the "Bonds") all of the following Bonds will be redeemed as provided in the Resolution on April 1, 2010 (the "Redemption Date"), at a redemption price equal to 100% of the par amount thereof plus accrued interest to the Redemption Date:

<u>Maturity Date</u> <u>(April 1)</u>	<u>Par Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
(to come)			

Interest on the Bonds to be redeemed shall cease to accrue from and after the Redemption Date.

Upon presentation and surrender of the Bonds to be redeemed, the redemption price is due and payable and payment of the redemption price will be made.

Payment of the redemption price on the Bonds to be redeemed will be made upon presentation and on surrender of the Bonds on or before the redemption date at the office of WELLS FARGO BANK, NATIONAL ASSOCIATION, \_\_\_\_\_, as Paying Agent, telephone number \_\_\_\_\_ - \_\_\_\_\_.

**WELLS FARGO BANK, NATIONAL ASSOCIATION**, as Trustee, Paying Agent and Registrar for the Bonds

By: \_\_\_\_\_  
Authorized Officer



**EXHIBIT "[F]"**

NOTICE OF REDEMPTION  
To the Owners of

Schedule of the Regents of the University of Idaho  
Student Fee Refunding Revenue Bonds, Series 1997B

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the general resolution of the Regents of the University of Idaho (the "Issuer") adopted on November 22, 1991 and supplemental resolution adopted on January 21, 1997 (collectively, the "Resolution") authorizing the execution and delivery of the above-referenced Bonds (the "Bonds"), all of the following Bonds will be redeemed as provided in the Resolution on May 15, 2010 (the "Redemption Date"), at a redemption price equal to 100% of the par amount thereof plus accrued interest to the Redemption Date:

<u>Maturity Date</u> <u>(May 15)</u>	<u>Par Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
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(to come)

Interest on the Bonds to be redeemed shall cease to accrue from and after the Redemption Date.

Upon presentation and surrender of the Bonds to be redeemed, the redemption price is due and payable and payment of the redemption price will be made.

Payment of the redemption price on the Bonds to be redeemed will be made upon presentation and surrender of the Bonds on or before the Redemption Date at WELLS FARGO BANK, NATIONAL ASSOCIATION, as Paying Agent \_\_\_\_\_, telephone \_\_\_\_\_.

Dated: \_\_\_\_\_

**WELLS FARGO BANK, NATIONAL ASSOCIATION**, as Trustee and Paying Agent

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT "[G]"**

FEE SCHEDULE

University of Idaho

REFUNDING ESCROW

ESCROW AGENT FEE

ADMINISTRATIVE FEE (one time) payable at closing.....\$

Plus out-of-pocket expenses, including but not limited to publication and other expenses of the notice and proceedings for redemption of Bonds, billed at the time such costs are incurred.

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[Skinner Fawcett Letterhead]

[Ballard Spahr Letterhead]

March \_\_\_\_\_, 2010

University of Idaho  
P.O. Box 443168  
Moscow Idaho 83844-3168

RE: The Regents of the University of Idaho General Revenue Refunding Bonds, Series 2010A; General Revenue Bonds, Series 2010B; and Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy–Build America Bonds)

We have acted as co-bond counsel to the Regents of the University of Idaho (the “Regents”) in connection with the issuance by the Regents of their General Revenue Refunding Bonds, Series 2010A (the “Series 2010A Bonds”); General Revenue Bonds, Series 2010B (the “Series 2010B Bonds”); and Taxable General Revenue Bonds, Series 2010C (Issuer Subsidy–Build America Bonds) (the “Series 2010C Bonds,” and together with the Series 2010A Bonds and the Series 2010B Bonds, the “Bonds”). The Bonds are being issued pursuant to (i) Title 57, Chapter 5 and Title 33, Chapter 38, Idaho Code, as amended; and (ii) a Resolution, adopted by the Regents on November 22, 1991, as heretofore amended, supplemented, and restated, and as further supplemented and amended by a supplemental resolution of the Regents adopted on February 18, 2010 (collectively, the “Resolution”). The Bonds are being issued (i) to provide funds to refund certain outstanding bonds issued by the Regents, (ii) to finance and refinance certain capital improvements of the University of Idaho (the “University”), and (iii) to pay costs of issuance associated with the Bonds. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Resolution.

Our services as co-bond counsel have been limited to the preparation of the legal proceedings and supporting certificates authorizing the issuance of the Bonds under the applicable laws of the State of Idaho and to a review of the transcript of such proceedings and certificates. As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation. Our examination has been limited to the foregoing as they exist or are in effect as of the date hereof. Our opinion is limited to the matters expressly set forth herein, and we express no opinion concerning any other matters.

Based on our examination and the foregoing, we are of the opinion as of the date hereof and under existing laws as follows:

1. The Resolution has been duly adopted by the Regents and constitutes a valid and binding obligation of the Regents enforceable upon the Regents.

2. The Resolution creates a valid lien on the amounts pledged thereunder for the security of the Bonds.

3. The Bonds are valid and binding limited obligations of the Regents, payable solely from the Pledged Revenues and other amounts pledged therefor under the Resolution.

4. Based on an analysis of currently existing laws, regulations, decisions and interpretations,

(a) interest on the Series 2010A Bonds is excludable from gross income for purposes of federal income tax under existing laws as enacted and construed on the date of initial delivery of the Series 2010A Bonds, assuming the accuracy of the certifications of the Regents and continuing compliance by the Regents with the requirements of the Internal Revenue Code of 1986 (the "Code"). Interest on the Series 2010A Bonds is not an item of tax preference for purposes of either individual or corporate federal alternative minimum tax ("AMT"); however interest on the Series 2010A Bonds held by a corporation (other than an S corporation, regulated investment company, or real estate investment trust) may be indirectly subject to federal alternative minimum tax because of its inclusion in the adjusted current earning of a corporate holder.

(b) interest on the Series 2010B Bonds is excludable from gross income for purposes of federal income tax under existing laws as enacted and construed on the date of initial delivery of the Series 2010B Bonds, assuming the accuracy of the certifications of the Regents and continuing compliance by the Regents with the requirements of the Code. Interest on the Series 2010B Bonds is exempt from individual and corporate federal AMT and is not includable in adjusted current earnings for purposes of corporate AMT.

(c) interest on the Series 2010C Bonds is not excludable from gross income for federal income tax purposes.

(d) interest on the Series 2010A Bonds and Series 2010B Bonds is exempt from State of Idaho income taxes.

(e) pursuant to Section 1531(d) of the American Recovery and Reinvestment Act, interest on the Series 2010C Bonds is exempt from State of Idaho income taxes.

In rendering our opinion, we wish to advise you that:

(i) The rights of the Owners of the Bonds and the enforceability thereof and of the Resolution may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable, and their enforcement may also be subject to the application of equitable principles and the exercise of judicial discretion in appropriate cases;

(ii) We express no opinion herein as to the accuracy, adequacy, or completeness of the Official Statement or Updated Official Statement or any other offering material relating to the Bonds; and

(iii) Except as set forth above, we express no opinion regarding any other tax consequences relating to ownership or disposition of, or the accrual or receipt of interest on the Bonds.

Respectfully submitted,

[Skinner Fawcett Letterhead]

[Ballard Spahr Letterhead]

\_\_\_\_\_, 2011

University of Idaho  
P.O. Box 443168  
Moscow Idaho 83844-3168

RE: The Regents of the University of Idaho Adjustable Rate General Revenue Refunding Bonds, Series 2011

We have acted as co-bond counsel to the Regents of the University of Idaho (the “Regents”) in connection with the issuance by the Regents of their Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the “Bonds”). The Bonds are being issued pursuant to (i) Title 57, Chapter 5, Idaho Code, as amended; and (ii) a Resolution, adopted by the Regents on November 22, 1991, as heretofore amended, supplemented, and restated, and as further supplemented and amended by a supplemental resolution of the Regents adopted on February 18, 2010 (collectively, the “Resolution”). The Bonds are being issued (i) to provide funds to refund certain of the outstanding General Revenue Refunding Bonds, Series 2007A issued by the Regents under the Resolution, and (ii) to pay costs of issuance associated with the Bonds. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Resolution.

Our services as co-bond counsel have been limited to the preparation of the legal proceedings and supporting certificates authorizing the issuance of the Bonds under the applicable laws of the State of Idaho and to a review of the transcript of such proceedings and certificates. As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation. Our examination has been limited to the foregoing as they exist or are in effect as of the date hereof. Our opinion is limited to the matters expressly set forth herein, and we express no opinion concerning any other matters.

Based on our examination and the foregoing, we are of the opinion as of the date hereof and under existing laws as follows:

1. The Resolution has been duly adopted by the Regents and constitutes a valid and binding obligation of the Regents enforceable upon the Regents.

2. The Resolution creates a valid lien on the amounts pledged thereunder for the security of the Bonds.

3. The Bonds are valid and binding limited obligations of the Regents, payable solely from the Pledged Revenues and other amounts pledged therefor under the Resolution.

4. Based on an analysis of currently existing laws, regulations, decisions and interpretations,

(a) interest on the Bonds is excludable from gross income for purposes of federal income tax under existing laws as enacted and construed on the date of initial delivery of the Bonds, assuming the accuracy of the certifications of the Regents and continuing compliance by the Regents with the requirements of the Internal Revenue Code of 1986, as amended. Interest on the Bonds is exempt from individual and corporate federal alternative minimum tax (“AMT”) and is not includable in adjusted current earnings for purposes of corporate AMT.

(b) interest on the Bonds is exempt from State of Idaho income taxes.

In rendering our opinion, we wish to advise you that:

(i) The rights of the Owners of the Bonds and the enforceability thereof and of the Resolution may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors’ rights heretofore or hereafter enacted to the extent constitutionally applicable, and their enforcement may also be subject to the application of equitable principles and the exercise of judicial discretion in appropriate cases;

(ii) We express no opinion herein as to the accuracy, adequacy, or completeness of the Official Statement or Updated Official Statement or any other offering material relating to the Bonds; and

(iii) Except as set forth above, we express no opinion regarding any other tax consequences relating to ownership or disposition of, or the accrual or receipt of interest on the Bonds.

Respectfully submitted,

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**New Issue: MOODY'S ASSIGNS A1 RATING TO THE UNIVERSITY OF IDAHO'S \$95.1 MILLION OF GENERAL REVENUE BONDS, SERIES 2010A, 2010B, 2010C, AND 2011; OUTLOOK IS STABLE**

Global Credit Research - 29 Jan 2010

**UNIVERSITY WILL HAVE \$172.1 MILLION OF RATED DEBT OUTSTANDING, INCLUDING THE CURRENT OFFERING**

Regents of the University of Idaho  
Higher Education  
ID

**Moody's Rating**

<b>ISSUE</b>	<b>RATING</b>
General Revenue Refunding Bonds, Series 2010A	A1
<b>Sale Amount</b> \$10,560,000	
<b>Expected Sale Date</b> 03/01/10	
<b>Rating Description</b> Public University Revenue Bonds	
General Revenue Bonds, Series 2010B	A1
<b>Sale Amount</b> \$9,785,000	
<b>Expected Sale Date</b> 03/01/10	
<b>Rating Description</b> Public University Revenue Bonds	
Taxable General Revenue Bonds, Series 2010C	A1
<b>Sale Amount</b> \$13,310,000	
<b>Expected Sale Date</b> 03/01/10	
<b>Rating Description</b> Public University Revenue Bonds	
Adjustable Rate General Revenue Refunding Bonds, Series 2011 (Forward Delivery)	A1
<b>Sale Amount</b> \$61,445,000	
<b>Expected Sale Date</b> 03/01/10	
<b>Rating Description</b> Public University Revenue Bonds	

**Moody's Outlook** Stable**Opinion**

NEW YORK, Jan 29, 2010 -- Moody's Investors Service has assigned an A1 long-term rating to the University of Idaho's \$95.1 million of General Revenue Bonds, Series 2010A, 2010B, 2010C, and 2011. At this time, we are also affirming the A1 rating on the University's outstanding debt (see RATED DEBT at the end of this report). The rating outlook is stable.

USE OF PROCEEDS: Series 2010A bond proceeds will be used to refund the Student Fee Revenue Bonds, Series 1996 and 1997B. The Series 2010B and 2010C bonds will be used to finance capital improvements to the Kibbie Dome. The Series 2011 bonds will refund the Series 2007A bonds with a forward purchase agreement, with a settlement date on January 3, 2011 (90 days before the April 1, 2011 tender date).

LEGAL SECURITY: The bonds are secured by Pledged Revenues of the University of Idaho which include student fees, auxiliary revenues, facilities, administrative recovery revenues, and direct payments associated with the Build America bonds. In addition, there is an additional bonds test and rate covenant of 1.0 time coverage of annual debt requirements. There is no debt service reserve fund. In FY 2009, Pledged Revenues of \$115.3 million plus a Direct Payment of \$11,567,305 would provide 10.0 times coverage of maximum annual debt service.

DEBT STRUCTURE: The Adjustable Rate General Revenue Bonds, Series 2007A, 2007B, and 2011 are issued at a Term Interest Rate with the initial term ending on April 1, 2011, April 1, 2018, and April 1, 2021, respectively. The bonds are subject to a mandatory tender on the effective date of any new Term Interest Rate Period. After the initial period, the University can determine the interest rate period (one, three, six, nine, or twelve months or any multiple of six months). If sufficient funds are not available to pay the purchase price on the bonds, these tendered bonds will bear interest at the Bond Buyer 25 Revenue Bond Index plus 150 basis points to final maturity. The University is not obligated to purchase the tendered bonds and failure to purchase does not constitute an event of default. The Series 2007A and 2007B bonds are secured by a Standby Bond Purchase Agreement provided by Dexia Credit Local (rated A1/P-1) in the event of a failed remarketing, the agreements have stated expiration dates of April 1, 2011 and April 1, 2016 respectively. A short-term rating will not be assigned to the Series 2011 bonds because the

initial term is greater than three years. There will not be a Standby Bond Purchase Agreement for the Series 2011 bonds.

## STRENGTHS

- \* Position as the land-grant and flagship university in the State of Idaho, enrollment of 10,350 full-time equivalent students (FTE) in fall 2009. The University of Idaho's instructional centers as well as agricultural research and extension centers give the University a statewide presence.
- \* Demonstrated support from Aa2-rated state of Idaho, with state support constituting 41% of operating revenue in FY 2009. State support is strong on a per student basis at \$13,064 in FY 2009 compared to the FY 2008 median for A1-rated institutions at \$7,462.
- \* Generally balanced operating performance, with cash flow margins of 8.5% in FY 2009 providing good average annual debt service coverage of 2.2 times (FY 2007-2009). We expect the University to continue to generate balanced to favorable operating performance despite pressured State funding due to the implementation of expense reductions and more conservative budgeting practices.

## CHALLENGES

- \* Heavy reliance on state funding, leaving the University vulnerable to shortfalls in the event of state funding cuts. State operating appropriations represented nearly 41% of Moody's adjusted operating revenue in FY 2009. In FY 2010, the State has implemented a 6% holdback which the management expects to offset with expense reductions and increased revenue from student charges due to higher than budgeted enrollment.
- \* Additional identified capital plans to be debt financed likely to further increase leverage over next two to three years. Management reports an additional \$40 to \$50 million in potential near-term borrowing plans.
- \* Competitive market position and weak demographics in the State could challenge the University's efforts to stabilize enrollment, requiring close management. Management expects that the University will continue to be successful in recruiting students from out-of-state, particularly as neighboring states implement double digit tuition increases and limit enrollment at some institutions.

MARKET/COMPETITIVE STRATEGY: MID-SIZED ENROLLMENT BASE AT LAND-GRANT AND FLAGSHIP PUBLIC UNIVERSITY

The University of Idaho's role as the land-grant and flagship public university for the State of Idaho (Aa2 Issuer Rating) provides the fundamental underpinning for its A1 long-term rating. The University offers a broad array of undergraduate, graduate, and professional programs, enrolling 10,350 full-time equivalent students in fall 2009. The University's main campus is in Moscow, a relatively rural area in the northwest portion of the State. This campus is supplemented by instructional centers in Boise, Coeur d'Alene, and Idaho Falls. In addition, other outreach activities, such as its seven agricultural research and extension centers, give the University a statewide presence.

The University has the primary research mission among the State's public institutions, with moderate research expenditures of nearly \$62.4 million in FY 2009. Research expenditures have declined somewhat in recent years as competition for grants from the federal government have increased dramatically. At this time, the University has received modest funding related to the American Recovery and Reinvestment Act. Management reports an increased focus on the University's research profile with a 31% increase in grant proposals in FY 2010 over FY 2009. We do not expect the University to significantly increase its research profile in the near-term given the competitive funding environment and absence of a medical school.

We expect the University of Idaho to maintain a mid-sized enrollment base despite weak local demographics and competition from public universities in neighboring states. The University has been successful in attracting out-of-state enrollment, with 40% of enrolled students from outside of Idaho. Out-of-state enrollment is primarily drawn from Washington, Montana, Oregon, California, and Alaska. Management expects continued success in its recruiting efforts as financial pressures in neighboring states have resulted in steep increases in tuition as well as enrollment caps. While the University of Idaho also plans tuition increases, management believes that the University retains significant pricing flexibility relative to peer institutions. In addition, we believe that the University's history of serving transfer students is a credit strength in a more challenging economic environment, as many students may shift to attending community college for the first two years of college in order to reduce the cost of education. In fall 2009, the University enrolled 736 new transfer students and 1,780 new first-time freshmen students.

OPERATING PERFORMANCE: BALANCED OPERATING PERFORMANCE;  
HEAVILY RELIANT ON STATE SUPPORT

We believe the University of Idaho will continue to produce balanced operating performance in the near-term despite reductions in state support. Operating performance has been generally balanced with the University generating a -0.3% three-year average annual margin (FY 2007-2009), including the recognition of depreciation expense, a non-cash expense totaling nearly \$20.6 million for FY 2009. Operating cash flow provided average debt service coverage of 2.2 times. Management has taken steps to mitigate the impact of reduced state support including reducing expenses, budgeting for a reserve to offset potential mid-year reductions, and increasing tuition and fees. The University remains highly reliant on State support, with State operating appropriations representing nearly 41% of Moody's adjusted revenue. Other revenue sources include student charges (tuition, fees, and auxiliary revenue) 23.6%, grants and contracts (excluding Pell Grants) 23.6%, gifts 4.8%, and other revenue 7%.

State operating appropriations remain the largest source of operating revenue for the University, leaving it vulnerable to shortfalls in the event of reduced state funding. State support is strong on a per student basis at \$13,064 in FY 2009 compared to the FY 2008 median for A1-rated institutions at \$7,462. After several years of improved operating support, budgetary pressures at the State have resulted in holdbacks. In FY 2010, the State applied a total holdback of \$7.1 million or 5.3% over FY 2009 and then implemented a mid-year holdback of an additional 1.0% or \$1.4 million. To offset these reductions, the University received \$5.3 million in stimulus funding in FY 2010 and expects to receive an additional \$1.4 million in funding in FY 2011.

Moody's maintains a Aa2 issuer rating for the State of Idaho, with a stable outlook. Idaho's issuer rating reflects a history of conservative fiscal management, low but rising debt levels, relatively diverse economy, and low wealth levels. It is important to note that Idaho is not immune to the current economic downturn and is experiencing revenue declines similar to other states. However, the State has been quick to react to sudden revenue drops by reducing expenditures of the state. For more information, please see Moody's report dated June 17, 2009.

#### **BALANCE SHEET POSITION: FINANCIAL RESOURCES PROVIDE ADEQUATE CUSHION FOR DEBT AND ANNUAL OPERATIONS**

Moody's believes that the University of Idaho's financial resources will continue to provide an adequate cushion for debt and operations given manageable near-term borrowing plans and improved philanthropic support. In FY 2009, the University and affiliated foundation's expendable

financial resources of \$127.6 million provided 0.7 times coverage of pro-forma debt and 0.4 times coverage of annual operating expenses. Management reports the potential for \$40 to 50 million of additional debt in the next two to three years to finance renovations to residential housing, research infrastructure, and academic facilities. However, management expects that the University's long-term debt outstanding will remain around \$200 million, net of principal repayments.

The University is in the silent phase of a capital campaign, with philanthropic support focused on balance sheet growth as well as capital projects. Fundraising has improved during the silent phase of the campaign, with gift revenue averaging \$28.4 million during FY 2007-2009. To date, the University has raised nearly \$88 million in gifts and pledges towards a \$300 million goal. The University's last campaign, which concluded in 2003, raised \$129 million. We would expect that the current economic environment could challenge the University's fundraising efforts, as highlighted by the softening in gifts in 2009 relative to prior three years.

During fiscal 2009, the Foundation's investments declined by 15.4%. Investment returns have been favorable in fiscal 2010, with a positive 16.81% return through December 31, 2009. The Foundation's allocation includes 36.2% in publicly traded domestic equities, 13.4% in publicly traded international equities, 47.8% in fixed income, 1.7% in private equity, and 0.9% cash equivalents. The Foundation has highly manageable private equity call commitments of approximately \$3.3 million as of November 30, 2009. As of June 30, 2009, the University had monthly unrestricted liquidity of \$20.7 million, providing nearly 22 days of cash on hand.

## **Outlook**

The stable rating outlook reflects the University's fundamental market strength as the land-grant and flagship university in Idaho. The outlook incorporates our expectation of continued solid, though weakened, state operating support and balanced to positive operating performance with manageable near-term borrowing plans.

What could change the rating-UP

Dramatic increase in financial resources to better support debt and operations combined with more robust operating performance and increased revenue diversification

What could change the rating-DOWN

Extended decline in State support coupled with inability to grow net tuition revenue resulting in challenged operations, deterioration of balance sheet cushion due to operating deficits or greater borrowing than currently anticipated

KEY INDICATORS (Fall 2009 enrollment and FY 2009 financial statements)

Total Enrollment: 10,350 full-time equivalent students

Total Pro-Forma Direct Debt: \$174.7 million (including notes payable)

Total Financial Resources: \$272.2 million

Expendable Resources to Pro-Forma Direct Debt: 0.7 times

Expendable Resources to Operations: 0.4 times

Three-Year Average Operating Margin: -0.3%

Share of Revenues from State Appropriations: 40.9%

State of Idaho Issuer Rating: Aa2, stable outlook

RATED DEBT

Student Fee Revenue Bonds:

Series 1996 and 2003: A1, insured by Assured Guaranty (current financial strength rating of Aa3 with a negative outlook)

Series 1997B: A1; insured by National Public Finance Guarantee Corporation, formerly MBIA (current financial strength rating of Baa1 with a developing outlook)

Series 2001: A1; insured by FGIC

General Revenue Bonds:

Series 2005A: A1; insured by Ambac (current financial strength rating of Caa2 with a developing outlook)

Series 2007A and 2007B: A1, insured by Assured Guaranty (current financial strength rating of Aa3 with a negative outlook)

Series 2010A, 2010B, 2010C, and 2011: A1

## CONTACTS

University: Lloyd Mues, Vice President for Finance and Administration (208) 885-7090 or Jana Stotler, Associate Vice President Strategic Budgeting and Finance & Controller (208) 885-6530

Underwriter: George K. Baum & Company, Lee White (303) 391-5498 or Trinity Ludwig (303) 391-5414

## METHODOLOGY

The principal methodology used in rating University of Idaho was "Public College and Universities," published in November 2006 and is available on [www.moody.com](http://www.moody.com) in the Rating Methodologies sub-directory under the Research & Ratings tab. Other methodologies and factors that may have been considered in the process of rating this issuer can also be found in the Rating Methodologies sub-directory on Moody's website.

The last rating action with respect to the University of Idaho was on August 30, 2007 when the A1 rating and stable outlook were assigned and affirmed.

## Analysts

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**REMARKETING AGREEMENT**

**Between**

**THE REGENTS OF THE UNIVERSITY OF IDAHO**

**and**

**GEORGE K. BAUM & COMPANY**  
**as Remarketing Agent**

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**Dated as of \_\_\_\_\_, 2011**

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**Relating to**

**\$ \_\_\_\_\_**  
**THE REGENTS OF THE UNIVERSITY OF IDAHO**  
**Adjustable Rate General Revenue Refunding Bonds, Series 2011**

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## REMARKETING AGREEMENT

This Remarketing Agreement (the "**Remarketing Agreement**") dated as of \_\_\_\_\_, 2011, is entered into by and between THE REGENTS OF THE UNIVERSITY OF IDAHO, a body politic and corporate organized and existing under and pursuant to the Constitution and laws of the State of Idaho (the "**Regents**"), and GEORGE K. BAUM & COMPANY (the "**Remarketing Agent**").

### WITNESSETH:

WHEREAS, the Regents have issued its \$\_\_\_\_\_ aggregate principal amount of Adjustable Rate General Revenue Refunding Bonds, Series 2011 (the "**Series 2011 Bonds**") pursuant to a Supplemental Resolution (the "**2010 Supplemental Resolution**") adopted by the Regents on February 18, 2010, which supplements that certain Resolution adopted by the Regents on November 22, 1991, as amended and supplemented (collectively with the 2010 Supplemental Resolution, referred to herein as the "**Resolution**");

WHEREAS, the Series 2011 Bonds have been issued to refund certain outstanding bonds of the Regents issued for the University of Idaho (the "**University**") [and to pay costs of issuance associated with the Series 2011 Bonds];

WHEREAS, pursuant to the Resolution, the Series 2011 Bonds will initially bear interest at a Term Interest Rate for the Initial Term Interest Rate Period set forth on the inside cover page of the Official Statement dated March \_\_, 2010 relating to the offer and sale of the Series 2011 Bonds, and on the last day following the expiration of the Initial Term Interest Rate Period, the Series 2011 Bonds shall be subject to payment at maturity or mandatory tender for purchase, as applicable, and, upon mandatory tender, may be converted to another Term Interest Rate Period;

WHEREAS, the Resolution also provides, among other things, that upon conversion of the Series 2011 Bonds from one Term Interest Rate Period to another Term Interest Rate Period, the Bondholders may be required in certain instances to tender their Series 2011 Bonds for purchase upon the terms and conditions contained in the Series 2011 Bonds and the Resolution;

WHEREAS, the Resolution provides for the appointment of a remarketing agent to perform certain duties, including the use of its best efforts to remarket any Series 2011 Bonds tendered for purchase by the Bondholders; and

WHEREAS, the Remarketing Agent has agreed to accept the duties and responsibilities of the remarketing agent under the Resolution and this Remarketing Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants made herein and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. The Series 2011 Bonds, Terms, Definitions. The Series 2011 Bonds will be issuable under the terms and conditions, and will have the form, tenor, terms and specifications, set forth in the Resolution, as supplemented from time to time. **Capitalized**

**terms used herein, but not otherwise defined herein, shall have the meanings assigned to them in the Resolution, as supplemented from time to time.**

Section 2. Appointment of the Remarketing Agent. The Regents have appointed George K. Baum & Company as the Remarketing Agent, and George K. Baum & Company hereby accepts such appointment to act as the Remarketing Agent in connection with the remarketing of the Series 2011 Bonds in accordance with and subject to the terms and conditions contained herein and in the Resolution. The Remarketing Agent hereby agrees to perform all obligations contemplated by the Resolution to be performed by it, as well as those to be performed by it hereunder.

Section 3. Removal and Resignation of Remarketing Agent; Assignment of Remarketing Agent's Rights and Obligations.

(a) The provisions of Article V of the 2010 Supplemental Resolution shall govern the removal of the Remarketing Agent. The Remarketing Agent may resign at any time by notifying the Trustee and the Regents at least sixty (60) days before the effective date of such resignation.

(b) In addition, the Remarketing Agent may immediately terminate its obligations under this Remarketing Agreement with respect to all Series 2011 Bonds at any time by notifying the Trustee and the Regents in writing or by telegram, telex or other electronic communication of its election to do so, upon the occurrence of any of the following events:

(i) Legislation shall be enacted or a decision by a court established under Article III of the Constitution of the United States, or the Tax Court of the United States of America, shall be rendered or a ruling, regulation or order of the Treasury Department of the United States of America or the Internal Revenue Service shall be made having the purpose or effect of imposing federal income taxation, or any other event shall have occurred which results in the imposition of federal income taxation upon interest received on the Series 2011 Bonds, provided that collateral tax consequences of owning the Series 2011 Bonds shall not be considered as an imposition of federal income taxation upon the interest on the Series 2011 Bonds;

(ii) Legislation shall be enacted or a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation or official statement by, or on behalf of the United States Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter shall be made, to the effect that the remarketing of obligations of the general character of the Series 2011 Bonds, as contemplated hereby, is or would be in violation of any provision of the Securities Act of 1933, as amended and as then in effect, of the Securities Exchange Act of 1934, as amended and as then in effect, of the Trust Indenture Act of 1939, as amended and as then in effect, or with the purpose or effect of otherwise prohibiting the remarketing of obligations of the general character of the Series 2011 Bonds, or the Series 2011 Bonds, as contemplated hereby;

(iii) Any information shall have become known, which, in the Remarketing Agent's reasonable opinion, makes untrue, incorrect or misleading in any material respect any material statement or information contained in the Official Statement prepared in connection

with the initial offering of the Series 2011 Bonds or a new remarketing statement prepared upon the mandatory tender of the Series 2011 Bonds in connection with establishing a new Term Interest Rate Period for such Series 2011 Bonds, as the information contained therein has been supplemented or amended by other information furnished or supplied to the Remarketing Agent, or causes such Official Statement or official statement or other disclosure document, as so supplemented or amended, to contain an untrue, incorrect or misleading statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading;

(iv) Except as provided in clauses (i) and (ii) hereof, any legislation, resolution, ordinance, rule or regulation shall be introduced in or be enacted by any federal governmental body, department or agency of the United States of America, or a decision by any court of competent jurisdiction within the United States of America or the State of Idaho shall be rendered, and, in the Remarketing Agent's reasonable opinion, such legislation, resolution, ordinance, rule, regulation or decision materially adversely affects the marketability of the Series 2011 Bonds;

(v) Additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange;

(vi) Any governmental authority shall impose, as to the Series 2011 Bonds, or obligations of the general character of the Series 2011 Bonds, any material restrictions not now in force, or increase materially those now in force;

(vii) A general banking moratorium shall have been established by federal, New York or Idaho authorities;

(viii) Any rating of the Series 2011 Bonds issued by a national rating agency shall have been withdrawn or downgraded to below the third highest credit rating category (without regard to gradations within categories) and, in the Remarketing Agent's reasonable opinion, such withdrawal or downgrade materially adversely affects the marketability of such Series 2011 Bonds; or

(ix) A war involving the United States shall have been declared, or the armed forces of the United States of America shall have become involved in a conflict, or any other national emergency relating to the effective operation of government or the financial community shall have occurred, and, in the Remarketing Agent's reasonable opinion, such war, conflict or national emergency materially adversely affects the marketability of the Series 2011 Bonds.

(c) Notwithstanding the foregoing, with prior written notice to (but without the consent of) the Regents and the Trustee, the Remarketing Agent may assign or transfer any or all of its rights and obligations as Remarketing Agent under the Resolution and under the Remarketing Agreement with respect to the Series 2011 Bonds to any wholly-owned subsidiary or affiliate of the Remarketing Agent so long as such subsidiary or affiliate meets the qualifications for a Remarketing Agent set forth in the Resolution and is otherwise permitted to

perform such obligations under all applicable federal, State of Idaho and state banking and securities laws, rules and regulations.

Section 4. Obligations of the Remarketing Agent. The Remarketing Agent shall (i) comply with all provisions of, and (ii) perform all of its duties and obligations under, the Resolution and this Remarketing Agreement relating to the remarketing of the Series 2011 Bonds. Specifically, the Remarketing Agent agrees as follows:

(a) To compute the rates of interest applicable to the Series 2011 Bonds pursuant to and in accordance with the Resolution and to give the notices provided for or otherwise required in the Resolution;

(b) To hold all Series 2011 Bonds delivered to it under the Resolution and this Remarketing Agreement in trust and in trust accounts for the benefit of the Bondholders which shall have so delivered such Series 2011 Bonds until such Series 2011 Bonds are required to be delivered to the Trustee in accordance with the provisions of the Resolution or until moneys representing the purchase price thereof shall have been delivered to or for the account of or to the order of such Bondholders;

(c) To hold all moneys, if any, delivered to it under the Resolution for the purchase of Series 2011 Bonds in trust for the benefit of the purchaser which shall have so delivered such moneys to the Remarketing Agent until such moneys are required to be delivered to the Trustee under the Resolution or until the Series 2011 Bonds purchased with such moneys shall have been delivered to or for the account of such purchasers, and not to commingle such funds with the general funds of the Remarketing Agent; and

(d) To keep such books and records with respect to all actions taken and all funds and securities received, held and delivered hereunder as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Trustee and the Regents at all reasonable times.

Section 5. Furnishing of Disclosure Materials. The Regents agree to provide the Remarketing Agent at the expense of the Regents with copies of such financial information and financial statements relating to the University and the Series 2011 Refunding Project as they become available in such quantities as may be reasonably requested from time to time by the Remarketing Agent and as shall be satisfactory to the Regents, and the Regents further agree to supply such additional material relating to the University or the Series 2011 Refunding Project or obtain such other information relating to the University or the Series 2011 Refunding Project or respond to such questions relating to the University or the Series 2011 Refunding Project as may be appropriate and which the University can obtain without unreasonable effort and expense for the purpose of (a) verifying the information relating to the University or the Series 2011 Refunding Project contained in the Official Statement prepared in connection with the initial offering of the Series 2011 Bonds and (b) preparing a new remarketing statement upon the mandatory tender of the Series 2011 Bonds in connection with establishing a new Term Interest Rate Period or preparing other remarketing statements as deemed necessary by the Remarketing Agent.

Section 6. Conditions to the Remarketing Agent's Obligations. The obligations of the Remarketing Agent under this Remarketing Agreement are subject to the following conditions:

(a) The Resolution and this Remarketing Agreement shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the parties thereto.

(b) No Event of Default or event of default, as appropriate, under the Resolution shall have occurred and be continuing and no event shall have occurred and be continuing which, with the passage of time or the giving of notice or both, would constitute such an Event of Default or event of default.

(c) No event shall have occurred which, in the opinion of nationally recognized bond counsel, has the effect of causing the interest payable on the Series 2011 Bonds to become includable in gross income for federal income tax purposes, or which, in the opinion of securities counsel satisfactory to the Remarketing Agent, requires registration or qualification of the Series 2011 Bonds or the Resolution under any federal or state securities laws, provided if, in the reasonable judgment of the Remarketing Agent, an occurrence of an event described in this paragraph (c) with respect to the Series 2011 Bonds materially adversely affects the marketability of the Series 2011 Bonds, then the Remarketing Agent shall have no obligation to remarket such Series 2011 Bonds.

Section 7. Representation of the Regents Regarding the Official Statement. The Regents represent, warrant, covenant and agree with the Remarketing Agent that the information contained in the Official Statement dated March \_\_, 2010, including any supplements or amendments thereto, in the sections titled "INTRODUCTION – The Regents and the University of Idaho" and "– Purpose of the Series 2010/2011 Bonds;" "PLAN OF FINANCE – Series 2011 Refunding Project," "PRO FORMA AND HISTORICAL PLEDGED REVENUES," "THE UNIVERSITY," "SOURCES OF FUNDING FOR THE UNIVERSITY," "UNIVERSITY GOVERNANCE AND ADMINISTRATION," and "LITIGATION" and in Appendices A and B as of the Closing Date, does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

Section 8. Representations of the Remarketing Agent. The Remarketing Agent represents and warrants to the Regents as follows:

(a) The Remarketing Agent has been duly incorporated and is validly existing and in good standing under the laws of the state of its incorporation and is qualified and in good standing in all states and has all licenses necessary for it to perform its obligations hereunder;

(b) The Remarketing Agent has full power and authority to take all action required to be taken by it by or under, and to perform and observe the covenants and agreements on its part contained in this Remarketing Agreement and the Resolution;

(c) The Remarketing Agent has, on or before the date hereof, duly taken all action necessary to be taken by it prior to such date for the execution, delivery and performance of this



Remarketing Agreement and the carrying out, giving effect to and the consummation and performance of the transactions and obligations contemplated hereby and by the Resolution;

(d) This Remarketing Agreement when executed and delivered by the parties hereto, will constitute a valid and binding obligation of the Remarketing Agent enforceable against the Remarketing Agent in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws, judicial decisions or principles of equity relating to or affecting the enforcement of creditors rights; and

(e) The execution and delivery of this Remarketing Agreement, the compliance with the terms, conditions or provisions hereof, and the consummation of the transactions herein contemplated do not, upon the date of execution and delivery hereof, and will not violate any presently existing law, regulation, order, writ, injunction or decree of any court or governmental instrumentality applicable to the Remarketing Agent.

Section 9. Dealing in Series 2011 Bonds by the Remarketing Agent. The Remarketing Agent, not in its individual capacity, but in its capacity as remarketing agent, either as principal or agent, may in good faith buy, sell, own, hold and deal in any of the Series 2011 Bonds, and may join in any action which any owner of Series 2011 Bonds tendered for purchase may be entitled to take with like effect as if it did not act in any capacity hereunder. The Remarketing Agent, in its individual capacity, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Regents and may act as depository, trustee or agent for any committee or body of holders of Series 2011 Bonds or other obligations of the Regents as freely as if it did not act in any capacity hereunder.

Section 10. Fees and Expenses. For so long as a Term Interest Rate Period of less than one year applies to the Series 2011 Bonds, the Regents shall pay the Remarketing Agent an ongoing remarketing fee of 0.125% of the then weighted average outstanding principal amount of such Series 2011 Bonds for the prior year multiplied by a fraction the numerator of which is the actual number of days elapsed since the last payment date and the denominator of which is 365, payable quarterly in arrears, on each February 1, May 1, August 1, and November 1, beginning on the first February 1, May 1, August 1 or November 1 following Conversion of the Series 2011 Bonds into such Interest Rate Period. When Series 2011 Bonds are remarketed in connection with the Conversion of the then applicable Interest Rate Period to a Term Interest Rate Period of more than one year, the Regents and the Remarketing Agent will agree on a fee prior to such Conversion. In addition to the above, the Regents shall pay all reasonable expenses of delivering remarketed Series 2011 Bonds and reimburse the Remarketing Agent for all reasonable direct, out-of-pocket expenses incurred by the Remarketing Agent which relate, directly or indirectly, to the remarketing of the Series 2011 Bonds as contemplated hereby. The fees and other amounts payable under this Section 10 shall be payable in immediately available funds to the Remarketing Agent, at the Remarketing Agent's office at 1400 Wewatta Street, Suite 800, Denver, Colorado 80202, Attention: Short Term Desk, or at such other address as the Remarketing Agent may provide in writing. Any fees due from the Regents hereunder which are not paid when due shall continue to accrue and be an obligation of the Regents until paid.

Section 11. Responsibilities of Remarketing Agent. The duties of the Remarketing Agent hereunder shall be solely as provided herein and in the Resolution, as amended and

supplemented, and no implied covenant or obligation shall be read into this Remarketing Agreement against the Remarketing Agent. Unless otherwise agreed to in writing, the Remarketing Agent's obligations hereunder to remarket the Series 2011 Bonds shall be on a best-efforts basis, and the Remarketing Agent shall not be obligated to underwrite the Series 2011 Bonds tendered for repurchase as provided in the Resolution, and nothing contained herein shall be construed so as to make the Remarketing Agent an underwriter of the Series 2011 Bonds. The Remarketing Agent may consult with counsel of its choice, including in-house counsel, and shall not be liable for any action taken in good faith and reliance upon advice of such counsel, except for liabilities, losses, damages, costs, expenses and fees arising out of the gross negligence or willful misconduct of the Remarketing Agent or any of its employees or agents. Except as otherwise provided herein, the Remarketing Agent may act or refrain from acting in reliance upon any resolution or other document transmitted to it on behalf of the Regents or the Trustee, if executed on behalf of such entity by any duly authorized representative thereof.

Section 12. Public Distribution. The parties hereto further acknowledge that a remarketing of Series 2011 Bonds in connection with establishing a new Term Interest Rate Period for the Series 2011 Bonds will require the preparation and distribution of a revised offering statement or a separate preliminary and/or final offering statement and a public distribution of such the Series 2011 Bonds. In connection with any such distribution, the Regents hereby agree to provide the Remarketing Agent with such information, opinions of counsel, accountants letters and certificates as may be reasonably requested by the Remarketing Agent and its counsel. All expenses related to the foregoing shall be paid by the Regents, except for expenses customarily paid for by placement or remarketing agents of similar securities.

Section 13. Notices. Unless otherwise provided herein, all notices, requests, certificates or other communications hereunder shall be sufficiently given if the same shall be duly mailed by registered or certified mail, return receipt requested, postage prepaid, or delivered by special courier or sent by an electronic method capable of creating written documents, in any case addressed as follows:

If to the Regents to:                   The Regents of the University of Idaho  
Administration Building, Room 211  
PO Box 443168  
Moscow, Idaho 83844-3168  
Attention: Vice President for Finance and  
Administration and Bursar

If to the Trustee to:                   Wells Fargo Bank, National Association  
877 W. Main Street, 3rd Floor  
MAC U1858-033  
Boise, ID 83702  
Attention: Corporate Trust

If to the Remarketing Agent to: George K. Baum & Company  
1400 Wewatta Street, Suite 800  
Denver, Colorado 80202  
Attention: Short Term Desk

Section 14. Term of Remarketing Agreement. Subject to earlier termination in accordance with the terms hereof and the Resolution, this Remarketing Agreement shall terminate on the earlier of (i) the date of payment in full of the Series 2011 Bonds, (ii) Conversion of the Series 2011 Bonds to a Term Interest Rate Period which ends on the day immediately preceding the maturity date of the Series 2011 Bonds, or (iii) a failed remarketing and establishment of a rate for the Series 2011 Bonds in accordance with Section 4.16 of the 2010 Supplemental Resolution.

Section 15. Miscellaneous.

(a) This Remarketing Agreement shall be governed by and construed in accordance with the laws of the State of Idaho without giving effect to its choice of law principles and shall be binding upon the successors and assigns, if any, of the parties hereto.

(b) The Remarketing Agent's duties and obligations as Remarketing Agent for the Series 2011 Bonds shall be governed solely by the terms of this Remarketing Agreement and the Resolution. Any conflict between the terms of the Resolution and this Remarketing Agreement will be resolved in favor of the Resolution.

(c) Anything in this Remarketing Agreement or in the Resolution to the contrary notwithstanding, except as provided herein, the Remarketing Agent shall not be required to advance any of its own funds or otherwise incur financial liabilities in carrying out its duties hereunder.

(d) Any certificate authorized by any officer or agent of the Regents, signed by any officer or agent of the Regents and delivered to the Remarketing Agent, shall be deemed a representation by the Regents to the Remarketing Agent as to the statements made therein.

(e) This Remarketing Agreement may be amended only by written agreement signed by the Regents and the Remarketing Agent.

(f) Any amendment or supplement of the Resolution which affects the rights, duties or obligations of the Remarketing Agent under the Resolution shall require the Remarketing Agent's prior written consent.

(g) This Remarketing Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original, but such counterparts together shall constitute but one and the same agreement.

IN WITNESS WHEREOF, the Regents and the Remarketing Agent have caused this Agreement to be executed in their respective corporate capacities, all as of the date first written above.

**GEORGE K. BAUM & COMPANY**

By: \_\_\_\_\_  
Its: Executive Vice President

**THE REGENTS OF THE UNIVERSITY OF  
IDAHO**

By: \_\_\_\_\_  
Lloyd Mues, Vice President for Finance and  
Administration and Bursar

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**UNIVERSITY OF IDAHO**

**SUBJECT**

Temporary easement to permit the City of Moscow to construct and maintain a public bus stop shelter on property owned by the Regents

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.1.5.b(2)

**BACKGROUND/DISCUSSION**

The City of Moscow is seeking federal funding to construct public bus stop shelters at selected sites along existing public bus routes. One proposed site is partially located on Regents' property currently used as a sidewalk/landscaped area located between University of Idaho's Living Learning Communities and a publicly owned street and sidewalk right of way. The funding agency requires a commitment from the City of Moscow to maintain the shelter for twenty years and therefore the City must possess a substantial real estate interest in the property to secure the continued use of a public bus shelter.

Providing a convenient location for a bus stop shelter serving University students and staff will accommodate the regular use of public transportation to and from campus. The proposed easement defines the extent and limit of rights established and provides for early termination in the event the shelter is not constructed or no longer utilized as part of a public transportation network. This easement will occupy 148 sq ft and will terminate in twenty years.

**IMPACT**

The University will not pay any construction or maintenance costs associated with the proposed use. The University will not charge for the small, temporary easement; however students and staff will benefit from the facility.

**ATTACHMENTS**

Attachment 1 – Proposed Easement

Page 3

**STAFF COMMENTS AND RECOMMENDATIONS**

The City of Moscow has received federal stimulus money for this purpose, but to make this campus site eligible for use of the funding the City must have an easement prior to construction of the bus stop shelter. The easement is not needed to make the application for funding, rather the easement is necessary to spend the funding at this site. The City and entire UI community would benefit from this new public transit amenity. If this easement is not granted, the City will select another bus stop off-campus. Staff recommends approval.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**BOARD ACTION**

A motion to approve the grant of a temporary, non-exclusive easement to the City of Moscow in substantial conformance to the form submitted to the Board in Attachment 1, and to authorize the University's Vice President for Finance and Administration to execute the easement.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**NON-EXCLUSIVE EASEMENT AGREEMENT**

This NON-EXCLUSIVE GRANT OF EASEMENT (this "Grant") is made this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, a state educational institution and body politic and corporate organized and existing under the Constitution and laws of the State of Idaho ("GRANTOR"), whose business address is Vice President for Finance and Administration, University of Idaho, Moscow, Idaho, 83844-3168, and CITY OF MOSCOW, Idaho, a municipal corporation of the State of Idaho, whose business address is 206 East Third Street, Moscow, Idaho, 83843 ("GRANTEE").

**RECITALS**

GRANTOR has agreed to grant to GRANTEE a non-exclusive easement on a portion of GRANTOR's property, which property is legally described on Exhibit "A" and graphically depicted on Exhibit "B" attached hereto and incorporated herein by this reference;

"Easement Parcel" consists of real property to be utilized for the construction, operation, maintenance, repair, replacement, and/or removal of a public bus stop shelter.

NOW, THEREFORE, in consideration of the recitals above which are incorporated herein below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. GRANT: GRANTOR hereby grants and conveys to GRANTEE, its successors, agents, and assigns, subject to all the terms, conditions and warranties contained herein, a temporary, non-exclusive easement for the purpose of the construction, operation, maintenance, repair, replacement and/or removal of a public bus stop shelter ("Easement"). All construction, maintenance, operation, repair, replacement, and/or removal of the Easement shall be strictly limited to the Easement Parcel. GRANTOR also grants to GRANTEE a license for entry upon GRANTOR's property adjacent to the Easement Parcel for the purpose of accessing the Easement on the reasonably adjacent GRANTOR property.
2. NOTICE: Any notice under this Non-Exclusive Easement Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time-to-time direct in writing:

If to GRANTOR:

Vice President for Finance and Administration  
University of Idaho  
Moscow, ID 83844-3168, and

If to GRANTEE:

City of Moscow  
Attn: City Engineer  
206 E Third St  
Moscow, ID 83843

Any notice shall be deemed to have been given on the earlier of: (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whoever received, shall always be effective.

3. **BINDING EFFECT:** All provisions of this Grant, including the benefits and burdens, run with the land and are binding upon and inure to the benefit, obligation, and use of the successors, agents, and assigns of the parties hereto for the term of Easement.
4. **NON-EXCLUSIVE AND TEMPORARY RIGHT:** Anything in this instrument to the contrary notwithstanding, GRANTEE agrees to the following conditions:
  - a. The Easement herein granted is subject to all easements and encumbrances of record and is non-exclusive, provided that later-granted easements shall be subject to GRANTEE's rights and uses as permitted herein;
  - b. All structures, signs, fixtures or equipment placed within the Easement Parcel by GRANTEE, or GRANTEE's agents or contractors pursuant to this instrument ("GRANTEE's Property") shall remain the property of GRANTEE;
  - c. GRANTOR and its successors and assigns shall retain the right to use of the Easement Parcel for uses that do not conflict with the purposes of Easement provided, however, GRANTOR shall not erect any building or major structure within the Easement Parcel;
  - d. GRANTEE shall at all times maintain, repair and keep clean and free of graffiti, GRANTEE's Property within the Easement Parcel and shall promptly repair and restore existing improvements and land disturbed by the construction, maintenance, or removal of GRANTEE's Property by GRANTEE or GRANTEE's agents or contractors to its prior condition;
  - e. This Easement shall terminate on July 1, 2030. In the event Easement is not extended by subsequent agreement or other arrangements are not made to permit continued use of Easement Parcel as a bus shelter, GRANTEE shall remove all structures and restore the property to a condition reasonably consistent with the GRANTOR's similarly situated adjoining property at the time of termination; and
  - f. After recording this instrument, GRANTEE shall provide GRANTOR with a certified copy of the recorded instrument showing the date and instrument number of recording.



5. **INDEMNITY:** GRANTEE shall, to the extent permitted by law, indemnify, defend and save GRANTOR, its successors, assigns, and agents harmless from any and all claims, liabilities, losses, costs, charges, or expenses which GRANTOR may incur as a result of any act or omission of the GRANTEE in its use of the Easement Parcel under this Grant or GRANTEE's use of its license to enter upon GRANTOR's property adjacent to the Easement Parcel. If any action, claim or demand is made against GRANTOR for any act or omission of the GRANTEE, GRANTEE agrees to assume the expense and shall pay all costs, charges, attorneys' fees, settlements, judgments or other expenses incurred by or obtained against GRANTOR, and also, including all attorneys' fees and costs associated with any appeal proceeding.
6. **REMEDIES:** In the event of a breach hereunder by any party, the non-breaching party shall have all remedies available at law or in equity, including injunctive or other equitable relief. In any suit, action or appeal therefrom to enforce or interpret this Grant, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' fees and costs, and also including reasonable attorney's fees and costs associated with any appeal proceedings.
7. **MODIFICATION:** This Grant shall not be modified unless expressly agreed to by both parties in writing.
8. **RELOCATION:** GRANTOR or its successor reserves the right to, and the GRANTEE agrees that, the Easement and Easement Parcel may be relocated at the GRANTOR's option and expense.
9. **EASEMENT IMPROVEMENTS:** GRANTOR and GRANTEE agree that GRANTEE shall, at its sole cost and expense, construct, operate, maintain, repair, replace, and/or remove the Easement, the fixtures and improvements therein as contemplated herein; provided however, prior to any such construction, maintenance, repairs, replacements or removals, GRANTEE will make reasonable attempts to notify and coordinate with GRANTOR the construction, maintenance, repairs, replacements, or removals to minimize disruption of GRANTOR's use and operation of adjoining GRANTOR's Property.
10. **RIGHT-OF-WAY CLEARING AND MAINTENANCE:** GRANTEE shall have the right to cut, trim, and remove any and all brush, branches, and trees located within the Easement Parcel. GRANTEE shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of trees, brush, and other vegetation located within the Easement Parcel which could, in the opinion of the GRANTEE, interfere with the reliable operation of GRANTEE's fixtures and improvements or the exercise of GRANTEE's rights herein or create a hazard to GRANTEE's facilities.
11. **CONDITION OF PARCEL:** Following the construction, maintenance, repair, replacement, or removal of the Easement, GRANTEE shall repair and return the Easement Parcel, to the extent reasonably practical, to the same condition as the Easement Parcel was in prior to GRANTEE's construction, maintenance, repair, replacement, or removal

activities. In the event that GRANTEE fails to repair and return the Easement Parcel to said same condition, then GRANTOR, at its sole discretion, may restore the Easement Parcel, or any portion thereof, and GRANTEE shall reimburse GRANTOR for all costs associated therewith within thirty (30) days from receipt of an invoice therefor.

12. **TITLE INSURANCE AND ESCROW:** Should GRANTEE so desire, at its sole expense, GRANTEE may apply forthwith for a title insurance policy insuring the easement hereby granted and GRANTOR will make available for inspection by the title company any evidence of title in its possession.
13. **REPRESENTATIONS AND WARRANTIES:** GRANTOR and GRANTEE represent and warrant as of the date herein that they and the person(s) executing on their behalf have the power and authority to execute this Grant and to perform GRANTOR's and GRANTEE's obligations herein and if GRANTOR or GRANTEE are a corporation, all necessary corporate action to authorize this transaction has been taken.
14. **COMPLIANCE WITH ALL LAWS AND INDUSTRY STANDARDS:** GRANTEE hereby agrees to comply in all respects with any and all, federal, state and local statutes, laws, ordinances, codes, regulations, and rules in connection with the use of the Easement and Easement Parcel. In addition, with respect to the construction, operation, maintenance, repair replacement, and removal of the Easement, GRANTEE agrees to comply with all applicable industry standards pertaining thereto.
15. **TERMINATION:** GRANTEE may terminate this Grant upon express written consent by GRANTOR and by recording a release with the Latah County Recorder's Office in recordable form with directions for delivery of the same to GRANTOR, whereupon all rights, duties, and liabilities hereby created shall terminate. In addition, in the event GRANTEE does not utilize the Easement for a continuous two (2) year period, all the rights granted to GRANTEE herein shall terminate. If the rights granted to GRANTEE herein are terminated, GRANTEE shall have no further obligation but to abandon all right, title, interest, and possession of the Easement and Easement Parcel and shall execute a release in recordable form. If there is a termination or abandonment, GRANTEE shall remove its property and return the Easement Parcel as described in Section 4(e) of this Easement.



**EXHIBIT A**

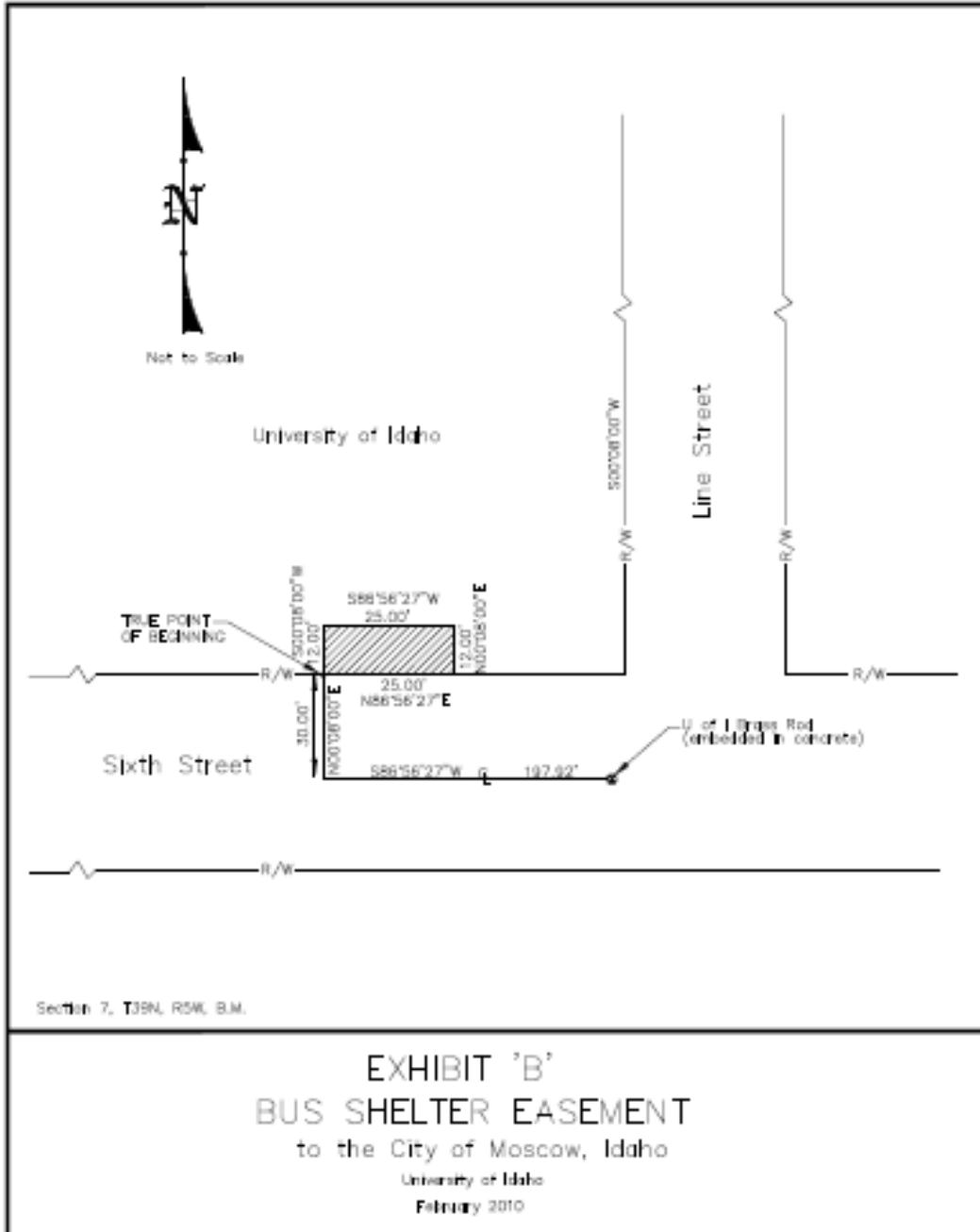
**BUS SHELTER EASEMENT**

A Bus Shelter Easement located in Section 7, T. 39 N., R 5 W., B.M., City of Moscow, Latah County, State of Idaho, more particularly described as follows:

A strip of land 25.00 feet wide and 12.00 feet deep more particularly described as follows; Beginning at the University of Idaho established brass rod corner, imbedded in concrete, located on the centerline of 6<sup>th</sup> Street approximately 30.00 feet west of the Line Street and 6<sup>th</sup> Street intersection; thence S86° 56' 27"W along the south line of said Section 7, 197.92 feet; thence N00° 08' 00"E, 30.00 feet to the north Right-of-Way line of 6<sup>th</sup> Street and the **True Point of Beginning**, also the southwest corner of said Bus Shelter Easement; thence N86° 56' 27"E, along the north Right-of-Way line of Sixth Street a distance of 25.00 feet; thence N00° 08' 00"E, a distance of 12.00 feet; thence S86° 56' 27"W, a distance of 25.00 feet; thence S00° 08' 00"W, a distance of 12.00 feet to the **True Point of Beginning** on the north Right-of-Way line of 6<sup>th</sup> Street and the southwest corner of said Bus Shelter Easement.

All as shown on attached Exhibit 'B'.

EXHIBIT B  
"EASEMENT DEPICTION"



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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**UNIVERSITY OF IDAHO**

**SUBJECT**

Dining Services contract approval between the University of Idaho and Sodexo America, LLC

**REFERENCE**

December 1988                      Approved contract with Marriott Corporation beginning effective January 1, 1989.

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.C.2.a. and V.I.3.

**BACKGROUND/DISCUSSION**

In 1989, the University converted from internal operations for its food services (residential board and dining hall, cafeteria, catering, etc) to a food service contract. Since 1989 the contract has been with Sodexo America, LLC, or its predecessor entities, originally Marriott Management Services Corporation. Under the contract terms, all responsibility for food service was outsourced and the University received a small annual fee. All underlying operations and costs were controlled by the contract vendor.

In 2006 the University commissioned a consultant to examine the contract. The consultant recommended restructuring of the contract relationship. The University examined various alternatives for food service and determined to continue with an outsource contract relationship, but to seek significantly changed compensation terms.

In 2009 a request for proposals was issued utilizing a best-value procurement methodology developed by Arizona State University. This method allows the University to describe its goals for the contract in the request for proposals and then to engage in qualitative analysis of the proposals based on each vendor's proposed means of accomplishing the University's goals as well as relative qualifications between the vendors and the likelihood accomplishing the University's goals. The University's goals of this RFP were to increase financial return to the University, increase the environmental sustainability of dining services, and increase both University and student satisfaction.

The University received competitive proposals from three national food service organizations with significant experience in food service at a residential university setting. The University's evaluation team conducted a thorough evaluation of the three responses including evaluation and clarification of the proposed financial structure of each proposal and interviews of proposed service personnel. The

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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evaluation team established Sodexo as the best-value vendor for the University of Idaho dining services.

The terms proposed by Sodexo are summarized as follows:

1. Contract term runs for 5 years with the right in the University for early termination.
2. The Contractor will operate the University's residential food service, retail food sale establishments and catering functions.
3. The Contractor will be paid an established fixed annual fee plus an additional variable fee based on gross operating revenues. The balance of food service revenues are retained by the University.
4. The Contractor will be responsible for all costs of operations – as part of the fixed and variable fee.
5. The payment schedule for the fee is based on food service revenues as they are received.
6. The Contractor has committed to an investment of \$2,665,000 in capital and equipment improvements over the life of the contract.

**IMPACT**

Under the prior outsource contract, the University received less than \$50,000 per year from the food service operations on campus. The proposed contract calls for a significant increase in income to the university. Attachment 1 outlines both the total fee for the contractor as well as the fee payment schedule and a projection of income for the University at an estimated gross sales level. If the University and the Contractor achieve the estimated sales, the University stands to realize income in excess of \$10 million over the 5 year term of the contract.

The combination fixed and variable fee illustrated in Attachment 1 minimizes risk of loss to the University since the University would have to operate well below historic income figures to have revenues less than the amount necessary to fund the fixed fee. The contract payment mechanism also provides financial motivation to the Contractor to both maximize student satisfaction in order to enhance gross sales, as well as minimizing costs, since Contractor costs are paid from the fixed and variable fee.

The contract is projected to produce income to the University over the five year term in the amount of \$10,346,000 based upon current volume projections. Fixed fees paid to Sodexo over the same five year term will total \$35,344,041 with an additional volume based variable fee not to exceed \$35,344,041 (based on sales volume in excess of that necessary to fund the fixed fee).

Additionally, contractor will provide \$2,665,000 in capital and equipment improvements over the 5 year term of the contract.



**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010**

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**ATTACHMENTS**

- Attachment 1: Fee Schedule and Operating Projections Page 5  
Attachment 2: Proposed Contract, Original RFP, Sodexo  
Response, Pre-Award operations and final  
offer stipulations. Page 7

**STAFF COMMENTS AND RECOMMENDATIONS**

In 2009, the UI issued a RFP for campus-wide food service operations. Three competitive proposals were received, and the UI selected Sodexo America (its current dining services contractor) as the best vendor. The UI negotiated an outsource contract with performance incentives and financial terms significantly more favorable to the University than the prior contract. Based on conservative estimates of sales revenue, the University stands to realize income in excess of \$10 million over the 5 year term of the contract. Staff recommends approval.

**BOARD ACTION**

A motion to approve the agreement between the University and Sodexo America, LLC, in substantial conformance to the form submitted to the Board in Attachment 1, and to authorize the Vice President for Finance and Administration to execute the contract and any necessary supporting documents.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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Fiscal Year	Vendor Fee		
	Vendor Fixed Fee	Vendor Max Variable Fee	Vendor Max Total Comp
FY2011	6,304,787	6,304,787	12,609,574
FY2012	6,569,588	6,569,588	13,139,176
FY2013	7,009,750	7,009,750	14,019,500
FY2014	7,479,403	7,479,403	14,958,806
FY2015	<u>7,980,523</u>	<u>7,980,523</u>	<u>15,961,046</u>
<b>Totals</b>	<b>35,344,051</b>	<b>35,344,051</b>	<b>70,688,102</b>

**Vendor Fee Payment Schedule and University Income at Pro-Forma Estimated Sales**

	Gross Sales	Tier	Vendor Comp %	Vendor Compensation	University Income	University Income %	UI Income @ Proforma Sales	Est Proforma Sales Increase
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	1,309,000.00	17.00%	1,309,000.00	10,507,978
<b>FY2011</b>	7,700,000.01	9,100,000.00	73.00%	1,021,999.99	378,000.00	27.00%	378,000.00	
	9,100,000.01	14,296,574.02	100.00%	5,196,574.01	-	0.00%		
	14,296,574.03		0.00%	-	-			
				12,609,574.00	1,687,000.00		1,687,000.00	

	Gross Sales	Tier	Vendor Comp %	Vendor Compensation	University Income	University Income %	UI Income @ Proforma Sales	Est Proforma Sales Increase
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	1,309,000.00	17.00%	1,309,000.00	10,949,313
<b>FY2012</b>	7,700,000.01	9,300,000.00	73.00%	1,167,999.99	432,000.00	27.00%	432,000.00	441,335
	9,300,000.01	15,161,529.43	95.20%	5,580,176.01	281,353.41	4.80%	79,167.02	4.03%
	15,161,529.44		0.00%	-	-			
				13,139,176.00	2,022,353.41		1,820,167.02	

**ATTACHMENT 1**

	Gross Sales	Tier	Vendor Comp %	Vendor Compensation	University Income	University Income %	UI Income @ Proforma Sales	Est Proforma Sales Increase
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	1,309,000.00	17.00%	1,309,000.00	11,682,917
<b>FY2013</b>	7,700,000.01 9,500,000.00	1,799,999.99	73.00%	1,313,999.99	486,000.00	27.00%	486,000.00	733,604
	9,500,000.01 16,610,923.44	7,110,923.43	88.80%	6,314,500.01	796,423.42	11.20%	244,486.70	6.70%
	16,610,923.45		0.00%	-	-			
				14,019,500.00	2,591,423.42		2,039,486.70	

	Gross Sales	Tier	Vendor Comp %	Vendor Compensation	University Income	University Income %	UI Income @ Proforma Sales	Est Proforma Sales Increase
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	1,309,000.00	17.00%	1,309,000.00	12,465,672
<b>FY2014</b>	7,700,000.01 9,700,000.00	1,999,999.99	73.00%	1,459,999.99	540,000.00	27.00%	540,000.00	782,755
	9,700,000.01 18,101,661.96	8,401,661.95	84.60%	7,107,806.01	1,293,855.94	15.40%	425,913.55	6.70%
	18,101,661.97		0.00%	-	-			
				14,958,806.00	3,142,855.94		2,274,913.55	

	Gross Sales	Tier	Vendor Comp %	Vendor Compensation	University Income	University Income %	UI Income @ Proforma Sales	Est Proforma Sales Increase
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	1,309,000.00	17.00%	1,309,000.00	13,300,872
<b>FY2015</b>	7,700,000.01 9,900,000.00	2,199,999.99	73.00%	1,605,999.99	594,000.00	27.00%	594,000.00	835,200
	9,900,000.01 19,647,914.34	9,747,914.33	81.70%	7,964,046.01	1,783,868.32	18.30%	622,359.66	6.70%
	19,647,914.35		0.00%	-	-			
				15,961,046.00	3,686,868.32		2,525,359.66	

February 19, 2010

Sodexo America, LLC  
9801 Washingtonian Blvd.  
Gaithersburg, Maryland 20878

Dear Mr. Alan R. Gessel,

Enclosed are two original Agreements in accordance with the University of Idaho's Request for Proposals Number 09-58J for Dining Services. After the documents are signed by an authorized representative of your company, please return one set of the originals to the following address:

University of Idaho  
Purchasing Services  
Attn.: Christopher Johnson  
PO Box 441202  
645 West Pullman Road  
Moscow, Idaho 83844-1202

If you have any questions, please call me at (208) 885-6116, or e-mail [cjohnson@uidaho.edu](mailto:cjohnson@uidaho.edu).

Thank you for doing business with the University of Idaho.

Sincerely,

Christopher Johnson, C.P.M.  
Director, Contracts and Purchasing Services

Attachment

**UNIVERSITY OF IDAHO  
AGREEMENT NUMBER UI-670**

The University of Idaho (hereinafter called the University) hereby awards to Sodexo America, LLC (hereinafter called the Contractor) Agreement number UI-670 to furnish Dining Services to the University, as specified in University of Idaho Request for Proposals Number 09-58J, in accordance with the terms and conditions of the Request for Proposals.

This Agreement is supplemented by a) University of Idaho Request for Proposals Number 09-58J; b) Sodexo America, LLC's response dated August 17, 2009; c) Sodexo America, LLC Pre-Award document dated December 18, 2009, d) University of Idaho General Terms and Conditions, which have been agreed to by the parties and by this reference are made a part hereof as though fully set forth herein. To the extent such terms, conditions, or provisions may be in conflict or be inconsistent, their order of authority shall be as follows: 1) University of Idaho Agreement Number UI-670; 2) University of Idaho Request for Proposals Number 09-58J; 3) Sodexo America, LLC 's response dated August 17, 2009; 4) Sodexo America, LLC's Pre-Award document dated December 18, 2009, 5) University of Idaho General Terms and Conditions.

**1.1 NOTICES**

Any notice under this Agreement shall be in writing and be delivered either in-person, delivery service, certified mail with return receipt requested, or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

the University:                      University of Idaho  
   Purchasing Services  
   PO Box 441202  
   645 West Pullman Road  
   Moscow, Idaho 83844-1202  
   Attn: Christopher Johnson  
   Phone: (208) 885-6116  
   Fax:        (208) 885-6060

the Contractor:                      Sodexo Americas, LLC  
   9801 Washingtonian Blvd.  
   Gaithersburg, Maryland 20878  
   Attn.: Kirt Ingram  
   Senior Vice President  
   Phone: (303) 627-0003  
   Fax:        (303) 627-0004

Any notice shall be deemed to have been given on the earlier of : (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whomever received, shall always be effective.

## 1.2 SEVERABILITY

The terms and conditions of this Agreement are declared severable if any term or condition of this Agreement or the application thereof to any person(s) or circumstance(s) is held invalid. Such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application.

## 1.3 CONSIDERATION

University will pay Contractor an annual fixed fee and an additional annual variable fee as set forth in UI-670 Attachment C, Pre-Award Document 1; Section 8.1. Payment of the fees will be made by University to Contractor based on a percentage of gross sales in accordance with the fee payment schedule set forth in UI-670 Attachment C, Pre-Award Document 1; Section 8.1. Payments will first be applied to the annual fixed fee until the fixed fee is paid in full, and then to the additional annual variable fee. Contractor will invoice the University on the Friday of every other calendar week calculated from the Gross Sales of the immediately preceding two calendar weeks (14 days).

In the event total annual payments by University to Contractor under the fee payment schedule are less than the total fixed fee for any fiscal year, University will pay the balance of the fixed fee to Contractor within 30 days of the close of such fiscal year. The amount of the variable fee paid by University to Contractor will be dependent upon the total Gross Sales during the fiscal year. In no event will the additional variable fee paid by University to Contractor for any fiscal year exceed an amount equal to the annual fixed fee for the same fiscal year.

## 1.4 TERM OF AGREEMENT

The initial term of this agreement shall be five (5) years, commencing upon July 1, 2010.

## 1.5 ACCEPTANCE OF VALUE ADDED OPTIONS

As listed in Attachment E "RAVA Plan Template" Section 2 of the Sodexo America, LLC's response dated August 17, 2009, the University accepts items 3 & 4.

## 1.6 CONTINUATION DURING DISPUTES

The Contractor agrees that, notwithstanding the existence of any dispute between the parties, insofar as possible under the terms of the Agreement to be entered into, each party will continue to perform the obligations required of it during the continuation of any such dispute, unless enjoined or prohibited by any court.

## 1.6 INVOICES



All invoices must contain the name of the University department, purchase order number, itemization of materials and services, and correct Agreement pricing. A packing slip referencing current pricing must accompany each order.

Invoices for payment must be submitted by the Contractor to:

University of Idaho  
Accounts Payable  
PO Box 444244  
Moscow, ID 83844-4244

### 1.7 SHIPPING CHARGES

Requests for additional compensation for freight or delivery charges will be rejected by the University unless specifically identified within the Request for Proposals.

### 1.8 NON-CONTRACTOR APPROVED VENDORS

University understands that Contractor has entered into agreements with many vendors and suppliers of products which (i) give Contractor the right to inspect such vendors' and suppliers' plants and/or storage facilities and (ii) require such vendors and suppliers to adhere to standards to ensure the quality of the products purchased by Contractor for or on behalf of University. Contractor will use only Contractor approved vendors in the performance of this agreement unless otherwise mutually agreed to in writing by both parties.

### 1.9 ADDITION CONTRACT TERMS

**Audits:**

The University reserves the right to inspect and audit all records relating to this Dining Service Program. The contractor shall provide all requested documentation.

**Food Storage and Equipment:**

The contractor shall be required to maintain all necessary equipment. All foods must be properly stored at proper temperatures. The contractor shall develop a Food Safety Plan that outlines the contractor's procedures for monitoring, testing, and recording food products.

**Construction:**

Contractor agrees to conform to all university building codes, construction standards, and requirements for any construction, renovation, or improvements

**Non-exclusive Retail Rights:**

This agreement shall not be interpreted as providing exclusive rights to the contractor for all service and all location on the Moscow campus. The University reserves the right to assign space and operations in its best interests.

**Compliance with Law:**

Contractor shall comply with the laws, ordinances, rules and regulations of all applicable federal, state, county and city governments, bureaus and departments concerning the sanitation, safety and health of Dining Service operation, and shall procure and maintain all necessary licenses and permits. The University shall cooperate as necessary for contractor's compliance and procurement efforts.

**Paragraphs 7.11 and 7.34 of the RFP are deleted in their entirety and replaced with:**

**7.11 HOLD HARMLESS**

Sodexo America, LLC shall indemnify, defend and hold harmless the State of Idaho, and University of Idaho and its governing board, employees, agents, and assigns, from and against any and all claims, losses, damages, injuries, liabilities and all costs, including attorneys fees, court costs and expenses and liabilities incurred in or from any such claim, arising from any breach or default in the performance of any obligation on Sodexo America, LLC's part to be performed under the terms of this Agreement, or arising from any act, negligence or the failure to act of Sodexo America, LLC, or any of its agents, contractors, employees, invitees or guests.

Subject to the limits of liability specified in Idaho Code 6-901 through 6-929, known as the Idaho Tort Claims Act, the University shall indemnify and hold harmless Sodexo America, LLC, its agents, and employees, from and/or against any and all claims, damages, and liabilities (including reasonable attorney's fees) that may be suffered or incurred and that arise as a direct result of and which are caused by the University's possession, operations or performance under this indemnification agreement.

This indemnification does not apply when such claims, damages, and liabilities are the result of negligent acts, errors, omissions or fault on the part of Sodexo America, LLC, its agents or assigns, or when the claim or suit is made against Sodexo America, LLC by the University, the State of Idaho, or any of its agencies.

Sodexo America, LLC shall promptly notify the University of Idaho, Attn: Risk Management Officer, PO Box 443162, Moscow, Idaho 83844-3162, of any such claim of which it has knowledge and shall cooperate fully with the University or its representatives in the defense of the same.

The University's liability coverage is provided through a self-funded liability program administered by the State of Idaho Office of Insurance Management. Limits of liability, and this indemnification, are \$500,000 Combined Single Limits, which amount is the University's limit of liability under the Idaho Tort Claims Act.

**7.34 INSURANCE REQUIREMENTS**

Vendor and its sub-vendors of any tier are required to carry the types and limits of insurance required by law. By requiring insurance herein, University does not represent that coverage and limits will necessarily be adequate to protect Vendor and its sub-vendor(s) of any tier, and such

## ATTACHMENT 2

coverage and limits shall not be deemed as a limitation on the liability of the Vendor and its sub-vendor(s) of any tier under the indemnities granted to University in this Agreement.

The Vendor is required to provide University with a Certificate of Insurance (“certificate”) to extent indemnified. All certificates shall be coordinated by the Vendor and provided to the University within seven (7) days of the signing of the contract by the Vendor. Certificates shall be executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. All certificates shall provide for thirty (30) days’ written notice to University prior to cancellation, non-renewal, or other material change of any insurance referred to therein as evidenced by return receipt of United States certified mail. Additionally and at its option, the University may request certified copies of required policies and endorsements. Such copies shall be provided within (10) ten days of the Institution’s request.

All insurance required hereunder shall be maintained in full force and effect with insurers with Best’s rating of AV or better and be licensed and admitted in Idaho. All policies required shall be written as primary policies and not contributing to nor in excess of any coverage University may choose to maintain. Failure to maintain the required insurance may result in termination of this Agreement at University’s option.

All policies except Workers Compensation and Professional Liability shall name University as Additional Insured. The Additional Insured shall be stated as: “State of Idaho and The Regents of the University of Idaho”. Certificate Holder shall read: “University of Idaho.” Certificates shall be mailed to: University of Idaho, Risk Management, P.O. Box 443162, Moscow, ID 83844-3162.

Failure of University to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Institution to identify a deficiency from evidence that is provided shall not be construed as a waiver of the obligation of Vendor and its sub-vendor(s) of any tier to maintain such insurance.

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.

Vendor is responsible for coordinating the reporting of claims and for the following: (a) notifying the Institution in writing as soon as practicable after notice of an injury or a claim is received; (b) cooperating completely with University in the defense of such injury or claim; and (c) taking no steps (such as admission of liability) which will prejudice the defense or otherwise prevent the University from protecting its interests.

Vendor and its sub-vendor(s) of any tier shall at its own expense obtain and maintain:

- Commercial General and Umbrella / Excess Liability Insurance. Vendor and its sub-Vendor(s) of any tier shall maintain Commercial General Liability (“CGL”) written on an occurrence basis and with a limit of not less than \$1,000,000 each occurrence and in the aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately by location and shall not be less than \$1,000,000. CGL insurance shall be

written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent Vendors, products-completed operations, personal injury and advertising injury, liquor legal liability, food borne illness and contamination, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy.

- Commercial Auto Insurance. Vendor and its sub-Vendor(s) of any tier shall maintain a Commercial Auto policy with a Combined Single Limit of not less than \$1,000,000; Underinsured and Uninsured Motorists limit of not less than \$1,000,000; Comprehensive; Collision; and a Medical Payments limit of not less than \$10,000. Coverage shall include Non-Owned and Hired Car coverage..
- Business Personal Property. Vendor and its sub-Vendor(s) of any tier shall purchase insurance to cover Business Personal Property of Vendor and its sub-Vendor(s) of any tier. In no event shall University be liable for any damage to or loss of personal property sustained by Vendor, even if such loss is caused by the negligence of Institution, its employees, officers or agents. Workers' Compensation. Vendor and its sub-Vendor(s) of any tier shall maintain all coverage statutorily required of the Vendor and its sub-Vendor(s) of any tier, and coverage shall be in accordance with the laws of Idaho. Vendor and its sub-Vendor(s) of any tier shall maintain Employer's Liability with limits of not less than \$100,000 / \$500,000 / \$100,000.
- Professional Liability. If professional services are supplied to Institution, Vendor and its sub-Vendor(s) of any tier, Vendor and its sub-Vendor(s) of any tier shall maintain Professional Liability (Errors & Omissions) insurance on a claims made basis, covering claims made during the policy period and reported within three years of the date of occurrence. Limits of liability shall be not less than one million dollars (\$1,000,000).

**1.10 ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the parties. No change thereto shall be valid unless communicated in writing in the stipulated manner and signed by the University and the Contractor.

The effective date of this contract is July 1, 2010.

**For the Regents of the  
UNIVERSITY OF IDAHO**

**Sodexo America, LLC**

SIGN \_\_\_\_\_

SIGN \_\_\_\_\_

PRINT Christopher Johnson

PRINT Kirt Ingram

TITLE Director, Contracts

TITLE Senior Vice President

DATE \_\_\_\_\_

DATE \_\_\_\_\_

**UI 670 Attachment A**  
**University of Idaho Request for Proposals**  
**Number 09-58J**

**Dining Services**  
**06/10/09**

**SECTION 1 – SCOPE OF WORK**

**1.1 BACKGROUND**

The University of Idaho (herein referred to as the University) is soliciting proposals for the management and operation of dining services at the University of Idaho Moscow campus. The University shall only consider proposals from financially responsible firms presently engaged in the business of providing dining services. Each Vendor (proposer/firm) shall furnish the required documents in the required format as outlined in this RFP to be considered responsive.

The University expects to award this project to the best valued Vendor based on the requirements in this solicitation. The Vendor selected for award will be the Vendor whose proposal is responsive, responsible, and is the most advantageous to the University, as determined by the University in its sole discretion.

**1.2 CURRENT CONDITIONS**

Best efforts have been made to obtain detailed information on the current conditions at the University. This information should not be assumed to be 100% complete or accurate. Information of all known current conditions can be found in Exhibit 1. The University is looking to secure services equal to, or better than, the level of service currently provided.

**1.3 SCOPE OF SERVICES**

It is the University's desire to move away from the current fixed fee arrangement, in place under the existing contract, and to move toward a commission based structure. Due to the financing of University facilities (through tax exempt bonds), there are restrictions on commission based financial structures. The University has found two available Safe Harbor approaches for structuring the contract that will allow for the payment of commissions as a percentage of

revenue. These options include a Two-Year Safe Harbor Proposal and a Five-Year Safe Harbor Proposal. The University is requesting proposals for both options in this RFP.

The University’s goals of this RFP are to:

1. Increase Financial Return to the University
2. Increase Environmental Sustainability of Dining Services
3. Increase Satisfaction (University and Student)

The scope of work and expectations for the dining service provider are identified in Exhibit 2.

**SECTION 2 – SCHEDULE AND CRITICAL DATES**

**2.1 SCHEDULE OF EVENTS AND CRITICAL DATES**

The following are the critical dates for this project. Please be advised that these dates are subject to change as deemed by the University.

<b>2.2</b>	06/10/09	Project Announcement
	07/07/09	Pre Proposal Meeting (*see Section 2.2 for details)
	07/28/09	Last Day For Questions
	08/21/09	Proposals Due [2:00 PM CST]
	09/08/09	Notification of Shortlisted Finalist (If Applicable)
	09/09/09	Interview of Shortlisted Finalist
	09/11/09	Identification of Potential Best Value
	09/17/09	Kick Off Meeting
	10/30/09	Pre Award Meeting
	03/31/10	Anticipated Date of Award
	04/01/10	Transition Period Begins
	07/01/10	Start of Service

Vendors are highly encouraged to attend the pre-proposal / educational meeting. Understanding the best value process will significantly increase a vendor’s competitiveness. The meeting will be held:

Date: 07/07/09  
 Time: 9:00am – 11:00am  
 Location: Wallace Residence Complex 1<sup>st</sup> Floor  
 Quiet Room in Bob’s dining hall  
 1080 West 6<sup>th</sup> Street  
 Moscow, Idaho

An optional site visit will also be conducted on 7/7/09. The tour will be approximately 3 miles, and is schedule to occur at 1pm-5pm. Please contact Tyrone Brooks no later than July 1<sup>st</sup> if you have any mobility requirements ([tyroneb@uidaho.edu](mailto:tyroneb@uidaho.edu)).

**SECTION 3 – PROPOSAL REQUIREMENTS AND EVALUATION CRITERIA**

Proposals will be evaluated based on the criteria outlined in this section. The University reserves the right to add/delete/modify any criteria or requirement if the University deems it to be in their best interest (at the University’s sole discretion). It is imperative that each Proposer realize that what is written in the proposals, financials, and discussed in the interview will become part of the winning Proposer’s final contract.

**3.1 RESPONSIVENESS (PASS/FAIL)**

The University shall only consider Proposals from financially responsible firms presently engaged in the business of providing dining services. The Vendor selected for award will be the Vendor whose proposal is responsive, responsible, and are the most advantageous to the University, as determined by the University in its sole discretion. The University reserves the right to contact a Vendor to clarify any information in their proposal.

Only responsive proposals will be evaluated and considered for award. Vendors must prepare proposals that follow the format and sequence specified in this RFP. This includes adherence to the format of any attachments. The following conditions/criteria **MUST** be met in order to be considered responsive:

1. The Vendor must attend all mandatory meetings / site walks
2. The Vendor will complete and provide all information in Attachment A
3. The Vendor will complete and provide all information in Attachment B
4. The Vendor will complete and provide all information in Attachment C
5. The Vendor will complete and provide all information in Attachment D
6. The Vendor will complete and provide all information in Attachment E
7. The Vendor will complete and provide all information in Attachment F
8. The Vendor will complete and provide all information requested in Exhibit 3

**3.2 EVALUATION CRITERIA & WEIGHTS**

Only responsive proposals will be evaluated and considered for award. The University reserves the right to request supplementary information to assure the University that the Vendor’s competence, business organization, and financial resources are adequate to successfully perform the specified service. Proposals will be evaluated on the criteria listed in the table below.

35 Points	Interview	Refer to Section 3.9
25 Points	RAVA Plan	Refer to Section 3.7
20 Points	Financial Proposal	Refer to Section 3.4
10 Points	Work Plan	Refer to Section 3.6
10 Points	Past Performance Information	Refer to Section 3.8

**3.3 EVALUATION COMMITTEE**

An Evaluation Committee will be used to evaluate specific portions of the proposals (as described in this RFP). The University expects the committee to consist of 3-7 individuals.

### 3.4 PROPOSAL FORM (Attachment B)

The Vendor will prepare and submit a Proposal Form (Attachment B). The Proposal Form requires the following information:

1. Identify the critical individuals that the Vendor will use for the duration of this project
2. Identify the financial information for a 2-Year 100% Commission structure
3. Identify the financial information for a 5-Year 50% Commission and Annual Fee structure

### 3.5 TWO YEAR FINANCIAL PRO FORMA (Attachment C)

Utilizing the worksheet provided in Attachment C, provide a summary of financial Pro Forma projections of revenue and expense for the first two years of the contract term, assuming the current meal plan structure, with meal plan pricing escalated annually for inflation. When developing your projections, you must follow these guidelines:

- You must submit your projections using the electronic workbook provided. Provide both electronic and paper copies of projections. Direct Costs must be separately identified from Indirect Costs, and each type of Indirect Cost must be listed as a separate line item. As per the template, provide a detailed schedule of any one-time transition or start up costs identified for Year 1.
- Identify the basis for your projections as identified and required on the spreadsheet, and note any other factors that influence your projection.
- Insure that all formulas are correct.

### 3.6 WORK PLAN (Attachment D)

The purpose of the Work Plan is to identify the vendor's ability to generate a concise synopsis of the work that will be performed to complete the project or service. The Work Plan should be a succinct summary of the project. The Work Plan should be used to prove to the client that the vendor can visualize what they are going to do before they do it.

The Work Plan should be developed around fulfilling the client's scope requirements within the known project constraints of cost, time, and expected quality. The Work Plan should:

- Show the vendor's impression of the project in terms of scope alignment within the clients expected cost and schedule requirements
- Describe how the service requirements will be fulfilled (in terms of major tasks, steps, or work packages).
- Describe the Vendor's plan for customer service (both to the Universities and to Students)
- Describe how the Vendor will promote the value of this program to encourage higher enrollment
- Convey the points of differential from the current service/structure in terms of financial or other dominant metrics, and explain how the change(s) will be made and sustained.

In order to minimize any bias, the Work Plan must NOT contain any names that can be used to identify who the vendor is (such as company names, personnel names, project names, or product names). A Work Plan template is provided in this document and must be used by all



vendors. Vendors are NOT allowed to re-create, re-format, or modify the template (cannot alter font size, font type, font color, add colors, pictures, diagrams, etc). An electronic copy of this document is available for download and must be used.

The Work Plan must NOT exceed 2 pages (front side of page only). Any plan that contains names, or fails to meet all of the formatting requirements mentioned above, shall be marked as unresponsive and eliminated from the evaluation process.

An evaluation committee will review and rate each Work Plan. All Work Plans will be rated comparatively to one another. They will be rated on a scale of 1-10. It is the vendor's responsibility to prove to the client that they have more expertise from their competitors.

### **3.7 RISK ASSESSMENT AND VALUE ADDED PLAN (Attachment E)**

#### *Objective of the RAVA Plan*

The University has made the assumption that each Proposer can deliver a quality dining program that will fulfill the minimal needs of the University. Instead of focusing on this minimum expectation, the University is allowing Proposers to compete based on value and their ability to maximize the University's satisfaction.

The Risk Assessment and Value Added (RAVA) Plan is used to identify the Vendor's ability to generate a concise synopsis of their plan of work that will be used to complete the project or service. The RAVA Plan has two major components, including a Risk Assessment Plan, and a Value Added Plan. The RAVA Plan serves several purposes, including:

1. Assist the client in prioritizing vendors based on their ability to understand the project.
2. Assist the vendor in visualizing what they are going to do before they do it.
3. Minimize the effort of experienced companies who are competing for the project / service.
4. Provide high performing vendors the opportunity to differentiate themselves from their competitors due to their experience and expertise.

The RAVA Plans should not contain any marketing information. The Plan should be used to prove to the client that the vendor has expertise on the specific project / service being proposed on. The RAVA Plan will become part of the final contract (if the vendor is selected for award).

#### *RAVA Plan Format*

In order to minimize any bias, the RAVA Plan must NOT contain any names that can be used to identify who the vendor is (such as company names, personnel names, project names, or product names).

A RAVA Plan template is provided in this document and must be used by all vendors. Vendors are NOT allowed to re-create, re-format, or modify the template (cannot alter font size, font type, font color, add colors, pictures, diagrams, etc). An electronic copy of this document is available for download and must be used.

The University's goal is to make the selection process as efficient as possible. Efficiency is to minimize the effort of all participants. Therefore, the RAVA Plan should be a brief and concise overview of the project. The RAVA Plan must NOT exceed 2 pages (front side of page only).

Any plan that contains names, or fails to meet all of the formatting requirements mentioned above, shall be marked as unresponsive and eliminated from the evaluation process.

### *Evaluation of RAVA Plan*

An evaluation committee will review and rate each RAVA Plan. Since there are no names in the RAVA Plans, the evaluation will minimize any personal bias that an evaluator may have towards any vendor (positive or negative bias). All RAVA Plan's will be rated comparatively to one another. They will be rated on a scale of 1-10. Vendors should keep in mind that the RAVA Plan is only one step in the selection process. If all the RAVA Plans are the same, they will receive the same score, and the RAVA Plan will have little impact in the selection. Therefore it is the vendor's responsibility to prove to the client that they have more expertise from their competitors.

### *Overview of the Risk Assessment Section*

The Risk Assessment section should address any risks that the Proposer sees impacting a successful delivery of dining services, considering all expectations as described in this RFP. It is the assumption of the University that all Proposers have the capability to effectively deliver dining services and meet all the expectations. The University wishes to examine the relative ability of each firm to understand and convey the key risks to this service and how each risk will be minimized. The Vendor should list and prioritize major risk items that are unique to this project. This includes areas that may cause the project to not be completed on time, not finished within budget, generate any change orders, or may be a source of dissatisfaction for the owner. Risks can include things that you control and things that you do not control. The risk should be non-technical, but should also contain enough information to describe to a reader why the risk is a valid risk. The Vendor must also explain how they will avoid or minimize the risk from occurring. If the Vendor has a unique method to minimize the risk, they should explain it in non-technical terms. Note: the potential best-valued Vendor will be required to minimize the risks identified by all Vendors as outlined in Exhibit 4. The Risk Assessment plan gives the opportunity for the Proposers to differentiate their capabilities based on their ability to understand, see, and minimize risk to the University and the risk to a successful outcome of the dining services.

### *Overview of the Value Added Section*

The purpose of the Value Added Plan is to provide vendors with an opportunity to identify any value added options or ideas that may benefit the client or service. These options or ideas may also be referred to as additional or optional services. If the vendor can include more scope or service within the constraints of the Universities, they should provide an outline of potential value added options. If the student premiums are a risk, the vendor should provide value added ideas to alter the scope of work to meet the clients constraints. All value added options must be related to a cost impact. Remember: All value added ideas must NOT be included in the base proposal fee or premium rates. Prior to award, the UNIVERSITY will determine if the value added items will be accepted or rejected.

**3.8 PAST PERFORMANCE INFORMATION (Exhibit 3)**

The University will be analyzing past performance information on the Vendor and critical individuals of their team. The Vendor is encouraged to only submit highly satisfied references. Please review Exhibit 3 for detailed instructions on collecting and submitting PPI for this proposal.

**3.9 INTERVIEW**

The University shall shortlist Vendors (if necessary) based on all of the submitted information (Financials, RAVA Plan Rating, Work Plan Rating, and PPI). The highest ranking Vendors will be invited to participate in the interview process. The University will interview all of the critical team components from each of the shortlisted firms, including (but not limited to):

1. Regional Vice President
2. On-Site General Manager
3. Director of Catering
4. Executive Chef

The University may also request to interview additional personnel. The University will interview individuals separately (but also reserves the right to interview as a group). The University may request additional information prior to interviews (such as a list of similar past projects, a detailed cost breakdown, a detailed project schedule, etc). No other individuals (from the Vendors organization) will be allowed to sit in or participate during the interviews.

Important Note: All proposed team members must be available in person for interviews on the date specified in this solicitation. No substitutes, proxies, phone interviews, or electronic interviews will be allowed. Individuals who fail to attend the interview will not be given a score which may jeopardize the firm's competitiveness. If awarded the project, all interview statements will become part of the final contract.

**SECTION 4 – SELECTION PROCESS**

**4.1 ANALYSIS OF PROPOSALS**

All responsive proposals will be evaluated based on the criteria and weights outlined in Section 3. The University shall use a decision making tool(s) to assist in analyzing and prioritizing the proposals based on the submitted information.

The University will determine the potential best-valued vendor who, in the sole judgment of the University, best meets the RFP requirements. The University reserves the right to clarify or seek additional information on any proposal. The University also reserves the right to re-scope the project, and/or cancel and reject all proposals.

**4.2 PRE AWARD PHASE**

The University will identify the potential best-valued Vendor (as outlined in Section 4.1). The potential best-valued Vendor will be required to perform the Pre-Award functions as outlined in Exhibit 4. The intent of this period is to allow the Vendor an opportunity to clarify any issues or risks, and to prepare a Pre Award Document.

The Pre Award Period is not a negotiation period. The Vendor will not be permitted to modify their cost/fee/financial rates, project durations, or project team. The potential best-valued Vendor will be required to conduct a Pre-Award Meeting. If the University is not satisfied upon completion of the Pre-Award Meeting, the University may consider another Vendor for potential award (this Vendor would also have to conduct a Pre-Award Meeting). If the University is satisfied with the potential best-value, they will proceed to issue an Award and Notice to Proceed.

## **SECTION 5 – POST AWARD PROCEDURES**

### **5.1 WEEKLY RISK REPORTING SYSTEM**

The awarded Vendor will be required to submit weekly reports documenting risks on the project, as outlined in Exhibit 5. The reports are due every Friday, once a notice to proceed is issued, until the project/service is 100% completed. It is the vendor's responsibility to submit accurate reports on time. The accuracy and on-time submittal of the reports will impact the vendor's final rating.

### **5.2 PERFORMANCE REPORTS**

The Vendor will be required to document the performance of their services on a monthly, quarterly, and yearly basis. The monthly reports shall provide dominant information on the status of the project, including (but not limited to):

1. Number of mandatory boarder counts
2. Number of voluntary boarder counts
3. Total amount of capital invested
4. Total amount of commissions paid to client
5. Total amount of revenue generated from retail services
6. Total amount of revenue generated from catering services
7. Total amount of revenue generated from mandatory meal plans
8. Total amount of revenue generated from voluntary meal plans
9. Total amount of revenue paid to the client

Along with the monthly reports, the vendor will also be required to collect and compile student satisfaction surveys once per semester. The details of the required documented reports shall be finalized during the Pre Award Period (Section 4.2).

### **5.3 MANDATORY EDUCATIONAL FEE**

The University shall require the Vendor to partner with the Performance Based Studies Research Group, at Arizona State University, to receive education and training on performance reporting guidelines. The fee for this education is \$35,000 per year. The University will require this

education for a minimum of 2 years. Payments for the above costs will be made to the University specifically for PBSRG education.

**5.4 POST PROJECT EVALUATION**

Upon completion of the project, the Vendor will be evaluated based on their performance on the project. This includes (but is not limited to): overall quality, ability to manage the service, ability to minimize complaints, ability to minimize University efforts, ability to service the students, submission of accurate weekly reports, and submission of accurate monthly and yearly reports. The final rating will be used to modify the Project Teams PPI scores by 50% (including the prime Vendor, and critical individuals). The modified rating will be used for competition on future projects at the University.

**SECTION 6 – SUBMITTAL FORMAT**

**6.1 SUBMITTAL FORMAT**

All submittal documents must be on standard 8½” x 11” paper. The proposal should be stapled (and not bound) to facilitate easy handling, photocopying, and reading by the evaluation committee. No faxed or emailed proposals will be considered. **The proposal must be received by 2pm on the date listed in Section 2.1.** Late submittals will not be considered. The proposal must be mailed or delivered in a sealed envelope or package. The package must contain the following information on the outside of the package:

1. Vendors Name
2. Vendors Address
3. RFP Project Name
4. RFP Number

Mail or deliver one (1) signed package and five (5) copies to:

**Christopher P. Johnson, C.P.M.; Director**  
**University of Idaho**  
Purchasing Services  
645 West Pullman Road  
P.O. Box 441202  
Moscow, Idaho 83844-1202

**6.2 QUESTIONS AND INQUIRIES**

The person designated below shall be the only contact for all inquiries regarding any aspect of this RFP process and its requirements.

Christopher P. Johnson, C.P.M.  
Director, Contracts and Purchasing Services  
(208) 885-6060  
cjohnson@uidaho.edu

Please E-mail or Fax all questions to the person listed above by the date noted in the tentative schedule. No phone calls will be accepted. Responses to questions which involve an interpretation or change to this Request will be issued in writing by addendum. All such addenda issued by University shall be considered part of this RFP.

If a Vendor fails to notify the University prior to the Proposal due date of a known error in the RFP or an error that reasonably should have been known to the Vendor, and if a Contract is awarded to that Vendor, the Vendor shall not be entitled to additional compensation or time by reason of the error or its correction.

Only formal written addenda shall be binding. Oral and other interpretations or clarifications, including those occurring at the pre proposal meeting, site visits, etc. will be without legal effect. Do not contact any University employee, representative, or student regarding this RFP.

## **SECTION 7 – GENERAL INFORMATION**

### **7.1 DISQUALIFICATION**

Carefully read the information contained in this solicitation and submit a complete response to all requirements specifications, and directions as directed. Please be advised that failure to comply with all of the requirements in this solicitation will be grounds for disqualification.

### **7.2 TERMS AND CONDITIONS**

The Vendors Proposal is a valid, firm, and irrevocable offer which the University may accept within 120 days from the Proposal's Due Date as stated in Section 2.1. The Proposal, if accepted, shall remain valid for the life of the contract.

### **7.3 CONTRACT EXTENSION / RENEWAL**

Based on the satisfaction of the University, the University may renew the service for five (5) additional terms, or on a year-by-year basis. The University shall provide written notice to the Vendor of its intent to extend this contract at least 120 days prior to the end of the Initial Term. If the Vendor does not desire to extend the contract, the Vendor shall so notify the University in writing no later than ten days after the date of the University's notice of intent under this paragraph. Any renewal shall be under the same terms and conditions as the final year of the Initial Term of the Contract unless otherwise negotiated and agreed to by the parties.

### **7.4 OWNERSHIP OF PROPOSALS**

All submittal contents become the property of the University, and may become a part of any resulting contract. Award or rejection of a proposal does not affect this right. All RAVA Plan risks will be made available to the potential best-valued vendor and to all vendors once an award has been made.

### **7.5 PROPOSAL EXPENSE**

Under no circumstances shall the University be responsible for any proposal preparation expenses, submission costs, or any other expenses, costs, or damages of whatever nature incurred as the result of a Vendors participation in this process.

**7.6 CLARIFICATION**

The University reserves the right to clarify, or seek clarification, on any submittal (this includes, but is not limited to, contacting past clients to verify performance, interviewing key personnel, performing additional investigating on the firms performance history, and requiring additional documentation or information to respond to any performance findings).

**7.7 CONSIDERATION OF PROPOSAL**

The Vendor selected for an award will be the vendor whose proposal is responsive, responsible, and is the most advantageous to the University, as determined by the University in its sole discretion. The University anticipates that all Vendors will have a fair and reasonable opportunity to provide service.

The University intends to award a contract, subject to the terms of this solicitation, to the best valued Vendor. The University may add, delete, or modify any requirement or statement in this solicitation if the University deems that it is in the best interest of the University.

The University reserves the right to reject any or all proposals and to reject a proposal not accompanied by any required data, or to reject a proposal that is in any way incomplete or irregular. The University shall reject all submittals from Vendors where there has been collusion among the Vendors.

Any final analysis or weighted point score does not imply that one Vendor is superior to another, but simply that in our judgment the Vendor selected appears to offer the best overall solution for our current and anticipated needs.

The University shall have the right to waive any informality or irregularity in any proposal received and to advertise for new proposals where the acceptance, rejection, waiving, or re-advertising is determined by the University to be in its own best interest. The successful Vendor shall comply with all employment laws and regulations.

**7.8 CONFLICT OF INTEREST**

No employee, officer or agent of University shall participate in the selection, the award, or administration, of the contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when one of the following has a financial or other interest in any firm proposing on or selected for the award:

- 1) The employee, or an officer or agent of the employee;
- 2) Any member of the employee's immediate family;
- 3) The employee's business partner; or
- 4) An organization which employs, or is about to employ any of the above.

University officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from responders, potential responders, sub-Vendors, or other parties to sub-agreements whereby the intent could reasonably be inferred as influencing the

employee in the performance of his or her duties or was intended as a reward for any official act on his or her part.

**7.9 ACCEPTANCE OF RFP TERMS**

All terms and conditions contained herein shall become part of any subsequent contract that is awarded from this RFP. A proposal submitted in response to the RFP shall constitute a binding offer.

**7.10 MODIFICATION TO TERMS**

All additional or different terms propose by the Vendor are objected to and are hereby rejected (unless otherwise provided for in writing by the purchasing manager of the University of Idaho). No alteration in any of the terms, conditions, delivery, price, quality, quantity or specifications of this order will be effective without the written consent of the University of Idaho Department of Purchasing Services.

**7.11 HOLD HARMLESS**

Vendor shall indemnify, defend and hold the University and the State of Idaho harmless from and against any and all claims, losses, damages, injuries, liabilities and all costs, including attorneys fees, court costs and expenses and liabilities incurred in or from any such claim, arising from any breach or default in the performance of any obligation on Vendor's part to be performed under the terms of this Agreement, or arising from any act, negligence or the failure to act of Vendor, or any of its agents, sub-vendors, employees, invitees or guests. Vendor, upon notice from the University, shall defend the University at Vendor's expense by counsel reasonably satisfactory to the University. Vendor, as a material part of the consideration of the University, hereby waives all claims in respect thereof against the University.

**7.12 CERTIFICATION OF INDEPENDENT OFFER**

By submitting a Proposal, the Vendor certifies that in connection with this RFP:

- a The Proposal has been arrived at independently, without consultation, communication or agreement with any competitor for the purpose of restricting competition.
- b Unless otherwise required by law, the offer cited in this RFP has not been and will not be knowingly disclosed by the Vendor prior to opening directly or indirectly to any other Vendor.
- c No attempt has been made nor will be made by the Vendor to induce another person or firm to submit or not submit a Proposal for the purpose of restricting competition.

**7.13 TERMINATION**

The University may terminate the Contract by providing the Vendor with written notice 30 calendar days prior to such date. In the event of a breach by Vendor of any of the provisions of this Agreement, the University of Idaho reserves the right to cancel and terminate this Agreement forthwith upon giving written notice to the Vendor. Vendor shall be liable for damages suffered by the University of Idaho resulting from Vendor's breach of Agreement.

**7.14 NEWS RELEASE**

The Vendor shall not in any way or in any form publicize or advertise any part of the RFP, contract, or services provided to the University without the written approval from the



University. However, the Vendor shall be allowed to list the University on its routine client list for matters of reference.

**7.15 PRICE WARRANTY**

Vendor warrants that prices charged to the University of Idaho are based on Vendor's current catalog or market prices of commercial items sold in substantial quantities to the general public and prices charged do not exceed those charged by Vendor to other customers purchasing the same item in like or comparable quantities.

**7.16 PROPOSAL SIGNATORY AUTHORITY**

Each person signing this Proposal certifies that they are the person in the Vendor's firm authorized to make the decision to make the offer.

**7.17 PROMOTIONS**

Vendor shall not use the name, trade name, trademark, or any other designation of the University, or any contraction, abbreviation, adaptation, or simulation of any of the foregoing, in any advertisement or for any commercial or promotional purpose (other than in performing under this Agreement) without the University's prior written consent in each case.

**7.18 LAWS, REGULATIONS AND PERMITS**

The Vendor shall give all notices required by law and comply with all applicable Federal, State, and local laws, ordinances, rules and regulations relating to the conduct of the work. The Vendor shall be liable for all violations of the law in connection with work furnished by the Vendor, including the Vendor's sub-Vendors. Vendor guarantees all items, or services, meet or exceed those requirements and guidelines established by the Occupational Safety and Health Act. All purchase orders and contracts issued by the University of Idaho are subject to F.A.R. 52.209-6. Vendor warrants that neither supplier nor its principals is presently debarred, suspended or proposed for debarment by the Federal Government.

**7.19 RECORD OF PURCHASES**

Vendor will provide Purchasing Services a detailed usage report of items/services ordered, quantities, and pricing under this Agreement upon request.

**7.20 APPEAL OF AWARD**

A Proposer aggrieved by the award of an Agreement may file an appeal by writing to the Director of Purchasing Services. The appeal must be received by the Director of Purchasing Services within five working days after the award is made, must describe the basis for the appeal, and must include all argument and evidence the Proposer wishes the Director of Purchasing Services to consider. Keeping track of the date an award is made is the responsibility of the Proposer.

**7.21 APPLICABLE LAW AND FORUM**

This Agreement shall be construed in accordance with, and governed by the laws of the State of Idaho. Any legal proceeding related to this Agreement shall be instituted in the courts of the county of Latah, state of Idaho, and Vendor agrees to submit to the jurisdiction of such courts.

**7.22 ASSIGNMENTS**

No Agreement, order, or any interest therein shall be transferred by Vendor to any other party without the approval in writing of the Purchasing Manager, University of Idaho. Transfer of an Agreement without approval may cause the recession of the transferred Agreement at the option of the University of Idaho.

**7.23 REGENTS' APPROVAL**

This Agreement may be subject to approval by the Regents of the University of Idaho, and if it is and if such approval is not granted this Agreement shall be void and neither party shall have any further obligations or liabilities hereunder.

**7.24 RISK OF LOSS**

Until all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by University and working properly, Vendor and its sub-vendors of any tier shall bear all risks of all loss or damage to the improvements, equipment, or goods, excluding loss or damage caused by acts, omissions, or negligence of the University. Once all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by University and working properly, the risk of all loss or damage shall be borne by University, excluding loss or damage caused by acts, omissions, or negligence of the Vendor. Vendors shall require its sub-vendors of any tier to bear the same risk of loss.

**7.25 WARRANTY**

Vendor warrants that all products delivered under this order shall be new, unless otherwise specified, free from defects in material and workmanship, and shall be fit for the intended purpose. All products found defective shall be replaced by the Vendor upon notification by the University of Idaho. All costs of replacement, including shipping charges, are to be borne by the Vendor.

**7.26 PAYMENT / CASH DISCOUNT**

Invoices will not be processed for payment nor will the period of computation for cash discount commence until receipt of a properly completed invoice or invoiced items are received and accepted, whichever is later. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized. Payment shall not be considered late if a check or warrant is available or mailed within the time specified.

**7.27 LIENS, CLAIMS AND ENCUMBRANCES**

Vendor warrants and represents that all the goods and materials delivered herein are free and clear of all liens, claims or encumbrances of any kind.

**7.28 TAXES**

The University of Idaho is exempt from payment of Idaho State Sales and Use Tax. In addition, the University is generally exempt from payment of Federal Excise Tax under a permanent authority from the District Director of the Internal Revenue Service. Exemption certificates will be furnished as required upon written request by Vendor. If Vendor is required to pay any taxes incurred as a result of doing business with the University of Idaho, it shall be solely responsible

for the payment of those taxes. If Vendor is performing public works construction, it shall be responsible for payment of all sales and use taxes.

**7.29 BINDING EFFECT**

This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

**7.30 WAIVER**

No covenant, term or condition, or the breach thereof, shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition herein. Acceptance by a party of any performance by another party after the time the same shall have become due shall not constitute a waiver by the first party of the breach or default unless otherwise expressly agreed to in writing.

**7.31 FORCE MAJEURE**

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes thereof, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (except for financial ability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

**7.32 JOINT VENTURE**

Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment or agency relationship between the parties.

**7.33 NONDISCRIMINATION**

Vendor represents and agrees that it will not discriminate in the performance of this Agreement or in any matter directly or indirectly related to this Agreement on the basis of race, sex, color, religion, national origin, disability, ancestry, or status as a Vietnam veteran. This non-discrimination requirement includes, but is not limited to, any matter directly or indirectly related to employment. Breach of this covenant may be regarded as a material breach of Agreement.

**7.34 INSURANCE REQUIREMENTS**

Vendor and its sub-vendors of any tier are required to carry the types and limits of insurance required by law. By requiring insurance herein, University does not represent that coverage and limits will necessarily be adequate to protect Vendor and its sub-vendor(s) of any tier, and such coverage and limits shall not be deemed as a limitation on the liability of the Vendor and its sub-vendor(s) of any tier under the indemnities granted to University in this Agreement.

The Vendor is required to provide University with a Certificate of Insurance ("certificate"). All certificates shall be coordinated by the Vendor and provided to the University within seven (7) days of the signing of the contract by the Vendor. Certificates shall be executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. All certificates shall provide for thirty (30) days' written notice to University prior to cancellation, non-renewal, or other material change of any insurance referred to therein as evidenced by return receipt of United States certified mail. Additionally and at its option, the

University may request certified copies of required policies and endorsements. Such copies shall be provided within (10) ten days of the Institution's request.

All insurance required hereunder shall be maintained in full force and effect with insurers with Best's rating of AV or better and be licensed and admitted in Idaho. All policies required shall be written as primary policies and not contributing to nor in excess of any coverage University may choose to maintain. Failure to maintain the required insurance may result in termination of this Agreement at University's option.

All policies except Workers Compensation and Professional Liability shall name University as Additional Insured. The Additional Insured shall be stated as: "State of Idaho and The Regents of the University of Idaho". Certificate Holder shall read: "University of Idaho." Certificates shall be mailed to: University of Idaho, Risk Management, P.O. Box 443162, Moscow, ID 83844-3162.

Failure of University to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Institution to identify a deficiency from evidence that is provided shall not be construed as a waiver of the obligation of Vendor and its sub-vendor(s) of any tier to maintain such insurance.

Vendor is responsible for coordinating the reporting of claims and for the following: (a) notifying the Institution in writing as soon as practicable after notice of an injury or a claim is received; (b) cooperating completely with University in the defense of such injury or claim; and (c) taking no steps (such as admission of liability) which will prejudice the defense or otherwise prevent the University from protecting its interests.

Vendor and its sub-vendor(s) of any tier shall at its own expense obtain and maintain:

- Commercial General and Umbrella / Excess Liability Insurance. Vendor and its sub-Vendor(s) of any tier shall maintain Commercial General Liability ("CGL") written on an occurrence basis and with a limit of not less than \$1,000,000 each occurrence and in the aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately by location and shall not be less than \$1,000,000. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent Vendors, products-completed operations, personal injury and advertising injury, and liability assumed under a contract including the tort liability of another assumed in a business contract. Waiver of subrogation language shall be included. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy.
- Commercial Auto Insurance. Vendor and its sub-Vendor(s) of any tier shall maintain a Commercial Auto policy with a Combined Single Limit of not less than \$1,000,000; Underinsured and Uninsured Motorists limit of not less than \$1,000,000; Comprehensive; Collision; and a Medical Payments limit of not less than \$10,000. Coverage shall include Non-Owned and Hired Car coverage. Waiver of subrogation language shall be included.

- **Business Personal Property.** Vendor and its sub-Vendor(s) of any tier shall purchase insurance to cover Business Personal Property of Vendor and its sub-Vendor(s) of any tier. In no event shall University be liable for any damage to or loss of personal property sustained by Vendor, even if such loss is caused by the negligence of Institution, its employees, officers or agents. Waiver of subrogation language shall be included.
- **Workers’ Compensation.** Vendor and its sub-Vendor(s) of any tier shall maintain all coverage statutorily required of the Vendor and its sub-Vendor(s) of any tier, and coverage shall be in accordance with the laws of Idaho. Vendor and its sub-Vendor(s) of any tier shall maintain Employer’s Liability with limits of not less than \$100,000 / \$500,000 / \$100,000.
- **Professional Liability.** If professional services are supplied to Institution, Vendor and its sub-Vendor(s) of any tier, Vendor and its sub-Vendor(s) of any tier shall maintain Professional Liability (Errors & Omissions) insurance on a claims made basis, covering claims made during the policy period and reported within three years of the date of occurrence. Limits of liability shall be not less than one million dollars (\$1,000,000).

**7.35 UNIVERSITY’S RULES, REGULATIONS, AND INSTRUCTIONS**

Contractor will follow and comply with all rules and regulations of the University and the reasonable instructions of University personnel. The University reserves the right to require the removal of any worker it deems unsatisfactory for any reason.

**7.36 ATTACHMENTS AND EXHIBITS**

Attachment A	RFP Cover Page and Checklist
Attachment B	Proposal Form
Attachment C	Financial Pro Forma Worksheet
Attachment D	Work Plan
Attachment E	Risk Assessment and Value Added (RAVA) Plan Template
Attachment F	UI Goals and Expectations Checklist

Exhibit 1	Current Conditions
Exhibit 2	Scope of Work and Expectations
Exhibit 3	Past Performance Information Guide
Exhibit 4	Pre Award Phase Guide
Exhibit 5	Weekly Reporting System Guide

**ATTACHMENT A  
RFP COVER PAGE & CHECKLIST**

The Vendor must complete and submit this Attachment. This Attachment shall be the cover page for the Vendors Proposal. DO NOT MODIFY THE FORMAT OF ANY OF THE REQUIRED ATTACHMENTS. Please staple all Attachments together (do not bind in any other way).

Project Number:	<b>RFP 09-58J</b>
Project Name:	<b>University of Idaho Dining Services</b>

Vendors Name:	
Address:	
City:	
State:	
Zip Code:	
Point of Contact for this RFP:	
Phone:	
Fax:	
Email:	

## ATTACHMENT 2

The following documents are required for this proposal (please mark off each document to acknowledge that you have submitted the document in the proper format):

- Attachment A – Complete and staple as cover page in your proposal
- Attachment B – Fill in all required information on Proposal Form
- Attachment C – Complete and submit Financial Pro Forma Worksheet
- Attachment D – Complete and submit Work Plan
- Attachment E – Complete and submit RAVA Plan
- Attachment F – Complete and submit UI Goals and Expectations Checklist
- Appendix 3 – Email a “Reference List” for each critical component
- Appendix 3 – Compile and submit surveys for each critical component

The following checklist must also be completed. Failing to answer, or answering “No” to any of the questions below will result in disqualification.

- Yes  No Is your entire proposal stapled together (not bound in any other way)?
- Yes  No Is your Work Plan 2 pages or less?
- Yes  No Is your RAVA Plan 2 pages or less?
- Yes  No Do you understand that your RAVA Plan and Work Plan can NOT contain any names, past projects, or information that may be used to identify who your firm is?
- Yes  No Do you understand that you cannot re-create the RAVA Plan and Work Plan template (you must download it online)?
- Yes  No Do you understand that you are NOT allowed to alter font size, add colors, or add pictures, to the RAVA Plan and Work Plan?
- Yes  No Do you understand that your proposal will be disqualified if you fail to meet any of the formatting requirements of the RAVA Plan and Work Plan?
- Yes  No Do you understand that the contents of RAVA Plan and Work Plan will become part of the final contract (if you are awarded the project)?

## ATTACHMENT B PROPOSAL FORM

**SECTION 1 - CRITICAL TEAM MEMBERS**

Name of Firm: \_\_\_\_\_

Name of Regional Vice President: \_\_\_\_\_

Name of On-Site General Manager: \_\_\_\_\_

Name of Executive Chef: \_\_\_\_\_

Name of Catering Director: \_\_\_\_\_

**SECTION 2 – ADDENDA ACKNOWLEDGEMENT**

Vendor acknowledges receipt of the following addenda, and has incorporated the requirements of such addenda into the proposal (*List All Addenda Issued For This Project*):

No.	Date	No.	Date	No.	Date
No.	Date	No.	Date	No.	Date

**SECTION 3 – FIRM QUALIFICATIONS**

No	Criteria	Response
1	How many years has your firm been continuously active in dining services (under the current business name)?	
2	Identify the number of citations received in the past three years from any government agency, regardless of the nature of alleged violations and outcome:	2006 = 2007 = 2008 =
3	Is your firm currently licensed to provide dining services in the State of Idaho?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4	Is your firm current disqualified, de-listed or barred from doing business with the State of Idaho or the University of Idaho?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5	Is your firm current disqualified, de-listed or barred from doing business with any federal or state agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No



**SECTION 4 - FINANCIAL EVALUATION 2-YEAR TERM**

Provide the financial information below for the two-year safe harbor option. Under this option, the Vendor will provide an annual commission based on 100% of sales. Please provide information (if any) on any capital investment and equipment replacement reserve that are included in your proposal (to be amortized over the base term of the contract plus contract extensions)

No	YEAR	MINIMUM GUARANTEED ANNUAL COMMISSION (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (%)	MAJOR CAPITAL INVESTMENTS (\$)	EQUIPMENT REPLACEMENT RESERVE (\$)
1	FY 2010-11	\$	%	\$	\$
2	FY 2011-12	\$	%	\$	\$
TOTAL:		\$		\$	\$

**SECTION 5 - FINANCIAL EVALUATION 5-YEAR TERM**

Provide the financial information below for the five-year safe harbor option. Under this option, the Vendor will provide a compensation that is at least fifty percent (50%) fixed fee, and the remainder a percentage of gross revenue (commission). Please provide information (if any) on any capital investment and equipment replacement reserve that are included in your proposal (to be amortized over the base term of the contract plus contract extensions)

YEAR	ANNUAL FIXED FEE (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (%)	MAJOR CAPITAL INVESTMENTS (\$)	EQUIPMENT REPLACEMENT RESERVE (\$)
FY 2010-11	\$	\$	%	\$	\$
FY 2011-12	\$	\$	%	\$	\$
FY 2012-13	\$	\$	%	\$	\$
FY 2013-14	\$	\$	%	\$	\$
FY 2014-15	\$	\$	%	\$	\$
TOTAL:		\$		\$	\$

**SECTION 6 - SIGNATURE**

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Printed Name of Firm Representative

\_\_\_\_\_  
Signature of Firm Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

**ATTACHMENT C  
FINANCIAL PRO FORMA WORKSHEET**

**UNIVERSITY OF IDAHO  
PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)**

<b>RESIDENT MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
Plan 1 – All Access Plan w/ \$100 Flex	\$		%	\$		%
Plan 2 – 19 Meal Plan w/ \$100 Flex	\$		%	\$		%
Plan 3 – 14 Meal Plan w/ \$300 Flex	\$		%	\$		%
Plan 4 – 10 Meal Plan w/ \$500 Flex	\$		%	\$		%
Plan 5 – 5 Meal Plan w/ \$500 Flex	\$		%	\$		%
Subtotal:	\$		%	\$		%

<b>COMMUTER MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
Plan 1 - Freedom Forward \$690 Value	\$		%	\$		%
Plan 2 - Freedom Rings \$440 Value	\$		%	\$		%
Plan 3 - Freedom First \$215 Value	\$		%	\$		%
Subtotal:	\$		%	\$		%

UNIVERSITY OF IDAHO  
 PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)

<b>REVENUE &amp; OPERATING ASSUMPTIONS:</b>	<b>FY 10-11</b>	<b>% of Revenue</b>	<b>FY 11-12</b>	<b>% of Revenue</b>
Number of Operating Days	\$	%	\$	%
Anticipated # Customers Per Weekday	\$	%	\$	%
Anticipated # Customers Per Weekend day	\$	%	\$	%
Average Check per Weekday	\$	%	\$	%
Average Check per Weekend day	\$	%	\$	%
Anticipated Average Sales Per Weekday	\$	%	\$	%
Anticipated Average Sales Per Weekend day	\$	%	\$	%
Average Food Cost per Meal Served	\$	%	\$	%
Average Labor Cost per Meal Served	\$	%	\$	%

<b>REVENUE: (Net of Sales Tax)</b>				
Meal Plan	\$	%	\$	%
Cash/Credit Card	\$	%	\$	%
Flex Cash	\$	%	\$	%
Commissions from Subcontractors	\$	%	\$	%
Catering	\$	%	\$	%
Summer Conference	\$	%	\$	%
Other (specify)	\$	%	\$	%
<b>Total Revenue:</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>%</b>

<b>OPERATING EXPENSES:</b>				
Food and Beverages Costs	\$	%	\$	%
Labor - Management Salaries	\$	%	\$	%
Labor - Management Benefits	\$	%	\$	%
Labor - Full Time Staff Wages	\$	%	\$	%
Labor - Full Time Staff Benefits	\$	%	\$	%
Labor - Part Time / Temporary Wages	\$	%	\$	%
Labor - Part Time / Temporary Benefits	\$	%	\$	%
Labor - Payroll Taxes	\$	%	\$	%
Labor - Temporary Contract Agency Labor	\$	%	\$	%
<b>Subtotal Operating Expenses:</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>%</b>

**Other Expenses:**

Paper Supplies	\$	%	\$	%
Cleaning Supplies	\$	%	\$	%
Office Supplies (supplies, postage, printing)	\$	%	\$	%
Telephone	\$	%	\$	%
Hiring Costs & Background Checks	\$	%	\$	%
Parking Permits	\$	%	\$	%
Vehicle Expenses	\$	%	\$	%
Equipment Rental	\$	%	\$	%
Linens and Uniforms	\$	%	\$	%
Flowers / Decorations	\$	%	\$	%
Utilities	\$	%	\$	%
Equipment Repairs and Maintenance	\$	%	\$	%
Training / Professional Development	\$	%	\$	%
Marketing and Advertising	\$	%	\$	%
Flex Ca\$h Transaction Fees	\$	%	\$	%
Credit Card Fees	\$	%	\$	%
Banking and Professional Fees	\$	%	\$	%
Courier Expense	\$	%	\$	%
Workers' Compensation Insurance	\$	%	\$	%
Business Insurance	\$	%	\$	%
Brand Licensing/Franchise Fees	\$	%	\$	%
Taxes and Licenses (do not include sales tax)	\$	%	\$	%
Student Organization Event Funding Support	\$	%	\$	%
Smallwares Replacement	\$	%	\$	%
Small Equipment Replacement	\$	%	\$	%
Amortization of Major Capital Investments	\$	%	\$	%
Commissions to University	\$	%	\$	%
Miscellaneous	\$	%	\$	%
Other (List)	\$	%	\$	%
	\$	%	\$	%
	\$	%	\$	%
	\$	%	\$	%
	\$	%	\$	%
	\$	%	\$	%
	\$	%	\$	%
	\$	%	\$	%
	\$	%	\$	%
	\$	%	\$	%
<b>Subtotal Other Expenses:</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>%</b>

**Contractor Overhead Charged Against Account**

Gen. & Admin. Expenses (List in Detail)

_____	\$	%	\$	%
_____	\$	%	\$	%
<b>Subtotal Contractor Fees:</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>%</b>

**Start Up Costs (Year One Only)**

_____	\$	%	\$	%
_____	\$	%	\$	%
_____	\$	%	\$	%
_____	\$	%	\$	%
_____	\$	%	\$	%
_____	\$	%	\$	%
_____	\$	%	\$	%
<b>Subtotal Start Up Costs:</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>%</b>

**Total Operating Expenses:**

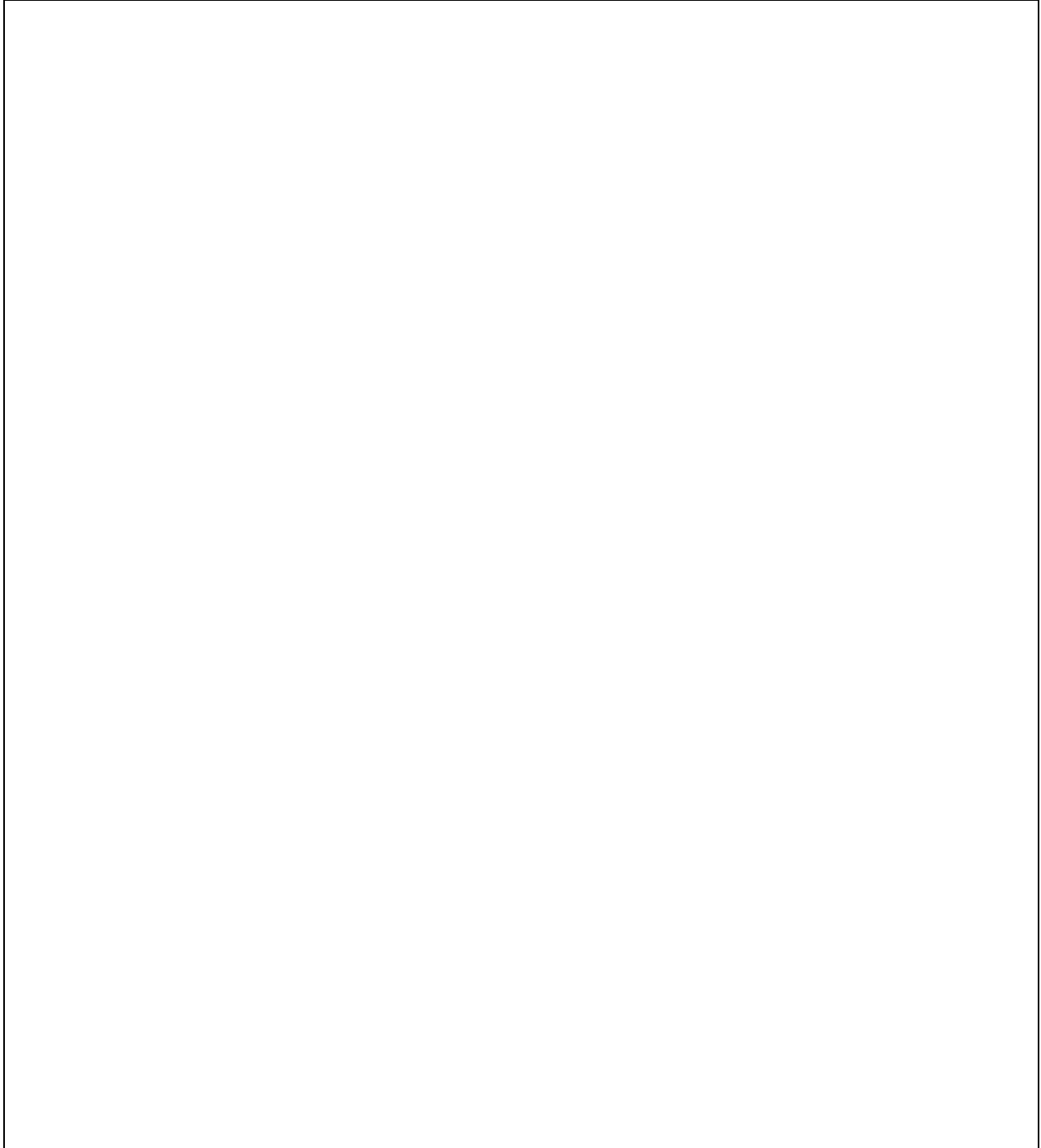
\$	%	\$	%
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**Operating Profit/(Loss):**

\$	%	\$	%
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**ATTACHMENT D  
WORK PLAN**

This template must be used. Modifications to the format of this template will result in disqualification (i.e. altering font size, altering font type, adding colors, adding pictures, etc). Do not list any names/information that can be used to identify your firm. Do not exceed the 2-page limit.



## ATTACHMENT E RAVA PLAN TEMPLATE

This template must be used. Modifications to the format of this template will result in disqualification (i.e. altering font size, altering font type, adding colors, adding pictures, etc). You may add/delete additional rows to identify additional risks, solutions, and value added options, but do not exceed the 2-page limit.

### SECTION 1 – MAJOR RISKS

All cost impacts associated with these risks/solutions must be included in your proposed premium

Risk 1: \_\_\_\_\_  
Solution: \_\_\_\_\_

Risk 2: \_\_\_\_\_  
Solution: \_\_\_\_\_

Risk 3: \_\_\_\_\_  
Solution: \_\_\_\_\_

Risk 4: \_\_\_\_\_  
Solution: \_\_\_\_\_

Risk 5: \_\_\_\_\_  
Solution: \_\_\_\_\_

### SECTION 2 – VALUE ADDED OPTIONS

All cost impacts associated with these value added options must NOT be included in your premium.

Item 1: \_\_\_\_\_  
Impact: Cost (\$) \_\_\_\_\_

Item 2: \_\_\_\_\_  
Impact: Cost (\$) \_\_\_\_\_

Item 3: \_\_\_\_\_  
Impact: Cost (\$) \_\_\_\_\_

Item 4: \_\_\_\_\_  
Impact: Cost (\$) \_\_\_\_\_

Item 5: \_\_\_\_\_  
Impact: Cost (\$) \_\_\_\_\_

## ATTACHMENT F UI GOALS AND EXPECTATIONS CHECKLIST

The University’s goals of this RFP are to increase financial return to the University, increase the environmental sustainability of dining services, and increase both University and student satisfaction. Please identify how you plan on meeting the University’s desired goals (See Exhibit 2-1 for additional information).

No	CRITERIA	RESPONSE
1	What percent of your food purchases will be done locally (within Latah County)	%
2	What percent of your food purchases will be done regionally (Inland Northwest)	%
3	What is your anticipated annual amount of pre & post consumer waste	Tons
4	What is your anticipated percent of food composted	%
5	What percent of your dining fleet vehicles are rated 'ultra low emission'	%
6	What percent of your dining fleet vehicles are rated 'super ultra low emission'	%
7	What percent of your dining fleet vehicles are rated 'zero emission'	%
8	Will you provide operating maintenance for all areas occupied by dining services?	Yes/No
9	What is your annual financial return to UI	%
10	Identify your anticipated Minimum EBI rating.	
11	Will you provide for all housekeeping, daily janitorial, sanitation, and cleaning of all areas occupied by dining services?	Yes/No
12	Will you uphold a <u>zero</u> tolerance expectation for food borne illnesses related to dining services?	Yes/No
13	Will you uphold a <u>zero</u> tolerance expectation for rodent and pest activity in food storage and dining locations?	Yes/No
14	Will you provide a high level (no deficiencies) of facility cleanliness and quality?	Yes/No
15	Will you be upgrading the menu and dining concepts?	Yes/No
16	Will catering be competitive for small events and provide high quality for large signature events?	Yes/No
17	Will dining establishments be ‘cool’ places to hang out and foster a sense of community?	Yes/No



## EXHIBIT 1 CURRENT CONDITIONS

Best efforts have been made to obtain detailed information on the current conditions at the University. This information should not be assumed to be 100% complete or accurate. The University is looking to secure services equal to, or better than, the level of service currently provided.

### 1.1 QUICK FACTS ABOUT THE UNIVERSITY

- Student Enrollment (Moscow campus): 10,600
- Undergraduate Enrollment (Moscow campus): 8,890
- Graduate Enrollment (Moscow campus): 1,750
- Student population is 55 percent male and 45 percent women
- Number of Freshman in Fall 2008: 1,700
- Freshman living on campus: 90 percent
- International students: 480
- Students: Enrolled from 44 Idaho counties, 50 states, and 73 countries
- Faculty: 920
- Staff: 2,240

### 1.2 HISTORIC BOARDER COUNTS AND GROSS SALES

The following outlines boarder participation from the current contract.

	Actual	Actual	Actual	Estimate	Budget
Board Operation Bob's (Wallace)	2005-06	2006-07	2007-08	2008-09	2009-10
Number of Boarders Fall / Spring	1758 / 1590	1350 / 1195	1547 / 1401	1665 / 1489	1700 / 1525
Number of Boarders Total	3,348	2,545	2,948	3,154	3,225
Gross Sales	\$ 2,080,556	\$ 2,476,157	\$ 2,428,509	\$ 2,486,875	\$ 2,549,047

1.3 HISTORIC RETAIL GROSS SALES BY VENUE

	Actual	Actual	Actual	Estimate	Budget
Retail	2005-06	2006-07	2007-08	2008-09	2009-10
<b>6th Street Market (LLC)</b>					
<i>Gross Sales</i>	\$ 1,007,533	\$ 909,590	\$ 1,080,167	\$ 1,167,480	\$ 1,222,500
<b>Commons Food Court (Commons)</b>					
<i>Gross Sales</i>	\$ 869,626	\$ 891,628	\$ 928,855	\$ 973,050	\$ 1,037,241
<b>Common Grounds (Commons)</b>					
<i>Gross Sales</i>	\$ 326,968	\$ 331,718	\$ 348,745	\$ 365,338	\$ 390,298
<b>Joe's Café (SUB)</b>					
<i>Gross Sales</i>	\$ 82,472	\$ 72,863	\$ 85,618	\$ 89,692	\$ 94,382
<b>Bogey's Grill (Golf Course)</b>					
<i>Gross Sales</i>	\$ 41,976	\$ 43,643	\$ 39,804	\$ 41,698	\$ 43,949
<b>Java Nook (Admin. Building)</b>					
<i>Gross Sales</i>	\$ 32,293	\$ 33,462	\$ 33,942	\$ 35,557	\$ 37,624
<b>Stover's Deli (Albertson's)</b>					
<i>Gross Sales</i>	\$ 74,289	\$ 66,242	\$ 92,376	\$ 96,771	\$ 101,674
<b>Law School Express (Law)</b>					
<i>Gross Sales</i>	\$ 21,544	\$ 25,531	\$ 36,581	\$ 38,322	\$ 39,471
<b>Cliff's (Rec. Center) – <u>CLOSING</u></b>					
<i>Gross Sales</i>	\$ 77,448	\$ 76,484	\$ 69,968	\$ 73,297	Closed
<b>Concessions</b>					
<i>Gross Sales</i>	\$ 124,389	\$ 148,882	\$ 127,708	\$ 138,860	\$ 150,000
<b>Catering</b>					
<i>Gross Sales</i>	\$ 620,328	\$ 784,842	\$ 737,883	\$ 886,000	\$ 790,000

1.4 HISTORIC MEAL PLAN PRICING

Management of the campus's meal plan program, including the marketing and sale of meal plans. The current meal plan program has been structured as follows.

**ATTACHMENT 2**

**Meal Plan Pricing History  
Updated May 5, 2009**

<b>Meal Plans</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>
All Access Plan w/ \$100 Flex		\$1,545	\$1,545	\$1,598	\$1,662
19 Meal Plan w/ \$100 Flex		\$1,346	\$1,346	\$1,417	\$1,474
14 Meal Plan w/ \$300 Flex			\$1,346	\$1,417	\$1,474
10 Meal Plan w/ \$500 Flex			\$1,346	\$1,417	\$1,474
5 Meal Plan w/ \$500 Flex			\$1,025	\$1,080	\$1,123
14 Meal Plan w/ \$200 Flex		\$1,251			
10 Meal Plan w/ \$300 Flex		\$1,106			
5 Meal Plan w/ \$300 Flex		\$ 825			
175 Block Meals w/ \$200 Flex		\$1,346			
140 Block Meals w/ \$280 Flex		\$1,251			
125 Block Meals w/ \$225 Flex		\$1,106			
Steel House - 19 Meals	\$ 927	\$ 964	\$1,003		
Targhee House - 19 Meals	\$1,171				
<b>Declining Balance Plans</b>					
Platinum / \$1100	\$ 935				
Gold 1000 / \$900	\$ 810	\$1,000			
Silver 750 / \$700	\$ 665	\$ 750			
Bronze 525 / \$500	\$ 500	\$ 525			
19 Meal Plan - Transfer					\$1,649
14 Meal Plan - Transfer					\$1,624
10 Meal Plan - Transfer					\$1,599
5 Meal Plan - Transfer					\$1,223
Exec Chef - 200 Block w/ \$200 Flex	\$1,294				
Exec Chef - 150 Block w/ \$340 Flex	\$1,294				
Exec Chef - 100 Block w/ \$500 Flex	\$1,294				
Sous Chef - 140 Block w/ \$280 Flex	\$1,203				
Sous Chef - 100 Block w/ \$400 Flex	\$1,203				
Sous Chef - 70 Block w/ \$500 Flex	\$1,203				
Lead Cook - 100 Block w/ \$225 Flex	\$1,064				
Lead Cook - 80 Block w/ \$280 Flex	\$1,064				
Lead Cook - 60 Block w/ \$350 Flex	\$1,064				
<b>Grandfather Plan \$ for \$</b>			\$1,025	\$1,080	
<b>Loyalty Plan</b>					
2nd Year on a Meal Plan		\$ (75)	\$ (75)	\$ (75)	\$ -
3rd Year on a Meal Plan		\$ (125)	\$ (125)	\$ (125)	\$ (125)
4th Year on a Meal Plan		\$ (200)	\$ (200)	\$ (200)	\$ (200)

**Costs are for each semester / no tax has been added to the prices**

**1.5 SUMMER CAMPS/SUMMER CONFERENCES**

Summer Conferences serves as one-stop-shop point of contact for all lodging, catering, food service, and facility needs. Summer Conferences offers all-you-can eat cafeteria style dining to all conference groups in the Wallace Food Court on a per meal basis. Summer Conferences also provides its conference groups with the option of a flex dollar plan to use at the various retail locations across campus. The pricing structure for all of dining options is set by campus dining and the 2009 cafeteria rates are:

Breakfast \$4.50

Lunch \$5.65

Dinner \$6.85

Daily Total \$17.00

Summer Conference generates, on average, over \$225K in gross revenue for campus dining and serves over 4,000 guests during the period from late May to mid August. Currently Summer Conferences does not receive any commission for its sales, nor does it incorporate any up-charge into the rates established by Campus Dining.

**1.6 CONCESSIONS**

The University has permanent concession locations at the Kibbie Dome venue. Traditionally, concessions have been provided for major sporting events and large scale campus events from this location. Additionally, mobile concession stands have been used to supplement concession needs in the Kibbie Dome or to support concessions at other campus locations such as Memorial Gym. Historical practice has been to provide a commission split directly to the Athletic Department for concession sales related to athletic events. Non-athletic event sales have been retained by Dining Services on behalf of Auxiliary Services.

**1.7 FUTURE DINING LOCATIONS**

- Evaluation of potential for coffee concept at UI Bookstore
- Potential for new Alumni Visitors Center with retail food component

**1.8 EXCLUDED FOOD SERVICES**

The following Moscow campus dining locations and/or services are excluded from the contract, unless otherwise determined by the University at its sole discretion:

- Commons Market
- Campus Pouring Rights
- Vending
- Non-exclusive rights to retail operations or concessions

**1.9 DAYS OF SERVICE / HOURS OF OPERATIONS**

The approximate number of operating days for each dining venue is as follows.

No.	Venue	Days of Service			
		Fall	Spring	Summer	Interession Periods
1	The Salad Bowl	79	83	5	0
2	Moscow Burrito	82	88	73	12
3	Panhandle Pizza and Subs	82	88	73	12
4	Mein Street	79	83	0	0
5	Good Time's Diner	79	83	0	0
6	Common Grounds	108	116	73	12
7	Café Tazzo	93	99	0	0
8	Cosmos Coffee	108	116	73	0
9	Trader's Market and Deli	108	116	73	0
10	Joe's Café	82	88	73	12
11	Bogey's Grill	56	49	105	0
12	Java Nook	80	81	0	0
13	Stover's Deli	82	83	0	0
14	Law School Express	71	78	0	0
15	Cliff's - Closing Fall 2009	103	111	0	0

**ATTACHMENT 2**

Following are current hours of operation by venue for the FY 08-09 academic year.

No.	Venue	Hours of Operation						
		Mon	Tue	Wed	Thur	Fri	Sat	Sun
1	The Salad Bowl	10am - 3pm	10am - 3pm	10am - 3pm	10am - 3pm	10am - 3pm		
2	Moscow Burrito							
	Breakfast	7am - 10am	7am - 10am	7am - 10am	7am - 10am	7am - 10am		
	Burrito	10:30am - 3pm	10:30am - 3pm	10:30am - 3pm	10:30am - 3pm	10:30am - 3pm		
3	Panhandle Pizza and Subs	10am - 3pm	10am - 3pm	10am - 3pm	10am - 3pm	10am - 3pm		
4	Mein Street	10am - 3pm	10am - 3pm	10am - 3pm	10am - 3pm	10am - 3pm		
5	Good Time's Diner	10am - 7pm	10am - 7pm	10am - 7pm	10am - 7pm	10am - 4pm		
6	Common Grounds	7am - 10pm	7am - 10pm	7am - 10pm	7am - 10pm	7am - 6pm	12pm - 4pm	12pm - 10pm
7	Café Tazzo	11am - 9pm	11am - 9pm	11am - 9pm	11am - 9pm	11am - 3pm		5pm - 9pm
8	Cosmos Coffee	7am - 11pm	7am - 11pm	7am - 11pm	7am - 11pm	7am - 6pm	12pm - 6pm	12pm - 11pm
9	Trader's Market and Deli	7am - 11pm	7am - 11pm	7am - 11pm	7am - 11pm	7am - 6pm	12pm - 6pm	12pm - 11pm
10	Joe's Café	7:30am - 4pm	7:30am - 4pm	7:30am - 4pm	7:30am - 4pm	7:30am - 3pm		
11	Bogey's Grill	9am - 5pm	9am - 5pm	9am - 5pm	9am - 5pm	8am - 6pm	8am - 6pm	8am - 6pm
12	Java Nook	7:30am - 1pm	7:30am - 1pm	7:30am - 1pm	7:30am - 1pm	7:30am - 1pm		
13	Stover's Deli	8am - 3:30pm	8am - 3:30pm	8am - 3:30pm	8am - 3:30pm	8am - 3pm		
14	Law School Express	7:30am - 2pm	7:30am - 2pm	7:30am - 2pm	7:30am - 2pm	7:30am - 1pm		
15	Cliff's - Closing							

**1.10 REVENUE AND TRANSACTION INFORMATION**

Following are fiscal year to date revenue (not including meal plan swipes), average check, and typical transaction count information, by venue.

No.	Venue	FY09 Revenue	Average Check	Typical Daily Transactions	Typical Peak Hour Transaction
1	6th Street Market	\$1,167,480	4.04	1100	150
2	Commons Food Court	\$ 973,050	4.2	1550	350
3	Common Grounds	\$ 365,338	3.05	725	125
4	Joe's Café	\$ 89,692	2.99	200	50
5	Bogey's Grill	\$ 41,698	3.4	100	25
6	Java Nook	\$ 35,557	2.62	85	25
7	Stover's Deli	\$ 96,771	3.79	175	75
8	Law School Express	\$ 38,322	2.54	105	25

**1.11 CATERING INFORMATION**

Following is a recap of Catering sales under the current contract:

Catering	Actual	Actual	Actual	Estimate	Budget
	2005-06	2006-07	2007-08	2008-09	2009-10
Gross Sales	\$ 620,328	\$ 784,842	\$ 737,883	\$ 886,000	\$ 790,000
Segmented Sales by event type:	\$ 1,541	\$ 1,542	\$ 1,694	\$ 1,255	\$ 1,690
Minimum Attendance by event type:	We will provide events for as little as 2 people - we price accordingly Most buffets we recommend a minimum of 25 people				
Maximum Attendance by event type:	We have done formal events for 1200 in the past. We have the capability to do events for thousands, depending on the menu. Large events can be supported by other Sodexo accounts in the area.				

In addition, the University estimates approximately \$83,000 last fiscal year in catering sales to off-campus vendors.

Catering menus and pricing can be found at <http://www.students.uidaho.edu/default.aspx?pid=97259>

**1.12 CONCESSIONS INFORMATION**

Following is a recap of Concession sales under the current contract.

Concessions	Actual	Actual	Actual	Estimate	Budget
	2005-06	2006-07	2007-08	2008-09	2009-10
Gross Sales	\$ 124,389	\$ 148,882	\$ 127,708	\$ 138,860	\$ 150,000
Ave Check	\$ 1.30	\$ 1.30	\$ 1.30	\$ 1.30	\$ 1.30
Number of Events - Athletic	27	44	44	44	44
Number of Events - Non-Athletic	11	12	11	10	12

**1.13 VANDAL CARD**

- 1 Microsoft OS / Oracle 10g DB
- 2 CBORD CSGold 5.0
- 3 Installed in 1994, last updated in 2009
- 4 Campuswide there are 577 end point locations which includes things like laundry machines, card access swipes, door alarm points, etc.
- 5 In the period between 5/28/08 and 5/28/09 there were approximately 570,000 point (cash equivalent) purchase transactions for US\$2.55 million, as well as 440,000 meal transactions, which translates to a monthly average of approximately 47,500 point transactions for \$212,500 in addition to 36,600 meal transactions.
- 6 We have 56 point-of-sale locations currently defined.
- 7 The basic POS equipment is owned by Vandal Card, but cash registers are owned by The Vendor. CSGold is compatible with Micros and perhaps other cash register terminals, and Vandal Card will work with The Vendor with regards to those. There will be no charges to get Micros or other CSGold compatible systems working with the card system.
- 8 Vandal Card will maintain the basic POS equipment.
- 9 We have no plans to change the existing system beyond keeping the software version current and replacing readers with current versions as they become available. That said, Vandal Card regards The Vendor as a customer, and so our future plans with regards to Campus Dining are contingent on their needs.

Vandal Card charges an annual flat fee for their services, currently \$140,000 per year. Services include the provision and support of Point-of-sale devices as requested by The Vendor, and any reports that The Vendor requires. There are no transaction fees. There are no Campus Dining venues that do not accept Vandal Card.

**1.14 UNIVERSITY PROVIDED CAPITAL EQUIPMENT**

All University-owned food service equipment shall be provided for use by the Contractor. Additional capital equipment required to execute Contractor’s proposed concepts and programs must be provided at Contractor expense, to be amortized over the base term of the contract plus extensions. Upon full amortization of Contractor provided capital equipment, ownership shall reside with the University.



Upon request and prior to proposal submission, a University representative will provide tours of all dining locations in order to discuss existing capital equipment. Upon selection of the preferred Proposer, the preferred Proposer and the University will jointly assess equipment needs and develop an addition/replacement schedule as part of the Negotiation/Pre-Planning & Quality Control period.

Contractor will provide facility and equipment preventative and ongoing maintenance programs that result in good stewardship of University owned resources.

**1.15 UNIVERSITY PROVIDED SMALLWARES**

The University owned smallwares, including kitchen utensils, china, glass, silverware and service pieces currently associated with those aspects of the dining program to will be provided to the contractor. The contractor agrees to maintain all smallwares at mutually agreed upon levels as a course of regular dining operations as an operating expense by the contractor. It is agreed that the University retains ownership of all smallwares and replacements and additions made during the term of the vendors contract.

**1.16 ALCOHOL POLICY**

**2. Possession, Consumption, and Sale of Alcohol Beverages at Institutional Facilities**

- a. Board Administrative Rules IDAPA 08.01.08 provides requirements relative to alcoholic beverages on campus grounds. Said rules generally prohibit the possession or consumption of alcoholic beverages in areas open to and most commonly used by the general public on campus grounds. The rules authorize the Board to waive the prohibition pursuant to Board policies and procedures. The chief executive officer of each institution may waive the prohibition against possession or consumption of alcoholic beverages only as permitted by and in compliance with this policy. The grant of any such waiver shall be determined by the chief executive officer (“CEO”) only in compliance with this Policy and in accordance with the provisions set forth herein, and not as a matter of right to any other person or party, in doing so, the chief executive officer must ensure that the decisions to allow possession and consumption of alcoholic beverages are consistent with the proper image and the mission of the institution.
- b. Each institution shall maintain a policy providing for an institutional Alcohol Beverage Permit process. For purposes of this policy, the term “alcoholic beverage” shall include any beverage containing alcoholic liquor as defined in Idaho Code Section 23-105. Waiver of the prohibition against possession or consumption of alcoholic beverages shall be evidenced by issuance of a written Alcohol Beverage Permit issued by the CEO of the institution which may be issued only in response to a completed written application therefore. Staff of the State Board of Education shall prepare and make available to the institutions the form for an Alcohol Beverage Permit and the form for an Application for Alcohol Beverage Permit which is consistent with this Policy. Immediately upon issuance of an Alcohol Beverage Permit, a complete copy of the application and the permit shall be delivered to the Office of the State Board of Education, and Board staff shall disclose the issuance of the permit to the Board no later than the next Board meeting. An Alcohol Beverage Permit may only be issued to allow the sale or consumption of alcoholic beverages on public use areas of the campus grounds provided that all of the following minimum conditions shall be met. An institution may develop and apply additional, more restrictive, requirements for the issuance of an Alcohol Beverage Permit.

- (1) An Alcohol Beverage Permit may be granted only for a specifically designated event (hereinafter "Permitted Event"). Each Permitted Event shall be defined by the activity planned, the area or location in which the activity will take place and the period of time during which the activity will take place. The activity planned for the Permitted Event must be consistent with the proper image and mission of the institution. The area or location in which the activity will take place must be defined with particularity, and must encompass a restricted space or area suitable for properly controlling the possession and consumption of alcoholic beverages. The time period for the activity must be a single contiguous time period for a separate defined occurrence (such as a dinner, a conference, a reception, a concert, a sporting competition and the like). An extended series of events or a continuous activity with no pre-determined conclusion shall not be a Permitted Event. The area or location of the Permitted Event, the restricted space or area therein for possession and consumption of alcoholic beverages and the applicable time periods for the Permitted Event must each be set forth in the Alcohol Beverage Permit and in the application therefore.
- (2) The serving of alcoholic beverages must be part of a planned food and beverage program for the Permitted Event, rather than a program serving alcoholic beverages only. Food must be available at the Permitted Event. Consumption of alcoholic beverages and food cannot be the sole purpose of a Permitted Event.
- (3) Non-alcoholic beverages must be as readily available as alcoholic beverages at the Permitted Event.
- (4) A Permitted Event must be one requiring paid admission through purchase of a ticket or through payment of a registration fee, or one where admission is by written, personal invitation. Events generally open to participation by the public without admission charges or without written personal invitation shall not be eligible for an alcoholic beverage permit. Only persons who have purchased a ticket or paid a registration fee for attendance at a Permitted Event, or who have received a written invitation to a Permitted Event, and who are of lawful age to consume alcoholic beverages, will be authorized to possess and consume alcoholic beverages at the Permitted Event.
- (5) Permitted Events which are generally open to the public through purchase of a ticket (such as sporting events, concerts or other entertainment events) must set out a confined and defined area where alcoholic beverages may be possessed and consumed. For such events, the defined area where alcoholic beverages may be possessed and consumed shall be clearly marked as such, and shall be separated in a fashion that entry into the area and exit from the area can be controlled to ensure that only those authorized to enter the area do so and that no alcoholic beverages leave the area. Only those individuals lawfully attending the Permitted Event who are of lawful age to consume alcoholic beverages may be allowed into the defined area, provided that such individuals may be accompanied by youth for whom they are responsible, but only if such youth are, at all times, under the supervision and control of such individuals. For such events there shall be sufficient space outside of the area where alcoholic beverages may be possessed and consumed to accommodate the participating public who do not wish to be present where alcoholic beverages are being consumed.
- (6) No student athletic events, (including without limitation NCAA, NIT, NAIA and intramural student athletic events) occurring in college or university owned, leased or operated facilities, or anywhere on campus grounds, shall be Permitted Events, nor

shall a Permitted Event be allowed in conjunction with any such student athletic event.

- (7) An Alcohol Beverage Permit for a Permitted Event to which attendance is limited to individuals who have received a personal written invitation, or to those who have registered to participate in a particular conference (for example, a reception, a dinner, an exclusive conference) may allow alcoholic beverages to be possessed and consumed throughout the area of the event, provided that the area of the event is fully enclosed, and provided further that the area of the event must be such that entry into the area and exit from the area can be controlled to ensure that only those authorized to enter the area do so and that no alcoholic beverages leave the area. Additionally, the area of the Permitted Event must not be open to access by the general public, or to access by persons other than those properly participating in the Permitted Event.
- (8) Application for an Alcohol Beverage Permit must be made by the organizers of the event. Such organizers must comply with all applicable laws of the State of Idaho and the local jurisdiction with respect to all aspects of the event, including the possession sale and consumption of alcoholic beverages.
- (9) The Alcohol Beverage Permit, any required local catering permit, and applicable state or local alcoholic beverages permits shall be posted in a conspicuous place at the defined area where alcoholic beverages are authorized to be possessed and consumed.
- (10) The sale, service and consumption of alcoholic beverages at a Permitted Event shall be confined to the specific event, area or activity identified on the Beverage Permit application. Any alcoholic beverages allowed at a Permitted Event shall be supplied through authorized contractors of the organizers (such as caterers hired by the organizers). In no event shall the institution supply or sell alcoholic beverages directly. In no event shall the general public, or any participants in a Permitted Event be allowed to bring alcoholic beverages into a Permitted Event, or leave the defined area where possession and consumption is allowed while in possession of an alcoholic beverage.
- (11) The person/group issued the Beverage Permit and the contractors supplying the alcoholic beverages shall assume full responsibility to ensure that no one under the legal drinking age is supplied with any alcoholic beverage or allowed to consume any alcoholic beverage at the Permitted Event. Further, the person/group must provide proof of insurance coverage, including host liquor liability and liquor legal liability, in amounts and coverage limits sufficient to meet the needs of the institution, but in no case less than \$500,000 minimum coverage per occurrence. Such insurance must list the permitted person/group, the contractor, the institution, the State Board of Education and the State of Idaho as additional insured's, and the proof of insurance must be in the form a formal endorsement to the policy evidencing the coverage and the required additional insured's.
- (12) The Alcohol Beverage Permit shall set forth the time at which sale, service, possession and consumption of alcoholic beverages will be permitted, which times shall be strictly enforced. Service and sale of alcoholic beverages shall stop at a time in advance of the time of closure of the event sufficient to allow an orderly and temperate consumption of the balance of the alcoholic beverages then in possession of the participants of the event prior to closure of the event.

## ATTACHMENT 2

(13) These guidelines shall apply to both institutional and non-institutional groups using institutional facilities.

- c. Within residential facilities owned, leased or operated by an institution, the CEO may allow the possession or consumption of alcoholic beverages by persons of legal drinking age within the living quarters of persons of legal drinking age. Consumption of alcohol shall not be permitted in the general use areas of any such residence facility. Possession of alcohol within the general use areas of a residential facility may only be done in a facility where consumption has been authorized by the CEO, and such possession shall be only as is incidental to, and reasonably necessary for, transporting the alcohol by the person of legal drinking age to living quarters where consumption is allowed. The term "living quarters" as used herein shall mean, and be limited to, the specific room or rooms of a residential facility which are assigned to students of the institution (either individually or in conjunction with another roommate or roommates) as their individual living space.

### 1.17 CAMPUS HOUSING

Residential Housing Facilities	# of Available Beds	# of Beds Filled FY05-06	# of Beds Filled FY06-07	# of Beds Filled FY07-08	# of Beds Filled FY08-09
Wallace Residence Center	905	675	681	645	637
Theophilus Tower	394	319	337	329	335
Living and Learning Communities	580	528	483	470	473
Targhee Fine Arts Hall	56	41	Closed	Closed	52
Apartments and Family Communities	288	324	290	252	273
The McConnell Community	56	46	48	43	43

Note 1: Residence Hall # of Available Beds considers revenue producing beds only.

Note 2: Apartment Units filled indicate the total number of tenants, including relets, during the period.

Note 3: All #s of Available Beds are as of FY2009.

Note 4: # of beds filled is an average between fall and spring for the given FY

Note 5: Population of residence halls available varied throughout the period.

## **EXHIBIT 2**

### **SCOPE OF WORK & EXPECTATIONS**

#### **SECTION 1 – GOALS AND EXPECTATIONS**

The University's goals of this RFP are to Increase Financial Return to the University, Increase the environmental sustainability of dining services, and increase both University and student satisfaction. The desired (not required) expectations of this program are:

##### **1.1 Sustainability**

- Utilize local (Latah and immediately adjacent counties) and regional (Inland Northwest) food sources for 5% and 15% respectively of total food purchases.
- Reduce pre & post consumer waste by 90%. Currently producing 70 tons annually.
- Compost 100% of food waste.
- 100% of Dining fleet vehicles rated as an ultra low emission vehicle, super ultra low emission vehicle or zero emission vehicle.

##### **1.2 Annual Financial Contributions to UI**

- Provide monetary contributions for general and administrative fees, Vandal Card, rent, utilities, and capital reinvestment at a minimum level of 13.6% annually based on gross revenues with a minimum guarantee of \$1 million annually.
- Provide for all operating maintenance of all spaces occupied by vendor to include but not limited to: clogged sinks & toilets, light bulbs, refuse removal, deep cleaning carpets, painting walls, signage, smallwares, tools, and equipment with values <\$5,000 per item.

##### **1.3 Capital Contributions**

- It is desired to have an upgrade of the Wallace Food Court (Bob's) as highest priority capital investment.
- Propose additional capital facility and equipment enhancements to UI dining program.

##### **1.4 Customer Success Approach**

- Understand the expectations of campus constituencies so well that dining team can anticipate and exceed those expectations prior to being asked to do so.
- Achieve an Educational Benchmarking Incorporated (EBI) rating for board plan of a 5.5 or better each year.

##### **1.5 Sanitation and Cleanliness**

- Provide for all housekeeping, daily janitorial, sanitation, and cleaning of all areas occupied by vendor
- Zero tolerance for food borne illnesses related to dining services.
- Zero tolerance for rodent and pest activity in food storage and dining locations as evidenced by pest control contract reports and findings.
- High level (no noted deficiencies) of facility cleanliness and quality as evidenced by weekly vendor reports and monthly random spot inspections by university representatives.

##### **1.6 General Expectations**

- Upgrade menu and dining concepts
- Staff participation in both retail and board dining of 50% each week.
- Dining operations are seen as an asset to campus recruitment activities
- Catering is cost competitive for small events (coffee & cookies type) and provides high quality for large signature events.
- Dining establishments are a cool place to hang out and foster a sense of community.

### SECTION 2 – SCOPE OF WORK

The following information contains the minimum requirements that MUST be met by all proposals to be considered responsive.

#### 2.1 PROGRAMMATIC EXPECTATIONS

- Excellent quality food with ingredients, recipes and fresh preparation methods that support good nutrition and a healthy lifestyle.
- An innovative portfolio of service concepts that includes a mix of national, regional, and locally owned brands that are popular with the University community
- Provides a thoughtful mix of service formats designed to satisfy a variety of consumer needs, such as “all you care to eat”, fast casual, quick service (“fast food”) and food markets
- Offers ordering, payment, delivery and “to go” mechanisms that are responsive to consumer lifestyles
- A diversity of menu choices within operations and across the system that address the broad range of consumer preferences
- Include entrees and other offerings that address special diet needs such as vegetarian, vegan, low fat, high protein, etc.
- Provides for religion-based dietary needs.
- Hours of service that support student lifestyle needs across campus
- Variety of meal options for students taking evening classes in the academic core as well as late night service in the residential zone.
- Pricing to the customer that is competitive with local costs.
- Catering pricing that is competitive with off-campus caterers and that offers tiers of pricing and service for different event types (high-end to budget), including a service/price tier that is designed to offer affordable options for student groups.
- A commitment to offering regularly scheduled special event programming designed to encourage participation and build community.
- A meal plan program and policies that offer multiple, affordable plan configurations for resident students
- A meal plan program that offers plan configurations for non-residents that are flexible, affordable and aggressively marketed
- A meal plan program that minimizes the penalty for missed meals
- A meal plan that is usable in all or most dining locations across campus, regardless of the service provider.
- Service and dining environments that provide diversity across the system.
- Offer restaurant quality environments with a variety of seating types and amenities
- Service and dining environments that promote community
- Service and dining environments that physically facilitate programming
- Service and dining environments that are sanitary and clean;

- Service and dining environments that offer comfortable opportunities to relax.
- An intentional and committed approach to staffing that results in staffing levels that are matched to customer demand so that service is fast and efficient
- Friendly, courteous, knowledgeable and professional employees that receive regular and comprehensive training in both technical and customer service skills
- Staff that are proficient in the English language when in positions of regular interaction with customers.
- No food borne illnesses
- No rodent / pest activity
- No noted deficiencies in facility cleanliness and quality

## 2.2 MANAGEMENT EXPECTATIONS

- A professional food service management company that is a leader in the field, offers a best practice approach to campus dining, and that views UI as a flagship account and an incubator for new programs, services, technology and management strategies
- District and regional management support that is present, involved, responsive and that enables on site management to be nimble decision makers
- An on-site management structure that provides dedicated managerial resources for each business channel in the program, as well as appropriate administrative and technology support
- An on-site management team that is the best in the field, and one that is exceptionally knowledgeable, experienced, competent and professional in managing all aspects of a large and diverse university dining program. The management team should be collaborative and collegial with the University, its key stakeholders, student leaders and advocacy groups, with a communication strategy that is proactive and accessible.
- On-site, district and regional management that is experienced and adept at partnering with a growing university in meeting evolving campus needs
- Production, service and management information systems technology that is industry leading in all aspects of the program, with a commitment to a seamless interface with UI systems if necessary
- Programs and standards that enforce safe food handling, proper sanitation, HACCP standards and health department requirements
- Facility and equipment preventive and ongoing maintenance programs that result in good stewardship of University owned resources
- Development and adherence to a risk minimization program that requires strict performance measures, incorporates full disclosure financial reporting to the University (including monthly and annual profit/loss statements), and tracks key performance indicators. The established risk minimization and performance measurement system will be agreed to by both the University and the Food Services Provider prior to the award of the contract. The minimum performance metrics proposed by the winning firm will serve as the lowest level of performance acceptable to UI. The risk minimization program must efficiently capture performance and compare it to the established minimums.

## 2.3 HUMAN RESOURCES EXPECTATIONS

- Human resource practices that are industry leading, and that support workplace diversity, employee retention and generally reflect the human resource practices of the University
- Fair and competitive wages that are attractive in comparison to the local food service industry
- Employee benefits that include affordable health and life insurance for employees

- A significant and ongoing focus on technical and service training for all employees and designed to maintain high standards across the program
- Required hiring of existing University staff working in the dining program
- Preferential hiring of qualified, existing dining staff of the current Proposer
- A strong focus on the hiring, retention and advancement of student employees at wages that are competitive with other student employment options on campus

**2.4 WELLNESS EXPECTATIONS**

- Careful attention to product mix to ensure a wide selection of nutritionally healthy, and healthily prepared and portioned foods at all dining locations, with results that are measurable
- Provision of comprehensive and easily accessed information on the content of foods served in Proposer's operations
- An ongoing program of customer education on issues pertaining to nutritional health, weight management and wellness

**2.5 MARKETING AND BUSINESS DEVELOPMENT EXPECTATIONS**

- An ongoing commitment to proactive marketing and business development in the areas of mandatory meal plan sales, voluntary meal plan sales, retail sales and catering sales that is collaborative with UI in articulating a seamless message, and includes quantitative success measurement
- Provision of a full-time, professional Marketing Director whose full-time assignment is the marketing of the UI campus dining program
- Proactive analysis of new business opportunities including the potential for service expansions and additions. University priorities include
- Note that provision of an identical brand portfolio is not required. Rather, the Vendor shall provide a mix of proprietary brands and national/regional/local brands designed to satisfy the wide range of food preferences in the campus community. The provision of national/regional/local branded concepts as a percentage of the overall concept mix shall not be less than current. Incorporation of local restaurant concepts is desired, as a means of offering authentically prepared ethnic foods and supporting the local community. Additionally, the Vendor shall continue to provide "all you care to eat" service in those locations designated.

**2.6 SUSTAINABILITY EXPECTATIONS**

- A commitment to recycling that, at a minimum, matches and evolves with the University's recycling program.
- A sustainability program with particular emphasis on five key areas:
  - Purchase and transport of food – Does the program seek out suppliers minimizing their environmental impact through the effective use of ecologically sustainable techniques? Are seasonally available local produce options integrated into menu options? Is transport from farm to campus energy-efficient? Are the fleet vehicles ultra low, super ultra low, or zero emission vehicles?
  - Preparation – Are initiatives in place to ensure that management, kitchen, and serving operations use resources efficiently through the effective deployment of resource-saving practices and technology? Are staff empowered and inclined to make a contribution to sustainability?



- Disposal – Is as little waste as possible produced? Are there mechanisms in place for composting or otherwise reducing the impact of food waste? Is packaging and other waste minimized? Are more ecologically-sensitive disposable products preferred? Are recycling and other efficient waste disposal mechanisms in place? Can pre and post consumer waste be reduced?
- Innovation and education – Are sustainability practices constantly evaluated and updated regularly? Is campus dining situated as an innovator in food service sustainability? Are programs in place to educate the customer/student body about innovations and reasons for operations decisions in food service?
- Sustainable design – Is the Proposer committed to incorporating sustainable design principles in any construction projects it may undertake on behalf of the University?

#### 2.7 COMPENSATION EXPECTATIONS

- A fair and balanced compensation agreement that supports both the Proposer and the University in meeting their respective financial objectives;
- Compensation to the University sufficient to cover the University's direct and indirect costs of the dining program;
- Provision of a Proposer contributed capital investment plan designed to support the capital development needs of the dining program over the life of the contract.
- Provision of Proposer contributed funding to support student organization events.

If the vendor that makes it to the Pre Award Phase of the process cannot meet any of the expectations listed above (i.e. they are unrealistic; not feasible; etc.) they will be required to explain why the expectation cannot be met.

## EXHIBIT 3 PAST PERFORMANCE INFORMATION GUIDE

### SECTION 1 - OVERVIEW

The University of Idaho will be analyzing past performance information on the Vendor and critical individuals of the Vendor’s team. This information will be used to assist the University in selecting the best-valued Vendor on a particular project. The Vendor is encouraged to only submit highly satisfied reference. The critical team members that will be evaluated for this project include:

1. The Vendor (Firm)
2. The On-Site General Manager (Individual)
3. The Regional Vice President (Individual)
4. The Executive Chef (Individual)
5. The Catering Director (Individual)

Please follow the instruction in this Exhibit to receive credit for your references. Figure 1 provides a brief overview of the PPI process.

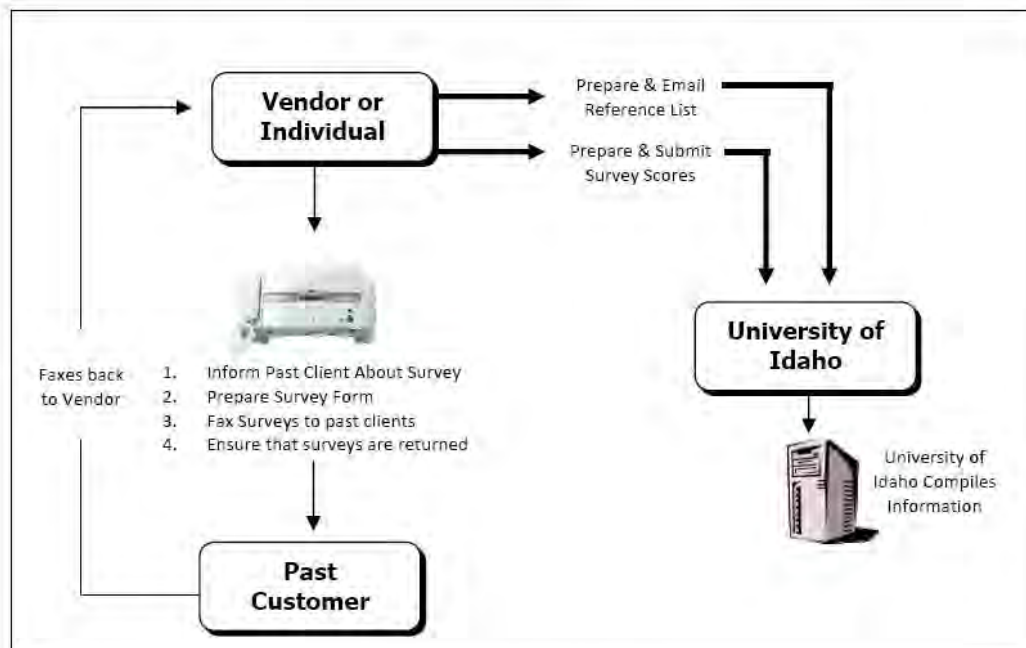


Figure 1: Survey Process

**SECTION 2 – CREATING AND SUBMITTING A REFERENCE LIST**

1. All critical key components (Vendor and Individuals) must create a list of past clients that will evaluate their past performance. This will be referred to as a **“Reference List”**.
2. The “Reference List” must be submitted on a MS Excel spreadsheet. A template is provided on the internet and can be downloaded at: [www.pbsrg.com](http://www.pbsrg.com) (click on “PIPS”, click on “University of Idaho”, click on “PPI Database Template”)
3. The following are the critical key components that will be evaluated in this solicitation:
  - a The Vendor (Firm)
  - b The On-Site General Manager (Individual)
  - c The Regional Vice President (Individual)
  - d The Executive Chef (Individual)
  - e The Catering Director (Individual)
4. The maximum number of references that can be submitted is 10 for the firm, and 5 for each individual.
5. The Vendor is responsible for selecting their team, selecting the list of past clients, and for the performance ratings of their critical key components.
6. The reference list should include the firms “best” projects. Credit will be given to Vendors with more high performing surveys from different individuals.
7. The Vendor is responsible for verifying that all of the information is accurate prior to submission.
8. The reference list must contain different projects. You cannot have multiple people evaluating the same project/service. However, one person may evaluate several different service projects.
9. The past projects may contain completed past projects and on-going projects.
10. All critical team components must submit their “Reference List” in separate excel files.
11. The data in the reference list must be submitted in electronic format on a MS Excel spreadsheet file. ***The file must be emailed to Christopher P. Johnson [cjohnson@uidaho.edu](mailto:cjohnson@uidaho.edu) and John Savicky [john.savicky@asu.edu](mailto:john.savicky@asu.edu) prior to the due date specified in this solicitation.***

12. The Reference List must include the following (All fields are required! If you do not submit all the information required, there will be no credit given for the reference):

CODE	A unique (different) number assigned to each project
FIRST NAME	Name of the person who will respond to satisfaction questions.
LAST NAME	Name of the person who will respond to satisfaction questions.
PHONE NUMBER	Current phone number for the reference (including area code).
FAX NUMBER	Current fax number for the reference (including area code).
CLIENT NAME	Name of the company / institution that the service was performed for
CITY	Location of project
STATE	Location of project
PROJECT NAME	Name of the project (i.e. Tempe College Dining Service, etc.)
TYPE OF SERVICE	Was this service a: Commission based, Capital based, Other
YEARS OF SERVICE	Number of years of continuous service with this Client
START DATE	Date that the service started (MM/DD/YY)
END DATE	Date that the service was completed (MM/DD/YY or On Going)
AVERAGE POPULATION	Average number of students (per year of service)
MANDATORY BOARDER COUNT	Average number of mandatory boarder counts (per year of service)
VOLUNTARY BOARDER COUNT	Average number of voluntary boarder counts (per year of service)
CAPITAL INVESTMENT	Total amount of capital invested
GUARANTEED COMMISSIONS	Total minimum amount of guaranteed commissions to the past client
TOTAL COMMISSIONS	Total amount of commissions paid to client
TOTAL REVENUE	Total amount of revenue generated
RETAIL REVENUE	Total amount of revenue generated from retail services
CATERING REVENUE	Total amount of revenue generated from catering services
MEAL PLAN REVENUE (Man)	Total amount of revenue generated from mandatory meal plans
MEAL PLAN REVENUE (Vol)	Total amount of revenue generated from voluntary meal plans
TOTAL RETURN	Total return to the client
STUDENT SATISFACTION	Average student satisfaction on a 1-10 scale

13. The data must be complete and accurate. (The format of the file is shown in Figure 2).

CODE	FIRST NAME	LAST NAME	PHONE NUMBER	FAX NUMBER	CLIENT NAME	CITY	STATE	PROJECT NAME	TYPE OF SERVICE	YEARS OF SERVICE	START DATE	ENDDATE	AVERAGE POPULATION	M/Y I
101	Chad	Franklin	602-555-5879	602-555-5880	Halmans	Phoenix	AZ	C/Materia Services	Commission	2	1/1/2008	On Gong	10,000	
102	Shana	Breslin	602-898-6654	602-898-6655	ABC University	San Diego	CA	Dining services	Commission	5	1/1/1999	1/1/2004	5,000	
103	Richard	Lewis	602-589-9361	602-589-9362	Tempe College	Denver	CO	Dining services	Commission	6	1/1/1999	1/1/2005	15,000	
104	Michael	Miller	602-897-6900	602-897-6907	Depot Home	Seattle	WA	Food Services	Capital	5	1/1/2001	1/1/2006	12,000	
105	Todd	Sayles	602-321-3215	602-321-3216	Z Manufacturers	Miami	FL	Food Services	Commission	5	1/1/2004	On Gong	8,000	
106	Bret	Fogarty	602-595-9871	602-595-9872	Mesa College	Phoenix	AZ	Dining services	Capital	4	1/1/2003	1/1/2007	14,000	
107	Jim	Ubats	602-687-5485	602-687-5486	Olympia University	San Diego	CA	Dining services	Capital	8	1/1/1998	1/1/2006	13,000	
108	Tom	Iverson	602-458-4887	602-458-4888	AAA Company	Denver	CO	Food Services	Capital	5	1/1/2002	1/1/2007	9,500	
109	Ken	Fischer	602-321-6545	602-321-6546	TLC Inc	Seattle	WA	Dining services	Commission	9	1/1/2001	On Gong	9,000	

Figure 2: Example of Reference List

14. Each MS Excel file will have two tabs (see Figure 3 below). One tab contains the reference list information (discussed above), and the second tab contains the Vendor Information. The “Vendor Information” tab contains basic information about the firm being surveyed.



**Figure 3: Vendor Information Tab**

15. Please save the file as the name of the company (or individual) followed by “Ref List”. For example, if you are submitting a reference list for “ABC Service Provider”, you should save the file as “ABC Service Provider Ref List”.

**SECTION 3 – PREPARING THE SURVEYS**

1. After a “Reference List” is completed, the Vendor will be required to:
  - a Prepare a survey questionnaire for each of their past clients (on the reference list)
  - b Send the survey questionnaires to their past clients
  - c Receive the survey questionnaires from their past clients
  - d Submit the completed survey questionnaires to the University of Idaho

The following steps will assist you in completing the aforementioned tasks.

2. Each key component is responsible for sending out a survey questionnaire to each of their past clients. The survey questionnaire is provided in this document and can also be downloaded.

3. Each key component should enter the required information on the survey questionnaire:
  - a Survey ID (Code)
  - b Past clients contact information
  - c Project information
  - d Name of the firm and/or individual being surveyed

The information must match the data submitted in the "Reference List" (see Figure 4).

	A	B	C	D	E	F	G	H	I	J	K
	CODE	FIRST NAME	LAST NAME	PHONE NUMBER	FAX NUMBER	CLIENT NAME	CITY	STATE	PROJECT NAME	TYPE OF SERVICE	YEARS OF SERVICE
2	101	Chad	Franklin	602-555-5879	602-555-5880	Holmans	Phoenix	AZ	Cafeteria Services	Commission	2
3	102	Steve	Brosin	602-896-9554	602-896-9554	ABC University	San Diego	CA	Dining services	Commission	6
4	103	Richard	Lewis	602-568-9361	602-568-9362	Tempe College	Denver	CO	Dining services	Commission	6
5	104	Michael	Miler	602-937-7000	602-937-7000	Tempe College	Seattle	WA	Food services	Capital	3
6	106	Todd	Sayles	602-321-3							
7	106	Bret	Fogarty	602-565-3							
8	107	Jim	Ubets	602-687-3							
9	108	Tom	Iverson	602-456-4							
10	109	Ken	Fischer	602-321-3							
11	110	Terry	Ferstad	602-654-3							

**Survey Questionnaire**  
(Dining Services)

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Survey ID 103

To: Richard Lewis  
(Name of person completing survey)

Phone: 602-568-9361 Fax: 602-568-9362

Subject: Past Performance Survey of: ABC Service Provider  
(Name of Company)

Pam Smith (Manager)  
(Contact Individual)

---

The University of Idaho is implementing a process that collects past performance information on vendors and their key personnel. The vendor/individual listed above has listed you as a client for which they have previously performed work on. The University greatly appreciates your time in completing this survey. Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied and 1 representing that you were very unsatisfied. Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge in a particular area, please leave it blank.

Client Name: Tempe College

Project Name: Dining Services

Figure 4: Example of Survey Form. The information must match the excel file.

4. The Vendor should also modify the return information at the bottom of the survey with a contact person and an accurate fax number. Remember, the survey will be sent from your past client to your firm (so you must enter a valid fax number).

Thank you for your time and effort in assisting the University of Idaho in this important endeavor.  
**Please fax the completed survey to: [Dining service vendor's fax #]**

5. All returned surveys MUST be evaluated and signed by the past client. If a survey is not signed, it will NOT be counted.

Richard Lewis \_\_\_\_\_ Richard Lewis \_\_\_\_\_  
 Print Name [of Evaluator] Signature [of Evaluator]

6. Each key component is responsible for making sure that their past clients receive the survey, complete the survey, and return the survey back to the Vendor.
7. The client/owner must evaluate and complete the survey (you cannot have other consultants or third parties evaluate your performance).
8. The client/owner must sign the survey form to prove that they completed the survey.
9. All of the returned surveys should be packaged together and submitted with your proposal. The scores of the submitted surveys will be used to compile the average Past Performance Information rating for the critical key component.
10. The University may contact the reference to clarify a survey rating, check for accuracy, or to obtain additional information. If the reference cannot be contacted, the survey will be deleted and no credit given for that reference.

## Survey Questionnaire – University of Idaho (Dining Services)

Survey ID \_\_\_\_\_

To: \_\_\_\_\_  
*(Name of person completing survey)*

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Subject: Past Performance Survey of: \_\_\_\_\_  
*(Name of Company)*

\_\_\_\_\_  
*(Critical Individuals)*

The University of Idaho is implementing a process that collects past performance information on vendors and their key personnel. The vendor/individual listed above has listed you as a client for which they have previously performed work on. The University greatly appreciates your time in completing this survey. Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied and 1 representing that you were very unsatisfied. Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge in a particular area, please leave it blank.

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

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

NO	CRITERIA	UNIT	
1	Ability to financially perform in the best interest of the client	(1-10)	
2	Overall quality of food and the dining experience	(1-10)	
3	Overall quality of staff (both food services and administrative)	(1-10)	
4	Overall ability of the on-site management team	(1-10)	
5	Ability to effectively market food programs	(1-10)	
6	Ability to integrate and interface with any existing systems/requirements	(1-10)	
7	Ability to protect the environment and provide a sustainable program	(1-10)	
8	Ability to communicate and document	(1-10)	
9	Ability to follow the users rules, regulations, and requirements	(1-10)	
10	Overall customer satisfaction	(1-10)	

Printed Name (of Evaluator) \_\_\_\_\_

Signature (of Evaluator) \_\_\_\_\_

Thank you for your time and effort in assisting University of Idaho in this important endeavor.

Please fax the completed survey to: [**<<Dining service vendor's fax #>>**]



## EXHIBIT 4

### PRE AWARD PHASE GUIDE

#### OVERVIEW

The Pre Award Phase is carried out prior to the signing of the contract. The client's objective is to have the project/service completed on time, without any cost increases, and with high customer satisfaction. At the end of the project, the client will evaluate the performance of the Vendor based on these factors, so it is very important that the Vendor preplans the project to ensure there are no surprises.

It is the Vendor's responsibility to ensure it understands the client's subjective expectations. It is not the client's responsibility to ensure that the Vendor understands what their expectations are. The Vendor is at risk, and part of the risk is understanding the client's expectations.

The Pre Award Phase provides the Vendor with a final opportunity to protect itself, by allowing the Vendor to carefully pre-plan the project before an award is made. The pre-planning should include all coordination and identification of all risks that cannot be controlled by the Vendor.

In many cases, one of the Vendor's biggest risks (in terms of delivering the service with high satisfaction) is the client themselves. Therefore, it is in the Vendor's best interest to identify any issues or concerns ahead of time during the pre-award phase. The Vendor should minimize their risk by creating documentation that puts them in control and eliminates any outside interference that could hinder them from performing.

#### PRE PLANNING AND COORDINATION

Once you are notified that you are the potential best-valued Vendor, you will receive a list of all risks identified by the other Vendors that proposed. You may also receive an additional list of any client issues or concerns.

The University requires that the Vendor attend a Kick Off Meeting to discuss the objectives of the Pre Award Phase. A short video tutorial is also available online ([www.pbsrg.com](http://www.pbsrg.com)), which provides information on the Pre Award Phase. The Vendor is required to watch the video and perform the following functions:

- Re-visit the site to do any additional investigating.
- Coordinate with all parties that will be involved with the project. Identify what concerns they have and determine solutions to resolve their concerns. This may include consultants, sub-vendors, and suppliers (to ensure that there are no inconsistencies with the requirements or delivery schedules.)
- Identify where the risk lies on the project and make sure that all identified risks can be minimized.
- Identify any actions required by the client or client's representatives.
- Identify all risks that you (the vendor) do not control with a plan to mitigate the risks

**PRE AWARD DOCUMENT**

The objective of the Vendor's Pre Award Document is to identify risk that the Vendor does not control or risk that is impacted by factors that the Vendor does not control. The Vendor must also identify how they will attempt to minimize the risk. If the Vendor does not identify the risk that they do not control, then the Vendor is stating the risk (stated or not stated) is under their control and a part of their contract to meet the intent of the client.

Risks from all the other Vendors are provided to the best value Vendor to ensure that they are identifying all the risks that they do not control. This forces the Vendor to do what a best value Vendor would do, to think in the best interest of the client.

The Pre Award Document should address the concerns of the client. The identification of these concerns is a clarification of the understanding of the client's intent in the best value process. It in no way changes the technical scope or amount of work of the Vendor, but merely confirms that the Vendor has understood the intent of the client. The objective of these clarifications are to confirm that the Vendor who is being hired understands the client's intent. The Pre Award Document must include the following items as a minimum:

1. A project financial summary
2. A summary of accepted/rejected value added options
3. A complete project schedule including a transition milestones schedule.
4. A list of all risks identified by other vendors along with solutions to the risks.
5. A complete list of factors/risks which are outside the control of the Vendor.
6. A project action item checklist
7. A project and emergency contact list.
8. A detailed list of monthly, quarterly, and yearly performance metrics and benchmarks that must consider financial performance, quality and customer satisfaction performance, and other necessary benchmarks of the received level of service.
9. A detailed summary of proposal assumptions.

**PRE AWARD MEETING**

The pre award meeting is held at the end of the pre award phase and is used to present a summary of what was developed and agreed upon during the pre award phase. The pre-award meeting is not a question and answer session. The Vendor must not wait for the meeting to ask questions. All coordination and planning with the client should be done prior to the meeting.

The Vendor should give a presentation, which walks the client through the entire project and summarizes all of the coordination/planning done during the pre-award period. The Vendor should bring their team and all the documents specified in the Pre Award Document. The Vendor should come with documents explaining what the client is responsible for in this project and should identify exactly what they want from the client with due dates. The Vendor must convince the client that they have minimized all risks and will not be surprised once the project begins. The pre-award meeting presentation (and

## ATTACHMENT 2

meeting minutes, if applicable) will become part of the contract along with the other documents stated in the Pre-Award Document.

If, upon presentation of the Pre-Award Document, the University deems it to be demonstrably non-responsive to any of the University's stated expectations, the University may elect to immediately cease clarifications with the top ranked Proposer and invite the next highest ranked Proposer into this period.

*REMEMBER: The Pre Award Phase provides the Vendor with a final opportunity to protect itself, by allowing the Vendor to carefully pre-plan the project before an award is made. If the Vendor does not identify a risk or risks that they do not control, then the Vendor is stating the risk (stated or not stated) is under their control and a part of their contract to meet the intent of the client.*

## **EXHIBIT 5**

### **WEEKLY RISK REPORTING SYSTEM GUIDE**

#### **OVERVIEW**

The Weekly Risk Reporting System (WRRS) is a tool for the University in analyzing the performance of the service based on risk. The WRRS is expected to take minimal effort (approximately 5 minutes per week). The WRRS does not substitute or eliminate weekly progress reports or any other traditional reporting systems or meetings (that the Vendor may do).

The purpose of the WRRS is to allow the Vendor to manage and document all risks that occur throughout a project. Risk is defined as anything that impacts project cost or project schedule. This includes risks that are caused by the Vendor (or entities contracted by the Vendor), and risks that are caused by the University (scope changes, unforeseen conditions, etc). The University Project Manager may also require the Vendor to document risks that may impact customer or client satisfaction.

#### **SUBMISSION**

The weekly report is an excel file that must be submitted on the Friday of every week. The report is due every week once the Notice To Proceed is issued, and must be submitted every week throughout the duration of the service. Please contact the University PM if you have not received an electronic version of the spreadsheet (once the Notice To Proceed has been issued). The report must be emailed to:

Email: [cjohnson@uidaho.edu](mailto:cjohnson@uidaho.edu)  
Email: [tyroneb@uidaho.edu](mailto:tyroneb@uidaho.edu)  
Email: [john.michael@asu.edu](mailto:john.michael@asu.edu)

The completed report must be saved using the date and name of the project given by the client (Format: **YYMMDD\_ProjectName\_Project ID**; For example, 'Polk Project' for the week ending Friday, March 1, 2005, should be labeled '050301\_PolkProject\_01-123-45-6789'). This will facilitate the UNIVERSITY in analyzing all projects on a weekly basis. Weekly Reports are to be emailed (by midnight C.S.T. of each Friday).

#### **ONLINE TUTORIAL**

A short video tutorial is also available online ([www.pbsrg.com](http://www.pbsrg.com)), which provides information on the reporting system. Vendors are required to watch this video prior to completing/submitting the weekly reports.

The weekly report consists of scope changes or unforeseen events that are risks to the project in terms of cost, schedule, or client satisfaction including any issues that could potentially develop into a risk. When a new issue is identified, it is added to the project risks, along with the following: Identification date (date the risk was identified), plan to minimize the risk, resolution due date, impact to critical path or schedule (in days), and impact to final cost (in dollars).

Prior to submitting the report, the Vendor must contact the University Project Manager if there are any risks or potential risks identified. The University Project Manager is required to provide a satisfaction

## ATTACHMENT 2

rating based on the identified risk and the Vendors plan to mitigate the risk. The rating is based on a scale of 1-10 (10 being completely satisfied and 1 being completely dissatisfied). The University Project Manager may modify their satisfaction ratings at any time throughout the project. When a risk is resolved, the actual date of resolution must be listed.

The Vendor is also required to submit a detailed project schedule (including the Notice To Proceed date, Substantial completion date, and Final completion date) in the weekly report. The schedule report must contain the Vendors original schedule along with the current estimated schedule.

*Note: The Weekly Reports will be analyzed for accuracy and timely submittals by the University Project Manager. Upon completion of the project, the Vendor will be evaluated based on their performance on the project. This includes (but is not limited to): overall quality, on-time completion, no cost change orders, no complaints, and submission of accurate weekly reports. The final rating will be used to modify the Vendors Teams PPI scores by up to 50%. The modified rating will be used for competition on future projects.*

**UI 670 Attachment A**  
**Request for Proposal 09-58J**  
**Dining Services**  
**Addendum 1**

**Answers to Questions:**

1. Q: Within the document on page 47 it list reference must be provided for the following:

- Vendor
- On- Site GM
- Regional VP
- Executive Chef
- Catering Director.

It was my understanding that since the PBSRG group was already in possession of the company reference information, that additional references would not be required for the VENDOR.

A: The University of Idaho is implementing the PIPS best-value system for the procurement and management of Dining Services. Vendors that have participated in this process are not required to re-submit Past Performance Information on the firm or critical individuals as long as they have a current database on file with the PBSRG. To identify if your firm and/or critical individuals have current Past Performance Information on record, you can visit the website ([www.pbsrg.com](http://www.pbsrg.com)) or email John Michael at [John.Michael@asu.edu](mailto:John.Michael@asu.edu).

2. Q: Per page 48, above referenced RFP the instructions are to go to [www.pbsrg.com](http://www.pbsrg.com) for PPI Database Template. The University of Idaho IS NOT on this site as described, and it is not under the State Of Idaho Tab.

A: Attached is the Dining Reference List.

All the documents are available on the PBSRG website, which can be found at the following address.

<http://www.pbsrg.com/pips/current/uidaho/pilots/dining-service/>

3. Q: Page 33 section 1.7 references Future dining locations.

Which Campus Bookstore would you like an evaluation of a potential coffee shop, and can we get any idea of timing of "Potential for new Alumni Visitors Center retail food component" as well as location of the same.

A: The University is considering a self-op coffee concept at the main bookstore location or future main bookstore location.

At this time a potential new Alumni Visitor Center is just a concept. The University does not foresee this happening any earlier than two to three years from now. The University wanted to include this potential as it may occur during the contemplated term of this RFP.

4. Q: Page 33 section 1.8 last Bullet: Is it the University's plan to bring retail or concessions companies onto campus after requiring minimum commissions through this process?

A: This is a possibility if the vendor underperforms or chooses to close an operation. The University wants to have the option to go out separately.

**UI 670 Attachment A**  
Request for Proposal 09-58J  
Dining Services  
**Addendum 2**

**Correction:**

In the last sentence of the opening paragraph in ATTACHMENT E, it states: "...but do not exceed the 3-page limit." This should read "...but do not exceed the **2**-page limit."

**UI 670 Attachment A**  
Request for Proposal 09-58J  
Dining Services  
**Addendum 3**

Q: Attachment B – Section 3 – Firm Qualifications - No. 2. Please clarify what you mean by "citations".

*Findings, violations, discrepancies put forth in a written notification(s)*

Q: Attachment B – Section 4 and Section 5. You request that we "provide information on any capital investment and equipment replacement reserve". Does this refer to simply filling in the dollar information or are you requested a description of the investment and reserve?

*Yes, this does refer to simply filling in the dollar information, but vendor should be prepared to discuss/answer questions about dollar information in the interviews.*

Q: Attachment C asks for Estimated Participants for each Meal Plan. Can you provide information on the current break-down of Participants on each plan, hopefully by class status, Voluntary Meal plans, and faculty/staff plans?

*No, we cannot. Each proposer is expected to use their expertise to evaluate the potential for each level and project this forward. We have provided the total count data for the Board plan. If you are going to propose different plans than those listed, then insert the lines above or below and add in the data.*

Q: Expectations are to achieve an EBI rating of 5.5 or better. What is your current EBI rating?

*The most recent rating, FY09 from the fall 2008 survey, is 4.53.*

Q: How many student employees are employed via a Work Study program that provides payment for their wages?

*None*



**UI 670 Attachment A**  
Request for Proposal 09-58J  
Dining Services  
**Addendum 4**

Q: In Exhibit 2 Section 1.1 (page 42) please clarify "Provide monetary contributions for general and administrative fees, Vandal Card, rent, utilities, and capital reinvestment at a minimum level of 13.6% annually based on gross revenues with a minimum guarantee of \$1 million annually." Is this minimum level of 13.6% to cover the fees, Vandal Card, etc., as stated above, or in addition to?

*This minimum level is to pay for those items specifically listed: G&A fees, Vandal Card, Rent, Utilities, and Capital Reinvestment. In FY09 the total of these expenses excluding Capital Reinvestment totaled \$913k.*

Q: How is unused declining balance dollars currently handled? Does this roll over year over year? Does the unused amount revert to the current vendor? *The declining balance does not roll over. Any remaining funds flow through the P&L portion of the current agreement for the benefit of the University.*

Q: How are meal plans impacted during the short winter session?

*The meal plans normally stop after Friday dinner on the third week of December and don't start until Monday breakfast usually the second week of January. No meal plan meals are served during this time. The flex dollars are cut off that weekend in December for the semester.*

Q: Can you provide us with recent student survey data that includes student brand preferences?

*Please see attached spreadsheets for available data.*

**UI 670 Attachment A**  
**Request for Proposal 09-58J**  
**Dining Services**  
**RFP 09-58J DINING SERVICES**  
**ADDENDUM 5**

The University of Idaho is issuing this Addendum 5 and partially re-opening the response period for RFP 09-58J Dining Services, to clarify limitations and restrictions on the term of the contract and allow responding vendors an opportunity to review, clarify or revise financial information furnished in their initial response. The deadline for submission of revised financial information pursuant to this Addendum 5 is Thursday November 12, 2009, by 5:00 p.m. pacific standard time. Time is of the essence. Due to time constraints a signed PDF revision addressed to [cjohnson@uidaho.edu](mailto:cjohnson@uidaho.edu) will be accepted. Please label the email "Confidential" in the subject line. Only sections specified herein will be open for revision based upon the furnished information, no other changes to responses will be allowed. RAVA, Work Plan and Interview scoring will be used in conjunction with any new or revised financial data in determining our apparent Best Value vendor. Once this vendor is determined we will enter into the pre-award phase as defined in the RFP.

The University is clarifying the financial structure limitations based upon the management contract safe harbor provision in the Internal Revenue Code, as supplemented by Revenue Procedure 97-13, 1997-5 I.R.B. 18. The following principles will be used to evaluate financial proposals furnished under this addendum:

(1) Two-Year Contract. This shall be a stand-alone two year term without extension. Compensation under this contract must be based on a percentage of revenues or expenses. The contract must provide to the University a discretionary cancellation right after the first year that is without cause or penalty.

(2) Five-Year Contract. This shall be a stand-alone five year term without extension. Compensation under this contract shall be at least 50% fixed fee, with the remainder a percentage of gross revenue. The contract must provide to the University a discretionary cancellation right after three years that is without cause or penalty.

Please use this addendum in responding.

**THE FOLLOWING EDITS ARE MADE TO RFP 09-58J Dining Services:**

**A: Exhibit 1; Current Conditions 1.14 "base" and "extensions" deleted. This is intended to avoid confusion that there may be an extension beyond the term of the contract**

**1.14 UNIVERSITY PROVIDED CAPITAL EQUIPMENT**

All University-owned food service equipment shall be provided for use by the Contractor. Additional capital equipment required to execute Contractor’s proposed concepts and programs must be provided at Contractor expense, **to be amortized over the base term of the contract** ~~plus extensions~~. Upon full amortization of Contractor provided capital equipment, ownership shall reside with the University.

**B: Paragraph 7.3 is deleted in its entirety:**

**~~7.3 CONTRACT EXTENSION / RENEWAL~~**

~~Based on the satisfaction of the University, the University may renew the service for five (5) additional terms, or on a year by year basis. The University shall provide written notice to the Vendor of its intent to extend this contract at least 120 days prior to the end of the Initial Term. If the Vendor does not desire to extend the contract, the Vendor shall so notify the University in writing no later than ten days after the date of the University’s notice of intent under this paragraph. Any renewal shall be under the same terms and conditions as the final year of the Initial Term of the Contract unless otherwise negotiated and agreed to by the parties.~~

**C: Paragraph 3.5 the word “first” is deleted**

**3.5 TWO YEAR FINANCIAL PRO FORMA (Attachment C)**

Utilizing the worksheet provided in Attachment C, provide a summary of financial Pro Forma projections of revenue and expense for the ~~first~~ two years of the contract term, assuming the current meal plan structure, with meal plan pricing escalated annually for inflation. When developing your projections, you must follow these guidelines:

- You must submit your projections using the electronic workbook provided. Provide both electronic and paper copies of projections. Direct Costs must be separately identified from Indirect Costs, and each type of Indirect Cost must be listed as a separate line item. As per the template, provide a detailed schedule of any one-time transition or start up costs identified for Year 1.
- Identify the basis for your projections as identified and required on the spreadsheet, and note any other factors that influence your projection.
- Insure that all formulas are correct.

**SECTION 4 - FINANCIAL EVALUATION 2-YEAR TERM “base” and “contract extensions” deleted**

Provide the financial information below for the two-year safe harbor option. Under this option, the Vendor will provide an annual commission based on 100% of sales. Please provide information (if any) on any capital investment and equipment replacement reserve that are included in your proposal (to be amortized over the ~~base-term of the contract plus contract extensions~~).

No	YEAR	MINIMUM GUARANTEED ANNUAL COMMISSION (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (%)	MAJOR CAPITAL INVESTMENTS (\$)	EQUIPMENT REPLACEMENT RESERVE (\$)
1	FY 2010-11	\$	%	\$	\$
2	FY 2011-12	\$	%	\$	\$

TOTAL: \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

**SECTION 5 - FINANCIAL EVALUATION 5-YEAR TERM “base” and “contract extensions” deleted, new alternative option added**

Provide the financial information below for the five-year safe harbor option. Under this option, the Vendor will receive a compensation that is at least fifty percent (50%) fixed fee, and the remainder a percentage of gross revenue (commission). Please provide information (if any) on any capital investment and equipment replacement reserve that are included in your proposal (to be amortized over the base term of the contract ~~plus contract extensions~~).

YEAR	ANNUAL FIXED FEE (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (%)	MAJOR CAPITAL INVESTMENTS (\$)	EQUIPMENT REPLACEMENT RESERVE (\$)
FY 2010-11	\$	\$	%	\$	\$
FY 2011-12	\$	\$	%	\$	\$
FY 2012-13	\$	\$	%	\$	\$
FY 2013-14	\$	\$	%	\$	\$
FY 2014-15	\$	\$	%	\$	\$
TOTAL:	\$	\$		\$	\$

**New:** In addition to the above five year proposal, you may submit alternative five year proposals that are consistent with the management contract safe harbors identified in the IRC and regulations as supplemented by Revenue Procedure 97-13, 1997-5 I.R.B. 18. Please be advised that any alternative proposals will be subject to review and approval by University bond counsel.

**SECTION 6 - SIGNATURE**

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Printed Name of Firm Representative

\_\_\_\_\_  
Signature of Firm Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

**UI-670 Attachment B**  
**Sodexo America, LLC's Response dated August 17, 2009**

**ATTACHMENT A**  
**RFP COVER PAGE & CHECKLIST**

The Vendor must complete and submit this Attachment. This Attachment shall be the cover page for the Vendors Proposal. DO NOT MODIFY THE FORMAT OF ANY OF THE REQUIRED ATTACHMENTS. Please staple all Attachments together (do not bind in any other way).

Project Number:	<b>RFP 09-58J</b>
Project Name:	<b>University of Idaho Dining Services</b>

Vendors Name:	<b>Sodexo America, LLC</b>
Address:	<b>9801 Washingtonian Blvd.</b>
City:	<b>Gaithersburg</b>
State:	<b>Maryland</b>
Zip Code:	<b>20878</b>
Point of Contact for this RFP:	<b>Bill Lacey</b>
Phone:	<b>757-876-0900</b>
Fax:	<b>757-220-8907</b>
Email:	<b>bill.lacey@sodexo.com</b>

## ATTACHMENT 2

The following documents are required for this proposal (please mark off each document to acknowledge that you have submitted the document in the proper format):

- Attachment A – Complete and staple as cover page in your proposal
- Attachment B – Fill in all required information on Proposal Form
- Attachment C – Complete and submit Financial Pro Forma Worksheet
- Attachment D – Complete and submit Work Plan
- Attachment E – Complete and submit RAVA Plan
- Attachment F – Complete and submit UI Goals and Expectations Checklist
- Appendix 3 – Email a “Reference List” for each critical component
- Appendix 3 – Compile and submit surveys for each critical component

The following checklist must also be completed. Failing to answer, or answering “No” to any of the questions below will result in disqualification.

- Yes  No Is your entire proposal stapled together (not bound in any other way)?
- Yes  No Is your Work Plan 2 pages or less?
- Yes  No Is your RAVA Plan 2 pages or less?
- Yes  No Do you understand that your RAVA Plan and Work Plan can NOT contain any names, past projects, or information that may be used to identify who your firm is?
- Yes  No Do you understand that you cannot re-create the RAVA Plan and Work Plan template (you must download it online)?
- Yes  No Do you understand that you are NOT allowed to alter font size, add colors, or add pictures, to the RAVA Plan and Work Plan?
- Yes  No Do you understand that your proposal will be disqualified if you fail to meet any of the formatting requirements of the RAVA Plan and Work Plan?
- Yes  No Do you understand that the contents of RAVA Plan and Work Plan will become part of the final contract (if you awarded the project)?

## ATTACHMENT B PROPOSAL FORM

### SECTION 1 - CRITICAL TEAM MEMBERS

<b>Name of Firm:</b>	Sodexo America, LLC
<b>Name of Regional Vice President:</b>	Alan Gessel
<b>Name of On-Site General Manager:</b>	John Soules
<b>Name of Executive Chef:</b>	John Green
<b>Name of Catering Director:</b>	Carolyn Gimbel

### SECTION 2 – ADDENDA ACKNOWLEDGEMENT

Vendor acknowledges receipt of the following addenda, and has incorporated the requirements of such addenda into the proposal (*List All Addenda Issued For This Project*):

<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; border: 1px solid black; padding: 2px;">No. 1</td> <td style="border: 1px solid black; padding: 2px;">Date <b>6/26/2009</b></td> </tr> <tr> <td style="border: 1px solid black; padding: 2px;">No. 4</td> <td style="border: 1px solid black; padding: 2px;">Date <b>7/30/2009</b></td> </tr> </table>	No. 1	Date <b>6/26/2009</b>	No. 4	Date <b>7/30/2009</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; border: 1px solid black; padding: 2px;">No. 2</td> <td style="border: 1px solid black; padding: 2px;">Date <b>7/30/2009</b></td> </tr> <tr> <td style="border: 1px solid black; padding: 2px;">No.</td> <td style="border: 1px solid black; padding: 2px;">Date</td> </tr> </table>	No. 2	Date <b>7/30/2009</b>	No.	Date	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; border: 1px solid black; padding: 2px;">No. 3</td> <td style="border: 1px solid black; padding: 2px;">Date <b>7/27/2009</b></td> </tr> <tr> <td style="border: 1px solid black; padding: 2px;">No.</td> <td style="border: 1px solid black; padding: 2px;">Date</td> </tr> </table>	No. 3	Date <b>7/27/2009</b>	No.	Date	
No. 1	Date <b>6/26/2009</b>														
No. 4	Date <b>7/30/2009</b>														
No. 2	Date <b>7/30/2009</b>														
No.	Date														
No. 3	Date <b>7/27/2009</b>														
No.	Date														

### SECTION 3 – FIRM QUALIFICATIONS

No	Criteria	Response
1	How many years has your firm been continuously active in dining services (under the current business name)?	<b>43</b>
2	Identify the number of citations received in the past three years from any government agency, regardless of the nature of alleged violations and outcome:	<b>2006 = 0*</b> <b>2007 = 0*</b> <b>2008 = 0*</b>
3	Is your firm currently licensed to provide dining services in the State of Idaho?	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
4	Is your firm current disqualified, de-listed or barred from doing business with the State of Idaho or the University of Idaho?	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>
5	Is your firm current disqualified, de-listed or barred from doing business with any federal or state agency?	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>

*\*Please note: In the normal course of the Company's business, there is generally a certain amount of routine litigation concerning casualty claims, employment issues, and other matters. The Company believes, however, that there are no pending litigation matters or, to the best of the Company's knowledge, no threatened litigation matters, which could have a material adverse impact on the Company's operations, including our ability to perform any obligations pursuant to the Request for Proposal.*

**SECTION 4 - FINANCIAL EVALUATION 2-YEAR TERM**

Provide the financial information below for the two-year safe harbor option. Under this option, the Vendor will provide an annual commission based on 100% of sales. Please provide information (if any) on any capital investment and equipment replacement reserve that are included in your proposal (to be amortized over the base term of the contract plus contract extensions)

No	YEAR	MINIMUM GUARANTEED ANNUAL COMMISSION (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (%)	MAJOR CAPITAL INVESTMENTS (\$)	EQUIPMENT REPLACEMENT RESERVE (\$)
1	FY 2010-11	\$ 0	17.5 %	\$ 0	\$ 50,000
2	FY 2011-12	\$ 0	17.5 %	\$ 0	\$ 50,000
TOTAL:		<b>\$ 0</b>		<b>\$ 0</b>	<b>\$ 100,000</b>

**SECTION 5 - FINANCIAL EVALUATION 5-YEAR TERM**

Provide the financial information below for the five-year safe harbor option. Under this option, the Vendor will provide a compensation that is at least fifty percent (50%) fixed fee, and the remainder a percentage of gross revenue (commission). Please provide information (if any) on any capital investment and equipment replacement reserve that are included in your proposal (to be amortized over the base term of the contract plus contract extensions)

YEAR	ANNUAL FIXED FEE (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (%)	MAJOR CAPITAL INVESTMENTS (\$)	EQUIPMENT REPLACEMENT RESERVE (\$)
FY 2010-11	\$ 1,434,000	\$	4.75%	\$ 500,000	\$ 40,000
FY 2011-12	\$ 1,495,000	\$	4.75%	\$ 0	\$ 40,000
FY 2012-13	\$ 1,595,000	\$	4.75%	\$ 0	\$ 40,000
FY 2013-14	\$ 1,702,000	\$	4.75%	\$ 0	\$ 40,000
FY 2014-15	\$ 1,815,000	\$	4.75%	\$ 0	\$ 40,000
TOTAL:		<b>\$ 8,041,000</b>	<b>\$</b>	<b>\$ 500,000</b>	<b>\$ 200,000</b>

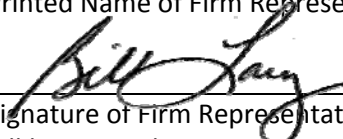
**SECTION 6 - SIGNATURE**

**Sodexo America, LLC**

Name of Company

**Bill Lacey**

Printed Name of Firm Representative

  
Signature of Firm Representative

8/17/09

bill.lacey@sodexo.com

Date

757-876-0900

757-220-8907

Email

Phone

Fax



**ATTACHMENT C**  
**FINANCIAL PRO FORMA WORKSHEET – 2-Year Term**

**UNIVERSITY OF IDAHO**  
**PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)**

<b>RESIDENT MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
Plan 1 –All Access Plan w/ \$100 Flex w/ equiv	\$ 1728.5	184	55.4 %	\$ 1801	184	55.4 %
Plan 2 – 19 Meal Plan w/ \$100 Flex w/ equiv	\$ 1533	148	69.3 %	\$1597	148	69.3 %
Plan 3 – 14 Meal Plan w/ \$300 Flex w/equiv	\$ 1533	537	69.1 %	\$1597	537	69.1 %
Plan 4 – 10 Meal Plan w/ \$500 Flex w/equiv	\$ 1533	602	65.2 %	\$1597	602	65.2 %
Plan 5 – 5 Meal Plan w/ \$500 Flex	\$ 1168	292	58.0 %	\$1217	292	58.0 %
Subtotal:		1763	64.9 %	\$	1763	64.9 %

<b>COMMUTER MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
Plan 1 - Freedom Forward \$690 Value	\$		%	\$		%
Plan 2 - Freedom Rings \$440 Value	\$		%	\$		%
Plan 3 - Freedom First \$200 Value	\$ 200	100	100 %	\$ 200	100	100 %
Subtotal:	\$	100	100 %	\$	100	100 %

UNIVERSITY OF IDAHO  
PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)

<b>REVENUE &amp; OPERATING ASSUMPTIONS:</b>	<b>FY 10-11</b>	<b>% of Revenue</b>	<b>FY 11-12</b>	<b>% of Revenue</b>
Number of Operating Days	347		347	
Anticipated # Customers Per Weekday	8,078		8,417	
Anticipated # Customers Per Weekend day	3,104		3234	
Average Check per Weekday	\$ 3.72		\$ 3.78	
Average Check per Weekend day	\$ 3.72		\$ 3.78	
Anticipated Average Sales Per Weekday	\$ 36,863		\$ 37,410	
Anticipated Average Sales Per Weekend day	\$ 13,798		\$ 14,378	
Average Food Cost per Meal Served	\$ 1.67		\$ 1.67	
Average Labor Cost per Meal Served	\$ 1.78		\$ 1.75	

<b>REVENUE: (Net of Sales Tax)</b>				
Meal Plan	\$ 3,980,963	37.9%	\$ 4,148,163	37.9%
Cash/Credit Card (Inc Vandal \$)	\$ 3,967,377	37.8%	\$ 4,134,007	37.8%
Flex Cash	\$ 1,322,168	12.6%	\$ 1,377,699	12.6%
Commissions from Subcontractors	\$ -	0.0%	\$ -	0.0%
Catering	\$ 765,000	7.3%	\$ 797,130	7.3%
Summer Conference	\$ 322,470	3.1%	\$ 336,014	3.1%
Other (specify) - concessions	\$ 150,000	1.4%	\$ 156,300	1.4%
<b>Total Revenue:</b>	<b>\$ 10,507,978</b>	<b>100.0%</b>	<b>\$ 10,949,313</b>	<b>100.0%</b>

<b>OPERATING EXPENSES:</b>				
Food and Beverages Costs	\$ 3,228,734	30.7%	\$ 3,364,341	30.7%
Labor - Management Salaries	\$ 479,555	4.6%	\$ 496,339	4.5%
Labor - Management Benefits	\$ 97,925	0.9%	\$ 102,038	0.9%
Labor - Full Time Staff Wages	\$ 1,714,317	16.3%	\$ 1,774,318	16.2%
Labor - Full Time Staff Benefits	\$ 224,496	2.1%	\$ 233,925	2.1%
Labor - Part Time / Temporary Wages	\$ 537,320	5.1%	\$ 556,126	5.1%
Labor - Part Time / Temporary Benefits	\$ 53,776	0.5%	\$ 56,035	0.5%
Labor - Payroll Taxes	\$ 320,090	3.0%	\$ 332,489	3.0%
Labor - Temporary Contract Agency Labor	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Operating Expenses:</b>	<b>\$ 6,656,213</b>	<b>63.3%</b>	<b>\$ 6,915,611</b>	<b>63.2%</b>

**ATTACHMENT 2**

**Other Expenses:**

Paper Supplies	\$ 357,271	3.4%	\$ 367,989	3.4%
Cleaning Supplies	\$ 61,997	0.6%	\$ 63,857	0.6%
Office Supplies (supplies, postage, printing)	\$ 45,184	0.4%	\$ 46,540	0.4%
Telephone	\$ 36,778	0.4%	\$ 37,881	0.3%
Hiring Costs & Background Checks	\$ -	0.0%	\$ -	0.0%
Parking Permits	\$ 7,000	0.1%	\$ 7,210	0.1%
Vehicle Expenses	\$ 15,067	0.1%	\$ 15,519	0.1%
Equipment Rental	\$ 31,524	0.3%	\$ 32,470	0.3%
Linens and Uniforms	\$ 100,877	1.0%	\$ 103,903	0.9%
Flowers / Decorations	\$ 10,508	0.1%	\$ 10,823	0.1%
Utilities	\$ 115,588	1.1%	\$ 119,056	1.1%
Equipment Repairs and Maintenance	\$ 65,149	0.6%	\$ 67,103	0.6%
Training / Professional Development	\$ 37,500	0.4%	\$ 38,625	0.4%
Marketing and Advertising	\$ 39,930	0.4%	\$ 41,128	0.4%
Flex Ca\$h Transaction Fees	\$ -	0.0%	\$ -	0.0%
Credit Card Fees	\$ 42,500	0.4%	\$ 43,775	0.4%
Banking and Professional Fees	\$ 18,877	0.2%	\$ 19,443	0.2%
Courier Expense	\$ -	0.0%	\$ -	0.0%
Workers' Compensation & Business Insurance	\$ 60,495	0.6%	\$ 62,967	0.6%
Business Insurance (inc in above number)	\$ 71,017	0.7%	\$ 73,148	0.7%
Brand Licensing/Franchise Fees	\$ 146,911	1.4%	\$ 153,081	1.4%
Taxes and Licenses (do not include sales tax)	\$ 54,282	0.5%	\$ 55,639	0.5%
Student Organization Event Funding Support	\$ 15,000	0.1%	\$ 15,000	0.1%
Smallwares Replacement	\$ 117,689	1.1%	\$ 121,220	1.1%
Small Equipment Replacement	\$ 50,000	0.5%	\$ 50,000	0.5%
Amortization of Major Capital Investments	\$ -	0.0%	\$ -	0.0%
Commissions to University	\$ 1,838,896	17.5%	\$ 1,916,130	17.5%
Miscellaneous	\$ 20,153	0.2%	\$ 20,630	0.2%
Other (List)	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
Sales / Use Tax	\$ 24,000	0.2%	\$ 24,720	0.2%
Meal Plan Bonus	\$ 70,000	0.7%	\$ 71,000	0.6%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Other Expenses:</b>	<b>\$ 3,454,193</b>	<b>32.9%</b>	<b>\$ 3,578,857</b>	<b>32.7%</b>

**Contractor Overhead Charged Against Account**

Gen. & Admin. Expenses (List in Detail)  
 - retail, dining, marketing, procurement division charges

	\$ 26,270	0.3%	\$ 27,373	0.3%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Contractor Fees:</b>	<b>\$ 26,270</b>	<b>0.3%</b>	<b>\$ 27,373</b>	<b>0.3%</b>

**Start Up Costs (Year One Only)**

	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Start Up Costs:</b>	<b>\$ -</b>	<b>0.0%</b>	<b>\$ -</b>	<b>0.0%</b>

<b>Total Operating Expenses:</b>	<b>\$ 10,136,676</b>	<b>96.5%</b>	<b>\$ 10,521,841</b>	<b>96.1%</b>
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<b>Operating Profit/(Loss):</b>	<b>\$ 371,302</b>	<b>3.5%</b>	<b>\$ 427,472</b>	<b>3.9%</b>
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**ATTACHMENT C**  
**FINANCIAL PRO FORMA WORKSHEET – 5-Year Term**

**UNIVERSITY OF IDAHO**  
**PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)**

<b>RESIDENT MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
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Subtotal:		1763	64.9 %	\$	1763	64.9 %

<b>COMMUTER MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
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Plan 3 - Freedom First \$200 Value	\$ 200	100	100 %	\$ 200	100	100 %
Subtotal:	\$	100	100 %	\$	100	100 %

UNIVERSITY OF IDAHO  
PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)

<b>REVENUE &amp; OPERATING ASSUMPTIONS:</b>	<b>FY 10-11</b>	<b>% of Revenue</b>	<b>FY 11-12</b>	<b>% of Revenue</b>
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<b>Total Revenue:</b>	<b>\$ 10,507,978</b>	<b>100.0%</b>	<b>\$ 10,949,313</b>	<b>100.0%</b>

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Labor - Management Benefits	\$ 97,925	0.9%	\$ 102,038	0.9%
Labor - Full Time Staff Wages	\$ 1,714,317	16.3%	\$ 1,774,318	16.2%
Labor - Full Time Staff Benefits	\$ 224,496	2.1%	\$ 233,925	2.1%
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Labor - Part Time / Temporary Benefits	\$ 53,776	0.5%	\$ 56,035	0.5%
Labor - Payroll Taxes	\$ 320,090	3.0%	\$ 332,489	3.0%
Labor - Temporary Contract Agency Labor	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Operating Expenses:</b>	<b>\$ 6,656,213</b>	<b>63.3%</b>	<b>\$ 6,915,611</b>	<b>63.2%</b>

**ATTACHMENT 2**

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Telephone	\$ 36,778	0.4%	\$ 37,881	0.3%
Hiring Costs & Background Checks	\$ -	0.0%	\$ -	0.0%
Parking Permits	\$ 7,000	0.1%	\$ 7,210	0.1%
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Marketing and Advertising	\$ 39,930	0.4%	\$ 41,128	0.4%
Flex Ca\$h Transaction Fees	\$ -	0.0%	\$ -	0.0%
Credit Card Fees	\$ 42,500	0.4%	\$ 43,775	0.4%
Banking and Professional Fees	\$ 18,877	0.2%	\$ 19,443	0.2%
Courier Expense	\$ -	0.0%	\$ -	0.0%
Workers' Compensation & Business Insurance	\$ 60,495	0.6%	\$ 62,967	0.6%
Business Insurance (inc in above number)	\$ 71,017	0.7%	\$ 73,148	0.7%
Brand Licensing/Franchise Fees	\$ 146,911	1.4%	\$ 153,081	1.4%
Taxes and Licenses (do not include sales tax)	\$ 46,932	0.4%	\$ 48,105	0.4%
Student Organization Event Funding Support	\$ 10,000	0.1%	\$ 10,000	0.1%
Smallwares Replacement	\$ 117,689	1.1%	\$ 121,220	1.1%
Small Equipment Replacement	\$ 40,000	0.4%	\$ 40,000	0.4%
Amortization of Major Capital Investments	\$ 166,667	1.6%	\$ 166,667	1.5%
Commissions to University	\$ 1,933,468	18.4%	\$ 2,014,674	18.4%
Miscellaneous	\$ 20,153	0.2%	\$ 20,630	0.2%
Other (List)	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
Sales / Use Tax	\$ 24,000	0.2%	\$ 24,720	0.2%
Meal Plan Bonus	\$ 70,000	0.7%	\$ 71,000	0.6%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Other Expenses:</b>	<b>\$ 3,693,082</b>	<b>35.1%</b>	<b>\$ 3,821,534</b>	<b>34.9%</b>

**Contractor Overhead Charged Against Account**

Gen. & Admin. Expenses (List in Detail)  
 - retail, dining, marketing, procurement division charges

	\$ 26,270	0.3%	\$ 27,373	0.3%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Contractor Fees:</b>	<b>\$ 26,270</b>	<b>0.3%</b>	<b>\$ 27,373</b>	<b>0.3%</b>

**Start Up Costs (Year One Only)**

	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Start Up Costs:</b>	<b>\$ -</b>	<b>0.0%</b>	<b>\$ -</b>	<b>0.0%</b>

<b>Total Operating Expenses:</b>	<b>\$ 10,375,565</b>	<b>98.7%</b>	<b>\$ 10,764,518</b>	<b>98.3%</b>
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<b>Operating Profit/(Loss):</b>	<b>\$ 132,413</b>	<b>1.3%</b>	<b>\$ 184,795</b>	<b>1.7%</b>
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**Potential Contractual Option**

**5 Year Model Language:** (this will meet Bond requirements and create a P&L type agreement. Pushes more risk to the vendor)

*Client will pay Sodexo 81.6% of all revenue from board plans, catering, and retail (hereinafter "Compensation"). Up to \_\_\_\_\_ Dollars (\$\_\_\_\_\_) of all Compensation received by Sodexo shall be deemed Sodexo's Fixed Compensation. Any Compensation received by Sodexo from Client in excess of the Fixed Compensation shall be deemed Variable Compensation. It is further understood that the Total Compensation (Fixed Compensation + Variable Compensation) for each year (July 1 to June 30) of the term of the Agreement received by Sodexo from Client shall not be less than \$\_\_\_\_\_ and shall not exceed \$\_\_\_\_\_. For these purposes, the compensation received by Sodexo from Client shall equal the total amounts retained by Sodexo from amounts charged for services under the Agreement plus the amounts paid to Sodexo by Client. If the total compensation received by Sodexo from Client for any year under the Agreement is less than \$\_\_\_\_\_, Client shall pay the amount of any such shortfall to Sodexo within [30] days of the end of such year, and if the total compensation received by Sodexo for any year under the Agreement is more than \$\_\_\_\_\_, Sodexo shall refund the amount of any such excess to Client within [30] days of the end of such year. For internal accounting purposes only, the rates used to calculate Compensation shall be as set forth in this Agreement. All catering charges shall be invoiced within five (5) days following the event and shall be in addition to the monthly Fixed Compensation from B below.*

**EXCEPTIONS LIST**

Sodexo ("Contractor") has reviewed the Request for Proposal for Food Services for University of Idaho ("University") and is submitting its Proposal conditioned upon the incorporation of the following modifications:

1. Contractor requests the addition of the following to Section 7.11, Hold Harmless:  
"Except as otherwise expressly provided in this Agreement, Contractor and University shall defend, indemnify and hold each other harmless from and against all claims, liability, loss and expense, including reasonable collection expenses, attorneys' fees and court costs which may arise because of the sole negligence, misconduct, or other fault of the indemnifying party, its agents or employees in the performance of its obligations under the Agreement. Notwithstanding the foregoing, with respect to property damage, for which the parties maintain a system of coverage on their respective property, and based on the representations contained in Section 9.3 above, each party hereto waives its rights, and the rights of its subsidiaries and affiliates, to recover from the other party hereto and its subsidiaries and affiliates for loss or damage to such party's building, equipment, improvements and other property of every kind and description resulting from fire, explosion or other cause normally covered in standard broad form property insurance policies. This clause shall survive termination of the Agreement."
  
2. Contractor requests the following to Section 7.34 on pages 16 and 17
  - modification of language regarding the Certificate of Insurance in that the University named as an additional insured "to the extent indemnified" under the final agreement.
  - Addition of the following language that appears on Contractors certificates of insurance:  
  
"Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives."
  
  - deletion of the sentence "Waiver of subrogation language shall be included." in all bullet points on page 17. Contractor does not automatically waives its right to subrogate, but will do so if the University does the same.
  - deletion of the "Medical Payments" requirement in the second bullet.
  - deletion of Professional Liability in that it is not applicable to the services to be provided under this Agreement.
  
3. Contractor requests clarification to Section 1.1, Sustainability, on page 42 and Section 2.6, Sustainability Expectations, on page 45, in that the following is shall apply to:  
  
"Non-Contractor Approved Vendors. University understands that Contractor has entered into agreements with many vendors and suppliers of products which (i) give Contractor the right to inspect such vendors' and suppliers' plants and/or storage facilities and (ii) require such vendors and suppliers to adhere to standards to ensure the quality of the products

purchased by Contractor for or on behalf of University. University shall not require Contractor to use products from non-Contractor approved vendors.

4. Contractor requests the following provisions included in the resultant Agreement:
- Condition of Premises and Equipment. The Premises and equipment provided by University for use in the Food Service operation shall be in good condition and maintained by University to ensure compliance with applicable laws concerning building conditions, sanitation, safety and health (including, without limitation, OSHA regulations). University agrees to indemnify Contractor against any liability or assessment, including related interest and penalties, arising from University's breach of the aforementioned obligations, and University shall pay reasonable collection expenses, attorneys' fees and court costs incurred in connection with the enforcement of such indemnity. University further agrees that any modifications or alterations to the workplace or the Premises (whether structural or non-structural) necessary to comply with any statute or governmental regulation shall be the responsibility of University and shall be at the University's expense. This provision shall survive the termination of this Agreement.
- Property Insurance. University shall maintain a system of coverage (either through purchased insurance, self insurance, or a combination thereof) to keep University's buildings, including the Premises, and all property contained therein insured against loss or damage by fire, explosion or other cause normally covered by standard broad form property insurance.
- Trade Secrets and Proprietary Information. During the term of the Agreement, Contractor may grant to University a nonexclusive right to access certain proprietary materials of Contractor, including menus, signage, Food Service survey forms, software (both owned by and licensed to Contractor), and similar items regularly used in Contractor's business operations ("Proprietary Materials"). In addition, University may have access to certain non-public information of Contractor, including, but not limited to, recipes, management guidelines and procedures, operating manuals, personnel information, purchasing and distribution practices, pricing and bidding information, financial information, surveys and studies, and similar compilations regularly used in Contractor's business operations ("Trade Secrets"). Trade Secrets shall not include (i) any information which at the time of disclosure or discovery or thereafter is generally available to and known by the public or the relevant industry (other than as a result of a disclosure directly or indirectly by University), or (ii) any information which was available to University on a non-confidential basis from a source other than Contractor, provided that such source was not bound by an agreement prohibiting the transmission of such information, or (iii) any information independently developed or previously known without reference to any information provided by Contractor.
- University shall not disseminate any Proprietary Materials or disclose any of Contractor's Trade Secrets, directly or indirectly, during or after the term of the Agreement. University shall not photocopy or otherwise duplicate any such material without the prior written consent of Contractor. All Proprietary Materials and Trade Secrets shall remain the exclusive property of Contractor and shall be returned to Contractor immediately upon termination of the Agreement. Without limiting the foregoing, University specifically agrees that all software associated with the operation of the Food Service, including without limitation, menu systems, food production systems, accounting systems, and other software, are owned by or licensed to Contractor and not University. Furthermore,

University's access or use of such software shall not create any right, title interest, or copyright in such software, and University shall not retain such software beyond the termination of the Agreement. Any signage, servicemark or trademark proprietary to Contractor shall remain the exclusive property of Contractor and shall be returned to Contractor immediately upon termination of this Agreement. In the event of any breach of this provision, Contractor shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available. This provision shall survive termination of the Agreement.

## ATTACHMENT D WORK PLAN

This template must be used. Modifications to the format of this template will result in disqualification (i.e. altering font size, altering font type, adding colors, adding pictures, etc). Do not list any names/information that can be used to identify your firm. Do not exceed the 2-page limit.

### **Exhibit 2, Section 1 – Client Expectations as stated in RFP**

#### Sustainability

We will support local businesses by purchasing 12.5% of food within Latah County, and 71% within the Inland Northwest. We estimate the pre- and post-consumer waste stream will equal approximately 100 tons, and we will redirect and reduce this stream by 90% or more through composting, pulping, utilizing compostable and reusable service ware and improving sustainable products and packaging sourcing. Our dining services fleet will consist of Bio Fuel capable vehicles. The operating cost of these initiatives is included in our proposal and will be in place by August 2010.

#### Annual Financial Contributions to UI

We will exceed the minimum annual contribution requirement by driving meal plan participation through mandatory freshman board, Meal Equivalency and Flex Dollars. We will provide monetary contributions to the University via commissions of 17.5% (\$3,755,025) and 18.4% (\$10,838,841) in the 2-year and 5-year terms respectively. In addition, the Vendor will fund \$65,000 per year in the 2-year model and \$50,000 per year in the 5-year model for “annual funds” which will be used for small equipment replacement and student organization event support. Our monetary contributions and any proposed capital are based on all capital projects (listed in 1.3) being completed before August 15, 2010. Our proposal strategy is to maximize revenue to the University so that these funds can be used for capital reinvestment in the dining program.

Effective July 1, 2010 - Included in our proposal is a full-time Maintenance and Repair Technician. Our small equipment and repair budget is \$182,838. We will conduct twice annual equipment audits to determine preventative maintenance, repair and replacement needs. The audits will be proactive and provide cost avoidance and reduce potential down time.

#### Capital Contributions

Through the addition of meal equivalency, renovations and investments in retail, we will maximize annual monetary contributions and reinvestment income to the University which will enable future University funding of Bob’s Place renovations. Retail will be profitable.

- 2-year term - No Vendor Capital: Vendor will fund \$65,000 per year in annual funds as well as pay to the University monetary contributions (commissions) of 17.5% (\$3,755,025) for the term.
- 5-year term –Vendor will provide \$500,000 in capital funding; Vendor will fund \$50,000 per year in Annual Funds as well as pay to the University monetary contributions (commissions) of 18.4% (\$10,838,841) for the term.
- Both the 2-year and 5-year term agreements will require a \$1.0M capital expenditure in the summer of 2010. The capital expenditure of \$1.0M in the 2-year model will be 100% University funded; the capital expenditure of \$1.0M in the 5-year model will be \$500K vendor capital and \$500K University funded capital for: Denny’s at 6<sup>th</sup> Street \$450K; Traders Market 6<sup>th</sup> Street \$100K; J Street at the Commons Food Court \$300K; Einstein’s at Common Grounds \$150K. Renovations will be planned, funded and completed by August 15, 2010. These enhancements to the dining program are based on quantifiable market research data and directly address consumer behavior and expectations on

the UI campus.

Customer Success Approach

Through our extensive proprietary research on consumer behaviors, needs and desires, we have identified 5 distinct consumer segments on the campus. Our proposal reflects these findings and is backed by our research. Nationally, we as a company invest over \$1M annually in market research, industry data and proprietary research in order to meet and exceed consumer expectations. We will conduct focus groups, monthly dining committee meetings and develop RA and SGA relationships. We will formally survey dining satisfaction twice annually. We will implement a customer experience program that drives excellent customer service by rewarding and recognizing positive service behaviors. Employee “huddles” will be held twice daily in each dining location and will address specific customer service needs as well as recognize outstanding employee service. We have the only formal employee-participative customer service model in the industry. All initiatives will be effective by August 2010.

Through the addition of meal equivalency, board students will now have 8 new retail locations with a total of 14 dining options available for use with board plans. The enhanced quality, flexibility, choice and convenience will drive satisfaction. We have also used the latest EBI scores as well as our recent research data as key drivers for our proposed service enhancements. We will achieve a 5.5 or better by the Fall of 2010.

Sanitation and Cleanliness

Effective 7-1-10 - Sanitation, cleanliness and safety will be maintained at a very high level through S/S daily job assignments for every employee and daily inspections for every location. We will have an annual NSF, as well as company conducted, physical safety and food safety audits. The management team will use the NSF audit guidelines for all monthly inspections. We will have zero tolerance for rodent and pest activity.

General Expectations

The addition of J Street, Einstein’s and Denny’s will enhance the student experience by offering over 150 new menu items covering multiple day parts in key locations across campus. J Street also provides more options for “Board Plan Meal Equivalence” on that end of campus. These venues will also provide attractive and inviting seating and atmosphere to create a place to hangout, relax and build the students sense of community.

With over 10 locations across campus, addressing all day parts and customer segments, including 2 nationally-recognized retail brands, campus dining will be an asset to campus recruitment activities. The flexibility of the enhanced board plans and the afore mentioned sustainability initiatives will exceed this client expectation.

Our proposal includes competitive and high quality catering for all events and will be heavily focused on quality, service and sustainability as core components.

Staff participation in both retail and board dining will be at 50% each week.

Exhibit 2 / Section 2

Our proposal includes provisions that will enable us to meet or exceed all minimum desired expectations set forth in this section of the RFP.

## ATTACHMENT E RAVA PLAN TEMPLATE

This template must be used. Modifications to the format of this template will result in disqualification (i.e. altering font size, altering font type, adding colors, adding pictures, etc). You may add/delete additional rows to identify additional risks, solutions, and value added options, but do not exceed the 2-page limit.

### SECTION 1 – MAJOR RISKS

All cost impacts associated with these risks/solutions must be included in your proposed premium

**Risk 1:** Enrollment decline

**Solution:** Our overall financial return to the University is based on current enrollment trends. However, if an enrollment decline occurs, this could jeopardize our ability to deliver at the proposed levels.

To mitigate this risk, we would increase our targeted marketing to all non-required meal plan holders and to local apartment complexes in an effort to gain meal capture from these groups. This would be done in conjunction with increased retail offerings, highlighting convenience and value pricing, to drive additional add-on sales to our current customers. Based on our experience with current clients in a decreasing or stagnant enrollment environment, we have been able to drive the average check of current customers by 7%. At one particular university, through our targeted marketing activities with apartment complexes, we were able to add an additional 500 students to the voluntary meal plan program.

**Risk 2:** Campus impacted by natural or manmade disaster

**Solution:** Our Corporate Risk Management Team and Communications departments will respond quickly and decisively in accordance with an existing detailed crisis plan developed for the University of Idaho. We will activate a Crisis Control Team that will handle all decisions and minimize meetings and time-consuming decision making for the University. In essence, we would take over, handle the crisis, and communicate to both our customers and the University in a timely and efficient manner. We have a wealth of experience in handling these types of situations.

### SECTION 2 – VALUE ADDED OPTIONS

All cost impacts associated with these value added options must NOT be included in your premium.

**Item 1:** Integrated meal plan strategy with off-campus restaurants

**Impact:** Cost (\$) 0

Off-campus dining card programs are growing in popularity and have proven to increase student satisfaction, student participation in meal plans, and increases in overall deposits in the all-campus card. Our off-campus group is currently managing over 100 client relationships and delivers the top revenue-sharing rates in the industry. By offering this program at University of Idaho, we project an increase in deposits of 15% and a minimum return to the University of \$50,000.

**Item 2:** Mandatory commuter spending account

**Impact:** Cost (\$) 0

In an effort to spread the overall cost of dining throughout the community, we would like to offer an additional meal plan for full-time off-campus students of \$125.00 per semester. This would enable the University to spread the cost of infrastructure to all users of the dining program. We have successfully transitioned two large universities to this model and have increased revenues by over 50%. This plan would generate an additional \$1.5 million in revenue, while supplying the University with an additional return of 20%.

**Item 3:** Benchmark for diversity

**Impact:** Cost (\$) 0

With us as your organization of choice, you will be gaining the industry leader and the benchmark for diversity best practices, as recognized by companies such as Diversity Inc, Hispanic Business Magazine, LATINA Style Magazine, Black Collegian and Asian Enterprise Magazine. We also incorporate diversity into our dining program, bringing authentic foods and flavors to on-campus dining, creating new and familiar experiences for the broad base of customers that the University of Idaho serves.

The University of Idaho will benefit from innovative diversity practices, including training and education as well as access to experts in the field of diversity as it relates to recruitment and retention. Our employee retention and development rates exceed that of the industry, and we bring outstanding resources to the University of Idaho that provide extensive training and career planning to the employees on campus. Our diversity leadership also offers consulting on a variety of topics, including diversity scorecards, benchmarking, diversity education and training.

**Item 4:** Bio Fuel Development

**Impact:** Cost (\$) 0

We will develop sustainable Bio Fuel capability and capacity. We will be converting cooking oil into bio diesel fuel to use in our 4 fleet vehicles. The bio diesel fuel can be used in commercial diesel vehicles and has been shown to have significant environmental benefits. We will use special order OEM engines or retro fits that will allow the use of a higher percentage mix bio fuel technology. This fuel technology is the best option at this time given the scarcity or non-existence of Ultra Low, Super Ultra Low and Zero Emission commercial vehicles in the U.S. Vehicles that are currently available are too small too handle the transport work demands efficiently or will not handle weather and terrain conditions effectively in the winter months.

The UI maintenance department already does some cooking oil conversion to bio fuel, and other campus groups are working to improve this process. We will work closely with both as well as the sustainability office in this effort. The environmental impact will be a significant diversion from the use of petroleum fuels. The ultimate goal is to have pure bio fuel burning vehicles.



## ATTACHMENT F

### UI GOALS AND EXPECTATIONS CHECKLIST

The University's goals of this RFP are to increase financial return to the University, increase the environmental sustainability of dining services, and increase both University and student satisfaction. Please identify how you plan on meeting the University's desired goals (See Exhibit 2-1 for additional information).

No	CRITERIA	RESPONSE
1	What percent of your food purchases will be done locally (within Latah County)	12.5%
2	What percent of your food purchases will be done regionally (Inland Northwest)	71%
3	What is your anticipated annual amount of pre & post consumer waste	100 Tons
4	What is your anticipated percent of food composted	90%
5	What percent of your dining fleet vehicles are rated 'ultra low emission'	0*%
6	What percent of your dining fleet vehicles are rated 'super ultra low emission'	0*%
7	What percent of your dining fleet vehicles are rated 'zero emission'	0*%
8	Will you provide operating maintenance for all areas occupied by dining services?	Yes
9	What is your annual financial return to UI	2yr: 17.5% 5yr: 18.4%
10	Identify your anticipated Minimum EBI rating.	5.5
11	Will you provide for all housekeeping, daily janitorial, sanitation, and cleaning of all areas occupied by dining services?	Yes
12	Will you uphold a <u>zero</u> tolerance expectation for food borne illnesses related to dining services?	Yes
13	Will you uphold a <u>zero</u> tolerance expectation for rodent and pest activity in food storage and dining locations?	Yes
14	Will you provide a high level (no deficiencies) of facility cleanliness and quality?	Yes
15	Will you be upgrading the menu and dining concepts?	Yes
16	Will catering be competitive for small events and provide high quality for large signature events?	Yes
17	Will dining establishments be 'cool' places to hang out and foster a sense of community?	Yes

*\*Please note: After researching low/zero emission vehicles, it was found that there are no commercial-duty vehicles available on the market. Please see Attachment D, Work Plan, for information regarding how we plan to utilize more environmentally-friendly commercial duty vehicles.*

**UI 670 Attachment B**

**Sodexo America, LLC's Addendum 5 response dated November 12, 2009**

**ATTACHMENT C**

**FINANCIAL PRO FORMA WORKSHEET – 2-Year Term**

**UNIVERSITY OF IDAHO  
PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)**

<b>RESIDENT MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
Plan 1 –All Access Plan w/ \$100 Flex w/ equiv	\$ 1728.5	184	10.4 %	\$ 1801	184	10.4 %
Plan 2 – 19 Meal Plan w/ \$100 Flex w/ equiv	\$ 1533	148	8.4 %	\$1597	148	8.4 %
Plan 3 – 14 Meal Plan w/ \$300 Flex w/equiv	\$ 1533	537	30.5 %	\$1597	537	30.5 %
Plan 4 – 10 Meal Plan w/ \$500 Flex w/equiv	\$ 1533	602	34.1%	\$1597	602	34.1 %
Plan 5 – 5 Meal Plan w/ \$500 Flex	\$ 1168	292	16.6%	\$1217	292	16.6 %
Subtotal:		1763	100%		1763	100 %

<b>COMMUTER MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
Plan 1 - Freedom Forward \$690 Value	\$		%	\$		%
Plan 2 - Freedom Rings \$440 Value	\$		%	\$		%
Plan 3 - Freedom First \$200 Value	\$ 200	100	100 %	\$ 200	100	100 %
Subtotal:	\$	100	100 %	\$	100	100 %

UNIVERSITY OF IDAHO  
PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)

<b>REVENUE &amp; OPERATING ASSUMPTIONS:</b>	<b>FY 10-11</b>	<b>% of Revenue</b>	<b>FY 11-12</b>	<b>% of Revenue</b>
Number of Operating Days	347		347	
Anticipated # Customers Per Weekday	8,078		8,417	
Anticipated # Customers Per Weekend day	3,104		3,234	
Average Check per Weekday	\$ 3.72		\$ 3.78	
Average Check per Weekend day	\$ 3.72		\$ 3.78	
Anticipated Average Sales Per Weekday	\$ 36,863		\$ 37,410	
Anticipated Average Sales Per Weekend day	\$ 13,798		\$ 14,378	
Average Food Cost per Meal Served	\$ 1.67		\$ 1.67	
Average Labor Cost per Meal Served	\$ 1.78		\$ 1.75	

<b>REVENUE: (Net of Sales Tax)</b>				
Meal Plan	\$ 3,980,963	37.9%	\$ 4,148,163	37.9%
Cash/Credit Card (Inc Vandal \$)	\$ 3,967,377	37.8%	\$ 4,134,007	37.8%
Flex Cash	\$ 1,322,168	12.6%	\$ 1,377,699	12.6%
Commissions from Subcontractors	\$ -	0.0%	\$ -	0.0%
Catering	\$ 765,000	7.3%	\$ 797,130	7.3%
Summer Conference	\$ 322,470	3.1%	\$ 336,014	3.1%
Other (specify) - concessions	\$ 150,000	1.4%	\$ 156,300	1.4%
<b>Total Revenue:</b>	<b>\$ 10,507,978</b>	<b>100.0%</b>	<b>\$ 10,949,313</b>	<b>100.0%</b>

<b>OPERATING EXPENSES:</b>				
Food and Beverages Costs	\$ 3,228,734	30.7%	\$ 3,364,341	30.7%
Labor - Management Salaries	\$ 479,555	4.6%	\$ 496,339	4.5%
Labor - Management Benefits	\$ 97,925	0.9%	\$ 102,038	0.9%
Labor - Full Time Staff Wages	\$ 1,714,317	16.3%	\$ 1,774,318	16.2%
Labor - Full Time Staff Benefits	\$ 224,496	2.1%	\$ 233,925	2.1%
Labor - Part Time / Temporary Wages	\$ 537,320	5.1%	\$ 556,126	5.1%
Labor - Part Time / Temporary Benefits	\$ 53,776	0.5%	\$ 56,035	0.5%
Labor - Payroll Taxes	\$ 320,090	3.0%	\$ 332,489	3.0%
Labor - Temporary Contract Agency Labor	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Operating Expenses:</b>	<b>\$ 6,656,213</b>	<b>63.3%</b>	<b>\$ 6,915,611</b>	<b>63.2%</b>

**ATTACHMENT 2**

**Other Expenses:**

Paper Supplies	\$ 357,271	3.4%	\$ 367,989	3.4%
Cleaning Supplies	\$ 61,997	0.6%	\$ 63,857	0.6%
Office Supplies (supplies, postage, printing)	\$ 45,184	0.4%	\$ 46,540	0.4%
Telephone	\$ 36,778	0.4%	\$ 37,881	0.3%
Hiring Costs & Background Checks	\$ -	0.0%	\$ -	0.0%
Parking Permits	\$ 7,000	0.1%	\$ 7,210	0.1%
Vehicle Expenses	\$ 15,067	0.1%	\$ 15,519	0.1%
Equipment Rental	\$ 31,524	0.3%	\$ 32,470	0.3%
Linens and Uniforms	\$ 100,877	1.0%	\$ 103,903	0.9%
Flowers / Decorations	\$ 10,508	0.1%	\$ 10,823	0.1%
Utilities	\$ 115,588	1.1%	\$ 119,056	1.1%
Equipment Repairs and Maintenance	\$ 65,149	0.6%	\$ 67,103	0.6%
Training / Professional Development	\$ 37,500	0.4%	\$ 38,625	0.4%
Marketing and Advertising	\$ 39,930	0.4%	\$ 41,128	0.4%
Flex Ca\$h Transaction Fees	\$ -	0.0%	\$ -	0.0%
Credit Card Fees	\$ 42,500	0.4%	\$ 43,775	0.4%
Banking and Professional Fees	\$ 18,877	0.2%	\$ 19,443	0.2%
Courier Expense	\$ -	0.0%	\$ -	0.0%
Workers' Compensation & Business Insurance	\$ 60,495	0.6%	\$ 62,967	0.6%
Business Insurance (inc in above number)	\$ 71,017	0.7%	\$ 73,148	0.7%
Brand Licensing/Franchise Fees	\$ 146,911	1.4%	\$ 153,081	1.4%
Taxes and Licenses (do not include sales tax)	\$ 54,282	0.5%	\$ 55,639	0.5%
Student Organization Event Funding Support	\$ 15,000	0.1%	\$ 15,000	0.1%
Smallwares Replacement	\$ 117,689	1.1%	\$ 121,220	1.1%
Small Equipment Replacement	\$ 50,000	0.5%	\$ 50,000	0.5%
Amortization of Major Capital Investments	\$ -	0.0%	\$ -	0.0%
Commissions to University	\$ 2,000,000	19.0%	\$ 2,100,000	19.1%
Miscellaneous	\$ 20,153	0.2%	\$ 20,630	0.2%
Other (List)	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
Sales / Use Tax	\$ 24,000	0.2%	\$ 24,720	0.2%
Meal Plan Bonus	\$ 70,000	0.7%	\$ 71,000	0.6%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Other Expenses:</b>	<b>\$ 3,615,297</b>	<b>34.41%</b>	<b>\$ 3,762,727</b>	<b>34.36%</b>

**Contractor Overhead Charged Against Account**

Gen. & Admin. Expenses (List in Detail)  
 - retail, dining, marketing, procurement division charges

	\$ 26,270	0.3%	\$ 27,373	0.3%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Contractor Fees:</b>	<b>\$ 26,270</b>	<b>0.3%</b>	<b>\$ 27,373</b>	<b>0.3%</b>

**Start Up Costs (Year One Only)**

	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Start Up Costs:</b>	<b>\$ -</b>	<b>0.0%</b>	<b>\$ -</b>	<b>0.0%</b>

<b>Total Operating Expenses:</b>	<b>\$ 10,297,780</b>	<b>98.00%</b>	<b>\$ 10,705,711</b>	<b>97.78%</b>
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<b>Operating Profit/(Loss):</b>	<b>\$ 210,198</b>	<b>2.00%</b>	<b>\$ 243,602</b>	<b>2.22%</b>
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**ATTACHMENT C**  
**FINANCIAL PRO FORMA WORKSHEET – 5-Year Term**

**UNIVERSITY OF IDAHO**  
**PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)**

<b>RESIDENT MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
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Plan 5 – 5 Meal Plan w/ \$500 Flex	\$ 1168	292	16.6 %	\$1217	292	16.6 %
Subtotal:		1763	100%	\$	1763	100 %

<b>COMMUTER MEAL PLAN ASSUMPTIONS</b>	<b>FY 2010-2011 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>	<b>FY 2011-2012 Price</b>	<b>Estimated Participants</b>	<b>Participation Assumption</b>
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Plan 2 - Freedom Rings \$440 Value	\$		%	\$		%
Plan 3 - Freedom First \$200 Value	\$ 200	100	100 %	\$ 200	100	100 %
Subtotal:	\$	100	100 %		100	100 %

UNIVERSITY OF IDAHO  
PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2012)

<b>REVENUE &amp; OPERATING ASSUMPTIONS:</b>	<b>FY 10-11</b>	<b>% of Revenue</b>	<b>FY 11-12</b>	<b>% of Revenue</b>
Number of Operating Days	347		347	
Anticipated # Customers Per Weekday	8,078		8,417	
Anticipated # Customers Per Weekend day	3,104		3234	
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Anticipated Average Sales Per Weekday	\$ 36,863		\$ 37,410	
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<b>Subtotal Operating Expenses:</b>	<b>\$ 6,656,213</b>	<b>63.3%</b>	<b>\$ 6,915,611</b>	<b>63.2%</b>

**ATTACHMENT 2**

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Telephone	\$ 36,778	0.4%	\$ 37,881	0.3%
Hiring Costs & Background Checks	\$ -	0.0%	\$ -	0.0%
Parking Permits	\$ 7,000	0.1%	\$ 7,210	0.1%
Vehicle Expenses	\$ 15,067	0.1%	\$ 15,519	0.1%
Equipment Rental	\$ 31,524	0.3%	\$ 32,470	0.3%
Linens and Uniforms	\$ 100,877	1.0%	\$ 103,903	0.9%
Flowers / Decorations	\$ 10,508	0.1%	\$ 10,823	0.1%
Utilities	\$ 115,588	1.1%	\$ 119,056	1.1%
Equipment Repairs and Maintenance	\$ 65,149	0.6%	\$ 67,103	0.6%
Training / Professional Development	\$ 37,500	0.4%	\$ 38,625	0.4%
Marketing and Advertising	\$ 39,930	0.4%	\$ 41,128	0.4%
Flex Ca\$h Transaction Fees	\$ -	0.0%	\$ -	0.0%
Credit Card Fees	\$ 42,500	0.4%	\$ 43,775	0.4%
Banking and Professional Fees	\$ 18,877	0.2%	\$ 19,443	0.2%
Courier Expense	\$ -	0.0%	\$ -	0.0%
Workers' Compensation & Business Insurance	\$ 60,495	0.6%	\$ 62,967	0.6%
Business Insurance (inc in above number)	\$ 71,017	0.7%	\$ 73,148	0.7%
Brand Licensing/Franchise Fees	\$ 146,911	1.4%	\$ 153,081	1.4%
Taxes and Licenses (do not include sales tax)	\$ 46,932	0.4%	\$ 48,105	0.4%
Student Organization Event Funding Support	\$ 15,000	0.1%	\$ 15,000	0.1%
Smallwares Replacement	\$ 117,689	1.1%	\$ 121,220	1.1%
Small Equipment Replacement	\$ 50,000	0.5%	\$ 50,000	0.5%
Amortization of Major Capital Investments	\$ 500,000	4.76%	\$ 500,000	4.57%
Commissions to University	\$ 1,687,393	16.06%	\$ 1,819,793	16.62%
Miscellaneous	\$ 20,153	0.2%	\$ 20,630	0.2%
Other (List)	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
Sales / Use Tax	\$ 24,000	0.2%	\$ 24,720	0.2%
Meal Plan Bonus	\$ 70,000	0.7%	\$ 71,000	0.6%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Other Expenses:</b>	<b>\$ 3,795,340</b>	<b>36.12%</b>	<b>\$ 3,974,986</b>	<b>36.30%</b>



**Contractor Overhead Charged Against Account**

Gen. & Admin. Expenses (List in Detail)  
 - retail, dining, marketing, procurement division charges

	\$ 26,270	0.3%	\$ 27,373	0.3%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Contractor Fees:</b>	<b>\$ 26,270</b>	<b>0.3%</b>	<b>\$ 27,373</b>	<b>0.3%</b>

**Start Up Costs (Year One Only)**

	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
	\$ -	0.0%	\$ -	0.0%
<b>Subtotal Start Up Costs:</b>	<b>\$ -</b>	<b>0.0%</b>	<b>\$ -</b>	<b>0.0%</b>

<b>Total Operating Expenses:</b>	<b>\$ 10,477,823</b>	<b>99.71%</b>	<b>\$ 10,917,970</b>	<b>99.71%</b>
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<b>Operating Profit/(Loss):</b>	<b>\$ 30,155</b>	<b>0.29%</b>	<b>\$ 31,343</b>	<b>0.29%</b>
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Vendor Clarification: The above spreadsheet provided by the university only allows for a view of the first two years of a 5 year term. The spread of capital amortization for our accounting purposes is front loaded in the first three years which results in lower profitability in the first three years. The profitability over the combined 5 year term will meet our minimum internal return thresholds.

## RFP 09-58J DINING SERVICES ADDENDUM 5

The University of Idaho is issuing this Addendum 5 and partially re-opening the response period for RFP 09-58J Dining Services, to clarify limitations and restrictions on the term of the contract and allow responding vendors an opportunity to review, clarify or revise financial information furnished in their initial response. The deadline for submission of revised financial information pursuant to this Addendum 5 is Thursday November 12, 2009, by 5:00 p.m. pacific standard time. Time is of the essence. Due to time constraints a signed PDF revision addressed to [cjohnson@uidaho.edu](mailto:cjohnson@uidaho.edu) will be accepted. Please label the email "Confidential" in the subject line. Only sections specified herein will be open for revision based upon the furnished information, no other changes to responses will be allowed. RAVA, Work Plan and Interview scoring will be used in conjunction with any new or revised financial data in determining our apparent Best Value vendor. Once this vendor is determined we will enter into the pre-award phase as defined in the RFP.

The University is clarifying the financial structure limitations based upon the management contract safe harbor provision in the Internal Revenue Code, as supplemented by Revenue Procedure 97-13, 1997-5 I.R.B. 18. The following principles will be used to evaluate financial proposals furnished under this addendum:

(3) Two-Year Contract. This shall be a stand-alone two year term without extension. Compensation under this contract must be based on a percentage of revenues or expenses. The contract must provide to the University a discretionary cancellation right after the first year that is without cause or penalty.

(4) Five-Year Contract. This shall be a stand-alone five year term without extension. Compensation under this contract shall be at least 50% fixed fee, with the remainder a percentage of gross revenue. The contract must provide to the University a discretionary cancellation right after three years that is without cause or penalty.

Please use this addendum in responding.

### THE FOLLOWING EDITS ARE MADE TO RFP 09-58J Dining Services:

**A: Exhibit 1; Current Conditions 1.14 "base" and "extensions" deleted. This is intended to avoid confusion that there may be an extension beyond the term of the contract**

#### 1.14 UNIVERSITY PROVIDED CAPITAL EQUIPMENT

All University-owned food service equipment shall be provided for use by the Contractor. Additional capital equipment required to execute Contractor's proposed concepts and programs must be provided at Contractor expense, to be amortized over the ~~base~~ term of the contract ~~plus extensions~~. Upon full amortization of Contractor provided capital equipment, ownership shall reside with the University.

**B: Paragraph 7.3 is deleted in its entirety:**

~~**7.3 CONTRACT EXTENSION / RENEWAL**~~

~~Based on the satisfaction of the University, the University may renew the service for five (5) additional terms, or on a year by year basis. The University shall provide written notice to the Vendor of its intent to extend this contract at least 120 days prior to the end of the Initial Term. If the Vendor does not desire to extend the contract, the Vendor shall so notify the University in writing no later than ten days after the date of the University's notice of intent under this paragraph. Any renewal shall be under the same terms and conditions as the final year of the Initial Term of the Contract unless otherwise negotiated and agreed to by the parties.~~

**C: Paragraph 3.5 the word "first" is deleted**

**3.5 TWO YEAR FINANCIAL PRO FORMA (Attachment C)**

Utilizing the worksheet provided in Attachment C, provide a summary of financial Pro Forma projections of revenue and expense for the ~~first~~ two years of the contract term, assuming the current meal plan structure, with meal plan pricing escalated annually for inflation. When developing your projections, you must follow these guidelines:

- You must submit your projections using the electronic workbook provided. Provide both electronic and paper copies of projections. Direct Costs must be separately identified from Indirect Costs, and each type of Indirect Cost must be listed as a separate line item. As per the template, provide a detailed schedule of any one-time transition or start up costs identified for Year 1.
- Identify the basis for your projections as identified and required on the spreadsheet, and note any other factors that influence your projection.
- Insure that all formulas are correct.

**SECTION 4 - FINANCIAL EVALUATION 2-YEAR TERM "base" and "contract extensions" deleted**

Provide the financial information below for the two-year safe harbor option. Under this option, the Vendor will provide an annual commission based on 100% of sales. Please provide information (if any) on any capital investment and equipment replacement reserve that are included in your proposal (to be amortized over the ~~base~~ term of the contract ~~plus contract extensions~~).

No	YEAR	MINIMUM GUARANTEED ANNUAL COMMISSION (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (%)	MAJOR CAPITAL INVESTMENTS (\$)	EQUIPMENT REPLACEMENT RESERVE (\$)
1	FY 2010-11	\$ 2,000,000	19.0 %	\$ 0	\$ 50,000
2	FY 2011-12	\$ 2,100,000	19.0 %	\$ 0	\$ 50,000
<b>TOTAL:</b>		<b>\$ 4,100,000</b>		<b>\$ 0</b>	<b>\$ 100,000</b>

\* **2 Year Model: includes \$65,000 per year in Annual Funds which equals: \$50,000 in Small Equipment Replacement + \$15,000 in Student Organization Event Support.**

- \* Vendor will also offer a \$1,000,000 “University Commission Advance” in year one for completion of renovations as outlined in the Work Plan by 8-15-10.
- \* University will receive 19.0% of net sales as commission.

**SECTION 5 - FINANCIAL EVALUATION 5-YEAR TERM “base” and “contract extensions” deleted, new alternative option added**

Provide the financial information below for the five-year safe harbor option. Under this option, the Vendor will receive a compensation that is at least fifty percent (50%) fixed fee, and the remainder a percentage of gross revenue (commission). Please provide information (if any) on any capital investment and equipment replacement reserve that are included in your proposal (to be amortized over the base term of the contract plus contract extensions).

YEAR	ANNUAL FIXED FEE (\$) <b>(60% GR)</b>	MINIMUM GUARANTEED ANNUAL COMMISSION (\$)	MINIMUM GUARANTEED ANNUAL COMMISSION (%) <b>(40% GR)</b>	MAJOR CAPITAL INVESTMENTS (\$)	EQUIPMENT REPLACEMENT RESERVE (\$)
FY 2010-11	\$ 6,304,787	\$ 4,203,191	40.0 %	\$ 1,500,000 Capital Invest.	\$ 50,000
FY 2011-12	\$ 6,569,588	\$ 4,379,725	40.0 %	\$ 0	\$ 50,000
FY 2012-13	\$ 7,009,750	\$ 4,673,167	40.0 %	\$ 0	\$ 50,000
FY 2013-14	\$ 7,479,403	\$ 4,986,268	40.0 %	\$ 420,000 Annual Funds	\$ 50,000
FY 2014-15	\$7,980,523	\$ 5,320,350	40.0 %	\$ 420,000 Annual Funds	\$ 50,000
<b>TOTAL:</b>	<b>\$ 35,344,051</b>	<b>\$ 23,562,701</b>		<b>\$ 2,340,000</b>	<b>\$ 250,000</b>

- \* 5 Year Model: Based on the form and descriptions provided by the University (above), we defined the “Total Vendor Compensation” as the projected gross revenue for each year split on a 60/40 fixed vs. commission basis. The projected gross revenue equals the “Annual Fixed Fee” plus the “Minimum Guaranteed Annual Commission \$” shown above. In years 4 & 5 the Annual Funds are increased by an additional \$420,000 per year which will be paid to the University to fund additional enhancements to the dining program.
- \* The five year model also includes \$65,000 per year in Annual Funds which equals: \$50,000 in Small Equipment Replacement + \$15,000 in Student Organization Event Support.
- \* \$1,500,000 in Vendor capital is for \$1,000,000.00 in retail renovations listed in the Work Plan plus an additional \$500,000.00 for the renovation of Bob’s Resident Dining.
- \* University will receive Guaranteed Minimum Commissions against gross revenue on a graduated scale.

**ATTACHMENT 2**

Below is an Alternative Illustration of the above. It uses the same information stated in a different way that fits Bond requirements.

Alternative Illustration								
	Minimum Annual Fixed Fee Vendor Compensation	Maximum Variable Vendor Compensation	Total Maximum Vendor Compensation	Minimum University Guaranteed Commission	Client commission %		Major Capital Investments	Equipment Replacement Reserve
					Sales amount	% commissions		
FY 2010/2011	6,304,787	6,304,787	12,609,574	1,687,393			1,500,000	50,000
FY 2011/2012	6,569,588	6,569,588	13,139,176	1,819,793	0-7M	12.5%	-	50,000
FY 2012/2013	7,009,750	7,009,750	14,019,500	2,039,875	7M - 10M	22.0%	-	50,000
FY 2013/2014	7,479,403	7,479,403	14,958,806	2,274,701	10M and above	30.0%	420,000	50,000
FY 2014/2015	7,980,523	7,980,523	15,961,046	2,525,261			420,000	50,000
<b>Total contract</b>	<b>35,344,051</b>	<b>35,344,051</b>	<b>70,688,102</b>	<b>10,347,023</b>			<b>2,340,000</b>	<b>250,000</b>

**New:** In addition to the above five year proposal, you may submit alternative five year proposals that are consistent with the management contract safe harbors identified in the IRC and regulations as supplemented by Revenue Procedure 97-13, 1997-5 I.R.B. 18. Please be advised that any alternative proposals will be subject to review and approval by University bond counsel.

**Alternative Financial Proposal per University Request**

**Potential Contract Language**

**5 Year Model Language Example:** This option features a fixed and variable vendor compensation that benefits the University on a graduated basis (University commission). This language option uses a graduated University commission scale as a basis for vendor compensation. Based on our estimated sales the client commission will be \$10,347,023.00 for the 5 year term. This option also includes \$1,500,000.00 in capital as well as \$65,000 per year in Annual Funds which equals: \$50,000 in Small Equipment Replacement + \$15,000 in Student Organization Event Support. In years 4 & 5 the Annual Funds are increased by an additional \$420,000 per year which will be paid to the University to fund additional enhancements to the dining program.

*In fiscal year 2010/2011 Client will pay Sodexo 87.5% of gross revenue up to \$7,000,000.00, 78% of gross revenues from \$7,000,001.00 to \$9,999,999.00 and 70% of gross revenues over*

*\$10,000,000.00 (hereinafter referred to as "Compensation"). Six million three hundred four thousand seven hundred eighty seven dollars (\$6,304,787.00) of all Compensation received by Sodexo shall be deemed Sodexo's Fixed Compensation. Any Compensation received by Sodexo from Client in excess of the Fixed Compensation shall be deemed Variable Compensation. It is further understood that the Total Compensation (Fixed Compensation + Variable Compensation) for each year (July 1 to June 30) of the term of the Agreement received by Sodexo from Client shall not be less than \$6,304,787.00 and shall not exceed \$12,609,574.00. For these purposes, the Compensation received by Sodexo from Client shall equal the total amounts retained by Sodexo from amounts charged for services under the Agreement plus the amounts paid to Sodexo by Client. If the total Compensation received by Sodexo from Client for any year under the Agreement is less than \$6,304,787.00, Client shall pay the amount of any such shortfall to Sodexo within [30] days of the end of such year, and if the Total Compensation received by Sodexo for any year under the Agreement is more than \$12,609,574.00, Sodexo shall refund the amount of any such excess to Client within [30] days of the end of such year.*

**SECTION 6 - SIGNATURE**

**Sodexo America, LLC**

Name of Company

**Bill Lacey**

Printed Name of Firm Representative

  
Signature of Firm Representative

[bill.lacey@sodexo.com](mailto:bill.lacey@sodexo.com)

Email

757-876-0900

Phone

**11/12/09**

Date

757-220-8907

Fax

**UI 670 Attachment C**  
**Pre-Award Documents dated December 18, 2009**  
**Sodexo America, LLC's**

**Pre-Award Document #1**

UNIVERSITY OF IDAHO  
NUMBER UI-670 Attachment C

The University of Idaho (hereinafter called the "University") hereby awards to Sodexo America, LLC, a Delaware limited liability corporation (hereinafter called the "Contractor") Agreement number UI-670 to furnish Dining Services to the University, as specified in University of Idaho Request for Proposals Number 09-58J, in accordance with the terms and conditions of the Request for Proposals.

ARTICLE I  
**PURPOSE OF THIS AGREEMENT**

1.1 PURPOSE OF AGREEMENT.

This Agreement sets forth the terms and conditions upon which University retains Contractor to manage and operate Food Service for University's students, faculty, staff, employees, visitors and invited guests. This Agreement is supplemented by the following Attachments A – D;

- a) University of Idaho Request for Proposals Number 09-58J
- b) Sodexo America, LLC's response dated August 17, 2009
- c) Sodexo America, LLC Pre-Award document dated December 18, 2009
- d) University of Idaho General Terms

which have been agreed to by the parties and by this reference are made a part hereof as though fully set forth herein. To the extent such terms, conditions, or provisions may be in conflict or be inconsistent, their order of authority shall be as follows:

- 1) University of Idaho Agreement Number UI-670;
- 2) University of Idaho Request for Proposals Number 09-58J;
- 3) Sodexo America, LLC 's response dated August 17, 2009;
- 4) Sodexo America, LLC's Pre-Award document dated December 18, 2009,
- 5) University of Idaho General Terms and Conditions.

1.2 AGENCY RELATIONSHIP

Contractor shall act as agent for University in the management of the Food Service operation.

Contractor shall purchase food and supplies in Contractor's name and shall pay the invoices. Contractor will collect all retail, concessions and catering revenue on behalf of the University and deposit in University accounts daily. As principal, University may supervise Contractor's daily operation of the Food Service operations, including working conditions for Food Service employees and safety, sanitation and maintenance of the Premises.

### 1.3 PREVIOUS AGREEMENTS

University and Contractor previously entered into an agreement dated January 1, 2006, and subsequent amendments (collectively, the "Previous Agreement"), concerning the scope of services to be provided by Contractor as set forth in Section 1.1 herein. This Agreement supersedes the Previous Agreement and any and all other previous agreements relating to the subject matter as specified in Section 1.1 herein.

## ARTICLE II DEFINITIONS

- 2.1 Accounting Period. Contractor's accounting calendar ordinarily contains one five week (35 days each) and two four week (28 days each) Accounting Periods in each quarter of a year. Contractor will provide a copy of the accounting calendar to the University upon written request.
- 2.2 Food Service. The preparation, service and sale of food, beverages, goods, merchandise and other items at the Premises. Food Service shall include operation of the Resident Dining Program, Retail Sales, Concessions and Catering.
- 2.3 Gross Sales. All sales of food, beverages, (including all resident dining, retail, concessions and catering amounts collected by the University) goods, merchandise and services in the Food Service operation.
- 2.4 Meal Equivalent. A designated meal at retail outlets on the Premises which may be used in lieu of a dining hall meal. Contractor shall determine the meal equivalent menu and set a dollar value for each retail location on campus. Meal Equivalents shall exclude Denny's and Einstein Bros Bagels.
- 2.5 Premises. University's Food Service facilities located in Moscow, Idaho.
- 2.6 Small Wares. Dishware, glassware, flatware, utensils and similar items.



ARTICLE III

TERM AND EXCLUSIVITY

3.1 TERM AND TERMINATION

A. The term of the Agreement is five (5) years (“Initial Term”), commencing on July 1, 2010 and continuing through June 30, 2015.

B. If either party breaches a material provision hereof (“Cause”), the non-breaching party shall give the other party notice of such Cause. If the Cause is remedied within ten (10) days in the case of failure to make payment when due or sixty (60) days in the case of any other Cause, the notice shall be null and void. If such Cause is not remedied within the specific period, the party giving notice shall have the right to terminate this Agreement upon expiration of such remedy period. The rights of termination referred to in this Agreement are not intended to be exclusive and are in addition to any other rights or remedies available to either party at law or in equity.

C. Either party may terminate this Agreement at any time upon sixty (60) days' prior written notice to the other party.

3.2 CONTINUATION OF SERVICE DURING DISPUTES

The Contractor agrees that, notwithstanding the existence of any dispute between the parties, insofar as possible under the terms of the Agreement to be entered into, each party will continue to perform the obligations required of it during the continuation of any such dispute, unless enjoined or prohibited by any court.

3.3 EXCLUSIVITY

This Agreement shall not be interpreted as providing exclusive rights to the Contractor for all Food Service and all location on the Moscow campus. The University reserves the right to assign space and operations in its best interests. University grants Contractor and its affiliates the right to bid on the procurement of furnishings, fixtures and equipment and on the provision of design services related to the Premises on terms to be agreed upon prior to bid and purchasing.

ARTICLE IV  
EMPLOYEES

4.1 CONTRACTOR MANAGEMENT EMPLOYEES

Contractor shall provide management employees to supervise all Food Service employees.

**4.2 CONTRACTOR NONMANAGEMENT EMPLOYEES**

All non-management Food Service employees shall be Contractor employees. Contractor shall consider University's employee policies and practices when establishing policies and practices for Contractor employees.

**4.3 PERSONNEL OBLIGATIONS**

Each party hereto shall be solely responsible for all personnel actions regarding employees on its respective payroll. Each party shall withhold all applicable federal, state and local employment taxes and payroll insurance with respect to its employees, insurance premiums, contributions to benefit and deferred compensation plans, licensing fees and workers' compensation costs and shall file all required documents and forms.

**4.4 NON-SOLICITATION BY UNIVERSITY**

University agrees that during the term of this Agreement, including any extension of the term, and for a period of twelve (12) months, after its termination, irrespective of the reason for its termination ("Restricted Period"), University shall not directly or indirectly solicit any employee of Sodexo or encourage any such person to terminate its relationship with Sodexo, without the prior written agreement from Sodexo to allow such contact. University acknowledges that its breach of this section shall entitle Sodexo to injunctive relief.

**4.5 EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION EMPLOYER**

Neither party shall discriminate because of race, color, religion, sex, age, national origin, disability, sexual orientation, genetic information, or status as a Vietnam veteran, or any other basis protected by applicable law, in the recruitment, selection, training, utilization, promotion, termination, or other employment related activities concerning Food Service employees. Each party affirms that it is an equal opportunity employer. The staffing, promotion, placement or assignment of managers who work on this account must be done without any preference or limitation based on race, color, religion, sex, age, national origin, disability, sexual orientation, genetic information, Vietnam Veteran status, or any other basis protected by applicable law. This obligation applies to the recruitment, selection, training, utilization, promotion, termination or other employment-related activities concerning Contractor's employees. Under no circumstances will Contractor permit a request or suggestion by a client to place a particular manager in an account to override its non-discrimination policy.

In addition, Contractor affirms that it is an equal opportunity and affirmative action employer, is legally responsible for all of its employment decisions affecting its own employees, which include thousands of extremely talented and diverse managers, and shall comply with all applicable federal, state and local laws and regulations, including, but not limited to, Executive Order 11246; Rehabilitation Act of 1973; Vietnam Era Veterans Readjustment Assistance Act of 1974; Civil Rights Act of 1964; Equal Pay Act of 1963; Age Discrimination in Employment Act

of 1967; Immigration Reform and Control Act of 1986; Public Law 95-507; the Americans With Disabilities Act; and any additions or amendments thereto.

**ARTICLE V**  
**INVENTORIES, PREMISES, EQUIPMENT AND MAINTENANCE**

**5.1 PREMISES AND EQUIPMENT**

University shall furnish at its expense, Premises and equipment including but not limited to kitchen equipment, suitably furnished office space and fire extinguishing equipment. Contractor shall take reasonable and proper care of the facilities and return them to University at termination of the Agreement.

Contractor and University will jointly inventory University's Food Service equipment prior to the commencement of this Agreement. University and Contractor shall sign a written inventory list of such equipment which shall be attached as Exhibit A. Upon termination of this Agreement, Contractor shall surrender such inventory of equipment to University.

In addition, the University and Contractor will jointly assess and develop a University capital equipment addition / replacement schedule prior to the commencement of this Agreement. Such schedule will be reviewed and re-assessed each subsequent year of the Agreement.

**5.2 CONDITION OF PREMISES AND EQUIPMENT**

The Premises and equipment provided by University for use in the Food Service operation shall be in good condition and maintained by University to ensure compliance with applicable laws concerning building conditions, sanitation, safety and health (including, without limitation, OSHA regulations). University agrees to indemnify Contractor against any liability or assessment, including related interest and penalties, arising from University's breach of the aforementioned obligations, and University shall pay reasonable collection expenses, attorneys' fees and court costs incurred in connection with the enforcement of such indemnity. University further agrees that any modifications or alterations to the workplace or the Premises (whether structural or non-structural) necessary to comply with any statute or governmental regulation shall be the responsibility of University and shall be at the University's expense. Contractor agrees to conform to all university building codes, construction standards, and requirements for any construction, renovation, or improvements to the extent Contractor is responsible to do so. This provision shall survive the termination of this Agreement.

**5.3 FACILITY, SANITATION AND JANITORIAL SERVICE**

The responsibilities of the parties with respect to the operational condition of the facility and customary cleaning and sanitation of the Premises shall be as follows:

A. Contractor's Responsibilities. Contractor shall be responsible for including but not limited to housekeeping, painting, plumbing clogs, light bulbs, carpet cleaning, tools, signage, pest control and sanitation in food preparation, storage and serving areas. Contractor shall clean floors, tops of tables and chairs in the dining area, and transport refuse to designated refuse collection areas.

B. University's Responsibilities. University shall be responsible for all utility infrastructure maintenance including but not limited to plumbing and fixtures, electrical and fixtures, HVAC, Elevators, telephone, gas, television signal, windows, walls, ceilings, ceiling fixtures, drapes, fixtures, air ducts and hood vent systems (per local ordinance). University shall provide and maintain adequate fire extinguishing equipment for the Premises and shall be responsible for removal of refuse from refuse collection areas. University shall be responsible for any costs involved in setting up and cleaning the Premises for functions not managed by Contractor.

#### 5.4 MAINTENANCE

University owned capital equipment, infrastructure utilities and building spaces occupied by the Contractor will be fully operational or repaired / replaced by the University. All major parts, repairs or replacement costs will be the responsibility of the University.

Contractor will provide equipment preventative and on-going routine maintenance of University owned capital equipment support in the amount up to Five Thousand Dollars (\$5,000) per repair occurrence. University shall be responsible for all, per occurrence repair amounts in excess of \$5,000. In the event the Agreement expires or is terminated for any reason prior to the completion of any contract year, Contractor shall have no further obligation to provide support under this Section.

#### 5.5 INVENTORIES OF FOOD, BEVERAGES AND SUPPLIES.

Contractor shall purchase and own all food, beverage and supply inventories for use in the Food Service.

All foods must be properly stored at proper temperatures. Contractor shall develop a Food Safety Plan that outlines the contractor's procedures for monitoring, testing, and recording food products.

#### 5.6 INVENTORY OF CHINA AND SMALLWARES

University and Contractor jointly have inventoried all china, if any, and Smallwares owned by University and have agreed as to required inventory levels. Such initial inventory is attached as Exhibit B. Any inventories below agreed upon levels shall be brought up to such levels at Contractor's expense. If at any time Contractor is to provide additional Services not provided for

herein, University shall be responsible to increase, at its own expense, the inventories required for the additional service(s). Contractor shall maintain the required inventory levels of china, dishes, glassware and flatware; and Contractor shall maintain the agreed-upon operating levels of kitchen utensils and kitchen Smallwares.

**5.7 VEHICLE**

Contractor shall provide vehicles for use in the Food Service operation. Contractor shall be responsible for the vehicle's gas, oil, maintenance, repair, and automobile liability insurance.

**5.8 TELEPHONE EXPENSES**

University shall be responsible for telephone installation costs and broadband internet access. Contractor shall pay its local and long distance telephone billings.

**5.9 MEAL PROGRAM IDENTIFICATION SYSTEM**

University shall be responsible for all costs related to the electronic meal program identification system, including hardware, software, and on-going supplies.

**5.10 EQUIPMENT FAILURE**

If the failure of electrical, plumbing, equipment or infrastructure that is the responsibility of the University causes loss of food products, supplies or materially impedes Contractor's ability to perform under this Agreement then the University shall reimburse Contractor for such loss based on invoice cost of the products and all applicable labor. Contractor shall make every effort to mitigate and minimize the effects of any such failure or change to the Food Service operation during times of such failure. If University's dishmachine equipment becomes inoperative for reason other than Contractor's negligence, University shall reimburse Contractor for the cost of disposable items used in lieu of reusable items until the dishmachine equipment becomes operative.

**5.11 UTILITIES**

University shall be responsible for the cost of utilities consumed in the Food Service operation.

**ARTICLE VI**

**RESIDENT DINING PROGRAM**

**6.1 SERVICE AND LOCATIONS**

Contractor shall provide Food Service for University's resident dining patrons at the Premises and at such other locations as University and Contractor shall agree. Contractor reserves the right to sub-contract some services or venues as deemed appropriate by Contractor.

Contractor may adjust the days and hours of operation and menu offerings as Contractor deems necessary to effectively maintain Contractor’s financial obligations to the University and to Contractor.

Contractor may open and close food service venues or locations as needed and as determined by Contractor in order to effectively maintain Contractor’s financial obligations to the University and Contractor.

**6.2 MEAL PLANS**

The following meal plans selected by University shall be available to resident dining patrons as follows:

Meal Plan 1 7 days unlimited number of meals per week (of which 5 meals may be used as meal equivalent per week) and \$100 Flex Dollars per semester

Meal Plan 2 7 days, any 19 meals per week (of which 4 meals may be used as meal equivalent per week) and \$100 Flex Dollars per semester

Meal Plan 3 7 days, any 14 meals per week (of which 3 meals may be used as meal equivalent per week) and \$300 Flex Dollars per semester

Meal Plan 4 7 days, any 10 meals per week (of which 2 meals may be used as meal equivalent per week) with \$500 Flex Dollars per semester

Meal Plan 5 7 days, any 5 meals per week (of which 1 meal may be used as meal equivalent per week) with \$500 Flex Dollars per semester

Commuter Meal Plans

Plan 1 – Freedom Forward	\$690 in Flex Dollars per semester
Plan 2 – Freedom Rings	\$440 in Flex Dollars per semester
Plan 3 - Freedom First	\$200 in Flex Dollars per semester

Unused Flex Dollar funds at the end of the fall semester shall roll over into the spring semester. Any unused Flex Dollar funds at the end of the spring semester each academic year shall be forfeited and shall be for the Contractor’s account.

**6.3 RESIDENT DINING RATES**

The following resident dining rates for each semester shall be in effect for the 2010 – 2011 and 2011 – 2012 academic years:

	<u>2010 – 2011</u>
Meal Plan 1	\$1,728.00
Meal Plan 2	\$1,533.00

Meal Plan 3	\$1,533.00
Meal Plan 4	\$1,533.00
Meal Plan 5	\$1,168.00

(Prices for all meal plans excludes applicable taxes, if any.)

Rates for the above Meal Plan(s) are for each resident dining patron for each semester with a maximum of two hundred twenty five (225) days per academic year. Commencing with 2011 – 2012 and each year thereafter, the above meal plan rates shall be re-stated based on the provisions of Section 9.2.

Commencing with the fall 2010 semester the University will require mandatory freshman board plans with an expected increase of board plan participants of 150 students per semester. Contractor expects the average number of meal plan participants to be 1763 per semester.

#### 6.4 GUEST MEALS IN RESIDENT DINING FACILITIES

For guests, prices for meals served in resident dining facilities shall be as follows:

Breakfast	\$7.50
Lunch	\$8.50
Dinner	\$9.50

The above prices include all applicable taxes, if any.

Commencing with 2011 – 2012 and each year thereafter, the Contractor will re-state pricing based on the provisions of Section 9.2.

#### 6.5 UNSCHEDULED SERVICE CHARGES

For service not included in the resident dining rate such as service on Freshman Days, between semesters, commencement and the summer session, Contractor shall provide Food Service at mutually agreed upon times and charges.

#### 6.6 PRESEASON MEALS

Preseason meals for athletic teams shall be charged to University on a mutually agreed upon price and service schedule.

#### 6.7 RESIDENT DINING SECONDS POLICY

Unlimited servings of all food and beverage items and special event menus, shall be available to resident dining patrons of Bob's in the Wallace Building under the following conditions:

- A. All food obtained by resident dining patrons from the serving line must be consumed within the Wallace Building dining area.
- B. Seconds Policy does not apply to Meal Equivalent options taken at other locations on campus.

**6.8 MENUS AND PRICES**

Contractor shall determine prices to be charged for food and beverages, and shall prepare menus and establish quantities and portions to be served. Contractor will have the ability to update or change pricing as Contractor deems necessary and competitive with the market.

**6.9 SPECIAL DIETS**

Contractor shall supply any medically required special diets for resident dining patrons when prescribed and approved in writing by a medical doctor and University. If the cost of a special diet exceeds normal meal cost, the patron shall pay the difference in cost.

**ARTICLE VII**  
**RETAIL SALES PROGRAM**

**7.1 LOCATIONS**

Contractor shall provide retail products at the Premises and at such other locations as University and Contractor shall agree.

**7.2 BRANDED CONCEPTS**

Contractor shall operate the Branded Concepts at University's Premises under the conditions set forth below. 'Branded Concepts' are defined as food and beverage systems operated by Contractor through national and regional third party license agreements or franchise agreements or through Contractor's own in-house trademarked brands.

- A. Contractor shall control all aspects of the Branded Concepts operations, including menus, recipes, pricing, staffing and hours of operation.
- B. Representatives of the licensor of the Branded Concepts shall be allowed access to the Premises during reasonable business hours for quality assurance inspections of the Branded Concepts.
- C. Contractor shall notify University twenty (20) days in advance of any termination or expiration of a license or franchise agreement related to a Branded Concept. Contractor and University shall mutually determine what operation, if any, will replace such Branded Concept. In any event, the Branded Concepts operation shall



terminate upon termination or expiration of the Agreement.

D. Upon termination or expiration of the Agreement, Contractor shall remove related equipment in accordance with the terms of the applicable license agreements.

E. At commencement of the Agreement, Contractor is to operate or cause to be operated the following Branded Concepts:

1. Einstein Bros Bagels
2. Denny's All Nighter
3. J Street

### 7.3 RETAIL AND CONCESSION PRODUCT PRICES

Menu offerings and prices charged for retail and/or concession products shall be determined by the Contractor and will be competitive on an aggregate basis, with prices at which such goods can be purchased in the competitive market.

### 7.4 CATERED FUNCTIONS

Prices for catered functions, including but not limited to University or third party functions, shall be established by the Contractor. Contractor shall be permitted to solicit and provide competitive catering services to other non-university community groups or businesses in the greater Moscow / Pullman area. Contractor shall be responsible for collection of amounts due for catered functions. Contractor will set billing and payment terms for catered events. Contractor shall prepare and submit invoices either to individuals or groups served by Contractor at catered functions. Accounts receivable from catering invoices will be deposited in the University account..

## ARTICLE VIII FINANCIAL ARRANGEMENTS

### 8.1 BILLING

A. University will pay Contractor an annual fixed fee and an additional annual variable fee as set forth in the table below. Payment of the fees will be made by University to Contractor based on a percentage of gross sales in accordance with the fee payment schedule set forth in table below. Payments will first be applied to the annual fixed fee until the fixed fee is paid in full, and then to the additional annual variable fee. Contractor will invoice the University on the Friday of every other calendar week calculated from the Gross Sales of the immediately preceding two calendar weeks (14 days).

In the event total annual payments by University to Contractor under the fee payment schedule are less than the total fixed fee for any fiscal year, University will pay the balance of the fixed fee to Contractor within 30 days of the close of such fiscal year.

The amount of the variable fee paid by University to Contractor will be dependent upon the total Gross Sales during the fiscal year. In no event will the additional variable fee paid by University to Contractor for any fiscal year exceed an amount equal to the annual fixed fee for the same fiscal year.

**Vendor Fixed Fee and Maximum Variable Fee**

<b>Fiscal Year</b>	<b>Vendor Fixed Fee</b>	<b>Vendor Max Variable Fee</b>	<b>Vendor Max Total Comp</b>
FY2011	6,304,787	6,304,787	12,609,574
FY2012	6,569,588	6,569,588	13,139,176
FY2013	7,009,750	7,009,750	14,019,500
FY2014	7,479,403	7,479,403	14,958,806
FY2015	7,980,523	7,980,523	15,961,046
	35,344,051	35,344,051	70,688,102

**Fee Payment Schedule**

	Gross Sales	Tier	Vendor Comp %	Vendor Payment	
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	
<b>FY2011</b>	7,700,000.01	9,100,000.00	1,399,999.99	73.00%	1,021,999.99
	9,100,000.01	14,296,574.02	5,196,574.01	100.00%	5,196,574.01
	14,296,574.03		0.00%	-	
				12,609,574.00	

	Gross Sales	Tier	Vendor Comp %	Vendor Payment	
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	
<b>FY2012</b>	7,700,000.01	9,300,000.00	1,599,999.99	73.00%	1,167,999.99
	9,300,000.01	15,161,529.43	5,861,529.42	95.20%	5,580,176.01
	15,161,529.44		0.00%	-	

**ATTACHMENT 2**

13,139,176.00

	Gross Sales	Tier	Vendor Comp %	Vendor Payment	
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	
<b>FY2013</b>	7,700,000.01	9,500,000.00	1,799,999.99	73.00%	1,313,999.99
	9,500,000.01	16,610,923.44	7,110,923.43	88.80%	6,314,500.01
	16,610,923.45		0.00%	-	
				14,019,500.00	

	Gross Sales	Tier	Vendor Comp %	Vendor Payment	
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	
<b>FY2014</b>	7,700,000.01	9,700,000.00	1,999,999.99	73.00%	1,459,999.99
	9,700,000.01	18,101,661.96	8,401,661.95	84.60%	7,107,806.01
	18,101,661.97		0.00%	-	
				14,958,806.00	

	Gross Sales	Tier	Vendor Comp %	Vendor Payment	
	- 7,700,000.00	7,700,000.00	83.00%	6,391,000.00	
<b>FY2015</b>	7,700,000.01	9,900,000.00	2,199,999.99	73.00%	1,605,999.99
	9,900,000.01	19,647,914.34	9,747,914.33	81.70%	7,964,046.01
	19,647,914.35		0.00%	-	

15,961,046.00

**B.** On Friday of every other calendar week, Contractor will prepare and submit an invoice to the University for the Contractors “Fee” (per UI-670 Pre-Award Document 1; Section 8.1) calculated from the gross sales of the immediately preceding two calendar weeks (14 days). Contractor shall submit all other billings to University as incurred. All Payments owed by the University to the Contractor shall be due within fifteen (15) days after the invoice date. University shall pay interest on any amount not paid when due at the lesser of one and one-half percent (1.5%) each Accounting Period or the highest contractual interest rate allowed by applicable state law. University shall reimburse Contractor for all costs and expenses, including but not limited to, court costs, attorney’s fees and collection service fees, incurred by Contractor in collecting from University any amount not paid when due.

**8.2 RIGHT OF OFFSET OR PRE-BILL**

At any time when University is over thirty (30) days past due on any obligations to Contractor, Contractor shall have the right to offset from any other sums owed by Contractor to University, all or any portion of such outstanding receivables.

Additionally, Contractor shall have the right, at any time when University is over thirty (30) days past due on any obligations to Contractor, at Contractor's option, to require that University pay on a pre-billing basis at least one (1) week in advance of each Accounting Period for the estimated amount due Contractor for that Accounting Period. The estimated amount would be adjusted and reconciled to the actual amount in the next pre-billing invoice or, if University is no longer past due on its obligations to Contractor, with the next invoice due under Section 8.1 above.

**8.3 ANNUAL FUNDS**

A. Contractor shall provide to University Fifty Thousand Dollars (\$50,000) per year, each year of the Agreement for small equipment replacement for dining services (“Equipment Replacement Fund”). Contractor shall make available to University the fund on July 1, 2010 and each July 1<sup>st</sup> thereafter during the term of this Agreement. Contractor shall accrue \$50,000 over twelve (12) Accounting Periods from July 1, 2010 – June 30th 2011 and each July 1 – June 30 thereafter. The \$50,000 in the fund must be used for the designated year in which the amount is accrued. Contractor will be responsible for the expenditure of funds and will provide University a statement of expenditures as part of the Weekly Risk Report. In the event the Agreement is terminated prior to the end of any contract year, any unused funds shall be retained by Contractor and Contractor shall have no further obligation to University under this Section.

B. Contractor will provide Fifteen Thousand Dollars (\$15,000) in funds or services in-kind per year each year of the Agreement to be used for Student Organization event support (“Student Organization Fund”). Contractor shall make available to University the fund on July 1,

2010 and each July 1<sup>st</sup> thereafter during the term of this Agreement. Contractor shall accrue \$15,000 over twelve (12) Accounting Periods from July 1, 2010 – June 30th 2011 and each July 1 – June 30 thereafter. The \$15,000 in the fund must be used for the designated year in which the amount is accrued. Contractor will be responsible for the expenditure of funds and will provide University a statement of expenditures as part of the Weekly Risk Report. In the event the Agreement is terminated prior to the end of any contract year, any unused funds shall be retained by Contractor and Contractor shall have no further obligation to University under this Section.

C. In year 4 (2013 – 2014) of the Agreement Contractor shall provide to University an amount of Four Hundred Twenty Thousand Dollars (\$420,000) for equipment and projects for the dining services (“Year 4 Fund”). Contractor shall make available to University the fund on July 1, 2013. Contractor shall accrue \$420,000 over twelve (12) Accounting Periods from July 1, 2013 – June 30th 2014. The \$420,000 in the fund must be used for the designated year in which the amount is accrued. Contractor will be responsible for the expenditure of funds and will provide University a statement of expenditures as part of the Weekly Risk Report. In the event the Agreement is terminated prior to the end of any contract year, any unused funds shall be retained by Contractor and Contractor shall have no further obligation to University under this Section..

D. In year 5 (2014 – 2015) of the Agreement Contractor shall provide to University an amount of Four Hundred Twenty Thousand Dollars (\$420,000) for equipment and projects for the dining services (“Year 5 Fund”). Contractor shall make available to University the fund on July 1, 2014. Contractor shall accrue \$420,000 over twelve (12) Accounting Periods from July 1, 2014 – June 30th 2015. The \$420,000 in the fund must be used for the designated year in which the amount is accrued. Contractor will be responsible for the expenditure of funds and will provide University a statement of expenditures as part of the Weekly Risk Report. In the event the Agreement is terminated prior to the end of any contract year, any unused funds shall be retained by Contractor and Contractor shall have no further obligation to University under this Section..

#### 8.4 AUDITS

The University reserves the right to inspect and audit all records relating to the University’s Food Service Program. The contractor shall provide all requested documentation upon receipt of prior, written notice.

#### 8.5 INVESTMENT

In 2010 -2011 Contractor shall invest a total of One Million Five Hundred Thousand Dollars (\$1,500,000) for improvements to the Food Service operation ("Investment") Contractor shall amortize the Investment on a straight-line basis over thirty six (36) months, commencing on the first day of this Agreement . University shall own the Investment excluding proprietary equipment and signage utilized in the Branded Concepts operation.

If prior to the complete amortization of the Investment any of the following events occur:

- (i) the Agreement is terminated by either party before June 30, 2013;
- (ii) the Agreement is amended and such modification has an adverse economic impact on Contractor; or
- (iii) Contractor's procurement programs are no longer utilized for the purchase of goods in connection with the Services provided under this Agreement;

then University shall reimburse Contractor, on the expiration date, or within five (5) days after receipt by either party of any notice of termination under this Agreement or within ten (10) days after the occurrence of (ii) or (iii) above, the unamortized portion and will de-identify and, if applicable, remove any proprietary elements of such equipment as directed by Contractor.

**ARTICLE IX**  
**FINANCIAL ADJUSTMENTS**

**9.1 CHANGES IN POLICIES AND PRACTICES**

Contractor assumes that all information provided by the university as part of the bid process is accurate and there are no material errors or omissions. The financial terms set forth in this Agreement and other obligations assumed by Contractor hereunder are based on conditions in existence on the date Contractor commences operations, including by way of example, University's student population; labor, food and supply costs; and federal, state and local sales, use and excise tax. In addition, Contractor has relied on representations regarding existing and future conditions made by University in connection with the negotiation and execution of this Agreement. In the event of a change in the conditions or the inaccuracy or breach of, or the failure to fulfill, any representation by University, the financial terms and other obligations assumed by Contractor shall be renegotiated on a mutually agreeable basis to reflect such change, inaccuracy or breach.

**9.2 PRICE/INFLATION ADJUSTMENTS**

There shall be an annual increase adjustment to financial terms by an amount of up to six and seven tenths percent (6.7%) or increases in the U.S. Department of Labor Consumer Price Index for Finished Consumer Foods Food Away from Home ("CPI-FAFH") whichever amount is greater.

In the event that costs or market increases exceed Contractor's estimated increases Contractor may further increase pricing to a level that matches market conditions or inflation.

**ARTICLE X**  
**GENERAL TERMS AND CONDITIONS**

**10.1 TAXES**

A. Contractor and University shall each bill and collect sales taxes, if applicable, on all meals and services for which each respectively collects revenue from customers. Contractor shall bill and collect sales and use taxes, if applicable, on purchases billed to University.

B. If additional sales or use or any other types of taxes are assessed against the Food Service operation, University shall reimburse Contractor for such assessment and any interest and penalties, and for attorneys' fees or other costs incurred by Contractor related to such assessment upon receipt of an invoice from Contractor therefore; except that University shall not be responsible for any assessment attributable to Contractor's negligent failure to timely submit any known tax filing or report. Contractor shall be responsible for its city, state or federal income taxes including any tax burdens or benefits arising from its operations hereunder. This provision shall survive termination of the Agreement.

**10.2 COMPLIANCE WITH LAW**

Contractor shall comply with the laws, ordinances, rules and regulations of all applicable federal, state, county and city governments, bureaus and departments concerning the sanitation, safety and health of Dining Service operation, and shall procure and maintain all necessary licenses and permits. The University shall cooperate as necessary for contractor's compliance and procurement efforts.

**10.3 INSURANCE**

University shall maintain, or cause to be maintained, a system of coverage (either through purchased insurance, self insurance, or a combination thereof) to keep the buildings, including the Premises, and all property contained therein insured against loss or damage by fire, explosion or other cause normally covered by standard broad form property insurance.

**10.4 TRADE SECRETS AND PROPRIETARY INFORMATION**

Any Contractor trade secrets will be clearly identified and marked when delivered to the University and will comply with the Idaho Public Records Law.

**10.5 ATTORNEYS' FEES**

In the event that any action or proceeding is brought to enforce any term, covenant or condition of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, court costs and related expenses.

**10.6 CONSTRUCTION AND EFFECT**

A waiver of any failure to perform under this Agreement shall neither be construed as nor constitute a waiver of any subsequent failure. The article and section headings used herein are used solely for convenience and shall not be deemed to limit the subject of the articles and sections or be considered in their interpretation. Any exhibits referred to herein are made a part of this Agreement by reference, provided that in the event of a conflict between the terms of such exhibit or any other document incorporated herein, and the terms of this Agreement, the terms of the Agreement shall govern.

#### **10.7 AMENDMENTS TO AGREEMENT**

All provisions of this Agreement hereto shall remain in effect throughout the term thereof unless the parties agree, in a written document signed by both parties, to amend, add or delete any provision. This Agreement contains all agreements of the parties with respect to matters covered herein, superseding any prior agreements and may not be changed other than by an agreement in writing signed by the parties hereto. Email correspondence shall not qualify as a written document signed by an authorized signatory.

#### **10.8 REGULATIONS AND ACCESS**

University shall provide Contractor with reasonable access to, and use of, the Premises to permit Contractor to perform its obligations under this Agreement, it being understood by the parties that University does not grant to Contractor the exclusive use of the Premises. University may make reasonable regulations for the use and occupancy of the Premises and shall give Contractor written notice thereof. University shall have the right upon prior written notice to Contractor, reasonable under the circumstances, to relocate all or a portion of the Premises or to withdraw a portion of the Premises. University grants Contractor approval to use its promotional, informational or marketing activities or materials including the names, trademarks, logos and symbols of Contractor at the Premises.

### **Pre-Award Document 1**

#### **Exhibit A**

##### **5.1 University Food Service Equipment Inventory**



**Pre-Award Document 1**  
**Exhibit B**

**5.6 University China and Small Wares Inventory**

## **UI 670 Attachment C**

### **Pre-Award Document #2**

#### **University of Idaho Sodexo Pre-Award Proposal Assumptions December 18, 2009**

Sodexo understands that any University RFP stated requirements and all documents submitted by Sodexo to the University as part of the bid process are the baseline expectations and we have agreed to meet or exceed those requirements. The below is for added clarity around the assumptions behind our proposal and most of the assumptions below are included in the agreement UI-670 - Attachment C – PA Document 1.

#### **Financial / Satisfaction Assumptions**

- 1) Sodexo assumes that all information provided by the university as part of the bid process is accurate and there are no material errors or omissions.
- 2) Sodexo has submitted a financial proposal (Addendum 5 / Section 5 and a detailed pro-forma in Attachment C) that represents the Best and Expected case scenario combined. We strongly believe that while it is aggressive, it is also reasonable and achievable. Any worst case scenario is addressed in the Risk Mitigation document and the Uncontrolled Risk document.
- 3) UI will have mandatory freshman board plans starting in the fall 2010 with an expected increase of board plan participants of 150 students per semester. This is included in our proposal as the “number of estimated participants”.
- 4) We have proposed and expect the average number of meal plan participants to be 1763 per semester.
- 5) The proposed board meal plans will increase in price each year by an amount of up to 6.7% or CPI [U.S. Department of Labor Consumer Price Index for Finished Consumer Foods Food Away from Home ("CPI-FAFH")] whichever is greater.
- 6) Sodexo has included in our 5 year pro-forma estimated increases for inflation on food, direct and labor cost increases as well as pricing increases. In the event that costs or market increases exceed our estimated increases then we will further increase pricing to a level that matches market conditions or inflation.
- 7) Sodexo will use only Sodexo approved vendors, suppliers, product specifications, recipes, systems, etc. unless otherwise mutually agreed to in writing by both parties. The proposal program quality and financial terms submitted by Contractor is predicated on the use of Contractor approved suppliers.
- 8) University will pay Sodexo on a graduated scale as outlined in Agreement UI 670 Attachment C – Document 1 - Section 8.1.

- 9) At the end of each Accounting Period, University will submit to Sodexo a detailed summary of all Gross Sales collected by the University.
- 10) University will be responsible for all costs such as rent, utilities, G&A fees, Vandal Card charges, and University capital reinvestment as stated in the RFP 09-58J Attachment 2 Section 1.2 – “Annual Financial Contributions to UI”.
- 11) Vendor assumes that University will continue to re-invest some capital improvements to dining services from the “commission” or “monetary contributions” retained by the University from this agreement and will continue do so through out the term of this agreement.
- 12) Sodexo will include mutual termination language with amortization buyback in the first 36 months of the agreement. After 3 years termination may be given by the University without cause and without any penalties, fees or other consideration. This will meet Safe Harbor requirements.
- 13) All capital and Annual Funds investments made during the full term of this agreement (Total \$2,340,000) will be spent on dining services improvements as determined by Sodexo. We will collaborate with the University as normal.
- 14) Sodexo will invest \$1,500,000.00 in the first year for retail (1MM) and resident dining (500K) improvements. The retail investment is detailed in our Work Plan. The resident dining renovation planning will be completed by March 1, 2010 and will include improvements to the point of service venues and dining room atmosphere.
- 15) Sodexo will invest an additional \$420,000.00 in Annual Funds per year in years 4 & 5 of the agreement. These Annual Funds will be used for capital equipment and/or renovation enhancements to dining services.
- 16) University owned capital equipment, infrastructure utilities/systems/fixtures (electrical, plumbing, water, gas, sewer, HVAC, elevators, communications, etc.) and building spaces occupied by the Contractor will be fully operational or repaired / replaced by the University. All major parts, repairs or replacement costs will be the responsibility of the University.
- 17) Per the RFP, the University and Sodexo will jointly assess and develop a university capital equipment addition / replacement schedule as part of the Universities annual budgeting process each spring.
- 18) Per the RFP, Sodexo will provide equipment preventative and on-going routine maintenance and repair of University owned capital equipment up to \$5,000.00 per occurrence. Contractor will fully responsible for maintenance and repair of all Contractor owned equipment regardless of cost.
- 19) Sodexo will expend up to \$50,000 per year in annual funds for small equipment replacement for dining services.
- 20) Sodexo will expend up to \$15,000 per year in Student Organization Event Support
- 21) Sodexo will provide the proposed Resident Dining Meal Plan structure unless mutually agreed changes are made in the future.
- 22) Board Meal Plan “meal equivalents” will be available at all campus dining venues on campus except for Denny’s and Einsteins.
- 23) Per the RFP, Sodexo will provide services equal to or better than the current level of services.

- 24) Sodexo will meet or exceed all requirements listed in RFP 09-58J Exhibit 2 Section "Scope of Work"
- 25) Sodexo will meet or exceed all sustainability objectives as proposed by Sodexo.
- 26) Sodexo will have the ability to update or change pricing as Sodexo deems necessary and competitive with the market.
- 27) Sodexo will have the ability to adjust the days / hours of operation and menu offerings as Sodexo deems necessary to effectively maintain our financial obligations to the University and to Sodexo.
- 28) Sodexo will be able to open and close food service venues as needed and as determined by Sodexo in order to effectively maintain our financial obligations to the University and Sodexo.
- 29) Staffing levels will be determined by Sodexo.
- 30) Sodexo will be able to solicit and provide competitive catering services to other non-university community groups or businesses in the greater Moscow / Pullman area.
- 31) All renovations of Retail will be complete by August 15, 2010.
- 32) Sodexo will be able to sub-contract some services or venues as deemed appropriate by Sodexo.
- 33) Sodexo will meet all sustainability initiatives as proposed by Sodexo.
- 34) We have included in our proposal the University accepted Value Add items number #3 Benchmark for Diversity and #4 Bio Fuel Development.

## UI 670 Attachment C

### Pre-Award Document #3

#### **Compilation of Vendor Identified Risks**

(Below Risks are Vendor Action Items unless otherwise noted)

1. **University mandates reduction in catering revenues due to current economic conditions.**
  - The Risk
    - *Revenue is reduced below vendor projected sales levels*
  - Plan for avoiding the risk
    - *Vendor will market catering services to non-campus community customers*
    - *Vendor will Introduce value menu items and meal specials*
  - Impact if the risk occurs
    - *Significant loss of catering revenue that risk avoidance does not cure. Impact could be in the range of \$0 to \$175,000 in lost revenue.*
  - Plan for minimizing the impact if risk occurs
    - *Vendor will reduce catering staff and labor hours*
    - *University will allow the facility to be opened up for catering to local community as scheduling permits.*
    - *Vendor may sub-contract some or all catering to a local provider*
  
2. **Supply chain disruptions or contaminated food delivery**
  - The Risk
    - *Loss of food supply*
    - *Secondary sourcing may be expensive*
    - *Food borne illness or injury*
  - Plan for avoiding the risk
    - *Vendor will maintain two weeks of food inventory on hand*
    - *Vendor will use only Vendor approved suppliers*
    - *Vendor will carry adequate General Liability Insurance*
  - Impact if the risk occur
    - *Cost impact in most cases would be negligible barring a complete shutdown on transportation routes or supply chain for more than 5 days.*
    - *Vendor product costs will increase beyond projected cost levels and pricing to customer will be impacted*
    - *Vendor may not be able to offer impacted menu item or venue*
  - Plan for minimizing the impact if risk occurs

- *Vendor will resource alternate vendors in the our supply chain*
- *Vendor will review and offer different menu mix and alter pricing as necessary.*
- *Vendor may close impacted food venues and points of sale.*
- *Vendor will activate corporate emergency response team and work with suppliers, government entities, etc. to resolve the issue.*

**3. Natural or manmade catastrophic event – (fire, tornado, etc) – results in loss of a dining facility or deduction in on-campus housing and meal plan participants**

- The Risk
  - *loss of the use of facility and Vendor lost revenues*
  - *Unsatisfied customer*
  - *Reduced University commissions*
- Plan for avoiding the risk
  - *Vendor will have a contingency plan for alternative service set-ups and disaster response.*
  - *Vendor will carry adequate insurance.*
- Impact if the risk occurs
  - *Loss of revenue ranging from \$0 to \$2,000,000.00 depending on the severity, location and duration of the catastrophe / interruption*
  - *Loss of use of affected facility*
  - *Decreased customer satisfaction*
  - *Increased costs for temporary service.*
- Plan for minimizing the impact if risk occurs
  - *Vendor will charge University for cost Impact of temporary trailers, rental equipment, etc. which can range from \$0 to \$85,000 per month depending on the location and severity of the disaster. Menu and service may be limited but Vendor will make every effort to accommodate customers with satisfaction in mind.*
  - *Vendor will use all vendor resources available to minimize disruption time and speed recovery.*
  - *Vendor will carry adequate property insurance*
  - *University will provide and pay for temporary space and allow for temporary service up to and including rental of temporary trailers.*

**4. Lack of full facility upgrades in Bob’s impact retention, voluntary meal plans, EBI rating**

- The Risk
  - *Loss of potential meal plan participation and revenue*
  - *Inability to improve EBI satisfaction rating to a 5.5 or better*
- Plan for avoiding the risk
  - *Vendor will renovate Bob’s in the summer 2010*
  - *Vendor will plan and complete renovations that address customer needs based on recent Vendor research data for UI.*
  - *Work with University to minimize or avoid camp interference*
  - *Vendor has completed a detailed project management schedule.*
- Impact if the risk occurs
  - *Unsatisfied customers*

- *Loss of participation with financial impact ranging from \$0 to \$300,000.00*
- *Inability to capture voluntary meal plans or staff participants.*
- Plan for minimizing the impact if risk occurs
  - *Vendor will prepare a plan for upgrade by March 2010*
  - *Vendor will complete 500K in renovations before August 15, 2010*
  - *Vendor will conduct extensive marketing and communications to build participation.*
  - *Meal plan pricing will be increased in the next academic year if participation falls below proposal amounts.*

**5. Equipment repair and maintenance costs increase in excess of CPI, and/or age of kitchen equipment causes unanticipated repair costs or excessive equipment downtime.**

- The Risk
  - *Reduced Vendor profitability due to increased costs*
  - *Equipment breakdown causes impact on menu and service*
  - *Decreased customer satisfaction*
- Plan for avoiding the risk
  - *Vendor will have a professional maintenance sub-contractor to assist in conducting annual review of existing University and Contractor owned equipment to identify PM, repair and replacement needs.*
  - *University will plan and budget for major repair or replacement of aging University owned equipment in excess of \$5,000.00*
  - *Vendor will provide all necessary routine repair and preventative maintenance on University and Contractor owned equipment.*
  - *Vendor will employ a full time maintenance technician.*
- Impact if the risk occurs
  - *Immediate negative impact on Vendors ability to serve customers efficiently*
  - *Potential impact on food quality*
  - *Increased cost and reduced profitability*
  - *Decreased customer satisfaction.*
- Plan for minimizing the impact if risk occurs
  - *Vendor will also identify alternative locations or methods to prepare, store or serve food*
  - *Vendor will repair problem as soon as possible to minimize down time.*
  - *Change menu or meal offering temporarily*
  - *Close venue if equipment failure is critical or a safety issue.*
  - *Implement a communication plan if customers are directly impacted.*

**6. Commodity/Agricultural price inflation above CPI.**

- The Risk
  - *Food cost increase to Vendor*
  - *Food cost will price some products out of menu mix*
  - *Reduced profitability of the Vendor*
  - *Price increases to customer / decreased customer satisfaction*
- Plan for avoiding the risk
  - *Vendor will implement effective menu planning processes*

- *Vendor will have utilized the robust resources of Vendor to leverage sourcing and control price volatility.*
- *Vendor will implement a communication and marketing plan to customers*
- Impact if the risk occurs
  - *Negative cost impact for Vendor, price increases to customer and reduced satisfaction. Cost impact could be 1 to 10% above CPI.*
- Plan for minimizing the impact if risk occurs
  - *Vendor will change menu or venue to eliminate or minimize cost impact*
  - *Market and promote value items that steer customers to lower cost menu selections.*
  - *Vendor will increase prices to customer*
  - *Specific CPI and pricing language included in agreement UI-670*

**7. Sales and cost forecasts are based upon accuracy of RFP info for student counts, retail sales, resident students, etc.**

- The Risk
  - *Reduced Vendor sales*
  - *Increased costs to Vendor*
  - *Reduced Vendor profitability*
  - *Reduced commissions or other contributions to University.*
- Plan for avoiding the risk
  - *Vendor will monitor financial performance, campus changes, participation, resident counts, etc. and notify client of any material change outside of Vendor control that could affect our ability to perform.*
  - *Vendor will take action on pricing, hours of service, hours of operation, etc. to mitigate financial shortfall.*
  - *Increase efficiency and reduce all operating costs*
  - *Implement aggressive marketing and promotion to customers to drive sales or participation.*
- Impact if the risk occurs
  - *Significant impact to Vendor financial performance depending on a variety of scenarios could range from \$0 to \$350,000*
- Plan for minimizing the impact if risk occurs
  - *Vendor will close locations or venues as appropriate*
  - *Vendor will Sub-contract location or venue*
  - *Reduce staffing and other operations costs*
  - *Renegotiate contract financial terms or charge University for shortfall*
  - *Change customer pricing immediately*

**8. Enrollment decline.**

- The Risk
  - *Reduced sales to Vendor*
  - *Significant impact to Vendor financial performance*
  - *Reduction in University commissions or other payments.*
- Plan for avoiding the risk.
  - *Build and maintain excellent value and customer satisfaction scores*



- *Vendor will aggressively market and promote retail side of the business, voluntary meal plans and Vandal Card participation. We will specifically target off-campus students.*
- *Vendor will review current menu offerings and make adjustments keeping customer satisfaction as a key driver to participation.*
- Impact if the risk occurs
  - *Impact can range from \$0 to \$1,000,000.00 depending on severity of enrollment decline.*
- Plan for minimizing the impact if risk occurs
  - *Reduce staffing*
  - *Increase efficiency and reduce all other operating costs*
  - *Change customer pricing and introduce convenience and value menu selections.*
  - *Vendor will market additional services on campus such as theme meals, special promotions, etc.*
  - *Vendor will take action on hours of service, close venues operation, etc. to mitigate financial shortfall.*
  - *Renegotiate contract financial terms or charge University for shortfall*

**9. Campus impacted by natural or manmade disaster.**

- The Risk
  - *loss of the use of facility and Vendor lost revenues*
  - *Unsatisfied customers*
  - *Reduced University commissions*
- Plan for avoiding the risk
  - *Vendor will have a contingency plan for alternative service set-ups and disaster response.*
  - *Vendor will carry adequate insurance.*
- Impact if the risk occurs
  - *Loss of revenue ranging from \$0 to \$2,000,000.00 depending on the severity, location and duration of the catastrophe / interruption*
  - *Loss of use of affected facility*
  - *Decreased customer satisfaction*
  - *Increased costs for temporary service.*
- Plan for minimizing the impact if risk occurs
  - *University will provide and pay for temporary space and allow for temporary service up to and including rental of temporary trailers.*
  - *Vendor will charge University for cost Impact of temporary trailers, rental equipment, etc. which can range from \$0 to \$85,000 per month depending on the location and severity of the disaster. Menu and service may be limited but Vendor will make every effort to accommodate customers with satisfaction in mind.*
  - *Vendor will use all vendor resources available to minimize disruption time and speed recovery. Vendor will activate Corporate Crisis Control Team which includes our Risk Management team and Communications personnel.*
  - *Vendor will carry adequate property insurance*
  - *Vendor will ask for temporary financial changes to the agreement.*
  - *Close the location or venue until location is restored to operating condition*

**10. Achieving sustainability program expectations.**

- The Risk
  - *Local supplier's in Latah County inability to meet Vendor quality or volume needs to achieve Vendor proposal levels*
  - *Regional supplier's in the Inland Northwest inability to meet Vendor quality or volume needs to achieve Vendor proposal levels*
  - *University compost facilities inability to handle compostable volume from Vendor.*
  - *Vendor inability to produce or procure Bio-Fuel locally*
- Plan for avoiding the risk
  - *Continue to work with Vendor Procurement Services to identify and increase local and regional supplier sources.*
  - *Local Vendor team to continue to work with local suppliers and leverage opportunities through menu management.*
  - *Vendor to sub-contract some retail venues to local companies.*
  - *Vendor will work with University groups on further development of Bio-Fuels on campus through the processing of cooking oils.*
- Impact if the risk occurs
  - *No financial impact and Vendor is currently far exceeding RFP required minimums. Risk is our ability to achieve proposal % levels.*
- Plan for minimizing the impact if risk occurs
  - *Alter menus and product selections to maximize sourcing from Vendor approved local and regional suppliers.*
  - *Use diesel fuel until Bio-Fuel sourcing is complete*

**11. Enrollment patterns shifts and boarder counts not met.**

- The Risk
  - *Reduced sales to Vendor*
  - *Significant impact to Vendor financial performance*
  - *Reduction in University commissions or other payments.*
- Plan for avoiding the risk.
  - *Build and maintain excellent value and customer satisfaction scores*
  - *Vendor will aggressively market and promote retail side of the business, voluntary meal plans and Vandal Card participation. We will specifically target off-campus students.*
  - *Vendor will review current menu offerings and make adjustments keeping customer satisfaction as a key driver to participation.*
- Impact if the risk occurs
  - *Impact can range from \$0 to \$1,000,000.00 depending on severity of enrollment decline.*
- Plan for minimizing the impact if risk occurs
  - *Reduce staffing*
  - *Increase efficiency and reduce all other operating costs*
  - *Change customer pricing and introduce convenience and value menu selections.*
  - *Vendor will market additional services on campus such as theme meals, special promotions, etc.*
  - *Vendor will aggressively market and promote retail side of the business, voluntary meal plans and Vandal Card participation. We will specifically target off-campus students*

- *Vendor will take action on hours of service, close venues in operation, etc. to mitigate financial shortfall.*
- *Renegotiate contract financial terms or charge University for shortfall*

**12. Construction delays.**

- The Risk
  - *Temporary loss of use of facility*
  - *Loss of revenues during the delay*
  - *Reduced profitability*
  - *Reduction in University commission or other revenues.*
  - *Decreased customer satisfaction*
- Plan for avoiding the risk
  - *Vendor will hire a Vendor approved general contractor*
  - *Vendor will employ an experienced Vendor approved project manager*
  - *Vendor will require a performance bond in all contracts*
  - *Vendor will have effective contingency plans*
- Impact if the risk occurs
  - *Loss of use of facility and loss of revenue could run from \$0 to \$50,000 depending on location and duration of the delay.*
- Plan for minimizing the impact if risk occurs
  - *Vendor will leverage all Vendor resources to mitigate the delay such as: getting resources from other locations, sourcing alternative suppliers or contractors, etc.*
  - *Vendor will implement contingency operations plan to minimize service interruptions and financial impact. This includes temporary services, locations, etc.*
  - *Implement comprehensive communication plan to customer base. Keep them informed and manage expectations for completion.*

**13. Price volatility**

- The Risk
  - *Food cost increase to Vendor*
  - *Food cost will price some products out of menu mix*
  - *Reduced profitability of the Vendor*
  - *Price increases to customer / decreased customer satisfaction*
- Plan for avoiding the risk
  - *Vendor will implement effective menu planning processes*
  - *Vendor will utilize the robust resources of Vendor to leverage sourcing and control price volatility.*
  - *Vendor will implement a communication and marketing plan to customers*
- Impact if the risk occurs
  - *Negative cost impact for Vendor, price increases to customer and reduced satisfaction. Cost impact could be 1 to 10% above CPI.*
- Plan for minimizing the impact if risk occurs
  - *Vendor will change menu or venue to eliminate or minimize cost impact*
  - *Market and promote value items that steer customers to lower cost menu selections.*
  - *Introduce value items and convenience options*

- *Vendor will increase prices to customer*
- *Specific CPI and pricing language included in agreement UI-670*

## UI 670 Attachment C

### Pre-Award Document #4 Uncontrollable Risks

**1) University allows a competitor company to open a venue or location on campus.**

- The Risk
  - *Revenue is reduced below Vendor projected sales levels*
- Plan for avoiding the risk
  - *University should consult with Vendor to see if its needs can be met by the Vendor prior to introducing a competitor to campus which includes the University self operating a competitive operation.*
  - *Vendor will work proactively with the university to address campus customer and university needs.*
  - *Vendor will be engaged in the campus community. Stay informed of trends and unfulfilled needs.*
  - *Vendor needs to provide or propose effective solutions in order to be the first company of choice for the University.*
- Impact if the risk occurs
- Plan for minimizing the impact if risk occurs
  - *Vendor will compete for customers via aggressive marketing and promotions.*
  - *Vendor will offer menu enhancements or alternatives, value meals, convenience items etc.*
  - *Vendor will adjust hours of operation or close locations / venues.*
  - *Vendor may sub-contract to a local provider*
  - *Increase pricing to customers*
  - *Secure contract financial relief from the University*

**2) University fails to re-invest in client owned facilities, infrastructure and/or University capital equipment.**

- The Risk
  - *Vendor Reduced sales, increased costs, reduced profitability*
  - *Safety and/or sanitation issues*
  - *Decreased customer satisfaction/ impact on menu and services*
  - *Decreased University commissions or other income.*
- Plan for avoiding the risk
  - *Vendor will have a professional maintenance sub-contractor to assist in conducting annual review of existing University and Contractor owned capital equipment to identify PM, repair and replacement needs.*

- *University will provide maintenance personnel or subcontractors to complete needed repairs/ replacements for University facilities and equipment in a timely manner.*
- *University will plan and budget for major repair or replacement of aging University owned equipment.*
- Impact if the risk occurs
  - *Immediate negative impact on Vendors ability to perform*
  - *Facility disrepair causes safety and/or sanitation issues forcing closure of operations*
  - *Increased cost and reduced profitability. Impact could range from \$0 to \$1,000,000.00*
- Plan for minimizing the impact if risk occurs
  - *Close venue if equipment failure is critical or a safety issue.*
  - *University and Vendor will implement a communication plan if customers are directly impacted.*
  - *Vendor will charge university for all operating losses*
  - *Vendor and University will follow agreement remedies outlined in UI-670*

**3) University actions that change Housing or Enrollment policies, practices or population, building closures, mandated fiscal constraints, staffing reductions, or any other event that materially affects Contractors ability to perform under this agreement.**

- The Risk
  - *Revenue and profitability is reduced below vendor proposed levels*
- Plan for avoiding the risk
  - *Contractor and University will resolve on a mutually agreed basis.*
  - *University will keep Vendor informed and Vendor will be engaged in the campus community. Vendor will stay informed on campus initiatives, trends, and University business issues that could impact Food Service.*
- Impact if the risk occurs
  - *Significant loss of revenue that risk avoidance does not cure. Impact could be in the range of \$0 to \$1,500,000 in lost revenue.*
- Plan for minimizing the impact if risk occurs
  - *Increase pricing to customers*
  - *Charge University for losses*
  - *Parties will work for mutual resolution to mitigate risk factors and timing of impact events*

## **UI 670 Attachment C**

### **Pre-Award Document #5** **University Concerns**

The Vendor should respond to all University concerns. The items listed below are initial concerns that have been addressed. However, it is the Vendors responsibility to ensure that they have addressed any and all other concerns.

- 1. Dining Plan & Pricing (Board) effect on Housing Performance & Vice-versa – The issue here is to not have pricing increases which alter customer behavior in an adverse way. We are noticing that our constituencies are shopping and comparing room and board price more and more (price competitiveness).**
  - *Sodexo is sensitive to the need for an effective pricing strategy and that recruitment and retention of resident students is critical for all of us. Value perception is also part of the equation, and is a key part of our strategy. Quality, convenience, service, variety, flexibility, atmosphere as well pricing are all part of the value proposition. Our proposal will enhance current meal plans with the addition of meal equivalency, more menu choices and flex dollar roll-over options that they currently do not have. The academic year 2010/2011 board prices were increased approx. 3.9% which was less than what the University had anticipated. We have planned for future board plan meal prices to stay in the 6.7% or less increase range each year. We strongly believe based on our research data of the Idaho campus that our planned approach will be effective in continuing to increase EBI dining satisfaction ratings.*
  
- 2. Operating procedures and processes create undo wear and tear on capital equipment items which damages other areas. This is especially prevalent in the Wallace Complex where the dish room operators fail to clear the drains of food to the point of the floor flooding and damaging goods and equipment in the c-store below which is operated by the Bookstore. How will the vendor address this issue?**
  - *Operating procedures are currently in place to address routine cleaning of the drains on a daily basis and they have also been added to our preventative maintenance schedule. This should greatly reduce the number of incidents. It we should be noted that we are dealing with an aging infrastructure in the kitchen area so some incidents can potentially occur that no amount of PM will mitigate. To resolve some of this issue, we are re-sloping and re-tiling the dishroom floor to improve water flow to the drains and help eliminate leaks to other areas of the building.*

3. **Continued declines in customer counts in the Commons Food Court...although average check is up enough to keep gross sales about the same as last year.**
  - *The customer counts have declined in the food court due to a reduction in operating hours. This reduction in operating hours has reduced operating losses during the non-peak hours and it has re-directed traffic and improved sales at Common Grounds (+9%) and Commons Market (+14%) which are experiencing significant increases in customer counts and profitable sales. The reduction in hours was based on Sodexo's recommendation to improve the profitability of retail which the University had directed us to accomplish. The new changes have been successful in driving increased sales upstairs and improving the average check in the Commons Food Court.*
  
4. **Board pricing for FY11 is due within two weeks.**
  - *Board meal plan pricing for year 2010/2011 has been completed and approved by the University. The increase was 3.9% for 2010/2011. Future board meal plan pricing will be the same as proposed by Sodexo in Addendum 5 / Attachment C for 2011/2012 and as defined in the contractual agreement under Section 9.2.*
  
5. **Reduction in amount of proteins offered in Bob's over current levels to contain cost.**
  - *Sodexo will continue to use high quality ingredients and the quantity and variety of the proteins on our menu's will be the same level or better than currently offered. In addition, students will have dozens of new menu items, including proteins, available to them through meal equivalency options at retail locations on campus such as the new J Street in the Student Union.*
  
6. **Risk 7 uses the words "significant factual errors". What does the word significant mean in terms of variance (#,\$,or %) which would put the vendor and UI into a point of renegotiation? And, does this risk only apply to the first year of the contract as all other projections are owned by the vendor?**
  - *This question does not apply to Sodexo.*
  
7. **Concessions: How does the vendor see this working understanding Exhibit 1.6 states the historic practice of splinting commissions between the Athletic Department and Dining Services?**
  - *Due to IRS Bond language requirements we cannot "pay commissions" to the University. However, the language in the agreement reads that the University will pay Sodexo a portion of Gross Sales on a graduated scale with the excess Gross Sales retained by the University. This accomplishes the same thing as commissions but is worded correctly. Please refer to 8.1 of the agreement for the exact and accurate language description.*
  - *Sodexo will provide to the University Auxiliary Services Dept. one total invoice every two calendar weeks as outlined in the contract in Section 8.1 A-F. No other campus*



*groups or departments will receive a payment directly from Sodexo or the Food Service operations Gross Sales.*

**8. Process to comply with Exhibit 1.14 proposer and university joint assessment of equipment needs and development of addition/replacement schedule. And, process to comply with vendor provided facility and equipment preventative maintenance.**

- *Sodexo and the University will conduct a joint assessment of all University owned capital equipment in the spring of each year and identify any major repair or replacement items that need to be addressed by the University. This will also allow for the University to plan each year's annual budget based on projected equipment and facility repairs or replacement needs. The initial joint opening inventory of all University owned equipment prior to the commencement of this agreement will be included in the agreement as Exhibit A. Sodexo will provide routine / preventative maintenance for all University and Vendor owned equipment and will be responsible for replacement and/or repairs of up to \$5,000 per occurrence on University owned equipment. Sodexo will also use the \$50,000 small equipment replacement funds per year to replace small equipment as needed. The maintenance and small equipment budget is budgeted at \$182,000 which is consistent with historical expenditures for the dining services dept.*

**9. Full understanding of Alcohol Policy and responsibility within that policy.**

- *Sodexo is currently following the Alcohol Policy and is in full compliance. We will continue to do so in the future under this new agreement.*

**10. Interpretation and compliance with all elements of Exhibit 2. Plans to achieve.**

- *Sodexo is already meeting these requirements currently as the incumbent Vendor and will continue to do so during the entire term of this agreement.*

**11. How will the vendor transition the service from the current vendor (so it is seamless to all parties)?**

- *Sodexo is the incumbent vendor and as such, we have a tremendous advantage of starting our process implementation and other preparations early. We have submitted a timeline document as part of the Pre-Award documents that outlines our project and transition action items between now and July 2010.*

**12. Financial Proposal: Clarification of the pricing assumptions in the proposal for FY11...Board Plans and Prices in particular.**

- *The proposed board meal plans ( as shown in Section 6.2 of the agreement) will increase in price each year by an expected amount of up to 6.7% or a CPI index whichever is greater. The price and inflation annual adjustment is further defined in Section 9.2 of the agreement. The board meal plan structure will remain as proposed for the term of the agreement unless mutually agreed changes are made by both parties in writing and amended in the agreement.*

**13. Financial Proposal: Pro-forma losses presented in attachment C page 4. How can they justify these financial losses?**

- *Our pro-forma does not show a loss in any year however the first three years are very modest in profitability due to the \$1,500,000.00 capital amortization being front loaded and fully amortized over the first three years. Our profitability is greater in years 4 and 5 but we are also at more risk due to no buyback protection in the final two years. Our ROI modeling is based on the entire 5 year term. The Annual Funds of \$420,000 per year in years 4 and 5 are to be expended each year by Sodexo.*

**14. Financial Proposal: Detail regarding capital investments in both the two and five year proposals to include construction timelines and expected support from UI.**

- *The timelines for capital investment projects and transition action items have been provided as part of our Pre-Award documents and includes any action steps or support needed from the University.*

**15. Financial Proposal: Item 3 in Value Added Options has a cost of \$50,000. How does the vendor see this working? Detail the costs and benefits of this option. And, why was it priced separately and not just included as a true “value added” within the proposal?**

- *This question does not apply to Sodexo.*

**16. Financial Proposal: Does Item 4 in Value Added Options mean 30 days of a signed agreement as in 30 days after the SBOE meeting in February?**

- *This question does not apply to Sodexo.*

**17. The University of Idaho is contemplating a sponsorship agreement for 10 years with a 5 year renewal opportunity with a company called Agri Beef. This arrangement could introduce two risks previously not identified in our Dining RFP process:**

- **Exclusive vendor for all beef and pork products served in the Kibbie Dome and all associated game day events regardless of location such as the President’s tent.**
- **Exclusive vendor for all University of Idaho beef and pork products (must be comparable product at comparable/competitive price).**

**It is my understanding that Agri Beef distributes through Sysco. We may be already purchasing some their beef and pork products.**

**Please add this to your risk report with risk mitigation strategy/impact for each. I would appreciate these risks addressed prior to the “official” pre-award deadline with a due date prior to December 10th.**

**Additionally, please outline the impact to Vandal Brand Meats by telling us the dollar volume and products purchased annually.**

**Potential University of Idaho Imposed Risk to Dining Provider**

On November 23, 2009 Sodexo received the below request for information:

*“The University of Idaho is contemplating a sponsorship agreement for 10 years with a 5 year renewal opportunity with a company called Agri Beef. This arrangement could introduce two risks previously not identified in our Dining RFP process:*

- *Exclusive vendor for all beef and pork products served in the Kibbie Dome and all associated game day events regardless of location such as the President’s tent.*
- *Exclusive vendor for all University of Idaho beef and pork products (must be comparable product at comparable/competitive price).*

*It is my understanding that Agri Beef distributes through Sysco. We may be already purchasing some of their beef and pork products.*

*Please add this to your risk report with risk mitigation strategy/impact for each. I would appreciate these risks addressed prior to the “official” pre-award deadline with a due date prior to December 10<sup>th</sup>.*

*Additionally, please outline the impact to Vandal Brand Meats by telling us the dollar volume and products purchased annually.”*

**Sodexo Response:**

Agri-Beef representatives indicated to Sodexo that they are only interested in providing beef products to the University through Sodexo. This eliminates any negative impact to Vandal Meats since we do not use or procure any beef items from them.

**Why is it a Risk:** In regard to the use of Agri-Beef products at the main university campus and concessions, the risk of using Agri-Beef potentially impacts Sodexo financial income, product pricing competitiveness, product quality specifications, food safety and potential liability to Sodexo. Vendor may not be able or willing to meet Sodexo vendor approval requirements.

**The impact if not avoided:**

- Product pricing may be higher than Sodexo approved vendors
- Product quality and specifications may be different than Sodexo approved products
- Agri-Beef may not be able or willing to meet Sodexo vendor approval requirements.
- Financial impact is estimated at \$23,500.00 per year for the Main Campus assuming that we only buy comparable products at comparable prices to Sodexo sources.
- The financial impact for Concessions is \$3,300.00 per year assuming that we only buy comparable products at comparable prices to Sodexo sources.
- Food safety and liability risks are higher by using Agri-Beef versus approved sources.

**Plan for avoiding and minimizing risk:**

1. University and Sodexo agree to use Sodexo Approved Vendors exclusively which would eliminate Agri-Beef from consideration. No Impact.
2. If step (1) is not possible; then Sodexo will require Agri-Beef to apply and comply with all Sodexo vendor requirements for inspections, insurance, quality control, payment terms, distribution, etc. This step is a mandatory requirement.
3. If step (2) is completed then Sodexo will procure only those beef products offered by Agri-Beef that are comparable beef product specs and comparable pricing to Sodexo suppliers. Agri-Beef has offered to Sodexo 19 (see page 3) beef products that could potentially meet our product specification requirements. We estimate a negative financial impact of:
  - Main Campus: \$23,500.00
  - Concessions: \$3,300.00
4. If step (3) comparable prices requirement is not applied and University requires Sodexo to utilize all beef products that meet our minimum food specifications regardless of price then the estimated negative financial impact (in addition to step 3 amounts) will be:
  - Main Campus \$6,200.00 Annually
  - Concessions \$3,200.00 Annually

(the above estimates are based on current product price comparison variances, projected volumes and other factors)
5. Under no circumstances will Sodexo purchase or use products that do not meet our minimum quality standards or products and product categories that are specifically banned from operations by Sodexo.

**UI 670 Attachment C**  
**Pre-Award Document #6**

**University of Idaho**

**Pre-Award Document**  
**University Accepted Value Add**

**Item 3: Benchmark for diversity**

**Impact: Cost (\$) 0**

With us as your organization of choice, you will be gaining the industry leader and the benchmark for diversity best practices, as recognized by companies such as Diversity Inc, Hispanic Business Magazine, LATINA Style Magazine, Black Collegian and Asian Enterprise Magazine. We also incorporate diversity into our dining program, bringing authentic foods and flavors to on-campus dining, creating new and familiar experiences for the broad base of customers that the University of Idaho serves.

The University of Idaho will benefit from innovative diversity practices, including training and education as well as access to experts in the field of diversity as it relates to recruitment and retention. Our employee retention and development rates exceed that of the industry, and we bring outstanding resources to the University of Idaho that provide extensive training and career planning to the employees on campus. Our diversity leadership also offers consulting on a variety of topics, including diversity scorecards, benchmarking, diversity education and training.

**Item 4: Bio Fuel Development**

**Impact: Cost (\$) 0**

We will develop sustainable Bio Fuel capability and capacity. We will be converting cooking oil into bio diesel fuel to use in our 4 fleet vehicles. The bio diesel fuel can be used in commercial diesel vehicles and has been shown to have significant environmental benefits. We will use special order OEM engines or retro fits that will allow the use of a higher percentage mix bio fuel technology. This fuel technology is the best option at this time given the scarcity or non-

existence of Ultra Low, Super Ultra Low and Zero Emission commercial vehicles in the U.S. Vehicles that are currently available are too small to handle the transport work demands efficiently or will not handle weather and terrain conditions effectively in the winter months.

The UI maintenance department already does some cooking oil conversion to bio fuel, and other campus groups are working to improve this process. We will work closely with both as well as the sustainability office in this effort. The environmental impact will be a significant diversion from the use of petroleum fuels. The ultimate goal is to have pure bio fuel burning vehicles.

**UI 670 Attachment C**  
**Pre-Award Document #7**

**A Project and Emergency Contact List**

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## UI 670 Attachment C Pre-Award Document #8

### ATTACHMENT C - FINANCIAL PRO FORMA WORKSHEET – 5-Year Term

#### PRO FORMA PROJECTIONS (6/1/2010 – 5/31/2015)

RESIDENT MEAL PLAN ASSUMPTIONS	FY 2010-2011 Price	Estimated Participants	Participation Assumption	FY 2011-2012 Price	Estimated Participants	Participation Assumption
Plan 1 –All Access Plan w/ \$100 Flex w/ equiv	\$1,728.50	184	10.4%	\$1,801	184	10.4%
Plan 2 – 19 Meal Plan w/ \$100 Flex w/ equiv	\$1,533.00	148	8.4%	\$1,597	148	8.4%
Plan 3 – 14 Meal Plan w/ \$300 Flex w/equiv	\$1,533.00	537	30.5%	\$1,597	537	30.5%
Plan 4 – 10 Meal Plan w/ \$500 Flex w/equiv	\$1,533.00	602	34.1%	\$1,597	602	34.1%
Plan 5 – 5 Meal Plan w/ \$500 Flex	\$1,168.00	292	16.6%	\$1,217	292	16.6%
Subtotal:		1763	100.0%		1763	100.0%

RESIDENT MEAL PLAN ASSUMPTIONS	FY 2012-2013 Price	Estimated Participants	Participation Assumption	FY 2013-2014 Price	Estimated Participants	Participation Assumption	FY 2014-2015 Price	Estimated Participants	Participation Assumption
Plan 1 –All Access Plan w/ \$100 Flex w/ equiv	\$1,922	184	10.4%	\$2,050	184	10.4%	\$2,188	184	10.4%
Plan 2 – 19 Meal Plan w/ \$100 Flex w/ equiv	\$1,704	148	8.4%	\$1,818	148	8.4%	\$1,940	148	8.4%
Plan 3 – 14 Meal Plan w/ \$300 Flex w/equiv	\$1,704	537	30.5%	\$1,818	537	30.5%	\$1,940	537	30.5%
Plan 4 – 10 Meal Plan w/ \$500 Flex w/equiv	\$1,704	602	34.1%	\$1,818	602	34.1%	\$1,940	602	34.1%
Plan 5 – 5 Meal Plan w/ \$500 Flex	\$1,299	292	16.6%	\$1,386	292	16.6%	\$1,478	292	16.6%
Subtotal:		1763	100.0%		1763	100.0%		1763	100.0%



**ATTACHMENT 2**

<b>REVENUE &amp; OPERATING ASSUMPTIONS:</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>	<b>FY 13-14</b>	<b>FY 14-15</b>
Number of Operating Days	347	347	347	347	347
Anticipated # Customers Per Weekday	8,078	8,417	9,461	9,859	10,273
Anticipated # Customers Per Weekend day	3,104	3234	3804	3804	3804
Average Check per Weekday	\$3.72	\$3.78	\$4.12	\$4.12	\$4.12
Average Check per Weekend day	\$3.72	\$3.78	\$4.12	\$4.12	\$4.12
Anticipated Average Sales Per Weekday	\$36,863	\$37,410	\$38,981	\$40,618	\$42,324
Anticipated Average Sales Per Weekend day	\$13,798	\$14,378	\$14,982	\$15,611	\$16,267
Average Food Cost per Meal Served	\$1.67	\$1.67	\$1.73	\$1.79	\$1.85
Average Labor Cost per Meal Served	\$1.78	\$1.75	\$1.85	\$1.86	\$1.85

<b>REVENUE: (Net of Sales Tax)</b>	<b>FY 10-11</b>		<b>FY 11-12</b>		<b>FY 12-13</b>		<b>FY 13-14</b>		<b>FY 14-15</b>	
Meal Plan	\$3,980,963	37.89%	\$4,148,163	37.89%	\$4,473,915	38.29%	\$4,865,973	39.03%	\$5,284,299	39.73%
Cash/Credit Card (Inc Vandal \$)	\$3,967,377	37.76%	\$4,134,007	37.76%	\$4,513,727	38.64%	\$4,875,003	39.11%	\$5,261,093	39.55%
Flex Cash	\$ 1,322,168	12.58%	\$1,377,699	12.58%	\$1,377,699	11.79%	\$1,377,699	11.05%	\$1,377,699	10.36%
Commissions from Subcontractors	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
Catering	\$765,000	7.28%	\$797,130	7.28%	\$805,101	6.89%	\$813,152	6.52%	\$821,284	6.17%
Summer Conference	\$322,470	3.07%	\$336,014	3.07%	\$356,175	3.05%	\$377,545	3.03%	\$400,198	3.01%
Other (specify - concessions)	\$150,000	1.43%	\$156,300	1.43%	\$156,300	1.34%	\$156,300	1.25%	\$156,300	1.18%
<b>Total Revenue:</b>	<b>\$10,507,978</b>	100.00%	<b>\$10,949,313</b>	100.00%	<b>\$11,682,917</b>	100.00%	<b>\$12,465,672</b>	100.00%	<b>\$13,300,873</b>	100.00%

**ATTACHMENT 2**

<b>OPERATING EXPENSES:</b>	<b>FY 10-11</b>		<b>FY 11-12</b>		<b>FY 12-13</b>		<b>FY 13-14</b>		<b>FY 14-15</b>	
Food and Beverages Costs	\$3,228,734	30.73%	\$3,364,341	30.73%	\$3,645,070	31.20%	\$3,864,358	31.00%	\$4,123,271	31.00%
Labor - Management Salaries	\$479,555	4.56%	\$496,339	4.53%	\$513,711	4.40%	\$531,691	4.27%	\$550,300	4.14%
Labor - Management Benefits	\$97,925	0.93%	\$102,038	0.93%	\$105,609	0.90%	\$109,306	0.88%	\$113,131	0.85%
Labor - Full Time Staff Wages	\$1,714,317	16.31%	\$1,774,318	16.20%	\$1,836,419	15.72%	\$1,900,694	15.25%	\$1,967,218	14.79%
Labor - Full Time Staff Benefits	\$224,496	2.14%	\$233,925	2.14%	\$242,112	2.07%	\$250,586	2.01%	\$259,357	1.95%
Labor - Part Time / Temporary Wages	\$537,320	5.11%	\$556,126	5.08%	\$575,590	4.93%	\$595,736	4.78%	\$616,587	4.64%
Labor - Part Time / Temporary Benefits	\$53,776	0.51%	\$56,035	0.51%	\$57,996	0.50%	\$60,026	0.48%	\$62,127	0.47%
Labor - Payroll Taxes	\$320,090	3.05%	\$332,489	3.04%	\$344,126	2.95%	\$356,171	2.86%	\$368,636	2.77%
Labor - Temporary Contract Agency Labor	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
<b>Subtotal Operating Expenses:</b>	<b>\$6,656,213</b>	<b>63.34%</b>	<b>\$6,915,611</b>	<b>63.16%</b>	<b>\$7,320,634</b>	<b>62.66%</b>	<b>\$7,668,568</b>	<b>61.52%</b>	<b>\$8,060,627</b>	<b>60.60%</b>



**ATTACHMENT 2**

<b>Other Expenses:</b>	<b>FY 10-11</b>		<b>FY 11-12</b>		<b>FY 12-13</b>		<b>FY 13-14</b>		<b>FY 14-15</b>	
Paper Supplies	\$357,271	3.40%	\$367,989	3.36%	\$383,445	3.28%	\$399,549	3.21%	\$416,330	3.13%
Cleaning Supplies	\$61,997	0.59%	\$63,857	0.58%	\$66,539	0.57%	\$69,334	0.56%	\$72,246	0.54%
Office Supplies (supplies, postage, printing)	\$45,184	0.43%	\$46,540	0.43%	\$48,495	0.42%	\$50,531	0.41%	\$52,654	0.40%
Telephone	\$36,778	0.35%	\$37,881	0.35%	\$39,472	0.34%	\$41,130	0.33%	\$42,857	0.32%
Hiring Costs & Background Checks	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
Parking Permits	\$7,000	0.07%	\$7,210	0.07%	\$7,513	0.06%	\$7,828	0.06%	\$8,157	0.06%
Vehicle Expenses	\$15,067	0.14%	\$15,519	0.14%	\$16,171	0.14%	\$16,850	0.14%	\$17,558	0.13%
Equipment Rental	\$31,524	0.30%	\$32,470	0.30%	\$33,834	0.29%	\$35,255	0.28%	\$36,735	0.28%
Linens and Uniforms	\$100,877	0.96%	\$103,903	0.95%	\$108,267	0.93%	\$112,814	0.90%	\$117,552	0.88%
Flowers / Decorations	\$10,508	0.10%	\$10,823	0.10%	\$11,278	0.10%	\$11,751	0.09%	\$12,245	0.09%
Utilities	\$115,588	1.10%	\$119,056	1.09%	\$124,056	1.06%	\$129,267	1.04%	\$134,696	1.01%
Equipment Repairs and Maintenance	\$65,149	0.62%	\$67,103	0.61%	\$69,921	0.60%	\$72,858	0.58%	\$75,918	0.57%
Training / Professional Development	\$37,500	0.36%	\$38,625	0.35%	\$40,247	0.34%	\$41,938	0.34%	\$43,699	0.33%
Marketing and Advertising	\$39,930	0.38%	\$41,128	0.38%	\$42,855	0.37%	\$44,655	0.36%	\$46,531	0.35%
Flex Ca\$h Transaction Fees	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
Credit Card Fees	\$42,500	0.40%	\$43,775	0.40%	\$45,614	0.39%	\$47,529	0.38%	\$49,526	0.37%
Banking and Professional Fees	\$18,877	0.18%	\$19,443	0.18%	\$20,260	0.17%	\$21,111	0.17%	\$21,997	0.17%
Courier Expense	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
Workers' Compensation & Business Insurance	\$60,495	0.58%	\$62,967	0.58%	\$65,612	0.56%	\$68,367	0.55%	\$71,239	0.54%
Business Insurance (inc in above number)	\$71,017	0.68%	\$73,148	0.67%	\$76,220	0.65%	\$79,421	0.64%	\$82,757	0.62%
Brand Licensing/Franchise Fees	\$146,911	1.40%	\$153,081	1.40%	\$159,510	1.37%	\$166,210	1.33%	\$173,191	1.30%
Taxes and Licenses (do not include sales tax)	\$46,932	0.45%	\$48,105	0.44%	\$50,125	0.43%	\$52,231	0.42%	\$54,424	0.41%
Student Organization Event Funding Support	\$15,000	0.14%	\$15,000	0.14%	\$15,000	0.13%	\$15,000	0.12%	\$15,000	0.11%
Smallwares Replacement	\$117,689	1.12%	\$121,220	1.11%	\$126,311	1.08%	\$131,616	1.06%	\$137,144	1.03%
Small Equipment Replacement	\$50,000	0.48%	\$ 50,000	0.46%	\$50,000	0.43%	\$50,000	0.40%	\$50,000	0.38%
Amortization of Major Capital Investments	\$500,000	4.76%	\$500,000	4.57%	\$500,000	4.28%	\$420,000	3.37%	\$420,000	3.16%
Commissions to University	\$1,687,393	16.06%	\$1,819,793	16.62%	\$2,039,875	17.46%	\$2,274,701	18.25%	\$2,525,261	18.99%
Miscellaneous	\$20,153	0.19%	\$20,630	0.19%	\$21,496	0.18%	\$22,399	0.18%	\$23,340	0.18%
Sales / Use Tax	\$24,000	0.23%	\$24,720	0.23%	\$25,758	0.22%	\$26,840	0.22%	\$27,967	0.21%
Meal Plan Bonus	\$70,000	0.67%	\$71,000	0.65%	\$73,485	0.63%	\$76,057	0.61%	\$78,719	0.59%
<b>Subtotal Other Expenses:</b>	<b>\$3,795,340</b>	<b>36.12%</b>	<b>\$3,974,986</b>	<b>36.30%</b>	<b>\$4,261,359</b>	<b>36.48%</b>	<b>\$4,485,243</b>	<b>35.98%</b>	<b>\$4,807,743</b>	<b>36.15%</b>

**ATTACHMENT 2**

<b>Contractor Overhead Charged Against Account</b>										
<b>Gen. &amp; Admin. Expenses (List in Detail)</b>	<b>FY 10-11</b>		<b>FY 11-12</b>		<b>FY 12-13</b>		<b>FY 13-14</b>		<b>FY 14-15</b>	
- retail, dining, marketing, procurement division charges	\$26,270	0.25%	\$27,373	0.00%	\$28,605	0.00%	\$29,892	0.00%	\$31,237	0.00%
<b>Subtotal Contractor Fees:</b>	<b>\$26,270</b>	0.25%	<b>\$27,373</b>	0.25%	<b>\$28,605</b>	0.24%	<b>\$29,892</b>	0.24%	<b>\$31,237</b>	0.23%
<b>Total Operating Expenses:</b>	<b>\$10,477,823</b>	99.71%	<b>\$10,917,970</b>	99.71%	<b>\$11,610,598</b>	99.38%	<b>\$12,183,703</b>	97.74%	<b>\$12,899,608</b>	96.98%
<b>Operating Profit/(Loss):</b>	<b>\$30,155</b>	0.29%	<b>\$31,343</b>	0.29%	<b>\$72,318</b>	0.62%	<b>\$281,970</b>	2.26%	<b>\$401,265</b>	3.02%

## UI 670 Attachment C Pre-Award Document #9

### Project Schedule

ITEM	OWNER	DATES	Jan.	Feb.	March	April	May	June	July	Aug.
Recruit and Hire Resident Dining Manager	Director of Operations	1/1 - 2/15/10								
Detailed Assessment of Regional / Local Purchasing	Director of Operations	1/1 - 4/1/10								
Finalize and Obtain Contract	Vice President	1/1 - 7/1/10								
Finalize Food Waste Reduction Plan	General Manager	1/1 - 7/1/10								
Successfully Manage Remodel of Bob's Place	General Manager	1/1 - 8/1/10								
Successfully Manage Remodel of 6th Street Marketplace	Director of Operations	1/1 - 8/1/10								
Successfully Manage Remodel of Common Grounds	Director of Operations	1/1 - 8/1/10								
Successfully Manage Remodel of Commons Food Court	Director of Operations	1/1 - 8/1/10								
Obtain Vehicles as Outlined in Proposal	Director of Operations	3/1 - 5/1/10								
Develop Capital Equipment Replacement Schedule	General Manager	3/1 - 5/1/10								
Arrange Bio Diesel Purchasing	Director of Operations	3/1 - 5/1/10								
Ensure Regional & Local Purchasing is at levels set in Proposal	Director of Operations	3/1 - 9/1/10								
Develop Regional/Local Purchasing Action Plan	Director of Operations	7/1 - 9/1/10								

**Sodexo Project Action Checklist**

ID #	Action Item	Person Responsible	Due Date	Impact if Not Completed By Due Date	Actual Completion Date
<b>Contract</b>					
1	Prepare and Submit Pre Award Document	Vice President	1/4/2010	Pre award forfeited	
2	Conduct Pre-Award Meeting	Region Vice President	1/5/2010	Pre award forfeited	
3	State and University Approval - Sign Contract	Region Vice President	4/1/2010	Pre award forfeited	
4	Provide University with Certificate of Insurance	General Manager	4/7/2010	Due within 7 days of contract signing	
5	Joint Inventory of China and Small Wares - Exhibit B	GM / University Rep.	6/15/2010	Contract will not be fully executed w/o Exhibits attached.	
6	Joint Inventory of University Owned Food Service Equip. - Exhibit A	GM / University Rep.	6/15/2010	Contract will not be fully executed w/o Exhibits attached.	
<b>Operations</b>					
7	Recruit and Hire Resident Dining Manager	Director of Operations	2/15/2010	Management team retains added duties for longer period	
8	Identify & Order Vehicles	Director of Operations	5/1/2010	Delay in vehicle use	
9	Arrange Bio Diesel Purchasing	Director of Operations	5/1/2010	Delay in bio diesel use	
10	Assessment of Regional / Local Purchasing	Director of Operations	5/1/2010	Delay in updated baseline data - rely on data from proposal	
11	Develop Capital Equipment Replacement Schedule	General Manager	5/1/2010	May create risks for University and/or vendor	
12	Develop Purchasing Action Plan	Director of Operations	6/1/2010	Creates need to exceed goals in order to meet year end goals	
13	Implement Food Waste Composting in 100% of Operations	Director of Operations	7/1/2010	Creates need to exceed goals in order to meet year end goals	
<b>Communication</b>					
14	Schedule Weekly Risk Assessment & Transition Meetings with Client	General Manager	1/15/2010	May negatively impact communication of project changes	
15	Schedule and Hold Annual Client Expectations Meeting	General Manager	2/15/2010	May delay development of strategic operations plan	
16	Develop Construction and Transition Marketing / Communications Plan	General Manager	3/1/2010	May negatively impact customer satisfaction	
<b>Bob's Remodel</b>				Delay in Overall Project Schedule & Possibly Opening Date	
17	Designer Identified and Contacted	General Manager	1/15/2010		
18	Designer Site Visit	General Manager	1/30/2010		
19	Identify Alternative Feeding Sites for Summer Conference Groups	Director of Operations	2/1/2010		12/16/2009
20	Design Work - Initial Plan	General Manager	2/14/2010		

**ATTACHMENT 2**

	Submitted				
21	Architectural and Engineering Site Work	General Manager	2/28/2010		
22	Health Department -Initial Plan Review	General Manager	2/28/2010		

***Sodexo Project Action Checklist continued***

<b>ID #</b>	<b>Action Item</b>	<b>Person Responsible</b>	<b>Due Date</b>	<b>Impact if Not Completed By Due Date</b>	<b>Actual Completion Date</b>
23	Design Work - Final Plan Submitted	General Manager	3/30/2010		
24	Materials Ordered - Millwork, Equipment	General Manager	4/1/2010		
25	Communicate Alternative Feeding Site to Summer Conference Groups	Director of Operations	4/1/2010		
26	Finalize Contingency Operations Plan	Director of Operations	4/1/2010		
27	Construction Bid Completed	General Manager	4/7/2010		
28	Construction Bids Submitted	General Manager	4/21/2010		
29	Contractor Identified and Bid Awarded	General Manager	4/30/2010		
30	Obtain Parking Permits and Campus Access Approval	General Manager	5/15/2010		
31	Schedule Opening Training Sessions	Unit Manager	5/15/2010		
32	Pre-Construction Preparation	General Manager	5/15/2010		
33	Set Up Alternative Feeding Site	Unit Manager	6/8/2010		
34	Construction Substantially Completed	Unit Manager	6/18/2010		
35	Punch List Walk Through	General Manager	6/18/2010		
36	IT Equipment Installed	General Manager	6/18/2010		
37	Opening Order for Operation Placed	Unit Manager	6/18/2010		
38	Signage In Place	Marketing Manager	6/18/2010		
39	Set Up Operation	Unit Manager	6/25/2010		
40	Health Department Inspection	General Manager	6/25/2010		
41	Hold Opening Training for Key Employees	Unit Manager	6/25/2010		
42	Open Operation	Unit Manager	6/28/2010		
43	Opening Marketing Collateral for Fall Semester Ready	Marketing Manager	8/1/2010		
44	Student Position Interviews / Hiring	Unit Manager	8/21/2010		
45	Hold Opening Training for Student Employees	Unit Manager	8/22/2010		
46	Grand Opening	Marketing Manager	9/10/2010		
<b>Einstein's Remodel</b>				Delay in Overall Project Schedule & Possibly Opening Date	
47	Designer Identified and Contacted	Director of Operations	1/15/2010		



**ATTACHMENT 2**

48	Designer Site Visit	Director of Operations	1/30/2010		
49	Design Work - Initial Plan Submitted	Director of Operations	2/14/2010		
50	Architectural and Engineering Site Work	Director of Operations	2/28/2010		
51	Health Department -Initial Plan Review	Director of Operations	2/28/2010		

***Sodexo Project Action Checklist continued***

<b>ID #</b>	<b>Action Item</b>	<b>Person Responsible</b>	<b>Due Date</b>	<b>Impact if Not Completed By Due Date</b>	<b>Actual Completion Date</b>
52	Design Work - Final Plan Submitted	Director of Operations	3/30/2010		
53	Materials Ordered - Millwork, Equipment	Director of Operations	4/1/2010		
54	Finalize Contingency Operations Plan	Director of Operations	4/1/2010		
55	Construction Bid Completed	Director of Operations	4/7/2010		
56	Construction Bids Submitted	Director of Operations	4/21/2010		
57	Contractor Identified and Bid Awarded	Director of Operations	4/30/2010		
58	Obtain Parking Permits and Campus Access Approval	Director of Operations	5/15/2010		
59	Set Up New Vendors for Einsteins	Director of Operations	5/15/2010		
60	Schedule Opening Training Sessions	Unit Manager	5/15/2010		
61	Pre-Construction Preparation	Director of Operations	5/15/2010		
62	Opening Marketing Collateral Ready	Marketing Manager	6/1/2010		
63	Opening Order for Operation Placed	Unit Manager	6/1/2010		
64	Construction Substantially Completed	Unit Manager	6/18/2010		
65	Punch List Walk Through	Unit Manager	6/18/2010		
66	IT Equipment Installed	Director of Operations	6/18/2010		
67	Signage In Place	Marketing Manager	6/18/2010		
68	Set Up Operation	Unit Manager	6/25/2010		
69	Health Department Inspection	Unit Manager	6/25/2010		
70	On Site Brand Training	Director of Operations	6/25/2010		
71	Hold Opening Training for Key Employees	Unit Manager	6/25/2010		
72	Open Operation	Unit Manager	6/28/2010		
73	Student Position Interviews / Hiring	Unit Manager	8/21/2010		
74	Hold Opening Training for Student Employees	Unit Manager	8/22/2010		
75	Grand Opening	Marketing Manager	9/17/2010		
<b>6th Street Remodel</b>				Delay in Overall Project Schedule & Possibly Opening Date	
76	Designer Identified and Contacted	Director of Operations	1/15/2010		

**ATTACHMENT 2**

77	Designer Site Visit	Director of Operations	1/30/2010		
78	Design Work - Initial Plan Submitted	Director of Operations	2/14/2010		
79	Architectural and Engineering Site Work	Director of Operations	2/28/2010		
80	Health Department -Initial Plan Review	Director of Operations	2/28/2010		
81	Design Work - Final Plan Submitted	Director of Operations	3/30/2010		

***Sodexo Project Action Checklist continued***

<b>ID #</b>	<b>Action Item</b>	<b>Person Responsible</b>	<b>Due Date</b>	<b>Impact if Not Completed By Due Date</b>	<b>Actual Completion Date</b>
82	Materials Ordered - Millwork, Equipment	Director of Operations	4/1/2010		
83	Finalize Contingency Operations Plan	Director of Operations	4/1/2010		
84	Construction Bid Completed	Director of Operations	4/7/2010		
85	Construction Bids Submitted	Director of Operations	4/21/2010		
86	Contractor Identified and Bid Awarded	Director of Operations	4/30/2010		
87	Obtain Parking Permits and Campus Access Approval	Director of Operations	5/15/2010		
88	Set Up New Vendors for Denny's	Director of Operations	5/15/2010		
89	Schedule Opening Training Sessions	Unit Manager	5/15/2010		
90	Pre-Construction Preparation	Director of Operations	5/15/2010		
91	Opening Marketing Collateral Ready	Marketing Manager	7/16/2010		
92	Construction Substantially Completed	Unit Manager	7/30/2010		
93	Punch List Walk Through		7/30/2010		
94	IT Equipment Installed	Director of Operations	7/30/2010		
95	Opening Order for Operation Placed	Unit Manager	7/30/2010		
96	Signage In Place	Marketing Manager	7/30/2010		
97	Set Up Operation	Unit Manager	8/6/2010		
98	Health Department Inspection	Unit Manager	8/6/2010		
99	On Site Brand Training	Director of Operations	8/6/2010		
100	Hold Opening Training for Key Employees	Unit Manager	8/6/2010		
101	Open Operation	Unit Manager	8/9/2010		
102	Student Position Interviews / Hiring	Unit Manager	8/21/2010		
103	Hold Opening Training for Student Employees	Unit Manager	8/22/2010		
104	Grand Opening	Marketing Manager	9/24/2010		
<b>Commons Food Court Remodel</b>				Delay in Overall Project Schedule & Possibly Opening Date	
105	Designer Identified and Contacted	Director of Operations	1/15/2010		
106	Designer Site Visit	Director of Operations	1/30/2010		

**ATTACHMENT 2**

107	Design Work - Initial Plan Submitted	Director of Operations	2/14/2010		
108	Architectural and Engineering Site Work	Director of Operations	2/28/2010		
109	Health Department -Initial Plan Review	Director of Operations	2/28/2010		
110	Design Work - Final Plan Submitted	Director of Operations	3/30/2010		
111	Materials Ordered - Millwork, Equipment	Director of Operations	4/1/2010		

***Sodexo Project Action Checklist continued***

<b>ID #</b>	<b>Action Item</b>	<b>Person Responsible</b>	<b>Due Date</b>	<b>Impact if Not Completed By Due Date</b>	<b>Actual Completion Date</b>
112	Finalize Contingency Operations Plan	Director of Operations	4/1/2010		
113	Construction Bid Completed	Director of Operations	4/7/2010		
114	Construction Bids Submitted	Director of Operations	4/21/2010		
115	Contractor Identified and Bid Awarded	Director of Operations	4/30/2010		
116	Obtain Parking Permits and Campus Access Approval	Director of Operations	5/15/2010		
117	Set Up New Vendors for Denny's	Director of Operations	5/15/2010		
118	Schedule Opening Training Sessions	Unit Manager	5/15/2010		
119	Pre-Construction Preparation	Director of Operations	6/25/2010		
120	Opening Marketing Collateral Ready	Marketing Manager	7/16/2010		
121	Construction Substantially Completed	Unit Manager	7/30/2010		
122	Punch List Walk Through	Unit Manager	7/30/2010		
123	IT Equipment Installed	Director of Operations	7/30/2010		
124	Opening Order for Operation Placed	Unit Manager	7/30/2010		
125	Signage In Place	Marketing Manager	7/30/2010		
126	Set Up Operation	Unit Manager	8/6/2010		
127	Health Department Inspection	Unit Manager	8/6/2010		
128	Hold Opening Training for Key Employees	Unit Manager	8/6/2010		
129	Open Operation	Unit Manager	8/9/2010		
130	Student Position Interviews / Hiring	Unit Manager	8/21/2010		
131	Hold Opening Training for Student Employees	Unit Manager	8/22/2010		
132	Grand Opening	Marketing Manager	10/1/2010		
<b>All Operations</b>					
133	Re-assess Campus Management Structure	General Manager	2/1/2010	Reduction in Operational Efficiencies and Delays in Position Placement	
134	Campus Marketing Plan Written Up	Marketing Manager	4/1/2010	Delay in Marketing Related Strategies and Tactics	

**ATTACHMENT 2**

135	Positions Posted	Unit Manager	5/1/2010	Positions Unfilled on Timely Basis	
136	Develop Signage Needs and Look	Marketing Manager	5/1/2010	Possible Delay in Operational Signage / Use of Temporary Signs	
137	Order Signage	Marketing Manager	5/1/2010	Possible Delay in Operational Signage / Use of Temporary Signs	
138	Select Uniforms	Unit Manager	5/1/2010	Delay in Ordering of Uniforms	
139	Menu Right Pricing	Director of Operations	5/1/2010	Delay in Completion of Pricing	
140	Small Wares Order Written Up	Unit Manager	6/1/2010	Delay in Ordering of Smallwares	
141	Develop Opening Training Agenda / Pieces	Unit Manager	6/1/2010	Delay in Proper Employee Training	
142	Uniforms Ordered	Unit Manager	6/1/2010	Opening Operations without Proper Uniforms	

***Sodexo Project Action Checklist continued***

<b>ID #</b>	<b>Action Item</b>	<b>Person Responsible</b>	<b>Due Date</b>	<b>Impact if Not Completed By Due Date</b>	<b>Actual Completion Date</b>
143	Key Position Interviews / Hiring	Unit Manager	6/1/2010	Positions Unfilled on Timely Basis	
144	Unit Cash Distribution Evaluated and Established	General Manager	6/1/2010	Improper Cash Support at Individual Operations	
145	Hours of Operation Set	Director of Operations	6/1/2010	Delay in Communications	
146	Develop Plan-o-grams	Unit Manager	6/1/2010	Delay in Opening of Operations	
147	Small Wares Ordered	Unit Manager	6/4/2010	Opening Operations without Proper Smallwares	
148	Smallwares Received	Unit Manager	6/18/2010	Opening Operations without Proper Smallwares	
149	Uniforms Received	Unit Manager	6/18/2010	Opening Operations without Proper Uniforms	

**University of Idaho Project Action Checklist**

ID #	Action Item	Person Responsible	Due Date	Impact if Not Completed By Due Date	Actual Completion Date
1	Participate in joint inventory of china and smallwares with Sodexo - Exhibit B	Tyrone Brooks	6/15/2010	Possible disagreement on equipment levels	
2	Participate in joint inventory of University owned Food Service equipment - Exhibit A	Tyrone Brooks	6/15/2010	Potential of additional risks due to old or defective equipment	
3	Participate in capital equipment audit for all dining facilities on campus with Sodexo and independent third party	Tyrone Brooks	2/15/2010	Potential of additional risks due to old or defective equipment	
4	Ensure all University capital equipment & general infrastructure is fully operational or repaired or replaced	Tyrone Brooks	7/1/2010	Possible cost incurrence due to less efficient facilities	
5	Ensure elevator at Wallace is repaired and fully operational	Tyrone Brooks	7/1/2010	Additional cost to store freight and equipment	
6	Bring natural gas into Wallace kitchen and serving area	Tyrone Brooks	TBD	Limit potential effectiveness of Bob's Place remodel	
7	Provide ITS support for on-campus systems (server set up, email access, etc) & Vandal Card accounts	Leo Stephens	7/1/2010	Possible cost incurrence due to less efficient operations	
8	Continue to sponsor email accounts for appropriate Sodexo employees	Tyrone Brooks	7/1/2010	Reduced communication abilities with customers	
9	Provide PCI compliant access to credit card lines	Tyrone Brooks	On-going	Reduced sales, return to the university and customer satisfaction	
10	Provide staging areas for construction sites	Tyrone Brooks	5/15/2010	Possible delays in construction timeline	
11	Remove refuse on a consistent and timely basis at all current dumpsters and other refuse sites	Tyrone Brooks	On-going	Possible health related problems	
12	Assist with securing alternative site to feed summer conference groups displaced by construction	Tyrone Brooks	4/1/2010	Reduced sales, return to the university and customer satisfaction	
13	Provide clear communication on expectations of Commons Market transition	John Bates	2/1/2010	Will impede overall operations plan and possibly delay projects	
14	Plan and budget for major repair or replacement of aging University owned equipment in excess of \$5000	Tyrone Brooks	7/1/2010	Immediate negative impact on Vendor's ability to perform	

## **UI 670 Attachment C**

### **Pre-Award Document #10**

#### **Performance Metrics**

Performance Metric	Frequency of Submission
Mandatory Boarders	Bi-Weekly
Voluntary Boarders	Bi-Weekly
<hr/>	
Retail Sales	Bi-Weekly
Catering Sales	Bi-Weekly
Mandatory Board Sales	Bi-Weekly
Voluntary Board Sales	Bi-Weekly
Camp/Conference Sales	Bi-Weekly
All Other Sales (Subcontractor)	Bi-Weekly
Total Campus Sales	Bi-Weekly
Commissions Paid	Bi-Weekly
Commissions %	Bi-Weekly
<hr/>	
Retail Operating Revenue to Aux Services	Bi-Weekly
Total Operating Revenue To Aux Services*	Bi-Weekly
<hr/>	
Retail Capital Investment Committed	Bi-Weekly
Retail Capital Investment Used To Date	Bi-Weekly
Retail Capital Investment Outstanding	Bi-Weekly
<hr/>	
Resident Dining Capital Investment Committed	Bi-Weekly
Resident Dining Capital Investment Used To Date	Bi-Weekly
Resident Dining Capital Investment Outstanding	Bi-Weekly
<hr/>	
Equipment Replacement Reserve Committed	Bi-Weekly
Equipment Replacement Reserve Used To Date	Bi-Weekly
Equipment Replacement Reserve Outstanding	Bi-Weekly
<hr/>	
Student Organization Support Committed	Bi-Weekly
Student Organization Support Used To Date	Bi-Weekly
Student Organization Support Outstanding	Bi-Weekly
<hr/>	
Customer Satisfaction (Spring)	Yearly
Customer Satisfaction (Fall)	Yearly
<hr/>	
Client Satisfaction	Bi-Yearly

**University of Idaho Performance Report**

Below is the current Performance Report utilized by the University of Idaho Dining Services team. This report will continue to be updated weekly and provided monthly to the University.

<b>UI Dining Performance Report</b> 2010- 2011 As of [month, year]	YTD Prior Year	YTD Budget	YTD Actual	Variance To Prior Yr	% Variance To Prior Yr	Variance To Budget	% Variance To Budget
	Mandatory Boarders				0	#DIV/0!	0
Voluntary Boarders				0	#DIV/0!	0	#DIV/0!
Retail Sales	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Catering Sales	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Mandatory Board Sales	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Voluntary Board Sales	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Camp/Conference Sales	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
All Other Sales (Subcontractor)	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Total Campus Sales	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Commissions Paid	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Commissions %	0%	0%	0%	0%	#DIV/0!	0%	#DIV/0!
Retail Operating Revenue to Aux Services	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Total Operating Revenue To Aux Services*	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Retail Capital Investment Committed	\$0	\$1,000,000	\$1,000,000	\$1,000,000	#DIV/0!	\$0	0%
Retail Capital Investment Used To Date	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Retail Capital Investment Outstanding	\$0	\$1,000,000	\$1,000,000	\$1,000,000	#DIV/0!	\$0	0%
Resident Dining Capital Investment Committed	\$0	\$500,000	\$500,000	\$500,000	#DIV/0!	\$0	0%
Resident Dining Capital Investment Used To Date	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Resident Dining Capital Investment Outstanding	\$0	\$500,000	\$500,000	\$500,000	#DIV/0!	\$0	0%
Equipment Replacement Reserve Committed	\$0	\$50,000	\$50,000	\$50,000	#DIV/0!	\$0	0%
Equipment Replacement Reserve Used To Date	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Equipment Replacement Reserve Outstanding	\$0	\$50,000	\$50,000	\$50,000	#DIV/0!	\$0	0%
Student Organization Support Committed	\$0	\$15,000	\$15,000	\$15,000	#DIV/0!	\$0	0%
Student Organization Support Used To Date	\$0	\$0	\$0	\$0	#DIV/0!	\$0	#DIV/0!
Student Organization Support Outstanding	\$0	\$15,000	\$15,000	\$15,000	#DIV/0!	\$0	0%
Customer Satisfaction (Spring)				0	#DIV/0!	0	#DIV/0!
Customer Satisfaction (Fall)				0	#DIV/0!	0	#DIV/0!

**ATTACHMENT 2**

<b>Client Satisfaction</b>				0	#DIV/0!	0	#DIV/0!
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## **UI 670 Attachment D**

### **University of Idaho General Terms and Conditions**

#### **SECTION 7 – GENERAL INFORMATION**

##### **7.1 DISQUALIFICATION**

Carefully read the information contained in this solicitation and submit a complete response to all requirements specifications, and directions as directed. Please be advised that failure to comply with all of the requirements in this solicitation will be grounds for disqualification.

##### **7.2 TERMS AND CONDITIONS**

The Vendors Proposal is a valid, firm, and irrevocable offer which the University may accept within 120 days from the Proposal's Due Date as stated in Section 2.1. The Proposal, if accepted, shall remain valid for the life of the contract.

##### **7.3 This has been deleted in its entirety.**

##### **7.4 OWNERSHIP OF PROPOSALS**

All submittal contents become the property of the University, and may become a part of any resulting contract. Award or rejection of a proposal does not affect this right. All RAVA Plan risks will be made available to the potential best-valued vendor and to all vendors once an award has been made.

##### **7.5 PROPOSAL EXPENSE**

Under no circumstances shall the University be responsible for any proposal preparation expenses, submission costs, or any other expenses, costs, or damages of whatever nature incurred as the result of a Vendors participation in this process.

##### **7.6 CLARIFICATION**

The University reserves the right to clarify, or seek clarification, on any submittal (this includes, but is not limited to, contacting past clients to verify performance, interviewing key personnel, performing additional investigating on the firms performance history, and requiring additional documentation or information to respond to any performance findings).

##### **7.7 CONSIDERATION OF PROPOSAL**

The Vendor selected for an award will be the vendor whose proposal is responsive, responsible, and is the most advantageous to the University, as determined by the University in its sole discretion. The University anticipates that all Vendors will have a fair and reasonable opportunity to provide service.

The University intends to award a contract, subject to the terms of this solicitation, to the best valued Vendor. The University may add, delete, or modify any requirement or statement in this solicitation if the University deems that it is in the best interest of the University.

The University reserves the right to reject any or all proposals and to reject a proposal not accompanied by any required data, or to reject a proposal that is in any way incomplete or irregular. The University shall reject all submittals from Vendors where there has been collusion among the Vendors.

Any final analysis or weighted point score does not imply that one Vendor is superior to another, but simply that in our judgment the Vendor selected appears to offer the best overall solution for our current and anticipated needs.

The University shall have the right to waive any informality or irregularity in any proposal received and to advertise for new proposals where the acceptance, rejection, waiving, or re-advertising is determined by the University to be in its own best interest. The successful Vendor shall comply with all employment laws and regulations.

**7.8 CONFLICT OF INTEREST**

No employee, officer or agent of University shall participate in the selection, the award, or administration, of the contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when one of the following has a financial or other interest in any firm proposing on or selected for the award:

- 1) The employee, or an officer or agent of the employee;
- 2) Any member of the employee's immediate family;
- 3) The employee's business partner; or
- 4) An organization which employs, or is about to employ any of the above.

University officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from responders, potential responders, sub-Vendors, or other parties to sub-agreements whereby the intent could reasonably be inferred as influencing the employee in the performance of his or her duties or was intended as a reward for any official act on his or her part.

**7.9 ACCEPTANCE OF RFP TERMS**

All terms and conditions contained herein shall become part of any subsequent contract that is awarded from this RFP. A proposal submitted in response to the RFP shall constitute a binding offer.

**7.10 MODIFICATION TO TERMS**

All additional or different terms propose by the Vendor are objected to and are hereby rejected (unless otherwise provided for in writing by the purchasing manager of the University of Idaho). No alteration in any of the terms, conditions, delivery, price, quality, quantity or specifications of this order will be effective without the written consent of the University of Idaho Department of Purchasing Services.

**7.11 HOLD HARMLESS**

Vendor shall indemnify, defend and hold the University and the State of Idaho harmless from and against any and all claims, losses, damages, injuries, liabilities and all costs, including attorneys fees, court costs and expenses and liabilities incurred in or from any such claim, arising from any breach or default in the performance of any obligation on Vendor's part to be performed under the terms of this Agreement, or arising from any act, negligence or the failure

to act of Vendor, or any of its agents, sub-vendors, employees, invitees or guests. Vendor, upon notice from the University, shall defend the University at Vendor's expense by counsel reasonably satisfactory to the University. Vendor, as a material part of the consideration of the University, hereby waives all claims in respect thereof against the University.

**7.12 CERTIFICATION OF INDEPENDENT OFFER**

By submitting a Proposal, the Vendor certifies that in connection with this RFP:

- a. The Proposal has been arrived at independently, without consultation, communication or agreement with any competitor for the purpose of restricting competition.
- b. Unless otherwise required by law, the offer cited in this RFP has not been and will not be knowingly disclosed by the Vendor prior to opening directly or indirectly to any other Vendor.
- c. No attempt has been made nor will be made by the Vendor to induce another person or firm to submit or not submit a Proposal for the purpose of restricting competition.

**7.13 TERMINATION**

The University may terminate the Contract by providing the Vendor with written notice 30 calendar days prior to such date. In the event of a breach by Vendor of any of the provisions of this Agreement, the University of Idaho reserves the right to cancel and terminate this Agreement forthwith upon giving written notice to the Vendor. Vendor shall be liable for damages suffered by the University of Idaho resulting from Vendor's breach of Agreement.

**7.14 NEWS RELEASE**

The Vendor shall not in any way or in any form publicize or advertise any part of the RFP, contract, or services provided to the University without the written approval from the University. However, the Vendor shall be allowed to list the University on its routine client list for matters of reference.

**7.15 PRICE WARRANTY**

Vendor warrants that prices charged to the University of Idaho are based on Vendor's current catalog or market prices of commercial items sold in substantial quantities to the general public and prices charged do not exceed those charged by Vendor to other customers purchasing the same item in like or comparable quantities.

**7.16 PROPOSAL SIGNATORY AUTHORITY**

Each person signing this Proposal certifies that they are the person in the Vendor's firm authorized to make the decision to make the offer.

**7.17 PROMOTIONS**

Vendor shall not use the name, trade name, trademark, or any other designation of the University, or any contraction, abbreviation, adaptation, or simulation of any of the foregoing, in any advertisement or for any commercial or promotional purpose (other than in performing under this Agreement) without the University's prior written consent in each case.

**7.18 LAWS, REGULATIONS AND PERMITS**

The Vendor shall give all notices required by law and comply with all applicable Federal, State, and local laws, ordinances, rules and regulations relating to the conduct of the work. The

Vendor shall be liable for all violations of the law in connection with work furnished by the Vendor, including the Vendor's sub-Vendors. Vendor guarantees all items, or services, meet or exceed those requirements and guidelines established by the Occupational Safety and Health Act. All purchase orders and contracts issued by the University of Idaho are subject to F.A.R. 52.209-6. Vendor warrants that neither supplier nor its principals is presently debarred, suspended or proposed for debarment by the Federal Government.

**7.19 RECORD OF PURCHASES**

Vendor will provide Purchasing Services a detailed usage report of items/services ordered, quantities, and pricing under this Agreement upon request.

**7.20 APPEAL OF AWARD**

A Proposer aggrieved by the award of an Agreement may file an appeal by writing to the Director of Purchasing Services. The appeal must be received by the Director of Purchasing Services within five working days after the award is made, must describe the basis for the appeal, and must include all argument and evidence the Proposer wishes the Director of Purchasing Services to consider. Keeping track of the date an award is made is the responsibility of the Proposer.

**7.21 APPLICABLE LAW AND FORUM**

This Agreement shall be construed in accordance with, and governed by the laws of the State of Idaho. Any legal proceeding related to this Agreement shall be instituted in the courts of the county of Latah, state of Idaho, and Vendor agrees to submit to the jurisdiction of such courts.

**7.22 ASSIGNMENTS**

No Agreement, order, or any interest therein shall be transferred by Vendor to any other party without the approval in writing of the Purchasing Manager, University of Idaho. Transfer of an Agreement without approval may cause the recession of the transferred Agreement at the option of the University of Idaho.

**7.23 REGENTS' APPROVAL**

This Agreement may be subject to approval by the Regents of the University of Idaho, and if it is and if such approval is not granted this Agreement shall be void and neither party shall have any further obligations or liabilities hereunder.

**7.24 RISK OF LOSS**

Until all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by University and working properly, Vendor and its sub-vendors of any tier shall bear all risks of all loss or damage to the improvements, equipment, or goods, excluding loss or damage caused by acts, omissions, or negligence of the University. Once all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by University and working properly, the risk of all loss or damage shall be borne by University, excluding loss or damage caused by acts, omissions, or negligence of the Vendor. Vendors shall require its sub-vendors of any tier to bear the same risk of loss.

**7.25 WARRANTY**

Vendor warrants that all products delivered under this order shall be new, unless otherwise specified, free from defects in material and workmanship, and shall be fit for the intended purpose. All products found defective shall be replaced by the Vendor upon notification by the University of Idaho. All costs of replacement, including shipping charges, are to be borne by the Vendor.

**7.26 PAYMENT / CASH DISCOUNT**

Invoices will not be processed for payment nor will the period of computation for cash discount commence until receipt of a properly completed invoice or invoiced items are received and accepted, whichever is later. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized. Payment shall not be considered late if a check or warrant is available or mailed within the time specified.

**7.27 LIENS, CLAIMS AND ENCUMBRANCES**

Vendor warrants and represents that all the goods and materials delivered herein are free and clear of all liens, claims or encumbrances of any kind.

**7.28 TAXES**

The University of Idaho is exempt from payment of Idaho State Sales and Use Tax. In addition, the University is generally exempt from payment of Federal Excise Tax under a permanent authority from the District Director of the Internal Revenue Service. Exemption certificates will be furnished as required upon written request by Vendor. If Vendor is required to pay any taxes incurred as a result of doing business with the University of Idaho, it shall be solely responsible for the payment of those taxes. If Vendor is performing public works construction, it shall be responsible for payment of all sales and use taxes.

**7.29 BINDING EFFECT**

This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

**7.30 WAIVER**

No covenant, term or condition, or the breach thereof, shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition herein. Acceptance by a party of any performance by another party after the time the same shall have become due shall not constitute a waiver by the first party of the breach or default unless otherwise expressly agreed to in writing.

**7.31 FORCE MAJEURE**

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes thereof, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (except for financial ability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

**7.32 JOINT VENTURE**

15

Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment or agency relationship between the parties.

**7.33 NONDISCRIMINATION**

Vendor represents and agrees that it will not discriminate in the performance of this Agreement or in any matter directly or indirectly related to this Agreement on the basis of race, sex, color, religion, national origin, disability, ancestry, or status as a Vietnam veteran. This non-discrimination requirement includes, but is not limited to, any matter directly or indirectly related to employment. Breach of this covenant may be regarded as a material breach of Agreement.

**7.34 INSURANCE REQUIREMENTS**

Vendor and its sub-vendors of any tier are required to carry the types and limits of insurance required by law. By requiring insurance herein, University does not represent that coverage and limits will necessarily be adequate to protect Vendor and its sub-vendor(s) of any tier, and such coverage and limits shall not be deemed as a limitation on the liability of the Vendor and its sub-vendor(s) of any tier under the indemnities granted to University in this Agreement.

The Vendor is required to provide University with a Certificate of Insurance ("certificate"). All certificates shall be coordinated by the Vendor and provided to the University within seven (7) days of the signing of the contract by the Vendor. Certificates shall be executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. All certificates shall provide for thirty (30) days' written notice to University prior to cancellation, non-renewal, or other material change of any insurance referred to therein as evidenced by return receipt of United States certified mail. Additionally and at its option, the University may request certified copies of required policies and endorsements. Such copies shall be provided within (10) ten days of the Institution's request.

All insurance required hereunder shall be maintained in full force and effect with insurers with Best's rating of AV or better and be licensed and admitted in Idaho. All policies required shall be written as primary policies and not contributing to nor in excess of any coverage University may choose to maintain. Failure to maintain the required insurance may result in termination of this Agreement at University's option.

All policies except Workers Compensation and Professional Liability shall name University as Additional Insured. The Additional Insured shall be stated as: "State of Idaho and The Regents of the University of Idaho". Certificate Holder shall read: "University of Idaho." Certificates shall be mailed to: University of Idaho, Risk Management, P.O. Box 443162, Moscow, ID 83844-3162.

Failure of University to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Institution to identify a deficiency from evidence that is provided shall not be construed as a waiver of the obligation of Vendor and its sub-vendor(s) of any tier to maintain such insurance.

Vendor is responsible for coordinating the reporting of claims and for the following: (a) notifying the Institution in writing as soon as practicable after notice of an injury or a claim is received; (b) cooperating completely with University in the defense of such injury or claim; and (c) taking no

steps (such as admission of liability) which will prejudice the defense or otherwise prevent the University from protecting its interests.

Vendor and its sub-vendor(s) of any tier shall at its own expense obtain and maintain:

Commercial General and Umbrella / Excess Liability Insurance. Vendor and its sub-Vendor(s) of any tier shall maintain Commercial General Liability (“CGL”) written on an occurrence basis and with a limit of not less than \$1,000,000 each occurrence and in the aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately by location and shall not be less than \$1,000,000. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent Vendors, products-completed operations, personal injury and advertising injury, and liability assumed under a contract including the tort liability of another assumed in a business contract. Waiver of subrogation language shall be included. If necessary to provide the required limits, the Commercial General Liability policy’s limits may be layered with a Commercial Umbrella or Excess Liability policy.

Commercial Auto Insurance. Vendor and its sub-Vendor(s) of any tier shall maintain a Commercial Auto policy with a Combined Single Limit of not less than \$1,000,000; Underinsured and Uninsured Motorists limit of not less than \$1,000,000; Comprehensive; Collision; and a Medical Payments limit of not less than \$10,000. Coverage shall include Non-Owned and Hired Car coverage. Waiver of subrogation language shall be included.

Business Personal Property. Vendor and its sub-Vendor(s) of any tier shall purchase insurance to cover Business Personal Property of Vendor and its sub-Vendor(s) of any tier. In no event shall University be liable for any damage to or loss of personal property sustained by Vendor, even if such loss is caused by the negligence of Institution, its employees, officers or agents. Waiver of subrogation language shall be included.

Workers’ Compensation. Vendor and its sub-Vendor(s) of any tier shall maintain all coverage statutorily required of the Vendor and its sub-Vendor(s) of any tier, and coverage shall be in accordance with the laws of Idaho. Vendor and its sub-Vendor(s) of any tier shall maintain Employer’s Liability with limits of not less than \$100,000 / \$500,000 / \$100,000.

Professional Liability. If professional services are supplied to Institution, Vendor and its sub-Vendor(s) of any tier, Vendor and its sub-Vendor(s) of any tier shall maintain Professional Liability (Errors & Omissions) insurance on a claims made basis, covering claims made during the policy period and reported within three years of the date of occurrence. Limits of liability shall be not less than one million dollars (\$1,000,000).

**7.35 UNIVERSITY’S RULES, REGULATIONS, AND INSTRUCTIONS**

Contractor will follow and comply with all rules and regulations of the University and the reasonable instructions of University personnel. The University reserves the right to require the removal of any worker it deems unsatisfactory for any reason.

<b>7.36 ATTACHMENTS AND EXHIBITS</b> Attachment A	RFP Cover Page and Checklist
Attachment B	Proposal Form
Attachment C	Financial Pro Forma Worksheet
Attachment D	Work Plan
Attachment E	Risk Assessment and Value Added (RAVA) Plan Template
Attachment F	UI Goals and Expectations Checklist

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**LEWIS-CLARK STATE COLLEGE**

**SUBJECT**

Approval to sell property at 508 6<sup>th</sup> Ave, Lewiston, ID

**REFERENCE**

April 2005	Board approved LCSC's request to purchase the York House and two adjacent properties at 504, 508, and 512 6 <sup>th</sup> Ave in Lewiston, Idaho—primary goal of the acquisition was to support use of the York House as a learning laboratory for Hospitality Mgt students.
April 2008	Board approved LCSC's request to sell the York House (504 6 <sup>th</sup> Ave) after the College terminated Hospitality Mgt lab operations at that location.
December 2008	Board approved LCSC's request to sell the houses at 508 and 512 6 <sup>th</sup> Ave after a potential buyer had expressed interest in the possibility of buying all three properties as a package—approval was contingent upon later Board approval of terms, when offers were received.
April 2009	Board approved LCSC sale of house at 512 6 <sup>th</sup> Ave.

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Sections V.I.1

**BACKGROUND/DISCUSSION**

This property, located one block north of the Lewis-Clark State College (LCSC) Lewiston campus, was purchased in 2005 as part of a package of three properties which included the "York House," a former bed-and-breakfast operation used until the end of the Spring 2008 semester as a training laboratory for students in LCSC's Hospitality Management program. The subject property at 508 6<sup>th</sup> Ave has been used as a rental since its acquisition by the College in 2005. When LCSC ended Hospitality Management lab operations at the York house, it received permission from the Board to sell the three properties either separately or as package. Sale of the house at 512 6<sup>th</sup> Ave was approved by the Board in April 2009. The main "York House" unit at 504 6<sup>th</sup> Ave remains on the market. LCSC has received an offer for \$115K for the house at 508 6<sup>th</sup> Ave, and has accepted the offer, subject to Board approval of the terms.

The subject property was appraised for \$84K in 2005 prior to its purchase by LCSC as part of the package of three properties. When the decision was made to sell the three houses, LCSC had the property reappraised in June 2008 (prior to the sharp market slump accompanying the national/regional economic downturn) and the appraised value for the property at 508 6<sup>th</sup> Ave was \$108K.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

---

The pending buyer and LCSC have agreed on a price of \$115K, as indicated in the Purchase Sales Agreement found at Attachment 4.

**IMPACT**

Sale of the subject property, which lies outside LCSC's projected development zone and does not contribute to primary mission programs, makes financial sense for the College. Sale of the property would obviate the need for future repairs to the aging structure, which would exceed the minimal rent amounts collected from tenants. Proceeds from sale of the property will be used to support the College's core mission areas.

**ATTACHMENTS**

Attachment 1 – Overhead diagram showing location of property	Page 3
Attachment 2 – Photos of house	Page 4
Attachment 3 – Appraisal of property in 2008 (prior to listing)	Page 5
Attachment 4 – Purchase Sale Agreement	Page 21

**STAFF COMMENTS AND RECOMMENDATIONS**

Sale of the real property and structure in question has been envisioned by the College since December 2008. The property is outside the College's expansion zone and does not currently serve any programmatic needs of the College. The College has an offer on the property in excess of the appraised value. Sale of the property will provide revenue to the College in a time of fiscal austerity. Staff recommends approval.

**BOARD ACTION**

A motion to approve the request by Lewis-Clark State College to sell the property located at 508 6<sup>th</sup> Avenue, Lewiston, Idaho, for \$115,000, and to authorize LCSC's Vice-President for Finance and Administration to sign all necessary documents to complete the sale on behalf of the State Board of Education in its capacity as the Board of Trustees for the College.


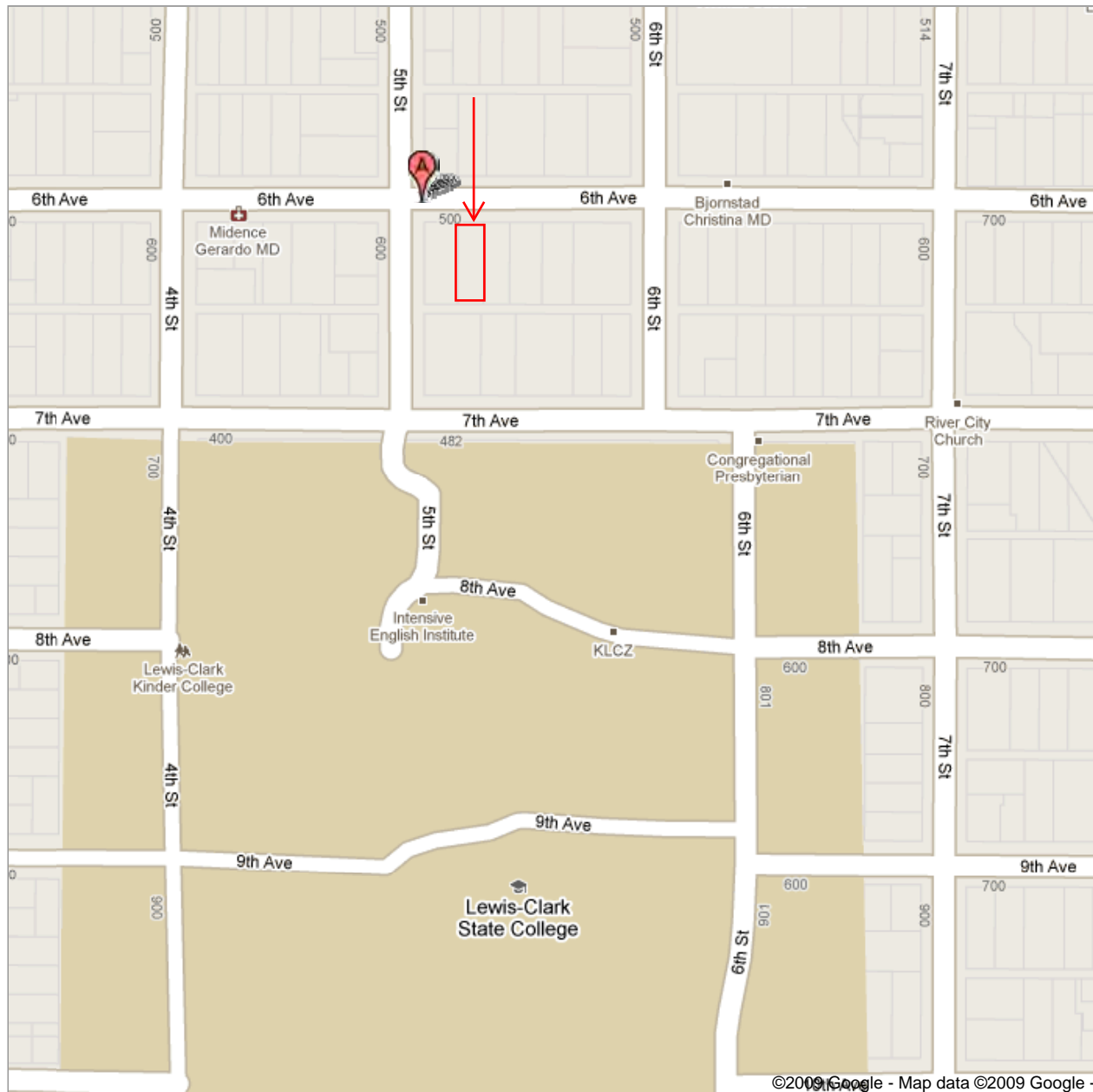
Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

ATTACHMENT 1



Address 508 6th Ave  
Lewiston, ID 83501

Get Google Maps on your phone  
Text the word "GMAPS" to 466453

©2009 Google - Map data ©2009 Google -

508 6th Avenue, Lewiston, ID



# INVOICE

**FROM:**  
 Wayne T. Agee  
 Western Appraisal  
 1014 Main St.  
 Lewiston, ID 83501  
  
**Telephone Number:** (208) 746-9891      **Fax Number:** (208) 746-9895

INVOICE NUMBER
RL5591
DATE
Filed 06/26/2008

**TO:**  
  
 Lewis Clark State College  
 500 8th Ave.  
 Lewiston, ID 83501  
  
**Telephone Number:** 792-2240      **Fax Number:**  
**Alternate Number:**      **E-Mail:** lkloewen@lcsc.edu

REFERENCE
<b>Internal Order #:</b> RL5591
<b>Lender Case #:</b>
<b>Client File #:</b>
<b>Main File # on form:</b> RL5591
<b>Other File # on form:</b>
<b>Federal Tax ID:</b>
<b>Employer ID:</b>

## DESCRIPTION

**Lender:** Lewis Clark State College      **Client:** Lewis Clark State College  
**Purchaser/Borrower:** N/A  
**Property Address:** 508 6th Ave.  
**City:** Lewiston  
**County:** Nez Perce      **State:** ID      **Zip:** 83501  
**Legal Description:** Lewiston: North Park Place, W5' of Lot 5, Block 2 and E40' of Lot 6, Block 2

FEES	AMOUNT
1004 URAR	300.00
<b>SUBTOTAL</b>	300.00

PAYMENTS	AMOUNT
<b>Check #:</b> <b>Date:</b> <b>Description:</b>	
<b>Check #:</b> <b>Date:</b> <b>Description:</b>	
<b>Check #:</b> <b>Date:</b> <b>Description:</b>	
<b>SUBTOTAL</b>	
<b>TOTAL DUE</b>	\$ 300.00

Uniform Residential Appraisal Report

File # RL5591

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

SUBJECT

Property Address 508 6th Ave. City Lewiston State ID Zip Code 83501
Borrower N/A Owner of Public Record Idaho State Board of Education County Nez Perce
Legal Description Lewiston: North Park Place, W5' of Lot 5, Block 2 and E40' of Lot 6, Block 2
Assessor's Parcel # RPL10600810206A Tax Year 2007 R.E. Taxes \$ N/A
Neighborhood Name Lewiston Map Reference 4-A Census Tract 9903.00
Occupant [ ] Owner [x] Tenant [ ] Vacant Special Assessments \$ N/A [ ] PUD HOA \$ N/A [ ] per year [ ] per month
Property Rights Appraised [x] Fee Simple [ ] Leasehold [ ] Other (describe)
Assignment Type [ ] Purchase Transaction [ ] Refinance Transaction [x] Other (describe) Estimate of Current Market Value for Possible Sale
Lender/Client Lewis Clark State College Address 500 8th Ave., Lewiston, ID 83501
Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? [ ] Yes [x] No
Report data source(s) used, offering price(s), and date(s). MLS, Discussion with Owner Representative

CONTRACT

I [ ] did [ ] did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed. N/A
Contract Price \$ N/A Date of Contract N/A Is the property seller the owner of public record? [ ] Yes [ ] No Data Source(s)
Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? [ ] Yes [ ] No
If Yes, report the total dollar amount and describe the items to be paid.

NEIGHBORHOOD

Note: Race and the racial composition of the neighborhood are not appraisal factors.
Neighborhood Characteristics One-Unit Housing Trends One-Unit Housing Present Land Use %
Location [x] Urban [ ] Suburban [ ] Rural Property Values [ ] Increasing [x] Stable [ ] Declining PRICE AGE One-Unit 75 %
Built-Up [x] Over 75% [ ] 25-75% [ ] Under 25% Demand/Supply [ ] Shortage [x] In Balance [ ] Over Supply \$ (000) (yrs) 2-4 Unit 7 %
Growth [ ] Rapid [x] Stable [ ] Slow Marketing Time [ ] Under 3 mths [x] 3-6 mths [ ] Over 6 mths 50 Low 0 Multi-Family 5 %
Neighborhood Boundaries The subject neighborhood is bounded by Third Avenue to the North, Snake River to the West, 17th St. to the East and 18th Ave. to the South. 650 High 120 Commercial 10 %
135 Pred. 50 Other 3 %
Neighborhood Description The subject is located in a primarily single family residential neighborhood with commercial properties located on the arterial streets. Employment, schools and retail shopping are a short commute from the subject property. Single family residential properties in the neighborhood vary in size, style, age and value. Sites vary in size from 3,500 sq. ft. to 12,000 sq. ft.
Market Conditions (including support for the above conclusions) Sales have slowed over the past year after two years of appreciation in the market. Current market times average less than 111 days and sale prices are currently about 99% of list. Few concessions are necessary for sales, however, some sellers are offering to assist with closing costs. New construction continues at a decreased rate.
Dimensions 45' x 142' Area 6,390 Sq.Ft. Shape Rectangular View Average
Specific Zoning Classification R4 Zoning Description Higher Density Residential (7,500 sq. ft. minimum)
Zoning Compliance [ ] Legal [x] Legal Nonconforming (Grandfathered Use) [ ] No Zoning [ ] Illegal (describe)
Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use? [x] Yes [ ] No If No, describe

SITE

Utilities Public Other (describe) Public Other (describe) Off-site Improvements - Type Public Private
Electricity [x] [ ] Water [x] [ ] Street Asphalt [x] [ ]
Gas [x] [ ] Sanitary Sewer [x] [ ] Alley Asphalt [x] [ ]
FEMA Special Flood Hazard Area [ ] Yes [x] No FEMA Flood Zone C FEMA Map # 1601040001B FEMA Map Date 1/20/1982
Are the utilities and off-site improvements typical for the market area? [x] Yes [ ] No If No, describe
Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? [ ] Yes [x] No If Yes, describe

IMPROVEMENTS

General Description Foundation Exterior Description materials/condition Interior materials/condition
Units [x] One [ ] One with Accessory Unit [ ] Concrete Slab [ ] Crawl Space Foundation Walls Cnrcr&StnMsy/Av- Floors Hardwd,Vnyl/Av
# of Stories 1 Story [x] Full Basement [ ] Partial Basement Exterior Walls Stucco/Av Walls Plaster/Av
Type [x] Det. [ ] Att. [ ] S-Det./End Unit Basement Area 884 sq.ft. Roof Surface Comp Shingle/Av- Trim/Finish Wd,Paint/Av
[x] Existing [ ] Proposed [ ] Under Const. Basement Finish 0 % Gutters & Downspouts None Bath Floor Vinyl/Av
Design (Style) 1 Story/Bsmt [x] Outside Entry/Exit [ ] Sump Pump Window Type Wood/Av Bath Wainscot None
Year Built 1910 Evidence of [ ] Infestation Storm Sash/Insulated Mix/Av Car Storage [x] None
Effective Age (Yrs) 15-20 [ ] Dampness [ ] Settlement Screens Partial/Av [ ] Driveway # of Cars
Attic [ ] None Heating [x] FWA [ ] HWBB [ ] Radiant Amenities [ ] Woodstove(s) # Driveway Surface
[ ] Drop Stair [ ] Stairs [ ] Other Fuel Gas [x] Fireplace(s) # 1 [x] Fence [ ] Garage # of Cars
[ ] Floor [x] Scuttle Cooling [ ] Central Air Conditioning [ ] Patio/Deck [x] Porch [ ] Carport # of Cars
[ ] Finished [ ] Heated [x] Individual Wdw [ ] Other [ ] Pool [x] Other UGSS [ ] Att. [ ] Det. [ ] Built-in
Appliances [ ] Refrigerator [ ] Range/Oven [ ] Dishwasher [ ] Disposal [ ] Microwave [ ] Washer/Dryer [ ] Other (describe)
Finished area above grade contains: 6 Rooms 2 Bedrooms 1 Bath(s) 919 Square Feet of Gross Living Area Above Grade
Additional features (special energy efficient items, etc.). Energy efficiency is typical of a residence of this style, quality and condition in the market area.
Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). Upon observation the appraiser found the subject residence to be in average overall condition for it's effective age. Upon observation the appraiser noted that the subject roof and foundation show some signs of wear and tear associated with age and use that would require a roof and foundation inspection. Therefore, this report is subject to the completion of a home inspection, in particular the foundation and the roof. No other repairs, alterations or inspections are required as conditions to this appraisal report.
Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? [x] Yes [ ] No If Yes, describe
As indicated above the appraiser noted that the subject foundation and roof are showing signs of deferred maintenance. These factors may not impose a serious threat to the current livability of the subject residence, however, a foundation and roof inspection would provide greater detail as to the remaining economic life of the foundation and roof, as well as, other possible needed repairs.
Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? [x] Yes [ ] No If No, describe

# Uniform Residential Appraisal Report

File # RL5591

There are 8 comparable properties currently offered for sale in the subject neighborhood ranging in price from \$ 90,000 to \$ 130,000							
There are 13 comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$ 90,000 to \$ 130,000							
FEATURE	SUBJECT	COMPARABLE SALE # 1	COMPARABLE SALE # 2	COMPARABLE SALE # 3			
Address	508 6th Ave. Lewiston, ID 83501	330 14th Ave. Lewiston, ID 83501	1008 N St. Lewiston, ID 83501	1216 14th St. Lewiston, ID 83501			
Proximity to Subject		0.56 miles S	0.71 miles SE	0.81 miles SE			
Sale Price	\$ N/A	\$ 106,000	\$ 120,000	\$ 119,000			
Sale Price/Gross Liv. Area	\$ sq.ft.	\$ 120.18 sq.ft.	\$ 133.33 sq.ft.	\$ 158.67 sq.ft.			
Data Source(s)		County Records, MLS	County Records, MLS	County Records, MLS			
Verification Source(s)		County Records, MLS	County Records, MLS	County Records, MLS			
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) \$ Adjustment	DESCRIPTION	+(-) \$ Adjustment	DESCRIPTION	+(-) \$ Adjustment
Sales or Financing Concessions		FHA No Concession		FHA No Concession		FHA No Concession	
Date of Sale/Time		04/11/08 - 150		02/15/08 - 32		01/10/08 - 65	
Location	Lewiston	Lewiston		Lewiston		Lewiston	
Leasehold/Fee Simple	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Site	6,390 Sq.Ft.	6,400 sq. ft.		3,550 sq. ft.	+5,000	3,600 sq. ft.	+5,000
View	Average	Average		Average		Average	
Design (Style)	1 Story/Bsmt	1 Story/Bsmt		1 Story/Bsmt		1 Story/Bsmt	
Quality of Construction	Average	Average		Average		Average	
Actual Age	A 98, E 15-20	A 74, E 15-20		A 88, E 15-20		A 83, E 7-10	-2,500
Condition	Average	Average		Average		Average+	-10,000
Above Grade Room Count	Total Bdrms. Baths	Total Bdrms. Baths		Total Bdrms. Baths		Total Bdrms. Baths	
	6 2 1	4 2 1		4 2 1		4 2 1	
Gross Living Area	919 sq.ft.	882 sq.ft.	+950	900 sq.ft.		750 sq.ft.	+4,250
Basement & Finished Rooms Below Grade	884 Sq.Ft. Unfinished	406 sq. ft. 203 Finished	+3,350 -2,450	816 sq. ft. 780 Finished	-9,350	750 sq. ft. Unfinished	+950
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	GFA/Window	GFA/CAC		GFA/Wall		GFA/CAC	
Energy Efficient Items	Average	Average		Average		Average	
Garage/Carport	O.S.P.	1-G Att.	-3,500	O.S.P.		1-G Att.	-3,500
Porch/Patio/Deck	Porches	Porches		Porch,Patio		Porch,Patio	-1,000
Aux Heat	Fireplace	Fireplace		Fireplace		None	+1,000
Other Amenities	Fence	Fence		Fnc,UGSS,Shd	-3,500	Fence,Shed	-1,000
Net Adjustment (Total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> -	\$ -1,650	<input type="checkbox"/> + <input checked="" type="checkbox"/> -	\$ -7,850	<input type="checkbox"/> + <input checked="" type="checkbox"/> -	\$ -6,800
Adjusted Sale Price of Comparables		Net Adj. 1.6 % Gross Adj. 9.7 %	\$ 104,350	Net Adj. 6.5 % Gross Adj. 14.9 %	\$ 112,150	Net Adj. 5.7 % Gross Adj. 24.5 %	\$ 112,200

SALES COMPARISON APPROACH

I  did  did not research the sale or transfer history of the subject property and comparable sales. If not, explain

My research  did  did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s) County Records, MLS

My research  did  did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale.

Data Source(s) County Records, MLS

Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).

ITEM	SUBJECT	COMPARABLE SALE #1	COMPARABLE SALE #2	COMPARABLE SALE #3
Date of Prior Sale/Transfer	05/2005	None Found	None Found	None Found
Price of Prior Sale/Transfer	\$95,000	N/A	N/A	N/A
Data Source(s)	County Records, MLS	County Records, MLS	County Records, MLS	County Records, MLS
Effective Date of Data Source(s)	06/26/2008	06/26/2008	06/27/2008	06/27/2008

Analysis of prior sale or transfer history of the subject property and comparable sales According to the Nez Perce County Assessor's records and a discussion with Lewis Clark State College the subject property was purchased in May of 2005 for \$95,000. The purchase price is an allocation of value from a larger sale which included 504, 508 and 512 6th Ave. The total purchase price for all three properties was \$460,000. Therefore, the purchase price of \$95,000 may not have accurately reflected the market value of the subject property at that time. None of the comparable sales have transferred in 1 year prior to the dates given. Neither the subject property or any of the comparable sales are currently subject to sale or listing agreements.

Summary of Sales Comparison Approach There have been several sales over the past year with some similarity to the subject property in size, age, condition, utility and function. Comparable sales # 1, 2, 3 and 4 are the most recent and similar to the subject property. Comparable sale # 5 was added in order to bolster the opinion of value indicated by the first four comparable sales. Comparable sales # 1 and # 2 and # 4 are the most similar to the subject property and required the least amount of adjustment. Therefore, these three comparable sales were given the most consideration in the indicated value by the Sales Comparison Approach. FOR FURTHER COMMENTS ON THE SUBJECT PROPERTY, THE COMPARABLE SALES AND THE ADJUSTMENTS MADE IN THE SALES COMPARISON APPROACH SEE THE COMMENTS SECTION ON PAGE # 3.

Indicated Value by Sales Comparison Approach \$ 108,000

Indicated Value by: Sales Comparison Approach \$ 108,000 Cost Approach (if developed) \$ 115,729 Income Approach (if developed) \$ 107,100

The Sales Comparison Approach is generally the most accurate reflection of what buyers are currently paying in the market area. The Cost and Income Approach support the indicated value by the Sales Comparison Approach. The Sales Comparison Approach was weighted in the final opinion of value.

RECONCILIATION

This appraisal is made  "as is",  subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed,  subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or  subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair: Roof and Foundation inspection.

Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is \$ 108,000 , as of 06/26/2008 , which is the date of inspection and the effective date of this appraisal.

# Uniform Residential Appraisal Report

File # RL5591

ADDITIONAL COMMENTS

**HIGHEST AND BEST USE:** The current residential use of the subject property is legal, physically possible, financially feasible and appropriately supported. It is the appraiser's opinion that the "highest and best use" of the subject property is residential.

**MARKET DATA:** The comparable sales used in the Sales Comparison Approach for the subject property were the most recent in the subject market area with some similarity to the subject property. Following is a general discussion of the adjustments made in the Sales Comparison Approach. Adjustments are based on the appraiser's analysis of recent residential sales in the subject market area.

**SUBJECT:** The subject property consists of a 6,390 sq. ft. site with a 1 Story residence on a full unfinished basement area. Upon observation the appraiser noted that the subject foundation and the subject roof are showing some signs of wear and tear associated with age and use. The subject roof appears to have little remaining economic life and a roof inspection needs to be completed in order to determine if the subject roof has outlived its useful life and should be replaced. While observing the basement area the appraiser noted evidence of possible flooding or other water intrusion in previous years. There were water stains on the floors as well as wood pallets, which would be used to raise personal items off of the level of the ground due to flooding. It was also evident that the original Stone Masonry foundation had been sealed at one point in time with a poured concrete facia and that the seal was now beginning to deteriorate which would allow for possible water intrusion. As well, the appraiser noted that the window wells on the exterior of the residence for the basement windows are not below the level of the base of the windows. This allows rain water to pool in the bottom of the window well and seep through the window sill into the basement. Therefore, this appraisal report is subject to a home inspection, in particular the roof and foundation.

**COMPARABLE 1:** The comparable residence is newer, however, it shows similar signs of wear and tear associated with age and use. Living area was adjusted at \$25 per sq. ft. and rounded to the nearest \$50. Unfinished basement area was adjusted at \$7 per sq. ft. and rounded to the nearest \$50. Finished basement area was adjusted at \$12 per sq. ft. and rounded to the nearest \$50. The comparable property has a garage which provides additional enclosed storage and work space.

**COMPARABLE 2:** Upon analysis of recent residential site sales in the market area the appraiser determined that an adjustment was necessary for the comparable's smaller site. No adjustment was necessary for above grade living area or unfinished basement area as they are similar in size, utility and function to the subject's living and unfinished basement areas. The comparable property has an under ground sprinkler system and storage shed.

**COMPARABLE 3:** Site was adjusted as before. The comparable residence has recently received several updates and shows less wear and tear associated with age and use. Living and unfinished basement areas were adjusted as before. The comparable's exterior improvements are larger and more functional. The comparable residence does not have a secondary heat source which is more functional for year round use. The comparable property has a storage shed.

**COMPARABLE 4:** All adjustments were made as described before.

**COMPARABLE 5:** All adjustments were made as described before.

### COST APPROACH TO VALUE (not required by Fannie Mae)

Provide adequate information for the lender/client to replicate the below cost figures and calculations.

Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value) The most recent residential site sales with similarity to the subject site in location, access, topography and utility for development would have a dollar per square foot range of \$2.38 to \$4.50. The subject site has an average location, level topography average access and utility as it is an interior lot with alley access. Therefore, the appraiser has determined that the subject site would have a dollar per square foot value of approximately \$4.25 or \$27,150

COST APPROACH

ESTIMATED <input type="checkbox"/> REPRODUCTION OR <input checked="" type="checkbox"/> REPLACEMENT COST NEW	OPINION OF SITE VALUE .....			= \$	27,150
Source of cost data Marshall and Swift Cost Handbook	DWELLING	919 Sq.Ft. @ \$	82.13 .....	= \$	75,477
Quality rating from cost service Average Effective date of cost data 12/2006	Basement	884 Sq.Ft. @ \$	22.75 .....	= \$	20,111
Comments on Cost Approach (gross living area calculations, depreciation, etc.)	Floor Cover, Fireplace			= \$	9,717
Site value is based upon the analysis given above. Cost was developed from Marshall & Swift Cost Manual, adjusted by the appraiser's files and with local cost data obtained through discussions with local contractors.	Garage/Carport	Sq.Ft. @ \$		= \$	
	Total Estimate of Cost-New .....			= \$	105,305
	Less	Physical	Functional	External	
Physical depreciation is based on the age/life method and adjusted for the local market. See attached building sketch for residence dimensions.	Depreciation	26,326		= \$(	26,326)
	Depreciated Cost of Improvements .....			= \$	78,979
	"As-is" Value of Site Improvements .....			= \$	9,600
	Fence, Water, Sewer, Porches				
Estimated Remaining Economic Life (HUD and VA only) 45 Years	INDICATED VALUE BY COST APPROACH .....			= \$	115,729

### INCOME APPROACH TO VALUE (not required by Fannie Mae)

INCOME

Estimated Monthly Market Rent \$ 700 X Gross Rent Multiplier 153 = \$ 107,100 Indicated Value by Income Approach  
 Summary of Income Approach (including support for market rent and GRM) The GRM was developed using the market data collected by the appraiser of similar single-family residences that were rented at the time of sale.

### PROJECT INFORMATION FOR PUDs (if applicable)

PUD INFORMATION

Is the developer/builder in control of the Homeowners' Association (HOA)?  Yes  No Unit type(s)  Detached  Attached  
 Provide the following information for PUDs ONLY if the developer/builder is in control of the HOA and the subject property is an attached dwelling unit.  
 Legal Name of Project  
 Total number of phases Total number of units Total number of units sold  
 Total number of units rented Total number of units for sale Data source(s)  
 Was the project created by the conversion of existing building(s) into a PUD?  Yes  No If Yes, date of conversion.  
 Does the project contain any multi-dwelling units?  Yes  No Data Source  
 Are the units, common elements, and recreation facilities complete?  Yes  No If No, describe the status of completion.  
 Are the common elements leased to or by the Homeowners' Association?  Yes  No If Yes, describe the rental terms and options.  
 Describe common elements and recreational facilities.



## Uniform Residential Appraisal Report

File # RL5591

This report form is designed to report an appraisal of a one-unit property or a one-unit property with an accessory unit; including a unit in a planned unit development (PUD). This report form is not designed to report an appraisal of a manufactured home or a unit in a condominium or cooperative project.

This appraisal report is subject to the following scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. Modifications, additions, or deletions to the intended use, intended user, definition of market value, or assumptions and limiting conditions are not permitted. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment. Modifications or deletions to the certifications are also not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization, are permitted.

**SCOPE OF WORK:** The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the interior and exterior areas of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparable sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

**INTENDED USE:** The intended use of this appraisal report is for the lender/client to evaluate the property that is the subject of this appraisal for a mortgage finance transaction.

**INTENDED USER:** The intended user of this appraisal report is the lender/client.

**DEFINITION OF MARKET VALUE:** The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions\* granted by anyone associated with the sale.

\*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

**STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS:** The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.
2. The appraiser has provided a sketch in this appraisal report to show the approximate dimensions of the improvements. The sketch is included only to assist the reader in visualizing the property and understanding the appraiser's determination of its size.
3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.
5. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing the appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.
6. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that the completion, repairs, or alterations of the subject property will be performed in a professional manner.

## Uniform Residential Appraisal Report

File # RL5591

**APPRAISER'S CERTIFICATION:** The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.
2. I performed a complete visual inspection of the interior and exterior areas of the subject property. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.
3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.
5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.
6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.
7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
8. I have not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.
9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
10. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.
11. I have knowledge and experience in appraising this type of property in this market area.
12. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.
13. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.
14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.
15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.
16. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.
17. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
18. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).
19. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.
20. I identified the lender/client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.

## Uniform Residential Appraisal Report

File # RL5591

21. The lender/client may disclose or distribute this appraisal report to: the borrower; another lender at the request of the borrower; the mortgagee or its successors and assigns; mortgage insurers; government sponsored enterprises; other secondary market participants; data collection or reporting services; professional appraisal organizations; any department, agency, or instrumentality of the United States; and any state, the District of Columbia, or other jurisdictions; without having to obtain the appraiser's or supervisory appraiser's (if applicable) consent. Such consent must be obtained before this appraisal report may be disclosed or distributed to any other party (including, but not limited to, the public through advertising, public relations, news, sales, or other media).

22. I am aware that any disclosure or distribution of this appraisal report by me or the lender/client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.

23. The borrower, another lender at the request of the borrower, the mortgagee or its successors and assigns, mortgage insurers, government sponsored enterprises, and other secondary market participants may rely on this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties.

24. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

25. Any intentional or negligent misrepresentation(s) contained in this appraisal report may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et seq., or similar state laws.

**SUPERVISORY APPRAISER'S CERTIFICATION:** The Supervisory Appraiser certifies and agrees that:

1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.
4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

**APPRAISER**

Signature Wayne T. Agee  
 Name Wayne T. Agee  
 Company Name Western Appraisals  
 Company Address 1014 Main St., Lewiston, ID 83501

Telephone Number (208) 746-9891  
 Email Address wayne@westernapp.com  
 Date of Signature and Report July 03, 2008  
 Effective Date of Appraisal 06/26/2008  
 State Certification # \_\_\_\_\_  
 or State License # LRA-1868  
 or Other (describe) \_\_\_\_\_ State # \_\_\_\_\_  
 State ID \_\_\_\_\_  
 Expiration Date of Certification or License 12/30/2008

**ADDRESS OF PROPERTY APPRAISED**

508 6th Ave.  
Lewiston, ID 83501

APPRAISED VALUE OF SUBJECT PROPERTY \$ 108,000

**LENDER/CLIENT**

Name \_\_\_\_\_  
 Company Name Lewis Clark State College  
 Company Address 500 8th Ave., Lewiston, ID 83501  
 Email Address lkloewen@lcsc.edu

**SUPERVISORY APPRAISER (ONLY IF REQUIRED)**

Signature Don A. Kerby  
 Name Don Kerby  
 Company Name Western Appraisals  
 Company Address 1014 Main St., Lewiston, ID 83501

Telephone Number (208) 746-9891  
 Email Address western@westernapp.com  
 Date of Signature July 03, 2008  
 State Certification # CGA # 120  
 or State License # \_\_\_\_\_  
 State ID \_\_\_\_\_  
 Expiration Date of Certification or License 4/4/2009

**SUBJECT PROPERTY**

- Did not inspect subject property  
 Did inspect exterior of subject property from street  
 Date of Inspection \_\_\_\_\_  
 Did inspect interior and exterior of subject property  
 Date of Inspection 06/26/2008

**COMPARABLE SALES**

- Did not inspect exterior of comparable sales from street  
 Did inspect exterior of comparable sales from street  
 Date of Inspection \_\_\_\_\_



**Subject Photo Page**

Borrower/Client	N/A			
Property Address	508 6th Ave.			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501
Lender	Lewis Clark State College			



**Subject Front**

508 6th Ave.  
 Sales Price            N/A  
 Gross Living Area    919  
 Total Rooms            6  
 Total Bedrooms        2  
 Total Bathrooms      1  
 Location                Lewiston  
 View                     Average  
 Site                      6,390 Sq.Ft.  
 Quality                 Average  
 Age                      A 98, E 15-20



**Subject Rear**



**Subject Street**

**Comparable Photo Page**

Borrower/Client	N/A				
Property Address	508 6th Ave.				
City	Lewiston	County	Nez Perce	State ID	Zip Code 83501
Lender	Lewis Clark State College				



**Comparable 1**

330 14th Ave.  
 Prox. to Subject 0.56 miles S  
 Sales Price 106,000  
 Gross Living Area 882  
 Total Rooms 4  
 Total Bedrooms 2  
 Total Bathrooms 1  
 Location Lewiston  
 View Average  
 Site 6,400 sq. ft.  
 Quality Average  
 Age A 74, E 15-20



**Comparable 2**

1008 N St.  
 Prox. to Subject 0.71 miles SE  
 Sales Price 120,000  
 Gross Living Area 900  
 Total Rooms 4  
 Total Bedrooms 2  
 Total Bathrooms 1  
 Location Lewiston  
 View Average  
 Site 3,550 sq. ft.  
 Quality Average  
 Age A 88, E 15-20



**Comparable 3**

1216 14th St.  
 Prox. to Subject 0.81 miles SE  
 Sales Price 119,000  
 Gross Living Area 750  
 Total Rooms 4  
 Total Bedrooms 2  
 Total Bathrooms 1  
 Location Lewiston  
 View Average  
 Site 3,600 sq. ft.  
 Quality Average  
 Age A 83, E 7-10

**Comparable Photo Page**

Borrower/Client	N/A			
Property Address	508 6th Ave.			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501
Lender	Lewis Clark State College			



**Comparable 4**

1518 9th Ave.  
 Prox. to Subject      0.80 miles E  
 Sales Price            126,000  
 Gross Living Area    1,208  
 Total Rooms          5  
 Total Bedrooms       2  
 Total Bathrooms      1  
 Location                Lewiston  
 View                     Average  
 Site                       8,520 sq. ft.  
 Quality                  Average  
 Age                        A 86, E 15-20



**Comparable 5**

309 11th Ave.  
 Prox. to Subject      0.36 miles SW  
 Sales Price            97,500  
 Gross Living Area    952  
 Total Rooms          4  
 Total Bedrooms       1  
 Total Bathrooms      1  
 Location                Lewiston  
 View                     Average  
 Site                       4,200 sq. ft.  
 Quality                  Average  
 Age                        A 82, E 15-20

**Comparable 6**

Prox. to Subject  
 Sales Price  
 Gross Living Area  
 Total Rooms  
 Total Bedrooms  
 Total Bathrooms  
 Location  
 View  
 Site  
 Quality  
 Age

Site Plat

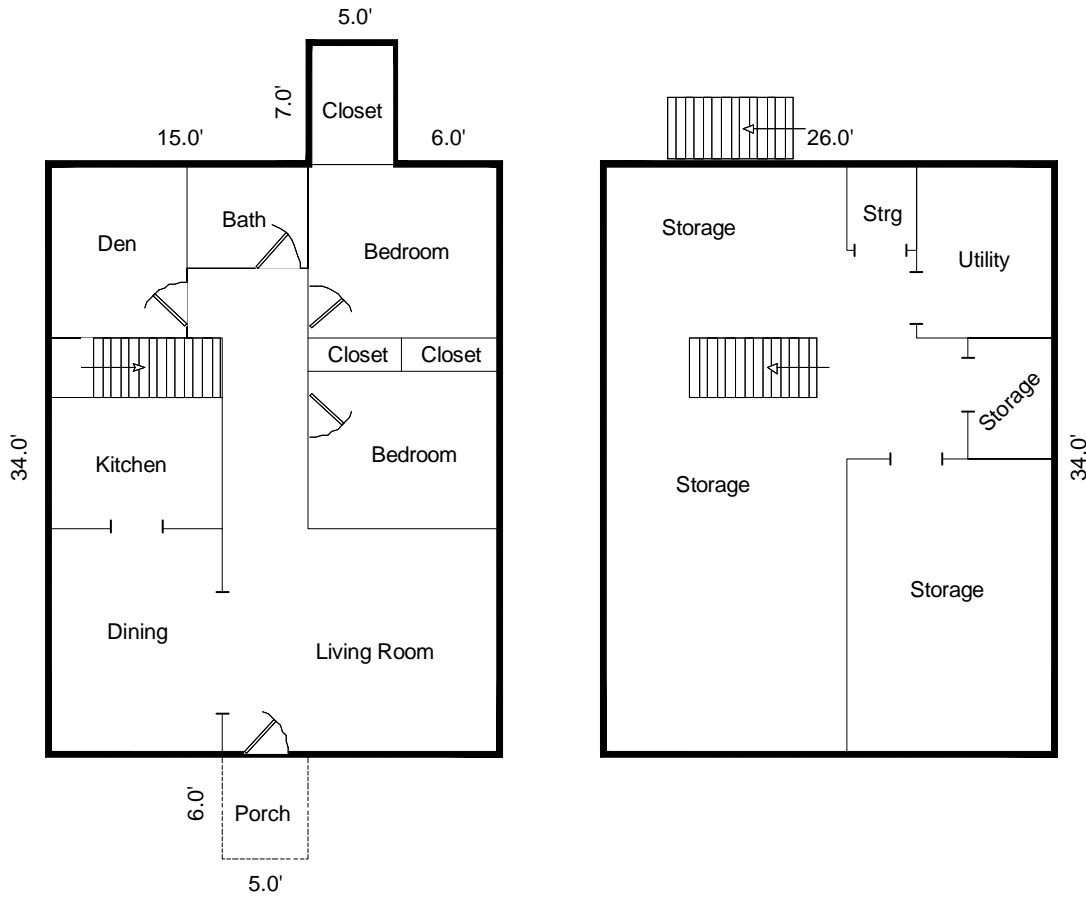
Borrower/Client	N/A			
Property Address	508 6th Ave.			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501
Lender	Lewis Clark State College			





**Building Sketch**

Borrower/Client	N/A			
Property Address	508 6th Ave.			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501
Lender	Lewis Clark State College			



Sketch by Apex IV™

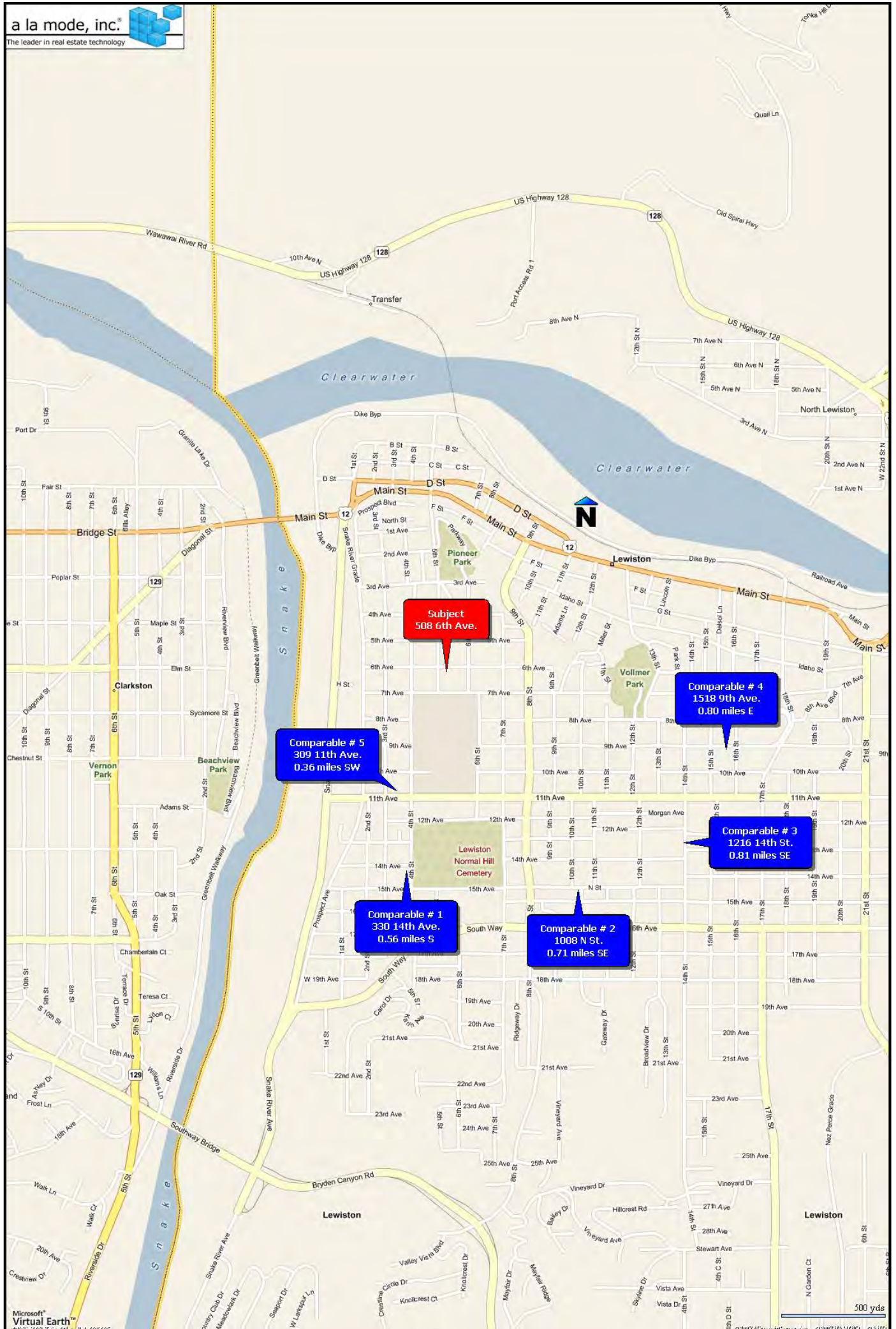
Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Size	Net Totals
GLA1	First Floor	919.00	919.00
BSMT	Basement	884.00	884.00
P/P	Porch	30.00	30.00
TOTAL LIVABLE (rounded)			919

LIVING AREA BREAKDOWN		
Breakdown	Subtotals	
First Floor		
5.0 x 7.0	35.00	
26.0 x 34.0	884.00	
2 Calculations Total (rounded)	919	

**Location Map**

Borrower/Client	N/A			
Property Address	508 6th Ave.			
City	Lewiston	County	Nez Perce	State ID
Lender	Lewis Clark State College	Zip Code	83501	



**License**

Borrower/Client	N/A			
Property Address	508 6th Ave.			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501
Lender	Lewis Clark State College			

**Bureau of Occupational Licenses**  
**Department of Self Governing Agencies**  
 The person named has met the requirements for licensure and is entitled  
 under the laws and rules of the State of Idaho to operate as a(n)  
**LICENSED RESIDENTIAL APPRAISER**

**WAYNE T. AGEE**  
**1014 MAIN ST**  
**LEWISTON ID 83501**

*Tana Cory*  
**Tana Cory**  
 Chief, B.O.L.

**LRA-1868**  
 Number

**12/30/2008**  
 Expires

**License**

Borrower/Client	N/A			
Property Address	508 6th Ave.			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501
Lender	Lewis Clark State College			

**Bureau of Occupational Licenses  
Department of Self Governing Agencies**

The person named has met the requirements for licensure and is entitled  
under the laws and rules of the State of Idaho to operate as a(n)

**CERTIFIED GENERAL APPRAISER**

**DON KERBY  
C/O WESTERN APPRAISALS  
1014 MAIN STREET  
LEWISTON ID 83501**

*Tana Cory*

**Tana Cory  
Chief, B.O.L.**

**CGA-120  
Number**

**04/04/2009  
Expires**

JULY 2009 EDITION

Page 1 of 7



**RE-21 REAL ESTATE PURCHASE AND SALE AGREEMENT**

THIS IS A LEGALLY BINDING CONTRACT, READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS. IF YOU HAVE ANY QUESTIONS, CONSULT YOUR ATTORNEY AND/OR ACCOUNTANT BEFORE SIGNING.



1 ID# 14213395 DATE 1-13-2010  
 2  
 3 LISTING AGENCY RE/MAX River Cities Office Phone # 208-743-6575 Fax #  
 4 Listing Agent Dick White E-Mail \_\_\_\_\_ Phone # 509-758-4789  
 5 SELLING AGENCY Coldwell Banker Tomlinson Office Phone # \_\_\_\_\_ Fax # 208-746-0625  
 6 Selling Agent Katy Mason E-Mail katymason1@aol.com Phone # 208-305-3899  
 7

8 1. BUYER: Eugenia Pittman  
 9 (Hereinafter called "BUYER") agrees to purchase, and the undersigned SELLER agrees to sell the following described real estate hereinafter referred to  
 10 as "PROPERTY" COMMONLY KNOWN AS 508 6th Ave  
 11 Lewiston City Nezperce County, ID, Zip 83501 legally described as: W'5 of lot 5 & E540' of  
 12 lot 6, Block 2, North Park Place, Lewiston  
 13 OR Legal Description Attached as addendum # \_\_\_\_\_ (Addendum must accompany original offer.)

14  
 15 2. \$ 115,000.00 PURCHASE PRICE: One Hundred Fifteen Thousand and Zero/100 DOLLARS,  
 16 payable upon the following TERMS AND CONDITIONS (not including closing costs):

17  
 18 3. FINANCIAL TERMS: Note: A+C+D+E must add up to total purchase price.  
 19  
 20 (A) \$ 1,000.00 EARNEST MONEY: BUYER hereby deposits One Thousand and Zero/100  
 21 DOLLARS as Earnest Money evidenced by:  cash  personal check  cashier's check  note (due date): \_\_\_\_\_  
 22  other \_\_\_\_\_ and a receipt is hereby acknowledged. Earnest Money to  
 23 be deposited in trust account  upon receipt, or  upon acceptance by all parties and shall be held by:  Listing Broker  Selling Broker  
 24  other \_\_\_\_\_ for the benefit of the parties hereto.  
 25 THE RESPONSIBLE BROKER SHALL BE: William Morscheck

26  
 27 (B) ALL CASH OFFER:  NO  YES If this is an all cash offer do not complete Sections 3C and 3D, fill blanks with "0" (ZERO). IF CASH  
 28 OFFER, BUYER'S OBLIGATION TO CLOSE SHALL NOT BE SUBJECT TO ANY FINANCIAL CONTINGENCY. BUYER agrees to provide SELLER  
 29 within \_\_\_\_\_ business days (five [5] if left blank) from the date of acceptance of this agreement by all parties, evidence of sufficient funds and/or proceeds  
 30 necessary to close transaction. Acceptable documentation includes, but is not limited to, a copy of a recent bank or financial statement or contract(s) for  
 31 the sale of BUYER'S current residence or other property to be sold.

32  
 33 (C) \$ 110,975.00 NEW LOAN PROCEEDS: This Agreement is contingent upon BUYER obtaining the following financing:  
 34  FIRST LOAN of \$ 110,975.00 not including mortgage insurance, through  FHA,  VA,  CONVENTIONAL,  IHFA,  RURAL  
 35 DEVELOPMENT,  OTHER \_\_\_\_\_ with interest not to exceed 5.25 % for a period of  
 36 30 year(s) at:  Fixed Rate  Other \_\_\_\_\_ BUYER shall pay no more than \_\_\_\_\_ point(s) plus origination fee if any. SELLER shall pay  
 37 no more than \_\_\_\_\_ point(s). Any reduction in points shall first accrue to the benefit of the  BUYER  SELLER  Divided Equally  N/A.  
 38  
 39  SECOND LOAN of \$ \_\_\_\_\_ with interest not to exceed \_\_\_\_\_ % for a period of \_\_\_\_\_ year(s) at:  Fixed Rate  
 40  Other \_\_\_\_\_ BUYER shall pay no more than \_\_\_\_\_ point(s) plus origination fee if any. SELLER shall pay no more than  
 41 \_\_\_\_\_ point(s). Any reduction in points shall first accrue to the benefit of the  BUYER  SELLER  Divided Equally  N/A.

42  
 43 LOAN APPLICATION: BUYER  has applied  shall apply for such loan(s) within \_\_\_\_\_ business days (five [5] if left blank) of SELLER'S acceptance.  
 44 Within \_\_\_\_\_ business days (ten [10] if left blank) of final acceptance of all parties, BUYER agrees to furnish SELLER with a written confirmation  
 45 showing lender approval of credit report, income verification, debt ratios, and evidence of sufficient funds and/or proceeds necessary to  
 46 close transaction in a manner acceptable to the SELLER(S) and subject only to satisfactory appraisal and final lender underwriting. If such  
 47 written confirmation is not received by SELLER(S) within the strict time allotted, SELLER(S) may at their option cancel this agreement by notifying  
 48 BUYER(S) in writing of such cancellation within \_\_\_\_\_ business days (three [3] if left blank) after written confirmation was required. If SELLER does not  
 49 cancel within the strict time period specified as set forth herein, SELLER shall be deemed to have accepted such written confirmation of lender approval  
 50 and shall be deemed to have elected to proceed with the transaction. SELLER'S approval shall not be unreasonably withheld. If an appraisal is  
 51 required by lender, the PROPERTY must appraise at not less than purchase price or BUYER'S Earnest Money may be returned at BUYER'S  
 52 request. BUYER may also apply for a loan with different conditions and costs and close transaction provided all other terms and conditions of this  
 53 Agreement are fulfilled, and the new loan does not increase the costs or requirements to the SELLER.  
 54 FHA / VA: If applicable, it is expressly agreed that notwithstanding any other provisions of this contract, BUYER shall not be obligated to complete the  
 55 purchase of the PROPERTY described herein or to incur any penalty or forfeiture of Earnest Money deposits or otherwise unless BUYER has been  
 56 given in accordance with HUD/FHA or VA requirements a written statement by the Federal Housing Commissioner, Veterans Administration or a Direct  
 57 Endorsement lender setting forth the appraised value of the PROPERTY of not less than the sales price as stated in the contract. SELLER agrees to pay  
 58 fees required by FHA or VA.

59  
 60 (D) \$ \_\_\_\_\_ ADDITIONAL FINANCIAL TERMS:  
 61  Additional financial terms are specified under the heading "OTHER TERMS AND/OR CONDITIONS" (Section 4).  
 62  Additional financial terms are contained in a FINANCING ADDENDUM of same date, attached hereto, signed by both parties.

63  
 64 (E) \$ 3,025.00 APPROXIMATE FUNDS DUE FROM BUYERS AT CLOSING (Not including closing costs): Cash at  
 65 closing to be paid by BUYER at closing in GOOD FUNDS, includes: cash, electronic transfer funds, certified check or cashier's check. NOTE: If  
 66 any of above loans being Assumed or taken "subject to", any net differences between the approximate balances and the actual balance of said loan(s)  
 67 shall be adjusted at closing of escrow in:  Cash  Other \_\_\_\_\_

BUYER'S Initials (EP) (\_\_\_\_\_) Date 1/13/2010 SELLER'S Initials (COH) (\_\_\_\_\_) Date 1-15-10

PROPERTY ADDRESS: 508 6th Ave Lewiston ID#: 14213395

68 4. OTHER TERMS AND/OR CONDITIONS: This Agreement is made subject to the following special terms, considerations and/or contingencies which
69 must be satisfied prior to closing

70
71
72
73
74
75
76
77
78
79

80 5. ITEMS INCLUDED & EXCLUDED IN THIS SALE: All existing fixtures and fittings that are attached to the PROPERTY are INCLUDED IN THE
81 PURCHASE PRICE (unless excluded below), and shall be transferred free of liens. These include, but are not limited to, all seller-owned attached floor
82 coverings, attached television antennae, satellite dish, attached plumbing, bathroom and lighting fixtures, window screens, screen doors, storm doors, storm
83 windows, window coverings, garage door opener(s) and transmitter(s), exterior trees, plants or shrubbery, water heating apparatus and fixtures, attached
84 fireplace equipment, awnings, ventilating, cooling and heating systems, all ranges, ovens, built-in dishwashers, fuel tanks and irrigation fixtures and
85 equipment, that are now on or used in connection with the PROPERTY and shall be included in the sale unless otherwise provided herein. BUYER should
86 satisfy himself/herself that the condition of the included items is acceptable. It is agreed that any item included in this section is of nominal value less than \$100.

87
88 (A). ADDITIONAL ITEMS SPECIFICALLY INCLUDED IN THIS SALE: Range, Ref, Washer and dryer and Dining room table.

89
90
91

92
93 (B). ITEMS SPECIFICALLY EXCLUDED IN THIS SALE: Sellers personal property

94
95
96

97
98 6. MINERAL RIGHTS: Any and all mineral rights appurtenant to the PROPERTY are included in and are part of the sale of this PROPERTY unless
99 otherwise agreed to by the parties in writing.

100
101 7. WATER RIGHTS: Any and all water rights including but not limited to water systems, wells, springs, lakes, streams, ponds, rivers, ditches, ditch rights,
102 and the like, if any, appurtenant to the PROPERTY are included in and are a part of the sale of this PROPERTY unless otherwise agreed to by the parties in
103 writing.

104
105 8. TITLE CONVEYANCE: Title of SELLER is to be conveyed by warranty deed, unless otherwise provided, and is to be marketable and insurable except
106 for rights reserved in federal patents, state or railroad deeds, building or use restrictions, building and zoning regulations and ordinances of any
107 governmental unit, and rights of way and easements established or of record. Liens, encumbrances or defects to be discharged by SELLER may be paid out
108 of purchase money at date of closing. No liens, encumbrances or defects which are to be discharged or assumed by BUYER or to which title is taken
109 subject to, exist unless otherwise specified in this Agreement.

110
111 9. TITLE INSURANCE: There may be types of title insurance coverages available other than those listed below and parties to this agreement
112 are advised to talk to a title company about any other coverages available that will give the BUYER additional coverage.

113
114 (A). PRELIMINARY TITLE COMMITMENT: Prior to closing the transaction, [X] SELLER or [ ] BUYER shall furnish to BUYER a preliminary commitment
115 of a title insurance policy showing the condition of the title to said PROPERTY. BUYER shall have \_\_\_\_\_ business days (five [5] if left blank) from receipt
116 of the preliminary commitment or not fewer than twenty-four (24) hours prior to closing, within which to object in writing to the condition of the title as set
117 forth in the preliminary commitment. If BUYER does not so object, BUYER shall be deemed to have accepted the conditions of the title. It is agreed that if
118 the title of said PROPERTY is not marketable, or cannot be made so within \_\_\_\_\_ business days (five [5] if left blank) after notice containing a written
119 statement of defect is delivered to SELLER, BUYER'S Earnest Money deposit will be returned to BUYER and SELLER shall pay for the cost of title
120 insurance cancellation fee, escrow and legal fees, if any.

121
122 (B). TITLE COMPANY: The parties agree that Alliance Title Company
123 located at Lewiston shall provide the title policy and preliminary report of commitment.

124
125 (C). STANDARD COVERAGE OWNER'S POLICY: SELLER shall within a reasonable time after closing furnish to BUYER a title insurance policy in the
126 amount of the purchase price of the PROPERTY showing marketable and insurable title subject to the liens, encumbrances and defects elsewhere set out
127 in this Agreement to be discharged or assumed by BUYER unless otherwise provided herein. The risk assumed by the title company in the standard
128 coverage policy is limited to matters of public record. BUYER shall receive a ILTA/ALTA Owner's Policy of Title Insurance. A title company, at
129 BUYER's request, can provide information about the availability, desirability, coverage and cost of various title insurance coverages and endorsements. If
130 BUYER desires title coverage other than that required by this paragraph, BUYER shall instruct Closing Agency in writing and pay any increase in cost
131 unless otherwise provided herein.

132
133 (D). EXTENDED COVERAGE LENDER'S POLICY (Mortgagee policy): The lender may require that BUYER (Borrower) furnish an Extended Coverage
134 Lender's Policy. This extended coverage lender's policy considers matters of public record and additionally insures against certain matters not shown in
135 the public record. This extended coverage lender's policy is solely for the benefit of the lender and only protects the lender.

BUYER'S Initials (EP) ( ) Date 11/3/2010

SELLER'S Initials (CBA) ( ) Date 1-15-10

PROPERTY ADDRESS: 508 6th Ave Lewiston ID#: 14213395

10. INSPECTION:

(A). BUYER chooses [X] to have inspection [ ] not to have inspection. If BUYER chooses not to have inspection, skip Section 10C. BUYER shall have the right to conduct inspections, investigations, tests, surveys and other studies at BUYER'S expense. BUYER shall, within 5 business days (ten [10] if left blank) of acceptance, complete these inspections and give to SELLER written notice of disapproved items. BUYER is strongly advised to exercise these rights and to make BUYER'S own selection of professionals with appropriate qualifications to conduct inspections of the entire PROPERTY. SELLER shall make PROPERTY available for inspection and agrees to accept the responsibility and expense for making sure all the utilities are turned on for the inspection except for phone and cable. Some inspections, investigations, tests, surveys and other studies may require additional days to complete. The parties agree that unless specifically set forth below, the above timeframe for investigations, tests, surveys and other studies shall govern.

Additional inspections/timeframes: \_\_\_\_\_

(B). FHA INSPECTION REQUIREMENT, If applicable: "For Your Protection: Get a Home Inspection", HUD 92564-CN must be signed on or before execution of this agreement.

(C). SATISFACTION/REMOVAL OF INSPECTION CONTINGENCIES:

1). If BUYER does not within the strict time period specified give to SELLER written notice of disapproved items, BUYER shall conclusively be deemed to have: (a) completed all inspections, investigations, review of applicable documents and disclosures; (b) elected to proceed with the transaction and (c) assumed all liability, responsibility and expense for repairs or corrections other than for items which SELLER has otherwise agreed in writing to repair or correct.

2). If BUYER does within the strict time period specified give to SELLER written notice of disapproved items, BUYER shall provide to SELLER pertinent section(s) of written inspection reports. SELLER shall have \_\_\_\_\_ business days (three [3] if left blank) in which to respond in writing. The SELLER, at their option, may correct the items as specified by the BUYERS in their letter or may elect not to do so. If the SELLER agrees to correct the items asked for in the BUYERS letter, then both parties agree that they will continue with the transaction and proceed to closing. This will remove the BUYER'S inspection contingency.

3). If the SELLER elects not to correct the disapproved items, or does not respond in writing within the strict time period specified, then the BUYER(S) have the option of either continuing the transaction without the SELLER being responsible for correcting these deficiencies or giving the SELLER written notice within \_\_\_\_\_ business days (three [3] if left blank) that they will not continue with the transaction and will receive their Earnest Money back.

4). If BUYER does not give such written notice of cancellation within the strict time periods specified, BUYER shall conclusively be deemed to have elected to proceed with the transaction without repairs or corrections other than for items which SELLER has otherwise agreed in writing to repair or correct. SELLER shall make the PROPERTY available for all inspections. BUYER shall keep the PROPERTY free and clear of liens; indemnify and hold SELLER harmless from all liability, claims, demands, damages and costs; and repair any damages arising from the inspections. No inspections may be made by any governmental building or zoning inspector or government employee without the prior consent of SELLER unless required by local law.

11. LEAD PAINT DISCLOSURE: The subject PROPERTY [X] is [ ] is not defined as "Target Housing" regarding lead-based paint or lead-based paint hazards. The term lead-based paint hazards is intended to identify lead-based paint and all residential lead-containing dusts and soils regardless of the source of the lead. If yes, BUYER hereby acknowledges the following: (a) BUYER has been provided an EPA approved lead-based paint hazard information pamphlet, "Protect Your Family From Lead in Your Home", (b) receipt of SELLER'S Disclosure of Information and Acknowledgment Form and have been provided with all records, test reports or other information, if any, related to the presence of lead-based paint hazards on said PROPERTY, (c) that this contract is contingent upon BUYERS right to have the PROPERTY tested for lead-based paint hazards to be completed no later than \_\_\_\_\_ or the contingency will terminate, (d) that BUYER hereby [X] waives [ ] does not waive this right, (e) that if test results show unacceptable amounts of lead-based paint on the PROPERTY, BUYER has the right to cancel the contract subject to the option of the SELLER (to be given in writing) to elect to remove the lead-based paint and correct the problem which must be accomplished before closing, (f) that if the contract is canceled under this clause, BUYER'S earnest money deposit will be returned to BUYER.

12. SQUARE FOOTAGE VERIFICATION: BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE REAL PROPERTY OR IMPROVEMENTS IS APPROXIMATE. IF SQUARE FOOTAGE IS MATERIAL TO THE BUYER, IT MUST BE VERIFIED DURING THE INSPECTION PERIOD.

13. SELLER'S PROPERTY CONDITION DISCLOSURE FORM: If required by Title 55, Chapter 25 Idaho Code SELLER shall within ten (10) calendar days after execution of this Agreement provide to BUYER or BUYER'S agent, "Seller's Property Condition Disclosure Form" or other acceptable form. BUYER has received the "Seller's Property Condition Disclosure Form" or other acceptable form prior to signing this Agreement: [X] Yes [ ] No [ ] N/A

BUYER'S Initials (SP) Date 11/13/2010 SELLER'S Initials (EAT) Date 1-15-10

PROPERTY ADDRESS: 508 6th Ave Lewiston ID#: 14213395

205 **14. COVENANTS, CONDITIONS AND RESTRICTIONS (CC&Rs):** As part of the BUYER'S inspection of the PROPERTY as set forth in Section 10,  
 206 BUYER is responsible for obtaining and reviewing a copy of any CC&Rs which may affect the PROPERTY. BUYER shall have \_\_\_\_\_ business days (ten  
 207 [10] if left blank) (but in no event shall such time period exceed that time period set forth for inspections in Section 10) to review and approve of any such  
 208 CC&Rs that may affect the PROPERTY. Unless BUYER delivers to SELLER a written and signed objection to the terms of any applicable CC&Rs with  
 209 particularity describing BUYER's reasonable objections within such time period as set forth above, BUYER shall be deemed to have conclusively waived any  
 210 objection to the terms of any CC&Rs affecting the PROPERTY.

211  
 212 **15. SUBDIVISION HOMEOWNER'S ASSOCIATION:** BUYER is aware that membership in a Home Owner's Association may be required and  
 213 BUYER agrees to abide by the Articles of Incorporation, Bylaws and rules and regulations of the Association. BUYER is further aware that the PROPERTY  
 214 may be subject to assessments levied by the Association described in full in the Declaration of Covenants, Conditions and Restrictions. BUYER has  
 215 reviewed Homeowner's Association Documents:  Yes  No  N/A. Association fees/dues are \$ \_\_\_\_\_ per \_\_\_\_\_  
 216  BUYER  SELLER  N/A to pay Homeowner's Association SET UP FEE of \$ \_\_\_\_\_ and/or PROPERTY TRANSFER FEES of \$ \_\_\_\_\_ at closing.

217  
 218 **16. HOME WARRANTY PLAN:** Home Warranty Plans available for purchase can vary in many respects including, but not limited to, scope of coverage,  
 219 options, exclusions, limitations, service fees, and pre-existing conditions. BUYER and SELLER are advised to investigate Home Warranty Plans before  
 220 purchasing a plan and BUYER and SELLER acknowledge that Home Warranty Plans vary from plan to plan. Further, BUYER and SELLER acknowledge  
 221 that a Home Warranty Plan is separate and apart from any terms contained within this Real Estate Purchase and Sale Agreement and does not create any  
 222 warranties, including, without limitation, any warranty of habitability, agreements or representations not expressly set forth herein.  
 223 A Home Warranty Plan  will  will not be included in this transaction.  
 224  BUYER  SELLER shall order a Home Warranty Plan which shall be issued by a company selected by  BUYER  SELLER.  
 225 The cost of the Home Warranty Plan shall not exceed \$ \_\_\_\_\_ and shall be paid for at closing by  BUYER  SELLER.

226  
 227 **17. COSTS PAID BY:** Costs in addition to those listed below may be incurred by BUYER and SELLER unless otherwise agreed herein, or provided by  
 228 law or required by lender, or otherwise stated herein. The below costs will be paid as indicated. Some costs are subject to loan program requirements. This  
 229 section relates ONLY to the costs to be paid by the parties. None of the costs to be paid by the parties in this section create an inspection or performance  
 230 obligation other than strictly for the payment of cost.

	BUYER	SELLER	Shared Equally	N/A		BUYER	SELLER	Shared Equally	N/A
Appraisal Fee	X				Title Ins. Standard Coverage Owner's Policy		X		
Appraisal Re-Inspection Fee	X				Title Ins. Extended Coverage Lender's Policy - Mortgagee Policy	X			
Closing Escrow Fee			X		Additional Title Coverage				X
Lender Document Preparation Fee	X				Fuel in Tank - Dollar Amount to be Determined by Supplier				X
Tax Service Fee	X				Domestic Well Water Potability Test				X
Flood Certification/Tracking Fee	X				Domestic Well Water Productivity Test				X
Lender Required Inspections	X				Septic Inspections				X
Attorney Contract Preparation or Review Fee				X	Septic Pumping				X
					Survey				X

231 **SELLER agrees to pay up to \$ \_\_\_\_\_ of lender required repair costs only.**  
 232 BUYER or SELLER has the option to pay any lender required repair costs in excess of this amount.

233  
 234 **18. OCCUPANCY:** BUYER  does  does not intend to occupy PROPERTY as BUYER'S primary residence.

235  
 236 **19. FINAL WALK THROUGH:** The SELLER grants BUYER and any representative of BUYER reasonable access to conduct a final walk through  
 237 inspection of the PROPERTY approximately \_\_\_\_\_ calendar days (three [3] if left blank) prior to close of escrow, NOT AS A CONTINGENCY OF THE  
 238 SALE, but for purposes of satisfying BUYER that any repairs agreed to in writing by BUYER and SELLER have been completed and PROPERTY are in  
 239 substantially the same condition as on acceptance date of this contract. SELLER shall make PROPERTY available for the final walk through and agrees to  
 240 accept the responsibility and expense for making sure all the utilities are turned on for the walk through except for phone and cable. If BUYER does not  
 241 conduct a final walk through, BUYER specifically releases the SELLER and Broker(s) of any liability.

242  
 243 **20. RISK OF LOSS:** Prior to closing of this sale, all risk of loss shall remain with SELLER. In addition, should the PROPERTY be materially  
 244 damaged by fire or other destructive cause prior to closing, this agreement shall be void at the option of the BUYER.

BUYER'S Initials (EP) (\_\_\_\_\_) Date 1/13/2010

SELLER'S Initials (CAH) (\_\_\_\_\_) Date 1-15-10



PROPERTY ADDRESS: 508 6th Ave Lewiston ID#: 14213395

245 21. SINGULAR AND PLURAL terms each include the other, when appropriate.

246 22. FORECLOSURE NOTICE: If the PROPERTY described above is currently involved in a foreclosure proceeding (pursuant to Idaho Code § 45-1506)
247 any contract or agreement with the owner or owners of record that involves the transfer of any interest in residential real property, as defined in § 45-
248 525(5)(b), Idaho Code, subject to foreclosure must be in writing and must be accompanied by and affixed to RE-42 Property Foreclosure Disclosure Form.

251 23. MECHANIC'S LIENS - GENERAL CONTRACTOR DISCLOSURE STATEMENT NOTICE: BUYER and SELLER are hereby notified that,
252 subject to Idaho Code §45-525 et seq., a "General Contractor" must provide a Disclosure Statement to a homeowner that describes certain rights afforded to
253 the homeowner (e.g. lien waivers, general liability insurance, extended policies of title insurance, surety bonds, and sub-contractor information). The
254 Disclosure Statement must be given to a homeowner prior to the General Contractor entering into any contract in an amount exceeding \$2,000 with a
255 homeowner for construction, alteration, repair, or other improvements to real property, or with a residential real property purchaser for the purchase and sale
256 of newly constructed property. Such disclosure is the responsibility of the General Contractor and it is not the duty of your agent to obtain this information on
257 your behalf. You are advised to consult with any General Contractor subject to Idaho Code §45-525 et seq. regarding the General Contractor Disclosure
258 Statement.

259 24. SALES PRICE INFORMATION: Pursuant to Idaho Code §54-2083(6)(d), a "sold" price of real property is not confidential client information.

262 25. FACSIMILE TRANSMISSION: Facsimile or electronic transmission of any signed original document, and retransmission of any signed facsimile or
263 electronic transmission shall be the same as delivery of an original. At the request of either the BUYER or SELLER, or the LENDER, or the Closing Agency,
264 the BUYER and SELLER will confirm facsimile or electronic transmitted signatures by signing an original document.

266 26. BUSINESS DAYS: A business day is herein defined as Monday through Friday, 8:00 A.M. to 5:00 P.M. in the local time zone where the subject real
267 PROPERTY is physically located. A business day shall not include any Saturday or Sunday, nor shall a business day include any legal holiday recognized
268 by the state of Idaho as found in Idaho Code §73-108. The time in which any act required under this agreement is to be performed shall be computed by
269 excluding the date of execution and including the last day. The first day shall be the day after the date of execution. If the last day is a legal holiday, then the
270 time for performance shall be the next subsequent business day.

272 27. CALENDAR DAYS: A calendar day is herein defined as Monday through Sunday, midnight to midnight, in the local time zone where the subject real
273 PROPERTY is physically located. A calendar day shall include any legal holiday. The time in which any act required under this agreement is to be performed
274 shall be computed by excluding the date of execution and including the last day, thus the first day shall be the day after the date of execution. Any reference
275 to "day" or "days" in this agreement means the same as calendar day, unless specifically enumerated as a "business day."

277 28. ATTORNEY'S FEES: If either party initiates or defends any arbitration or legal action or proceedings which are in any way connected with this
278 Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable costs and attorney's fees, including such costs and fees
279 on appeal.

281 29. DEFAULT: If BUYER defaults in the performance of this Agreement, SELLER has the option of: (1) accepting the Earnest Money as liquidated
282 damages or (2) pursuing any other lawful right and/or remedy to which SELLER may be entitled. If SELLER elects to proceed under (1), SELLER shall make
283 demand upon the holder of the Earnest Money, upon which demand said holder shall pay from the Earnest Money the costs incurred by SELLER'S Broker
284 on behalf of SELLER and BUYER related to the transaction, including, without limitation, the costs of title insurance, escrow fees, appraisal, credit report
285 fees, inspection fees and attorney's fees; and said holder shall pay any balance of the Earnest Money, one-half to SELLER and one-half to SELLER'S
286 Broker, provided that the amount to be paid to SELLER'S Broker shall not exceed the Broker's agreed to commission. SELLER and BUYER specifically
287 acknowledge and agree that if SELLER elects to accept the Earnest Money as liquidated damages, such shall be SELLER'S sole and exclusive remedy, and
288 such shall not be considered a penalty or forfeiture. If SELLER elects to proceed under (2), the holder of the Earnest Money shall be entitled to pay the costs
289 incurred by SELLER'S Broker on behalf of SELLER and BUYER related to the transaction, including, without limitation, the costs of brokerage fee, title
290 insurance, escrow fees, appraisal, credit report fees, inspection fees and attorney's fees, with any balance of the Earnest Money to be held pending
291 resolution of the matter. If SELLER defaults, having approved said sale and fails to consummate the same as herein agreed, BUYER'S Earnest Money
292 deposit shall be returned to him/her and SELLER shall pay for the costs of title insurance, escrow fees, appraisals, credit report fees, inspection fees,
293 brokerage fees and attorney's fees, if any. This shall not be considered as a waiver by BUYER of any other lawful right or remedy to which BUYER may be
294 entitled.

296 30. EARNEST MONEY DISPUTE / INTERPLEADER: Notwithstanding any termination of this contract, BUYER and SELLER agree that in the event
297 of any controversy regarding the Earnest Money and things of value held by Broker or closing agency, unless mutual written instructions are received by the
298 holder of the Earnest Money and things of value, Broker or closing agency shall not be required to take any action but may await any proceeding, or at
299 Broker's or closing agency's option and sole discretion, may interplead all parties and deposit any monies or things of value into a court of competent
300 jurisdiction and shall recover court costs and reasonable attorney's fees.

302 31. COUNTERPARTS: This Agreement may be executed in counterparts. Executing an agreement in counterparts shall mean the signature of two
303 identical copies of the same agreement. Each identical copy of an agreement signed in counterparts is deemed to be an original, and all identical copies
304 shall together constitute one and the same instrument.

306 32. "NOT APPLICABLE" DEFINED: The letters "n/a," "N/A," "n.a.," and "N.A." as used herein are abbreviations of the term "not applicable." Where this
307 agreement uses the term "not applicable" or an abbreviation thereof, it shall be evidence that the parties have contemplated certain facts or conditions and
308 have determined that such facts or conditions do not apply to the agreement or transaction herein.

BUYER'S Initials (EP) ( ) Date 11/13/2010

SELLER'S Initials (CDH) ( ) Date 1-15-10

JULY 2009 EDITION

RE-21 REAL ESTATE PURCHASE AND SALE AGREEMENT

Page 6 of 7

PROPERTY ADDRESS: 508 6th Ave Lewiston ID#: 14213395

33. SEVERABILITY: In the case that any one or more of the provisions contained in this Agreement, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

34. REPRESENTATION CONFIRMATION: Check one (1) box in Section 1 and one (1) box in Section 2 below to confirm that in this transaction, the brokerage(s) involved had the following relationship(s) with the BUYER(S) and SELLER(S)

- Section 1:
[X] A. The brokerage working with the BUYER(S) is acting as an AGENT for the BUYER(S).
[ ] B. The brokerage working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S), without an ASSIGNED AGENT.
[ ] C. The brokerage working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S) and has an ASSIGNED AGENT acting solely on behalf of the BUYER(S).
[ ] D. The brokerage working with the BUYER(S) is acting as a NONAGENT for the BUYER(S).

- Section 2:
[X] A. The brokerage working with the SELLER(S) is acting as an AGENT for the SELLER(S).
[ ] B. The brokerage working with the SELLER(S) is acting as a LIMITED DUAL AGENT for the SELLER(S), without an ASSIGNED AGENT.
[ ] C. The brokerage working with the SELLER(S) is acting as a LIMITED DUAL AGENT for the SELLER(S) and has an ASSIGNED AGENT acting solely on behalf of the SELLER(S).
[ ] D. The brokerage working with the SELLER(S) is acting as a NONAGENT for the SELLER(S).

Each party signing this document confirms that he has received, read and understood the Agency Disclosure Brochure adopted or approved by the Idaho real estate commission and has consented to the relationship confirmed above. In addition, each party confirms that the brokerage's agency office policy was made available for inspection and review. EACH PARTY UNDERSTANDS THAT HE IS A "CUSTOMER" AND IS NOT REPRESENTED BY A BROKERAGE UNLESS THERE IS A SIGNED WRITTEN AGREEMENT FOR AGENCY REPRESENTATION.

35. CLOSING: On or before the closing date, BUYER and SELLER shall deposit with the closing agency all funds and instruments necessary to complete this transaction. Closing means the date on which all documents are either recorded or accepted by an escrow agent and the sale proceeds are available to SELLER. The closing shall be no later than (Date) February-25th-2010

The parties agree that the CLOSING AGENCY for this transaction shall be Alliance located at Lewiston

If a long-term escrow / collection is involved, then the long-term escrow holder shall be

36. POSSESSION: BUYER shall be entitled to possession [X] upon closing or [ ] date time [ ] A.M. [ ] P.M. Property taxes and water assessments (using the last available assessment as a basis), rents, interest and reserves, liens, encumbrances or obligations assumed, fuel in fuel tank, and utilities shall be prorated as of Closing

37. ASSIGNMENT: This Agreement and any rights or interests created herein may be sold, transferred or otherwise assigned.

38. ENTIRE AGREEMENT: This Agreement contains the entire Agreement of the parties respecting the matters herein set forth and supersedes all prior Agreements between the parties respecting such matters. No warranties, including, without limitation, any warranty of habitability, agreements or representations not expressly set forth herein shall be binding upon either party.

39. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

40. AUTHORITY OF SIGNATORY: If BUYER or SELLER is a corporation, partnership, trust, estate, or other entity, the person executing this agreement on its behalf warrants his or her authority to do so and to bind BUYER or SELLER.

41. ACCEPTANCE: This offer is made subject to the acceptance of SELLER and BUYER on or before (Date) 1-13-2010 at (Local Time in which PROPERTY is located) 9:00 [ ] A.M. [X] P.M. If acceptance of this Agreement is not received within the time specified, the offer is withdrawn and the entire Earnest Money, if any, shall be refunded to BUYER on demand.

BUYER'S Initials (E.P) Date 1/13/2010

SELLER'S Initials (ESH) Date 1-15-10

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JULY 2009 EDITION

RE-21 REAL ESTATE PURCHASE AND SALE AGREEMENT

Page 7 of 7

PROPERTY ADDRESS: 508 6th Ave Lewiston ID#: 14213395

42. BUYER'S SIGNATURES:

SEE ATTACHED BUYER'S ADDENDUM(S): 1 (Specify number of BUYER addendum(s) attached.)

BUYER Signature Eugenia Pittman BUYER (Print Name) Eugenia Pittman
Date 1/13/2010 Time [ ] A.M. [ ] P.M. Phone # 208-790-3020 Cell # 208-743-6807
Address 104 W. Shiloh Dr. City Lewiston State Idaho Zip 83501
E-Mail jeaniepittman@cablene.net Fax #

BUYER Signature BUYER (Print Name)
Date Time [ ] A.M. [ ] P.M. Phone # Cell #
Address City State Zip
E-Mail Fax #

43. SELLER'S SIGNATURES:

On this date, I/We hereby approve and accept the transaction set forth in the above Agreement and agree to carry out all the terms thereof on the part of the SELLER.

SIGNATURE(S) SUBJECT TO ATTACHED COUNTER OFFER

SIGNATURE(S) SUBJECT TO ATTACHED ADDENDUM(S) #

SELLER Signature Chet Herbst SELLER (Print Name) Chet Herbst
Date 1/15/10 Time 1:30 [ ] A.M. [X] P.M. Phone # Cell #
Address City State Zip
E-Mail Fax #

SELLER Signature SELLER (Print Name)
Date Time [ ] A.M. [ ] P.M. Phone # Cell #
Address City State Zip
E-Mail Fax #

CONTRACTOR REGISTRATION # (if applicable)

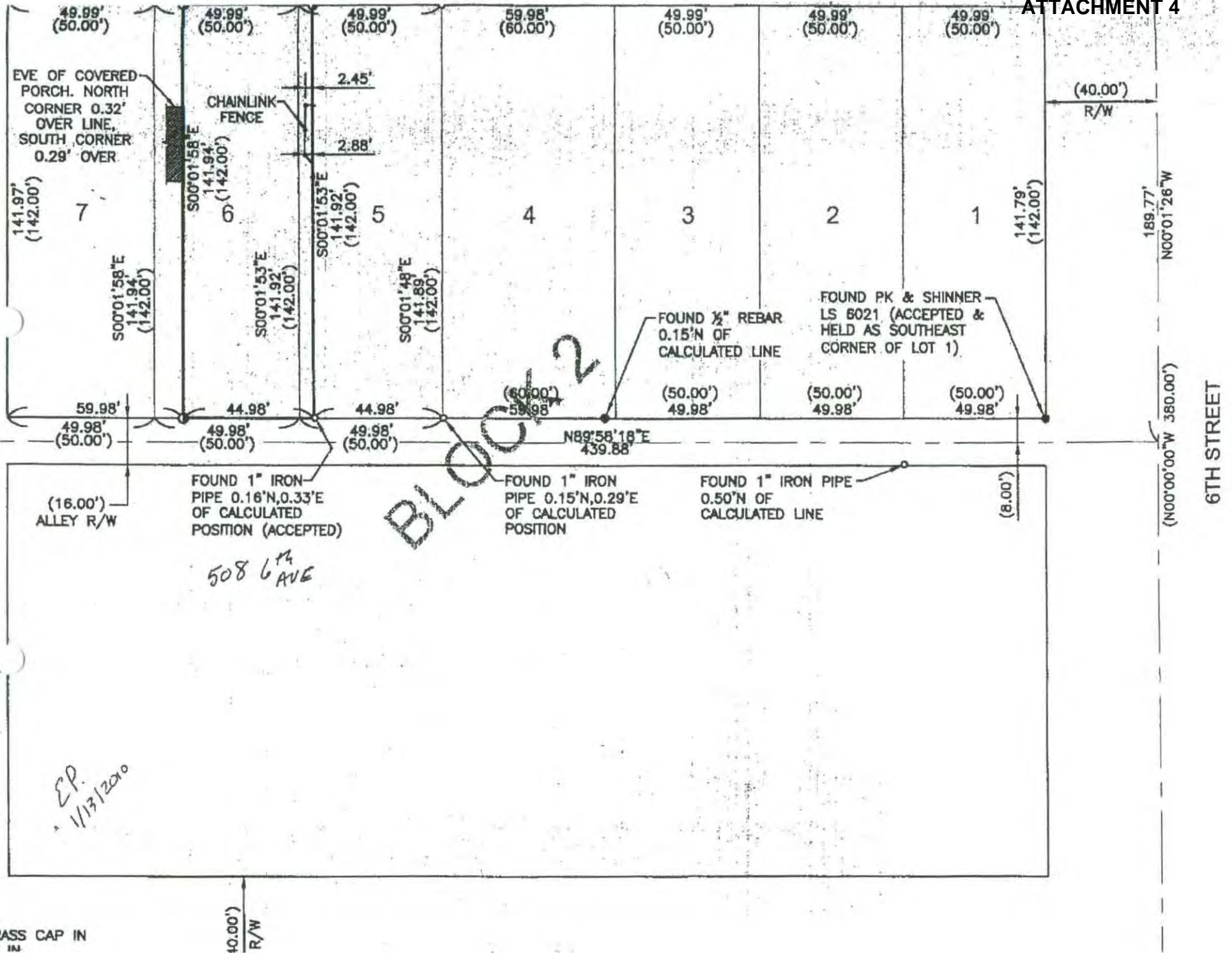
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JULY 2009 EDITION

RE-21 REAL ESTATE PURCHASE AND SALE AGREEMENT

Page 7 of 7

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**INSURANCE CONTINGENCY**

PSA ID# 14213395 ADDENDUM# 1

PSA DATED 1-13-2010

PropertyAddress 508 6th Ave

NOTICE TO BUYER CONCERNING INSURANCE. The availability and cost of homeowners or property insurance on the Property depends on a number of factors, including your personal insurance, financial and credit history, materials and conditions present in or on the Property, and the claims history for the Property. Some insurance companies base underwriting decisions on Comprehensive Loss Underwriting Exchange (CLUE) reports on the history of insurance claims concerning the Property of made by you concerning other properties.

INSURANCE CONTINGENCY/APPLICATION. This Agreement is conditioned upon Buyer's ability to obtain insurance on the Property from an admitted insurer at its rates filed with the Washington/Idaho State Insurance Commissioner. Buyer agrees to make application for insurance within \_\_\_\_\_ days (5 days if not filled-in) after mutual acceptance of this Agreement. If Buyer fails to make application within the agreed time, then this insurance contingency shall be deemed waived.

INSURANCE DEADLINE. This insurance contingency shall be deemed satisfied, unless within \_\_\_\_\_ days (10 days, if not filled-in) after mutual acceptance of this Agreement Buyer gives notice of inability to obtain insurance. If Buyer gives timely notice of inability to obtain such a policy after making a good faith effort, then this Agreement shall terminate and the Earnest Money shall be refunded to the Buyer.

Chet Hecht 1-15-10 Suzanne Pullman 1/13/2010  
 Seller Date Buyer Date

\_\_\_\_\_  
 Seller Date Buyer Date

JULY 2009 EDITION

Page 1 of 1



RE-13 COUNTER OFFER # 1,123 etc.



THIS COUNTER OFFER SUPERSEDES ALL PRIOR COUNTER OFFERS

THIS IS A LEGALLY BINDING CONTRACT. READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS. IF YOU HAVE ANY QUESTIONS, CONSULT YOUR ATTORNEY AND/OR ACCOUNTANT BEFORE SIGNING.

This is a COUNTER OFFER to the Purchase and Sale Agreement Dated: 1/13/2010
ADDRESS: 508 6th Avenue, Lewiston, Idaho ID#: 14213395
BUYER: Eugenia Pittman
SELLER: Lewis-Clark State College

The parties accept all of the terms and conditions in the above-designated Purchase and Sale Agreement with the following changes:
X This is a SELLER counter offer. The SELLER reserves the right to withdraw this offer or accept any other offers prior to the receipt of a true copy of signed acceptance of this Counter Offer within the time frame specified herein.

This is a BUYER counter offer. The undersigned BUYER reserves the right to withdraw this offer at any time prior to the receipt of a true copy of signed acceptance of this Counter Offer within the time frame specified herein.

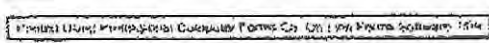
- 1. Buyer may assign all or a portion of her rights under this Agreement to other family members without having to secure the permission of Seller.
2. Line 11 - The correct legal description of the property is the West 5 feet of Lot 5, Block 2 and the East 40 feet of Lot 6, Block 2, North Park Place, City of Lewiston, Nez Perce County, Idaho
3. Line 67 - Check the "Other" box and add certified funds
4. Line 122 and Line 340 - The title company for this transaction shall be Land Title at 1230 Idaho Street
5. Line 215 - Check the "N/A" box. There is no homeowner's association and there are no fees
6. Paragraph 17 - Add "Deed Preparation" to the matrix and it will be paid by the seller.
7. Paragraph 17, Line 231 - Insert \$500 in the blank
8. Line 234 - Check the "does not" box. Seller understands that a family member may be the primary occupant of this property
9. Disclosure of Issues - Buyer has been provided a copy of a recent survey of the property. It shows a minor aerial encroachment of the roof of the adjacent property along the west property line. Buyer agrees that she will not object to this encroachment. It also shows a chain link fence encroachment along the east line of the property. Seller will move the chain link fence onto the adjacent property at its expense prior to closing. The plastic fence along the south line of the property extends beyond the west property line to the garage located on the west property. No work of any kind will be done with the plastic fence.
10. Additional Work Items - Notwithstanding what may be found in the home inspection and/or the Buyer's appraisal the Seller will perform the following work or in lieu of performing such work, will give Buyer a \$2,500 allowance at closing for such work. (a) replace the existing electrical fuse box with a new 200 amp service with circuit breakers and provide two GFI outlets, one in the kitchen and one in the upstairs bathroom and (b) replace the broken basement window and repair and repaint all window trim on the home. On or before ten business days after mutual acceptance Buyer shall notify Seller of Buyer's decision regarding whether Buyer wants the work done or will accept the allowance. If the Buyer accepts the allowance and the lender requires the work to be done before closing then Buyer will perform such work and be reimbursed.

To the extent the terms of this Counter Offer conflict with any provisions of the Purchase and Sale Agreement including all prior Addendums, the terms of this Counter Offer shall control. All other terms of the Purchase and Sale Agreement including all prior Addendums not modified by this Counter Offer shall remain the same. Buyer and Seller acknowledge the down payment and/or loan amount on Page 1 of Purchase & Sale Agreement may change if purchase price is changed as part of this Counter Offer. Upon its execution by both parties, this agreement is made an integral part of the aforementioned Agreement.

If a signed acceptance is not delivered on or before (date): Tuesday, January 19, 2010 at 5:00 A.M. X P.M. this Counter Offer shall be deemed to have expired.

DELIVERY Delivery shall be to the agent/broker working with the maker of the Counter Offer in person, by mail, facsimile or electronic transmission of a signed original document and retransmission of any signed original document. Retransmission of any signed facsimile or electronic transmission shall be deemed to be the same as delivery of an original.

SELLER [Signature] Date 1-17-10 Time 1:30 A.M. P.M.
SELLER Date Time A.M. P.M.
BUYER Eugenia Pittman Date 1-15-10 Time 3:30 A.M. X P.M.
BUYER Date Time A.M. P.M.



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

---

**LEWIS-CLARK STATE COLLEGE**

**SUBJECT**

Lewis-Clark State College (LCSC) request for Board permission to purchase a strategically-situated property located next to campus at 1023 6<sup>th</sup> St., Lewiston.

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Sections V.I.1. through V.I.2. ("Acquisition of Real Property")

**BACKGROUND/DISCUSSION**

For the past nine years, LCSC has pursued a long-term objective to expand parking on the eastern, western, and southern perimeters of its Normal Hill campus. LCSC's projects to acquire property on which to site additional parking lots and other new facilities have been complemented by efforts to divest college-owned properties which now lie outside of LCSC's projected growth axis.

The subject property at 1023 6<sup>th</sup> Street lies directly opposite the Harris Field baseball complex. Acquisition of this property, located among five lots already owned by the college (see Attachment 1), would set the stage for the continuation of parking expansion along 6<sup>th</sup> Street, which began in conjunction with the construction of LCSC's Activity Center in 2003.

The property was purchased by its current owners in 2008, and has been used as a student rental. The house on the western side of the lot was heavily damaged by fire in November 2009. The owners continue to live in a separate, small apartment on the east side of the lot. Having collected insurance payments for the fire damages, the owners are willing to sell the entire property to LCSC in a "as is" condition (thereby avoiding the necessity of rebuilding and reselling the property). Subject to Board approval, LCSC has offered to purchase the property for \$102,500 and to allow the current owners to rent the small apartment on the rear of the lot (the owner anticipates departure at the end of the next academic year, upon completion of coursework at LCSC).

Following completion of the sale, LCSC will begin planning to demolish the fire-damaged house on the west side of the lot and continue to operate the rear unit as a rental until the entire section of college-owned lots is converted to additional parking as part of the 6<sup>th</sup> Street parking expansion.

**IMPACT**

Acquisition of this property will be financed through use of LCSC working capital. It makes sense for LCSC to acquire the property now for a significantly reduced rate, vis-à-vis the likely cost (in excess of \$200K) if the college were to delay action, and then have to bid for the property in several years, following completion of repairs.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

---

**ATTACHMENTS**

Attachment 1 – Overhead photo of property	Page 3
Attachment 2 – Appraisal for 1023 6 <sup>th</sup> St. property	Page 5
Attachment 3 – Purchase Sale Agreement	Page 29

**STAFF COMMENTS AND RECOMMENDATIONS**

This transaction is for the purchase of the subject real property and structure within the College's expansion zone. The home was seriously damaged by fire late last year, and the owners are willing to sell the property in "as-is" condition. While the offering price is slightly above appraised value, taken as a whole it constitutes a very reasonable and beneficial transaction for the College. Acquisition of this property, located among five lots already owned by the College, would facilitate continuation of parking expansion along 6<sup>th</sup> Street. Staff recommends approval.

**BOARD ACTION**

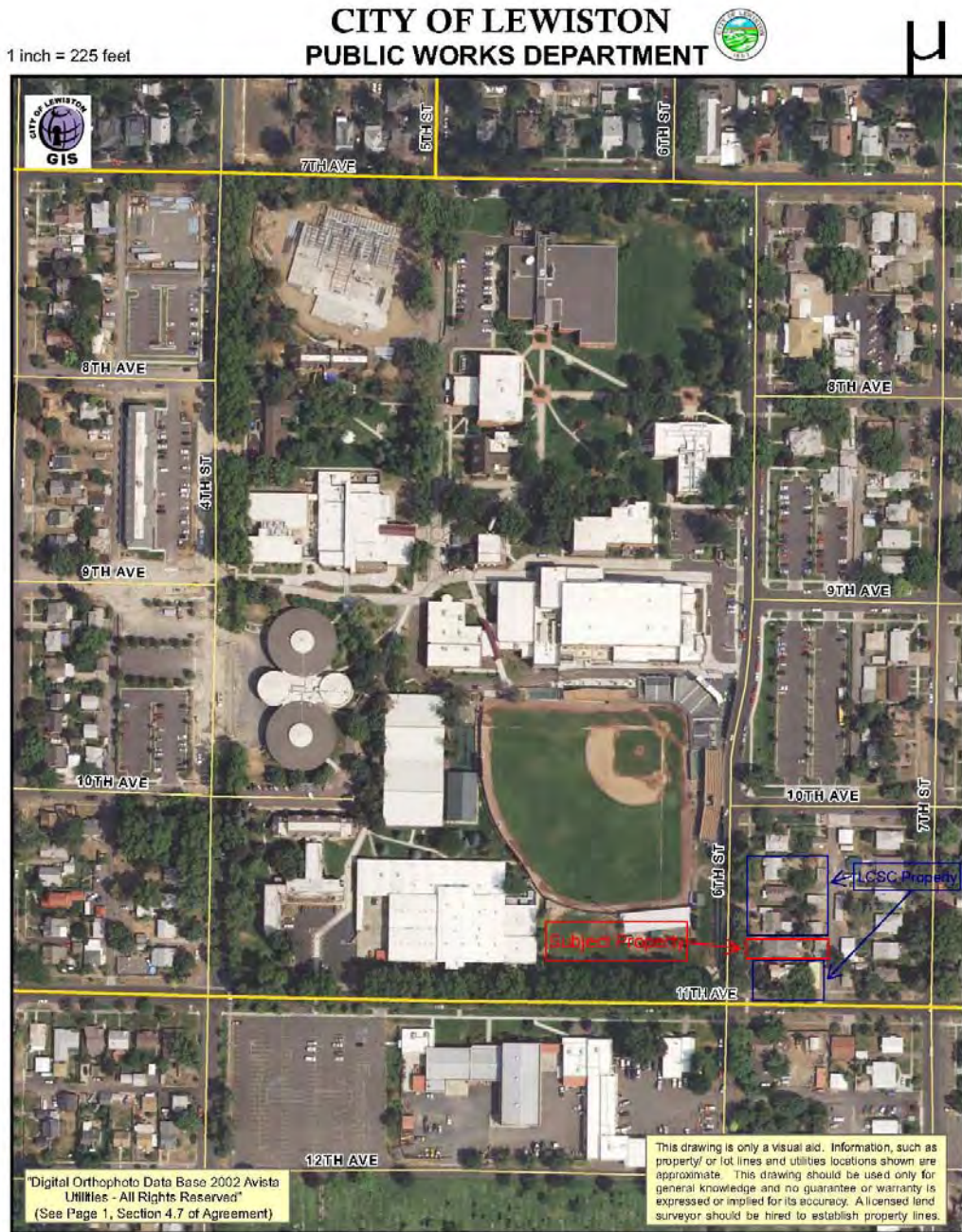
A motion to approve the request by Lewis-Clark State College to purchase the property at 1023 6<sup>th</sup> St., Lewiston, Idaho, for \$102,500; and to authorize LCSC's Vice-President for Finance and Administration to sign all necessary paperwork to complete the purchase, acting on behalf of the State Board of Education as Trustees of the College.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_ No \_\_\_



BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010

ATTACHMENT 1



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File # 0031296

### APPRAISAL OF REAL PROPERTY



#### LOCATED AT

1023 6th St  
Lewiston, ID 83501-2802  
Lot 8, Block 31, Park Addition

#### FOR

LEWIS CLARK STATE COLLEGE  
500 8TH AVE, ADMINISTRATION BUILDING  
LEWISTON, ID 83501

#### OPINION OF VALUE

95,000

#### AS OF

1/6/2010

#### TABLE OF CONTENTS

Table of Contents/Cover Page .....	1
Cover Letter .....	2
GP Residential .....	3
Additional Comparables 4-6 .....	7
General Text Addendum .....	8
Market Trends Chart .....	9
Marshall & Swift Cost Approach .....	10
Construction Inspection Report .....	12
GP Residential Certifications Addendum .....	13
Location Map .....	16
Building Sketch (Page - 1) .....	17
Comparable Sales Map .....	18
Subject Photos .....	19
Photograph Addendum .....	20
Comparable Photos 1-3 .....	21
Comparable Photos 4-6 .....	22

File No. 0031296

January 21, 2010

Lucy K. Loewen  
Lewis Clark State College  
500 8<sup>th</sup> Avenue  
Lewiston, ID 83501

RE: 1023 6<sup>th</sup> St  
Lewiston, ID  
Diaz & Kemp

Dear Ms Loewen:

Attached is the summary report of the appraisal I have completed on your behalf of the real property located at 1023 6<sup>th</sup> Street in Lewiston. The purpose of this appraisal is to estimate the market value of the subject property's fee simple interest for potential acquisition. This appraisal is intended for the use of the client and the client's advisors.

The accompanying summary report of an appraisal has been completed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and applicable Federal regulations.

The attached report details the scope of the appraisal, level of reporting, definition of value, valuation methodology, and pertinent data researched and analyzed in the development of this appraisal.

I certify that I have no present or contemplated future interest in the property beyond this estimate of value. Your attention is directed to the Limiting Conditions and Assumptions page. Acceptance of this report constitutes an agreement with these conditions and assumptions.

One complication of this assignment is that the home has been severely damaged by fire. No competing properties were found with similar condition. Therefore, the analysis values the subject as if repaired and then subtracts from that the approximate amount that I conclude would be required to bring it to the repaired condition to arrive at an opinion of market value as the property existed on the date of value, January 6, 2010, was \$95,000.

Respectfully submitted,



Gary C. Chase  
Certified General Appraiser  
Lewiston, ID

# RESIDENTIAL APPRAISAL SUMMARY REPORT

File No.: 0031296

<b>Property Address:</b> 1023 6th St	<b>City:</b> Lewiston	<b>State:</b> ID	<b>Zip Code:</b> 83501-2802
<b>County:</b> Nez Perce		<b>Legal Description:</b> Lot 8, Block 31, Park Addition	
<b>Assessor's Parcel #:</b> RPL11200310080			
<b>Tax Year:</b> 2009	<b>R.E. Taxes:</b> \$ 2,666.98	<b>Special Assessments:</b> \$ 0	<b>Borrower (if applicable):</b> na
<b>Current Owner of Record:</b> Dani Diaz & Damian Kemp		<b>Occupant:</b> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant <input type="checkbox"/> Manufactured Housing	
<b>Project Type:</b> <input type="checkbox"/> PUD <input type="checkbox"/> Condominium <input type="checkbox"/> Cooperative <input type="checkbox"/> Other (describe)		<b>HOA:</b> \$ _____ per year <input type="checkbox"/> per month	
<b>Market Area Name:</b> Downtown Lewiston		<b>Map Reference:</b> 30300 <b>Census Tract:</b> 9904.00	

<b>The purpose of this appraisal is to develop an opinion of:</b> <input checked="" type="checkbox"/> Market Value (as defined), or <input type="checkbox"/> other type of value (describe)	<b>This report reflects the following value (if not Current, see comments):</b> <input checked="" type="checkbox"/> Current (the Inspection Date is the Effective Date) <input type="checkbox"/> Retrospective <input type="checkbox"/> Prospective
<b>Approaches developed for this appraisal:</b> <input checked="" type="checkbox"/> Sales Comparison Approach <input checked="" type="checkbox"/> Cost Approach <input checked="" type="checkbox"/> Income Approach (See Reconciliation Comments and Scope of Work)	
<b>Property Rights Appraised:</b> <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold <input type="checkbox"/> Leased Fee <input type="checkbox"/> Other (describe)	
<b>Intended Use:</b> Acquisition decision process	
<b>Intended User(s) (by name or type):</b> Client and client's advisors	
<b>Client:</b> LEWIS CLARK STATE COLLEGE <b>Address:</b> 500 8TH AVE, ADMINISTRATION BUILDING, LEWISTON, ID 83501	
<b>Appraiser:</b> Gary C Chase <b>Address:</b> 903 D Street, Suite 201, Lewiston, ID 83501	

<b>Location:</b> <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural	<b>Predominant Occupancy</b>	<b>One-Unit Housing</b>	<b>Present Land Use</b>	<b>Change in Land Use</b>
<b>Built up:</b> <input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%	<input checked="" type="checkbox"/> Owner	<b>PRICE</b> <b>AGE</b>	<b>One-Unit</b> 60 %	<input checked="" type="checkbox"/> Not Likely
<b>Growth rate:</b> <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow	<input type="checkbox"/> Tenant	<b>\$(000)</b> <b>(yrs)</b>	<b>2-4 Unit</b> 10 %	<input type="checkbox"/> Likely * <input type="checkbox"/> In Process *
<b>Property values:</b> <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Declining	<input checked="" type="checkbox"/> Vacant (0-5%)	60 Low 0	<b>Multi-Unit</b> 5 %	<b>* To:</b> _____
<b>Demand/supply:</b> <input type="checkbox"/> Shortage <input checked="" type="checkbox"/> In Balance <input type="checkbox"/> Over Supply	<input type="checkbox"/> Vacant (>5%)	700 High 120	<b>Comm'l</b> 10 %	
<b>Marketing time:</b> <input type="checkbox"/> Under 3 Mos. <input checked="" type="checkbox"/> 3-6 Mos. <input type="checkbox"/> Over 6 Mos.		180 Pred 45	<b>public</b> 15 %	
<b>Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends):</b> The subject is located in Downtown Lewiston neighborhood. The boundaries of the neighborhood are the Snake River on west, brow of Normal Hill on north, 30th Street on east, to 16th Avenue south west to east of 21st Street & 27th Street to Vineland to approximately Preston & 5th and south along west side of the airport to Fairway Drive and then back west to the Snake River. The neighborhood is primarily residential but includes shopping, some employment centers, and education facilities K thru 4 year college.				
<b>Overall community market appears stable, year to year &amp; subject market segment reflects that stability. Average marketing time remains relatively stable. Long term price trend still stable to slightly positive even with average price of last 2 quarters being lower. Sales volume in 4th quarter higher than same quarter in either of the prior 3 years. See Community Market Trends Chart.</b>				

<b>Dimensions:</b> 50 x 142 x 50 x 142	<b>Site Area:</b> .16 acres
<b>Zoning Classification:</b> R-3	<b>Description:</b> Medium Density Residential
<b>Zoning Compliance:</b> <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Legal nonconforming (grandfathered) <input type="checkbox"/> Illegal <input type="checkbox"/> No zoning	
<b>Are CC&amp;Rs applicable?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <b>Have the documents been reviewed?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <b>Ground Rent (if applicable)</b> \$ /	
<b>Highest &amp; Best Use as improved:</b> <input type="checkbox"/> Present use, or <input checked="" type="checkbox"/> Other use (explain) Single family	
<b>Actual Use as of Effective Date:</b> Residential rental <b>Use as appraised in this report:</b> Residential	
<b>Summary of Highest &amp; Best Use:</b> The minimum lot size for this zone is 7,500 square feet. Subject is 7,100, typical of the vast majority of single family homes in the neighborhood.	

<b>Utilities</b>	<b>Public</b>	<b>Other</b>	<b>Provider/Description</b>	<b>Off-site Improvements</b>	<b>Type</b>	<b>Public</b>	<b>Private</b>	<b>Topography</b>	<b>level</b>
Electricity	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Street	asphalt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Size	typical
Gas	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Curb/Gutter	concrete	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Shape	rectangular
Water	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Sidewalk	concrete	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Drainage	appears adequate
Sanitary Sewer	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Street Lights	electric	<input checked="" type="checkbox"/>	<input type="checkbox"/>	View	local
Storm Sewer	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Alley	gravel	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<b>Other site elements:</b> <input checked="" type="checkbox"/> Inside Lot <input type="checkbox"/> Corner Lot <input type="checkbox"/> Cul de Sac <input type="checkbox"/> Underground Utilities <input type="checkbox"/> Other (describe)									
<b>FEMA Spec'l Flood Hazard Area</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>FEMA Flood Zone</b> C <b>FEMA Map #</b> 1601040003B <b>FEMA Map Date</b> 1/20/1982									
<b>Site Comments:</b> The existence of the auxiliary apartment in the rear creates a non-conforming use. There is a potential that re-construction of the primary home could be stalled or stopped by the city while that unit exists or is rented.									

<b>General Description</b>	<b>Exterior Description</b>	<b>Foundation</b>	<b>Basement</b> <input type="checkbox"/> None
<b># of Units</b> 1 <input checked="" type="checkbox"/> Acc. Unit	<b>Foundation</b> concrete	<b>Slab</b> no	<b>Area Sq. Ft.</b> 1,075
<b># of Stories</b> 1.0	<b>Exterior Walls</b> wood	<b>Crawl Space</b> part	<b>% Finished</b> 80
<b>Type</b> <input checked="" type="checkbox"/> Det. <input type="checkbox"/> Att. <input type="checkbox"/>	<b>Roof Surface</b> wd shgl&hrdbd	<b>Basement</b> part	<b>Ceiling</b> dw
<b>Design (Style)</b> 1.0 sty	<b>Gutters &amp; Dwnspts.</b> metal	<b>Sump Pump</b> <input type="checkbox"/>	<b>Walls</b> dw
<input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Und.Cons.	<b>Window Type</b> wood	<b>Dampness</b> <input type="checkbox"/>	<b>Floor</b> carpet
<b>Actual Age (Yrs.)</b> 1925	<b>Storm/Screen</b> part	<b>Settlement</b> none observed	<b>Outside Entry</b> no
<b>Effective Age (Yrs.)</b> 15		<b>Infestation</b> none observed	
			<b>Heating</b>
			<b>Type</b> f/a
			<b>Fuel</b> gas
			<b>Cooling</b>
			<b>Central</b> cac
			<b>Other</b>

# RESIDENTIAL APPRAISAL SUMMARY REPORT

File No.: 0031296

<b>DESCRIPTION OF IMPROVEMENTS (continued)</b>	<b>Interior Description</b>	<b>Appliances</b>	<b>Attic</b> <input type="checkbox"/> None	<b>Amenities</b>	<b>Car Storage</b> <input type="checkbox"/> None	
	Floors carpet-fir-hrdwd-lam	Refrigerator <input checked="" type="checkbox"/>	Stairs <input type="checkbox"/>	Fireplace(s) # 1	Garage # of cars ( 1 Tot.)	
	Walls plaster-dw	Range/Oven <input checked="" type="checkbox"/>	Drop Stair <input type="checkbox"/>	Woodstove(s) #	Attach. _____	
	Trim/Finish wood	Disposal <input type="checkbox"/>	Scuttle <input checked="" type="checkbox"/>	Deck rear	Detach. _____	
	Bath Floor vinyl	Dishwasher <input checked="" type="checkbox"/>	Doorway <input type="checkbox"/>	Porch front covered	Blt.-In _____	
	Bath Wainscot fiberglass	Fan/Hood <input type="checkbox"/>	Floor <input type="checkbox"/>	Fence rear	Carport _____	
	Doors wood	Microwave <input type="checkbox"/>	Heated <input type="checkbox"/>	Pool _____	Driveway 1	
		Washer/Dryer <input checked="" type="checkbox"/>	Finished <input type="checkbox"/>		Surface gravel	
	Finished area above grade contains: 6 Rooms 2 Bedrooms 1 Bath(s) 1,365 Square Feet of Gross Living Area Above Grade					
	Additional features: Finished basement with 4 additional below grade bedrooms, a bath, & laundry. There is an auxiliary unit on the alley with additional 3 rooms including living room, kitchen, bath & small basement with room used as a bedroom.					
Describe the condition of the property (including physical, functional and external obsolescence): The home has been heavily damaged by fire. This analysis values the subject as if all fire damage had been corrected on the date of value and then subtracts the estimated cost to return the home to repaired condition. The auxiliary apartment structure is in average overall condition.						


<b>SALES COMPARISON APPROACH TO VALUE (if developed)</b> <input type="checkbox"/> The Sales Comparison Approach was not developed for this appraisal.											
FEATURE		SUBJECT		COMPARABLE SALE # 1			COMPARABLE SALE # 2			COMPARABLE SALE # 3	
Address 1023 6th St Lewiston, ID 83501-2802				1208 3rd St Lewiston, ID 83501			206 16th Ave Lewiston, ID 83501			1722 14th Ave Lewiston, ID 83501	
Proximity to Subject				0.32 miles W			0.47 miles SW			0.85 miles E	
Sale Price		\$		\$ 200,000			\$ 177,450			\$ 174,900	
Sale Price/GLA		\$/sq.ft.		\$ 151.40/sq.ft.			\$ 159.01/sq.ft.			\$ 134.54/sq.ft.	
Data Source(s)				MLS/file/agent			MLS/agent			MLS/agent	
Verification Source(s)				112100 dom 162			114086 dom 91			111680 dom 239	
VALUE ADJUSTMENTS		DESCRIPTION		DESCRIPTION			DESCRIPTION			DESCRIPTION	
Sales or Financing				conv			fha			conv	
Concessions				none			none			none	
Date of Sale/Time				4/9/2009			11/19/2009			4/30/2009	
Rights Appraised		Fee Simple		fee simple			fee simple			fee simple	
Location		Dwtn Lws		Dwtn Lws			Dwtn Lws			Dwtn Lws	
Site		.16 acres		.29 acres			.15 acres			.17 acres	
View		local		local			local			local	
Design (Style)		1.0 sty		1.0 sty			1.0 sty			1.0 sty	
Quality of Construction		average		average			average			average	
Age		1925		1941			1943			1922	
Condition		good		good			average			+14,000 good	
Above Grade		Total	Bdrms	Baths	Total	Bdrms	Baths	Total	Bdrms	Baths	
Room Count		6	2	1	5	2	1	5	2	2	
Gross Living Area		1,365 sq.ft.		1,321 sq.ft.			1,116 sq.ft.			+7,470 1,300 sq.ft.	
Basement & Finished		1075		1001			1116			312	
Rooms Below Grade		5/4/1		3/1/1			3/0/1			+6,000 1/1/0	
Functional Utility		average		average			average			average	
Heating/Cooling		gfa/cac		gfa,cac			gfa,cac			gfa,cac	
Energy Efficient Items		average		average			average			average	
Garage/Carport		0 g,0 cp		1-g/att,0cp			-2,000 1-g/att,0cp			-2,000 1-g/att,0 cp	
Porch/Patio/Deck		pch pat 2dk shed		pch dk ug 2fp			pat dk ug ht 2fp			pch3pat dk ug 1f	
pool/shop/mil apt		720sf mil apt		no			+21,000 pool			no	
Net Adjustment (Total)				<input checked="" type="checkbox"/> + <input type="checkbox"/> -			\$ 18,550			<input checked="" type="checkbox"/> + <input type="checkbox"/> -	
Adjusted Sale Price				Net 9.3 %			Net 12.3 %			Net 19.3 %	
of Comparables				Gross 17.7 %			Gross 18.6 %			Gross 25.0 %	
				\$ 218,550			\$ 199,320			\$ 208,665	





# RESIDENTIAL APPRAISAL SUMMARY REPORT

File No.: 0031296

INCOME APPROACH	<b>INCOME APPROACH TO VALUE (if developed)</b> <input type="checkbox"/> The Income Approach was not developed for this appraisal.	
	Estimated Monthly Market Rent \$ 2,450	X Gross Rent Multiplier 95 = \$ 232,750 <b>Indicated Value by Income Approach</b>
	Summary of Income Approach (including support for market rent and GRM): Owner occupies rear building with a tenant in the partial basement of that unit. Prior to the fire, the primary home was rented by the bedroom with the kitchen, baths, family, living, & dining room shared by all occupants. The bedrooms were rented at rates ranging from \$275 to \$400 each per month. Including the owner as an additional bedroom at the upper rate indicates a monthly rent of \$2,450. Market rents in the neighborhood were found ranging from \$196 to 425 per bedroom. I conclude the prior existing subject rent is reasonable. Gross annual multipliers found for multi-family units ranged from 89 to 106. The GAM for single family units is substantially higher. However, as the subject was utilized, the multi-family comparisons appear most reflective of market expectations for the subject's income stream & as a non-conforming use it is expected that toward the lower end of the range is reasonable.	
PUD	<b>PROJECT INFORMATION FOR PUDs (if applicable)</b> <input type="checkbox"/> The Subject is part of a Planned Unit Development.	
	Legal Name of Project: _____	
	Describe common elements and recreational facilities: _____	
	_____	
RECONCILIATION	<b>Indicated Value by: Sales Comparison Approach \$ 210,000 Cost Approach (if developed) \$ 196,286 Income Approach (if developed) \$ 232,750</b>	
	Final Reconciliation Primary weight is placed on the sales comparison approach with secondary weight placed on the income approach. The cost approach is considered unreliable overall due to: the age of the structure, the number of times renovated/remodeled during its life, and the non-conformance issue. The value of the subject as if all fire damage had been repaired and condition was good is concluded to be \$215,000. The attached cost pages summarize the estimated impact on value of the fire damage which is subtracted from the 'as if' repaired conclusion above to arrive at an 'as is' market value for the subject. The estimated cost to place the subject in repaired good condition is approximately \$120,000. The concluded value for the subject, as is, is therefore \$95,000.	
	This appraisal is made <input checked="" type="checkbox"/> "as is", <input type="checkbox"/> subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, <input type="checkbox"/> subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, <input type="checkbox"/> subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair: _____	
	<input type="checkbox"/> This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.	
	Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ 95,000, as of: 1/6/2010, which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.	
ATTACHMENTS	A true and complete copy of this report contains <u>22</u> pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.	
	Attached Exhibits: <input checked="" type="checkbox"/> Scope of Work <input checked="" type="checkbox"/> Limiting Cond./Certifications <input checked="" type="checkbox"/> Narrative Addendum <input checked="" type="checkbox"/> Photograph Addenda <input checked="" type="checkbox"/> Sketch Addendum <input checked="" type="checkbox"/> Map Addenda <input checked="" type="checkbox"/> Additional Sales <input checked="" type="checkbox"/> Cost Addendum <input type="checkbox"/> Flood Addendum <input type="checkbox"/> Manuf. House Addendum <input type="checkbox"/> Hypothetical Conditions <input type="checkbox"/> Extraordinary Assumptions <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____	
SIGNATURES	Client Contact: <u>Lucy Loewen</u> Client Name: <u>LEWIS CLARK STATE COLLEGE</u>	
	E-Mail: <u>lkloewen@lcsc.edu</u> Address: <u>500 8TH AVE, ADMINISTRATION BUILDING, LEWISTON, ID 83501</u>	
	<b>APPRAISER</b>	
	<b>SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)</b>	
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">                       Appraiser Name: <u>Gary C Chase</u>                      Company: <u>Chase Appraisals</u>                      Phone: <u>(208) 743-8528</u> Fax: <u>208-798-7852</u>                      E-Mail: <u>gary@lcland.com</u>                      Date of Report (Signature): <u>January 23, 2010</u>                      License or Certification #: <u>CGA-31</u> State: <u>ID</u>                      Designation: <u>Certified General Appraiser, Idaho &amp; Washington</u>                      Expiration Date of License or Certification: <u>10/16/2010</u>                      Inspection of Subject: <input checked="" type="checkbox"/> Interior &amp; Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None                      Date of Inspection: <u>1/6/2010</u> </div> <div style="width: 45%;">                     Supervisory or Co-Appraiser Name: _____                      Company: _____                      Phone: _____ Fax: _____                      E-Mail: _____                      Date of Report (Signature): _____                      License or Certification #: _____ State: _____                      Designation: _____                      Expiration Date of License or Certification: _____                      Inspection of Subject: <input type="checkbox"/> Interior &amp; Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None                      Date of Inspection: _____                 </div> </div>		







## Supplemental Addendum

File No. 0031296

Lender	LEWIS CLARK STATE COLLEGE				
Property Address	1023 6th St				
City	Lewiston	County	Nez Perce	State	ID Zip Code 83501-2802
Client	LEWIS CLARK STATE COLLEGE				

• **GP Residential : Sales Comparison Approach - Summary of Sales Comparison Approach**

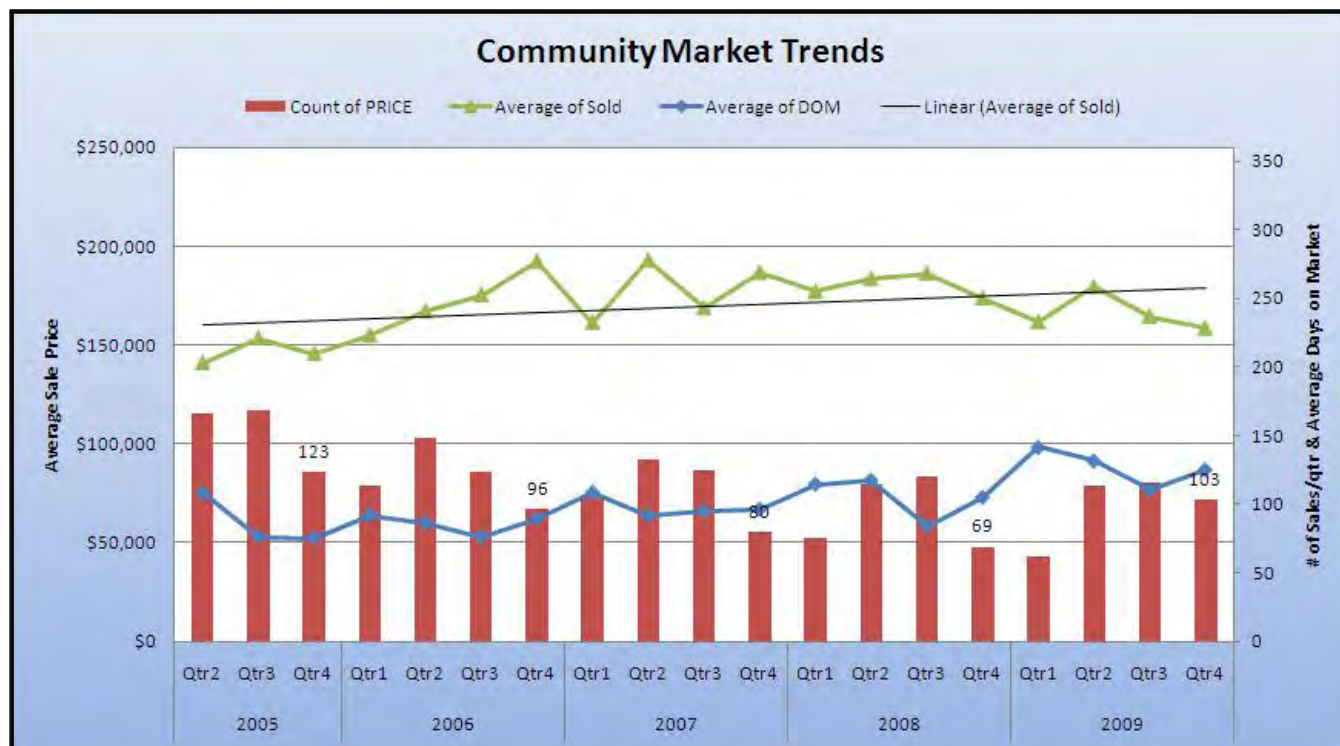
The subject is located east of Lewis Clark State College's Harris Field. It has been utilized as an informal residence for students, each renting a bedroom and together using the kitchens, baths, and other rooms in common. This is relatively unusual for this neighborhood and no recent sales were found of homes being utilized in this manner were found. The comparables are all single family dwellings closed in the past year that bracket the subject's age and gross living area. The subject has an auxiliary unit, mother in law apartment structure on the rear of the site. While no current sales were found with this particular amenity, several historical sales with this amenity were identified and they appear to have contributed a value to the overall property of between 5 and 15%. The middle of this range is concluded reasonable and applied to the subject. Comp #2 has an added amenity, a swimming pool, that is judged the most equivalent value substitute found although appealing to a different buyer base. This amenity combined with its large below grade bedroom count results in adjustment level higher than desired, but unavoidable. The comparables were adjusted to the subject as follows:

Adjustment	Amount	Description
Time		Market pricing appears stable over 2 year period
Location		No adjustment judged necessary
Site	\$25,000	Per acre for significant size differences
View		No adjustment judged necessary
Quality		No adjustment judged necessary
Design		No adjustment judged necessary
Age	\$200	Based on differences in physical age.
Condition	\$7,000	Per perceived rank difference
Rooms/Bed		No adjustment judged necessary
Bathrooms	\$3,000	With 1 bath = to 3 fixtures or more each. 1/2 = 2 fixtures
GLA	\$30	\$/sq.ft. for significant size differences
Bsmt	\$5	\$/sq.ft. for significant size differences
Bfinish	\$3,000	\$ per finished room difference
Utility		No adjustment judged necessary
Heat/cac		Air conditioning presence is the primary market factor
Energy		No adjustment judged necessary
Garage/cp	\$2,000	Difference per garage stall with carport rated at 1/2 the garage rate
Pch/Pat/Dk+	varied	No adjustment judged necessary
MIL unit/pool	\$21,000	Based on considered net contribution of large other amenities.

### Market Trends Chart

Lender	LEWIS CLARK STATE COLLEGE			
Property Address	1023 6th St			
City	Lewiston	County	Nez Perce	State ID Zip Code 83501-2802
Client	LEWIS CLARK STATE COLLEGE			

The chart below describes residential activity in Lewiston over the past 4 years. Overall price trend remains slightly positive, although 3 of the last 4 quarters are below the long term trend line. Market activity in the last quarter was up over the same quarters in prior 3 years, but average marketing time (Days on Market) are higher than last quarter of 2008.





SQUARE FOOT APPRAISAL FORM

For subscribers using the RESIDENTIAL COST HANDBOOK/Residential Estimator 7

0031296

Property Owner <u>Dani Diaz &amp; Damian Kemp</u>		Date <u>1/6/2010</u>	
Address <u>1023 6th St</u>		Surveyed By <u>Gary C Chase</u>	
City <u>Lewiston</u>		Cost as of <u>1-6-2010</u>	
State/Province <u>ID</u>	Zip/Postal Code <u>83501-2802</u>	Appraisal For <u>LEWIS CLARK STATE COLLEGE</u>	
Type <u>Single Family</u>	Quality <u>Average</u>	Total Floor Area <u>1,365</u>	
Style <u>1.0 sty - Main Building Only</u>		Number of Units <u>1</u>	
Exterior Walls <u>Wood</u>		Interior Wall Height <u>base</u>	
		Basement Depth <u>base</u>	
Age <u>1925</u>	Condition <u>good</u>	Region: <input checked="" type="checkbox"/> <u>Western</u>	<input type="checkbox"/> Central <input type="checkbox"/> Eastern

	Factor	Quantity	Cost	Extended Cost	
<b>1. COMPUTE RESIDENCE BASIC COST</b>	1	1,365	75.16	\$	102,593.40
<b>Square Foot and Lump Sum Adjustments</b>				+	-
2. Roofing <u>base</u>					
3. Energy: <input type="checkbox"/> Mild <input type="checkbox"/> Moderate <input checked="" type="checkbox"/> Extreme <input type="checkbox"/> Superinsulated		1,365	1.86	X	2,538.90
4. Foundation: <input type="checkbox"/> Mild <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Extreme Hillside: <input checked="" type="checkbox"/> Flat <input type="checkbox"/> Moderate <input type="checkbox"/> Steep					
5. Seismic: <input type="checkbox"/> None <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 Wind: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		1,365	1.63	X	2,224.95
6. Subfloor					
7. Floor Insulation: <input type="checkbox"/> Mild <input type="checkbox"/> Moderate <input type="checkbox"/> Extreme					
8. Floor Cover <u>base allowance</u>		1,365	3.33	X	4,545.45
9. Plaster Interior					
10. Heating/Cooling <u>warm &amp; cooled</u>		1,365	1.86	X	2,538.90
11. Plumbing Fixtures <b>Total</b> <u>8</u> <b>Base</b> <u>8</u>					
12. Plumbing Rough-ins <b>Total</b> <u>2</u> <b>Base</b> <u>1</u>		1	465.00	X	465.00
13. Dormers					
14. Fireplaces <u>1 masonry</u>		1	4,325.00	X	4,325.00
15. Built-in Appliances <u>allowance</u>		1	2,700.00	X	2,700.00
<b>16. SUBTOTAL: ADJUSTED RESIDENCE COST: Total of Lines 1 to 15.</b>				\$	121,931.60
17. Basement	1	1,075	17.35	X	18,651.25
finished (80%)	1	860	23.06	X	19,831.60
18. Porches, Decks, Breezeways, etc.					
19. Balconies					
20. Exterior Stairways					
<b>21. SUBTOTAL: RESIDENCE COST: Total of Lines 16 to 20.</b>				\$	160,414.45
22. Garages/Carports					
<b>23. SUBTOTAL OF ALL BUILDING IMPROVEMENTS. Total of Lines 21 and 22.</b>				\$	160,414.45
24. Multipliers: <b>Current Cost</b> <u>1.00</u> <b>x Local</b> <u>.94</u> <b>x Other</b> <u>1.065</u> =					1.00
25. Additional Components					0
<b>26. TOTAL BUILDING COST NEW: Line 23 x Line 24 + Line 25.</b>				\$	160,414.00
27. Depreciation: <b>Physical and Functional</b> <u>Estimated at 15/75 years or 20%</u>					32,000.00
28. External and / or Excessive Functional Obsolescence					
29. Additional Depreciation					
<b>30. TOTAL DEPRECIATED COST: Line 26 - Lines 27 to 29.</b>				\$	128,414.00
31. Yard Improvements <u>Decks, porch, pat, landscaping</u>					10,800.00
32. Miscellaneous <u>auxiliary Building</u>					21,072.00
33. Land/Site Value					36,000.00
<b>34. TOTAL INDICATED VALUE: Total of Lines 30 to 33.</b>				\$	196,286.00

FORM 1007

Chase Appraisals



CONSTRUCTION INSPECTION REPORT

File No. 0031296

SUBJECT

Lender LEWIS CLARK STATE COLLEGE  
Property Address 1023 6th St  
City Lewiston County Nez Perce State ID Zip Code 83501-2802  
Client LEWIS CLARK STATE COLLEGE

X INDICATES WORK ENTIRELY COMPLETED.  
\* INDICATES WORK INPROGRESS OR PARTIALLY COMPLETED.

WORK COMPLETED

% Completed

- \_\_\_\_\_ 2  Excavation
- \_\_\_\_\_ 2  Footings
- \_\_\_\_\_ 9  Foundation, Walls, Piers
- \_\_\_\_\_ 2  Basement Floor Slab
- \_\_\_\_\_ 2  Floor Construction
- \_\_\_\_\_ 4 5  Exterior Walls (Framing)
- \_\_\_\_\_ .5 3  Windows
- \_\_\_\_\_ 1.5 2  Roof Construction
- \_\_\_\_\_ 1.5 2  Roofing in Place
- \_\_\_\_\_ 3 5  Partitions
- \_\_\_\_\_ 4 5  Plumbing (rough-in)
- \_\_\_\_\_ 3  Heating (rough-in)
- \_\_\_\_\_ 3  Electric Wiring (rough-in)
- \_\_\_\_\_ 4 5  Exterior Wall (Finish)
- \_\_\_\_\_ 1 2  Plumbing (top-out)
- \_\_\_\_\_ 1 4  Drywall Stock & Hang
- \_\_\_\_\_ 1 4  Drywall Tape & Texture
- \_\_\_\_\_ 1  Tile Work
- \_\_\_\_\_ 3  Trim, Doors, Sash
- \_\_\_\_\_ 1 5  Kitchen Cabinets
- \_\_\_\_\_ 1 5  Floor Finish & Carpet
- \_\_\_\_\_ 1 3  Plumbing Fixtures
- \_\_\_\_\_ 1 4  Heating Fixtures
- \_\_\_\_\_ .5 1  Hardware
- \_\_\_\_\_ 1 4  Exterior Paint
- \_\_\_\_\_ 0 4  Interior Paint
- \_\_\_\_\_  Screens
- \_\_\_\_\_  Gutters
- \_\_\_\_\_ 1 2  Electric Fixtures
- \_\_\_\_\_  Detached Garage
- \_\_\_\_\_  Grading
- \_\_\_\_\_ 2  Walks
- \_\_\_\_\_  Sodding
- \_\_\_\_\_  Utilities Installed
- \_\_\_\_\_ 3  Septic Tank
- \_\_\_\_\_  Well
- \_\_\_\_\_ 3  Concrete Drive

- PICTURE
- FIRST INSPECTION
- SECOND INSPECTION
- THIRD INSPECTION
- FOURTH INSPECTION
- \_\_\_\_\_

Work ready for advance of na % of loan.

OBJECTS AND COMMENTS

49%/97 = 50.5% of costs  
 Therefore it is estimated that the cost to complete if new would be approximately 50% of the cost new.  
 Estimated cost to gut - \$6.50 to 20.40 per square foot - Assuming a number in the lower half of the range suggests added cost of \$10/sq. ft.  
 Total building area = 1,365 GLA + 1,075 Basement sq. ft. =2,440.  
 The costs below are based primarily on the Marshall Swift Residential Cost Handbook,  
 Cost New \$160,414  
 Cost to complete ~50% of cost new = \$80,200  
 Gutting cost (cost to prepare for rebuilding) added 2,440sq. ft (includes basement level) X \$10 24,440  
 Contractor Profit/overhead/risk est 15% 15,690  
 Total Estimated Cost to bring home back to finished condition \$120,336 Round \$120,000.

Estimated cost to demolish structure  
 Demolition of home \$7,000 demo of auxiliary structure \$3,275 = \$10,375  
 Asbestos spot removal \$11.35 X 1,365 = \$15,492  
 Re-grading site estimated at .15 X 7,100 = \$1,065  
 Total demolition cost \$ 26,932, Round \$27,000 - This a significant cost and does not appear to be a significantly lesser risk than rebuilding.  
 The value of the repaired structure significantly exceeds the cost to repair and it is concluded that the value as is is therefore summarized as follows:  
 Subject market value, as if all fire damage corrected & home is in good overall condition - \$215,000  
 Estimated cost to bring it to that condition \$120,000  
 Concluded 'as is' value \$95,000

ITEMS SUBJECT TO ESCROW

This form is used to arrive at a rough estimate of the cost to repair the subject allowing the calculation of an as is value for the subject. This is a rough estimate based on my experience in the local market. It is not sufficient to use as a budget for re-construction. Such a task is beyond the scope of work for the appraisal and requires the input of construction experts.

AMOUNT OF ESCROW \$ na X na %= \$ na

DATE January 23, 2010 INSPECTOR Gary C Chase

**Assumptions & Limiting Conditions**

File No.: 0031296

Property Address: 1023 6th St City: Lewiston State: ID Zip Code: 83501-2802

Client: LEWIS CLARK STATE COLLEGE Address: 500 8TH AVE, ADMINISTRATION BUILDING, LEWISTON, ID 83501

Appraiser: Gary C Chase Address: 903 D Street, Suite 201, Lewiston, ID 83501

**STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS**

- The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
- The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.
- If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
- The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
- If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.
- The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
- The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
- The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.
- If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.
- An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.
- The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.
- An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

**Definitions & Scope of Work**

File No.: 0031296

Property Address: 1023 6th St	City: Lewiston	State: ID	Zip Code: 83501-2802
Client: LEWIS CLARK STATE COLLEGE	Address: 500 8TH AVE, ADMINISTRATION BUILDING, LEWISTON, ID 83501		
Appraiser: Gary C Chase	Address: 903 D Street, Suite 201, Lewiston, ID 83501		

**DEFINITION OF MARKET VALUE \*:**

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

\* This definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 between July 5, 1990, and August 24, 1990, by the Federal Reserve System (FRS), National Credit Union Administration (NCUA), Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the Office of Comptroller of the Currency (OCC). This definition is also referenced in regulations jointly published by the OCC, OTS, FRS, and FDIC on June 7, 1994, and in the Interagency Appraisal and Evaluation Guidelines, dated October 27, 1994.

**The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.**

**Additional Comments (Scope of Work, Extraordinary Assumptions, Hypothetical Conditions, etc.):**



# Certifications

File No.: 0031296

Property Address: 1023 6th St City: Lewiston State: ID Zip Code: 83501-2802  
 Client: LEWIS CLARK STATE COLLEGE Address: 500 8TH AVE, ADMINISTRATION BUILDING, LEWISTON, ID 83501  
 Appraiser: Gary C Chase Address: 903 D Street, Suite 201, Lewiston, ID 83501

**APPRAISER'S CERTIFICATION**

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
- Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.
- Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.

**Additional Certifications:**

Client Contact: Lucy Loewen Client Name: LEWIS CLARK STATE COLLEGE  
 E-Mail: lkloewen@lcsc.edu Address: 500 8TH AVE, ADMINISTRATION BUILDING, LEWISTON, ID 83501

**APPRAISER**

**SUPERVISORY APPRAISER (if required)  
 or CO-APPRAISER (if applicable)**

SIGNATURES

  
 Appraiser Name: Gary C Chase

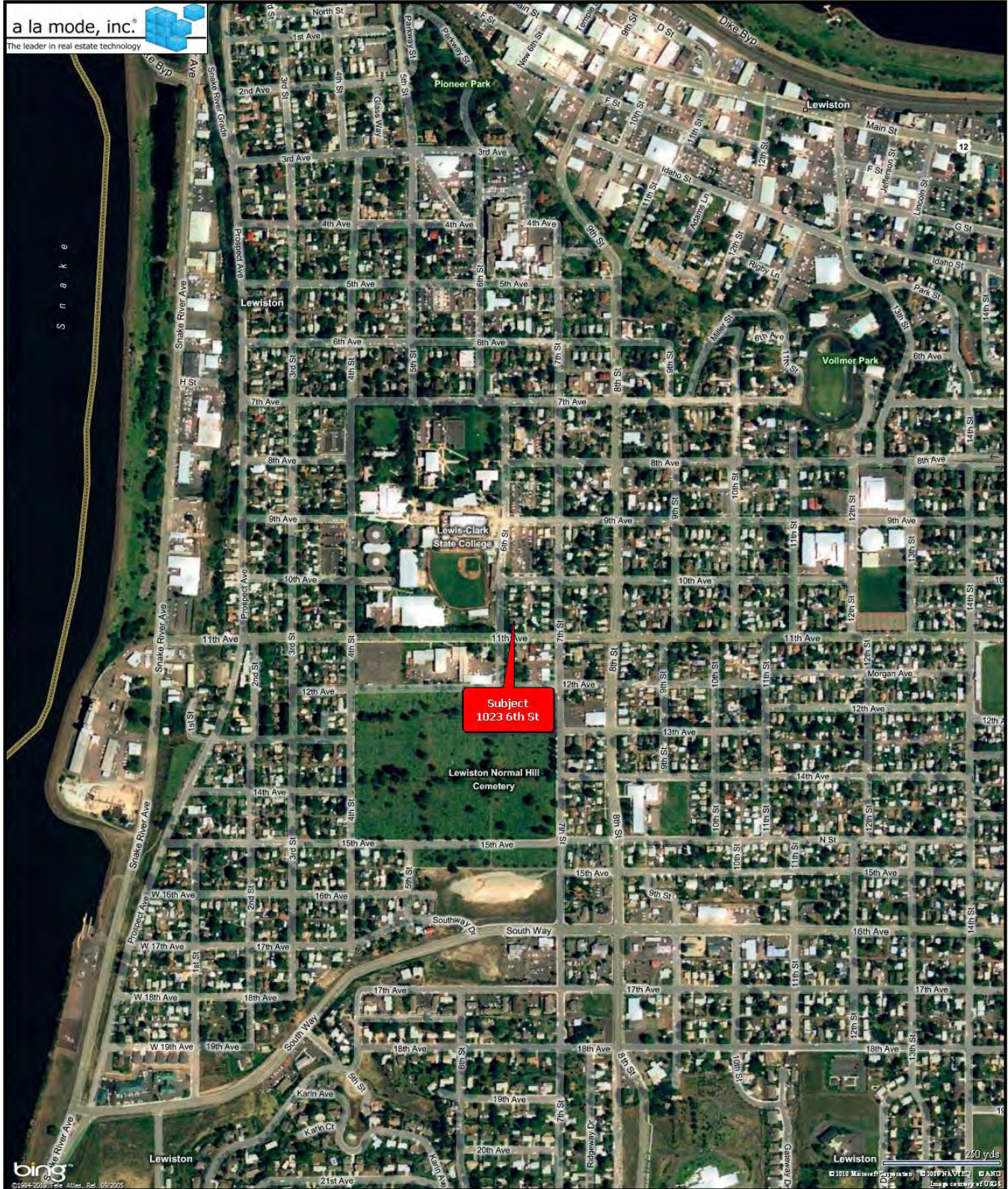
Company: Chase Appraisals  
 Phone: (208) 743-8528 Fax: 208-798-7852  
 E-Mail: gary@lcland.com  
 Date Report Signed: January 23, 2010  
 License or Certification #: CGA-31 State: ID  
 Designation: Certified General Appraiser, Idaho & Washington  
 Expiration Date of License or Certification: 10/16/2010  
 Inspection of Subject:  Interior & Exterior  Exterior Only  None  
 Date of Inspection: 1/6/2010

Supervisory or Co-Appraiser Name: \_\_\_\_\_  
 Company: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-Mail: \_\_\_\_\_  
 Date Report Signed: \_\_\_\_\_  
 License or Certification #: \_\_\_\_\_ State: \_\_\_\_\_  
 Designation: \_\_\_\_\_  
 Expiration Date of License or Certification: \_\_\_\_\_  
 Inspection of Subject:  Interior & Exterior  Exterior Only  None  
 Date of Inspection: \_\_\_\_\_



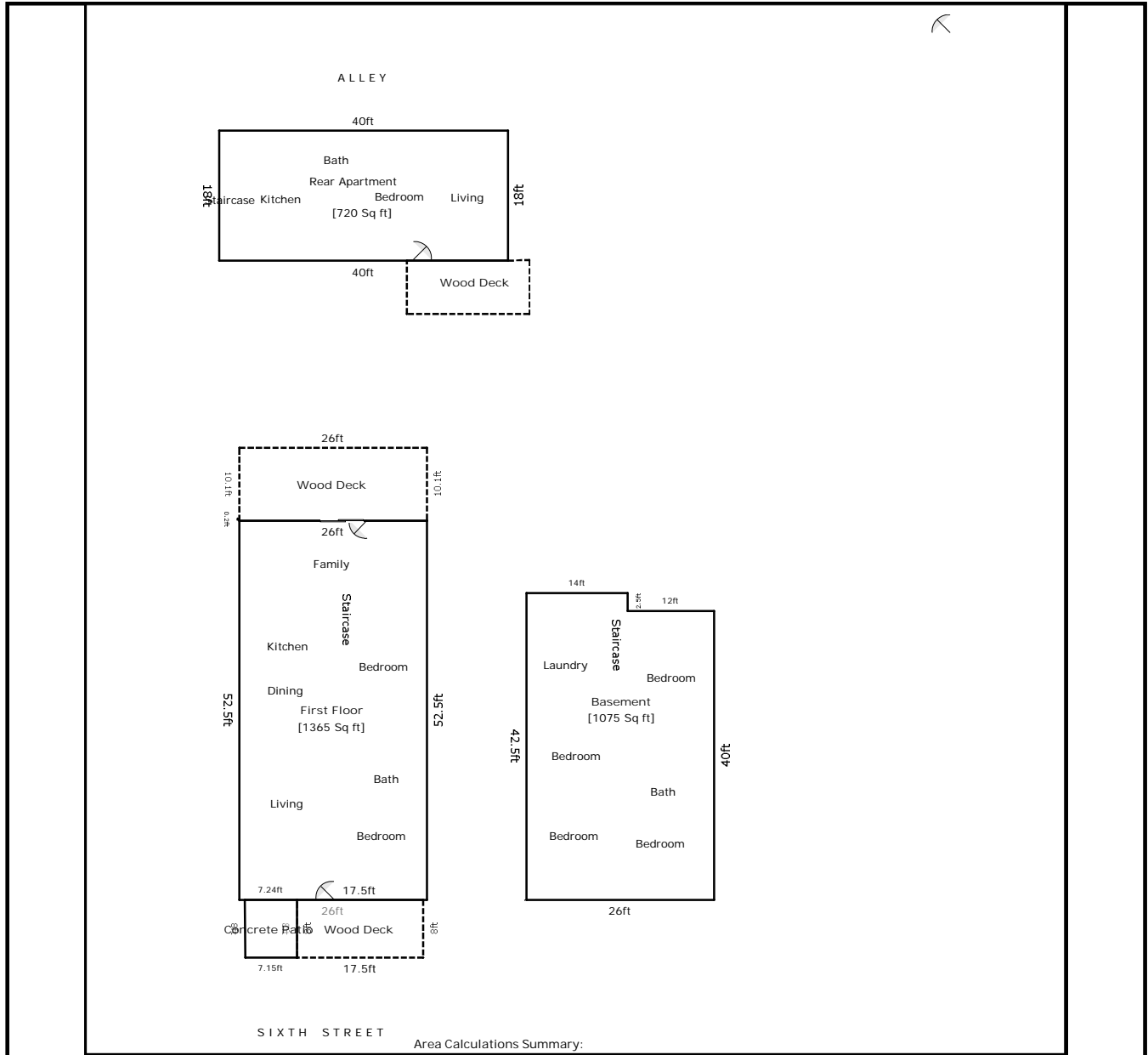
### Location Map

Lender	LEWIS CLARK STATE COLLEGE			
Property Address	1023 6th St			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501-2802
Client	LEWIS CLARK STATE COLLEGE			



### Building Sketch

Lender	LEWIS CLARK STATE COLLEGE			
Property Address	1023 6th St			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501-2802
Client	LEWIS CLARK STATE COLLEGE			



Area Calculations Summary:

Living Area (Rounded)	Calculation Details	
First Floor	1365 Sq ft	26 * 52.5 = 1365.00
<b>Total Living Area:</b>	<b>1365 Sq ft</b>	
Non-living Area (Rounded)		
Basement	1075 Sq ft	
Wood Deck	140 Sq ft	
Concrete Patio	58 Sq ft	
Wood Deck	263 Sq ft	
Second Floor	720 Sq ft	
Wood Deck	126 Sq ft	

### Comparable Sales Map

Lender	LEWIS CLARK STATE COLLEGE			
Property Address	1023 6th St			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501-2802
Client	LEWIS CLARK STATE COLLEGE			



**Subject Photo Page**

Lender	LEWIS CLARK STATE COLLEGE				
Property Address	1023 6th St				
City	Lewiston	County	Nez Perce	State ID	Zip Code 83501-2802
Client	LEWIS CLARK STATE COLLEGE				



**Subject Front**

1023 6th St  
 Sales Price  
 Gross Living Area 1,365  
 Total Rooms 6  
 Total Bedrooms 2  
 Total Bathrooms 1  
 Location Dwtn Lws  
 View local  
 Site .16 acres  
 Quality average  
 Age 1925



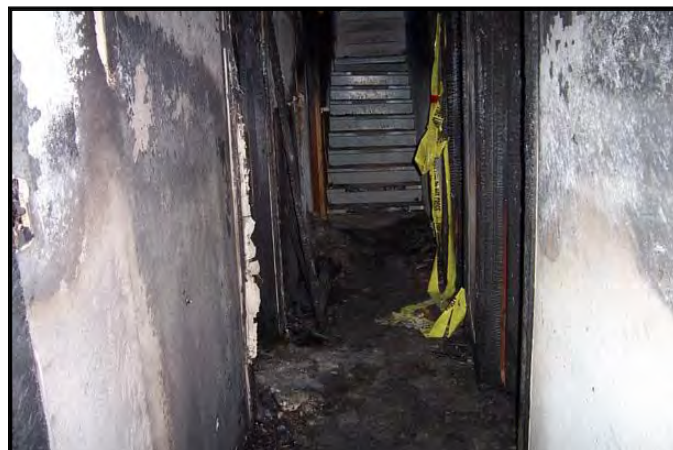
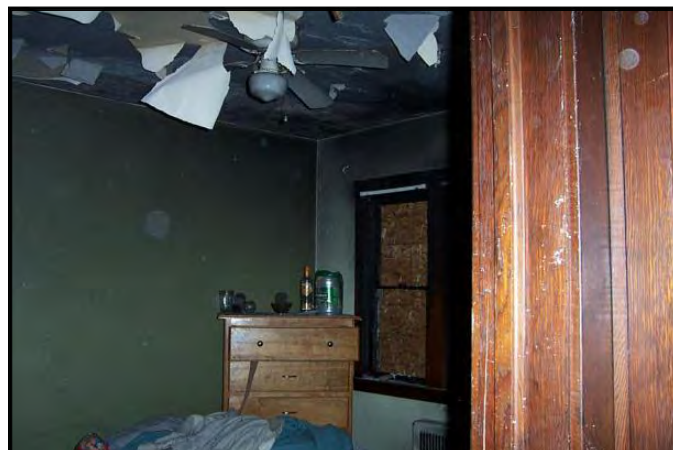
**Subject Rear**



**Subject Street**

### Photograph Addendum

Lender	LEWIS CLARK STATE COLLEGE				
Property Address	1023 6th St				
City	Lewiston	County	Nez Perce	State	ID
Client	LEWIS CLARK STATE COLLEGE				



**Comparable Photo Page**

Lender	LEWIS CLARK STATE COLLEGE			
Property Address	1023 6th St			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501-2802
Client	LEWIS CLARK STATE COLLEGE			



**Comparable 1**

1208 3rd St  
 Prox. to Subject 0.32 miles W  
 Sales Price 200,000  
 Gross Living Area 1,321  
 Total Rooms 5  
 Total Bedrooms 2  
 Total Bathrooms 1  
 Location Dwn Lws  
 View local  
 Site .29 acres  
 Quality average  
 Age 1941



**Comparable 2**

206 16th Ave  
 Prox. to Subject 0.47 miles SW  
 Sales Price 177,450  
 Gross Living Area 1,116  
 Total Rooms 5  
 Total Bedrooms 2  
 Total Bathrooms 1  
 Location Dwn Lws  
 View local  
 Site .15 acres  
 Quality average  
 Age 1943



**Comparable 3**

1722 14th Ave  
 Prox. to Subject 0.85 miles E  
 Sales Price 174,900  
 Gross Living Area 1,300  
 Total Rooms 5  
 Total Bedrooms 2  
 Total Bathrooms 2  
 Location Dwn Lws  
 View local  
 Site .17 acres  
 Quality average  
 Age 1922

**Comparable Photo Page**

Lender	LEWIS CLARK STATE COLLEGE			
Property Address	1023 6th St			
City	Lewiston	County	Nez Perce	State ID      Zip Code 83501-2802
Client	LEWIS CLARK STATE COLLEGE			

**Comparable 4**

1511 10th Ave	
Prox. to Subject	0.66 miles E
Sales Price	185,000
Gross Living Area	1,743
Total Rooms	7
Total Bedrooms	4
Total Bathrooms	2
Location	Dwtn Lws
View	local
Site	.16 acres
Quality	average
Age	1923

**Comparable 5**

310 2nd Ave	
Prox. to Subject	0.71 miles NW
Sales Price	179,900
Gross Living Area	1,533
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	1
Location	Dwtn Lws
View	local
Site	.24 acres
Quality	average
Age	1914

**Comparable 6**

Prox. to Subject	
Sales Price	
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	
View	
Site	
Quality	
Age	



**INVOICE****FROM:**

Gary C. Chase  
CHASE APPRAISALS  
903 "D" Street, Suite 201  
Lewiston, ID 83501

Telephone Number: 208-743-8528

Fax Number: 208-798-7852

**INVOICE NUMBER**

0031296

**DATE**

1/22/2010

**REFERENCE**

Internal Order #: 0031296

Lender Case #:

Client File #:

Main File # on form: 0031296

Other File # on form:

Federal Tax ID: 82-0353468

Employer ID: 82-0353468

**TO:**

Lucy Loewen  
LEWIS CLARK STATE COLLEGE  
500 8TH AVE  
ADMINISTRATION BUILDING  
LEWISTON, ID 83501

Telephone Number:

Fax Number:

Alternate Number:

E-Mail:

**DESCRIPTION**

Lender: LEWIS CLARK STATE COLLEGE

Client: LEWIS CLARK STATE COLLEGE

Purchaser/Borrower: na

Property Address: 1023 6th St

City: Lewiston

County: Nez Perce

State: ID

Zip: 83501-2802

Legal Description: Lot 8, Block 31, Park Addition

**FEES****AMOUNT**

General Purpose Residential

550.00

**SUBTOTAL**

550.00

**PAYMENTS****AMOUNT**

Check #: Date: Description:

Check #: Date: Description:

Check #: Date: Description:

**SUBTOTAL****TOTAL DUE**

\$

550.00

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**REAL ESTATE PURCHASE AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of February 2009, by and between DAMIAN J. KEMP and DANIELLE B. DIAZ, both unmarried persons, hereinafter referred to as "SELLERS"; and STATE OF IDAHO, BY AND THROUGH THE STATE BOARD OF EDUCATION AS BOARD OF TRUSTEES FOR LEWIS-CLARK STATE COLLEGE, hereinafter referred to as "BUYER,"

WITNESSETH:

Subject to the condition hereinafter set forth, Buyer hereby agrees to purchase and Sellers hereby agree to sell that certain real property, together with the improvements thereon (the "Property"), which Property is situate in Nez Perce County, Idaho, and more particularly described as follows, to wit:

Lot Eight (8) of the recorded Re-plat of Block Thirty-One (31) of PARK ADDITION to the City of Lewiston, Idaho, as shown by the recorded plat thereof, records of Nez Perce County, Idaho.

Subject to the condition hereinafter set forth, Buyer hereby agrees to pay unto Sellers, as purchase price, the sum of One Hundred Two Thousand Five Hundred Dollars (\$102,500), which shall be paid in cash at closing.

The parties further covenant and agree as follows:

I.

Buyer acknowledges receipt of the Title Commitment No. 20384, issued by Land Title Company of Nez Perce County, Inc., (the "Title Company"), on February 1, 2010. Except as hereinafter provided with respect to the interest of Michael K. Kemp which is shown in said Title Commitment, Buyer accepts title to the property shown therein as being

merchantable. The Title Commitment shows that title to the Property is vested in Michael K. Kemp as well as in Sellers. Prior to closing, Sellers shall, at Sellers' expense, obtain and record in Nez Perce County, Idaho, a deed from the said Michael K. Kemp which is in form and substance acceptable to the Title Company and which, upon closing of this purchase, will enable the Title Company to insure fee simple merchantable title to the Property in Buyer, free and clear of any claim, interest, or exception for the Michael K. Kemp interest. The recording of a deed from Michael K. Kemp to Sellers which is acceptable to the Title Company is a condition to the closing of this transaction and, if that condition cannot be satisfied by the date of closing, Buyer may terminate this Agreement and its obligations hereunder by giving written notice of termination to Sellers.

**II.**

On or before the date of closing, Sellers shall execute and deliver to closing agent a Warranty Deed conveying to Buyer fee simple merchantable title, free and clear of all liens and encumbrances, excepting only general taxes for 2010, which are to be prorated as provided below. On or before the date of closing, Buyer shall deposit the purchase price and Buyer's closing costs with closing agent.

**III.**

The date of closing shall be within ten (10) days after the approval for Buyer's purchase of the Property upon the terms of this Agreement has been given by the Idaho State Board of Education or at such later date as the parties may mutually agree. Closing shall occur at the Title Company, which company shall act as closing agent. The closing fee of the closing agent and the cost of preparing the Warranty Deed shall be paid one-half (1/2) by

Buyer and one-half (1/2) by Sellers. Taxes, water, sewer and garbage charges shall be prorated as of the date of closing.

IV.

Within a reasonable time after closing, Buyer shall cause the Title Company to issue to Buyer an owner's standard title policy for the amount of the purchase price insuring fee simple merchantable title in Buyer, free and clear of all defects and special exceptions other than general taxes for the year 2010.

V.

This Agreement and the obligation of Buyer to purchase hereunder are subject to the approval of this transaction by the Idaho State Board of Education on or before \_\_\_\_\_, 2010. In the event the Idaho State Board of Education fails to approve the purchase on the terms herein set out on or before such date, either party may terminate this Agreement by giving written notice to the other party and neither party shall thereafter have any liability under this Agreement.

VI.

Buyer shall have possession of the property as the owner thereof on the date of closing. **Buyer acknowledges that the Property has been damaged by fire and that it is purchasing the property "AS IS" and without any warranties, whether express or implied, other than warranties of title.**

VII.

If Buyer shall fail to close this transaction, then Sellers may, at their option, upon five (5) days' written notice to Buyer, elect to exercise either of the following:

(a) Terminate this Agreement and retain possession of the property, or

(b) To enforce this Agreement in any manner provided by law or in equity or to sue for damages for any breach thereof.

If Sellers shall fail to close this transaction, then Buyer may, at its option, on five (5) days' written notice to Sellers, elect to exercise either of the following:

(a) Terminate this Agreement and shall reimburse Buyer for all direct costs and expenses incurred by Buyer as a result of the transaction, or

(b) To enforce this Agreement in any manner known at law or in equity, or to sue for damages for any breach thereof.

**VIII.**

**Sellers acknowledge that this Agreement and the other documents prepared in connection with this sale have been prepared by Robert P. Brown of Clements, Brown & McNichols, P.A., attorneys at law, Lewiston, Idaho, who are the attorneys for Buyer and does not represent Sellers in this transaction. Sellers have been given the opportunity to have this Agreement reviewed by their own attorney and have either done so or have voluntarily declined to do so.**

**IX.**

It is further understood and agreed by and between the parties hereto that should any suit be instituted by either of the parties to enforce any term, covenant or condition of this agreement on the part of the other to be performed or to recover damage for the breach thereof, the prevailing party in such suit shall be entitled to receive from the losing party a reasonable amount of attorneys' fees to be fixed by the court having jurisdiction thereof and taxed as costs in such suit.

X.

This Agreement is binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

\_\_\_\_\_  
DAMIAN J. KEMP

\_\_\_\_\_  
DANIELLE B. DIAZ

**SELLERS**

STATE OF IDAHO, BY AND THROUGH THE  
STATE BOARD OF EDUCATION AS BOARD  
OF TRUSTEES FOR LEWIS-CLARK STATE  
COLLEGE

BY \_\_\_\_\_  
CHET HERBST, Vice-President for  
Finance and Administration

**BUYER**

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**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010**

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**SUBJECT**

2009 College and Universities' Financial Reviews

**BACKGROUND/DISCUSSION**

The ratios presented measure the financial health of the institution and include the composite index comprised of four ratios. It is important to note the ratios are designed as a management tool to measure financial activity and trends within an institution. They do not lend themselves to comparative analysis between institutions because of the varying missions and current initiatives taking place at a given institution.

Ratio	Measure	Benchmark
Primary reserve	Sufficiency of resources and their flexibility; good measure for net assets	.40
Viability	Capacity to repay total debt through reserves	1.25
Return on net assets	Whether the institution is better off financially this year than last	6.00%
Net operating revenues	Whether institution is living within available resources	2.00%
Composite Index	Combines four ratios using weighting	3.0

The financial ratio selected to indicate efficiency is the Instructional Cost per Credit Hour. This number is calculated by dividing the instructional costs by both the un-weighted and weighted credit hours. Weighted credit hours are included to account for the differing costs to deliver those credits. The same weights are used in the Enrollment Workload Adjustment (EWA) formula to provide more EWA funding for the higher weighted courses.

Finally, the history of net asset balances is shown from FY 2002 through FY 2009.

Each institution's financial information is contained in a separate section. The institutions will present a brief analysis of the information and be available for questions by the Board.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**IMPACT**

The ratios and analyses are provided in order for the Board to review the financial health of each institution and to show the relative efficiency of its instructional programs. The net asset balances history shows the change in balances from FY 2002 through FY 2009. The net assets are broken down as follows:

<b>Invested in capital assets, net of related debt:</b>	This represents the University's total investment in capital assets, net of accumulated depreciation and outstanding debt obligations related to those capital assets. To the extent debt has been incurred but not yet expended for capital assets, such amounts are not included.
<b>Restricted, expendable</b>	This represents resources in which the University is legally or contractually obligated to spend resources in accordance with restrictions imposed by external third parties.
<b>Restricted, nonexpendable</b>	This represents endowment and similar type funds in which donors or other outside sources have stipulated, as a condition of the gift instrument, that the principal is to be maintained inviolate and in perpetuity, and invested for the purpose of producing present and future income, which may either be expended or added to principal.
<b>Unrestricted</b>	This represents resources derived from student fees, state appropriations, and sales and services of educational departments and auxiliary enterprises. These resources also include auxiliary enterprises, which are substantially self-supporting activities that provide services for students, faculty and staff. Not all source of revenues noted above are necessarily present in the unrestricted balance, i.e. state General Funds are normally spent in the fiscal year appropriated, and not carried over into the following fiscal year.

Within unrestricted net assets, the institutions reserve funds for the following:

**Various Department Fund Balances:** Department Fund Balances are derived from operations for such areas as Auxiliaries, Academic and Service Departments, Research, and Professional-Technical Education. These funds are held to be used in their respective departments, but can and have been used for any purpose at the discretion of the institution.

**Reserved for Library Acquisitions:** These funds are used to assist in the acquisition and replacement of library materials and to stay abreast of technology changes in the way the library is accessed and used. These funds can and have been used for any purpose at the discretion of the institution.

**Reserved for Capital Projects, M&O, and Initiatives:** These funds are reserved for capital projects, ongoing maintenance, facility repair and replacement, and start-up costs related to strategic mission. These funds can and have been used for any purpose at the discretion of the institution.

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010**

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**ATTACHMENTS**

BSU Tab 10a	
Financial Ratios	Page 1
Cost of Instruction per Credit Hour	Page 2
Net Asset Balances	Page 3
ISU Tab 10b	
Financial Ratios	Page 1
Cost of Instruction per Credit Hour	Page 2
Net Asset Balances	Page 3
UI Tab 10c	
Financial Ratios	Page 1
Cost of Instruction per Credit Hour	Page 2
Net Asset Balances	Page 3
LCSC Tab 10d	
Financial Ratios	Page 1
Cost of Instruction per Credit Hour	Page 2
Net Asset Balances	Page 3

**STAFF COMMENTS AND RECOMMENDATIONS**

The institutions will present a brief analysis of the financial ratios and history of unrestricted net assets.

An increase in unrestricted net assets and the amount of unrestricted net assets per student FTE can be viewed in comparison to the primary reserve ratio. Some institutions have increased their reserves but they are still under the benchmark of .40. This may be due to the fact they are building reserves to be more in line with industry standards. You can compare this to an institution that continues to increase their reserves at the same time they are well above the benchmark of .40

The cost of instruction per credit hour, adjusted for inflation, reflects that some institutions are experiencing increasing costs for instruction while others are relatively flat or declining. Variations in costs per credit hour may be due to several factors including changes in enrollment and the corresponding ability to adjust related labor costs, fixed vs. variable costs, targeted faculty to student ratios, increasing inflationary costs such as energy, and increasing salaries and benefits.

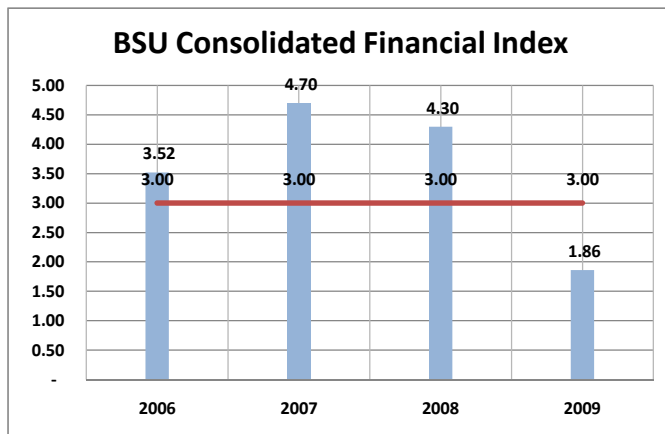
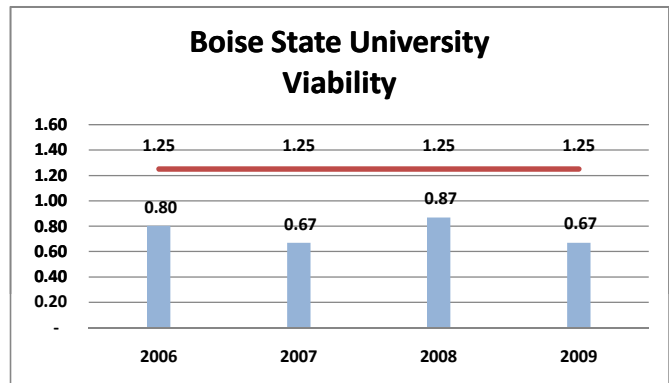
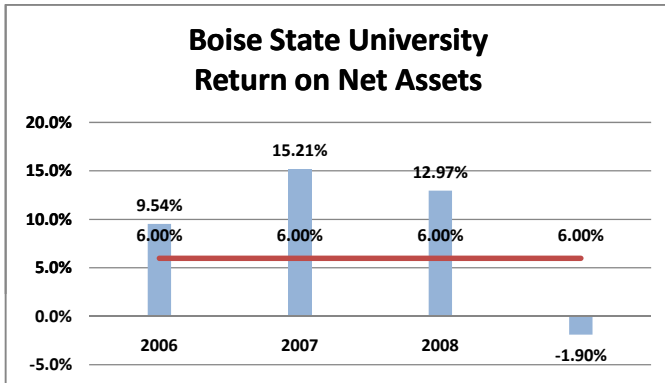
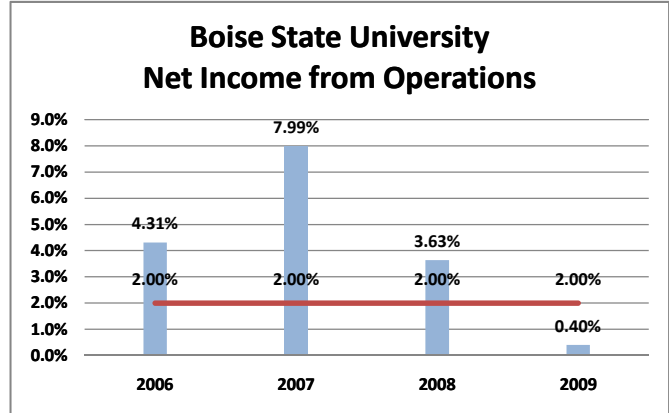
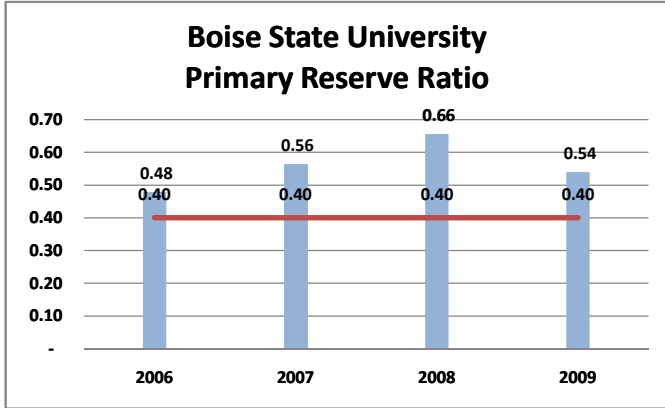
**BOARD ACTION**

This item is for informational purposes only. Any action will be at the Board's discretion.

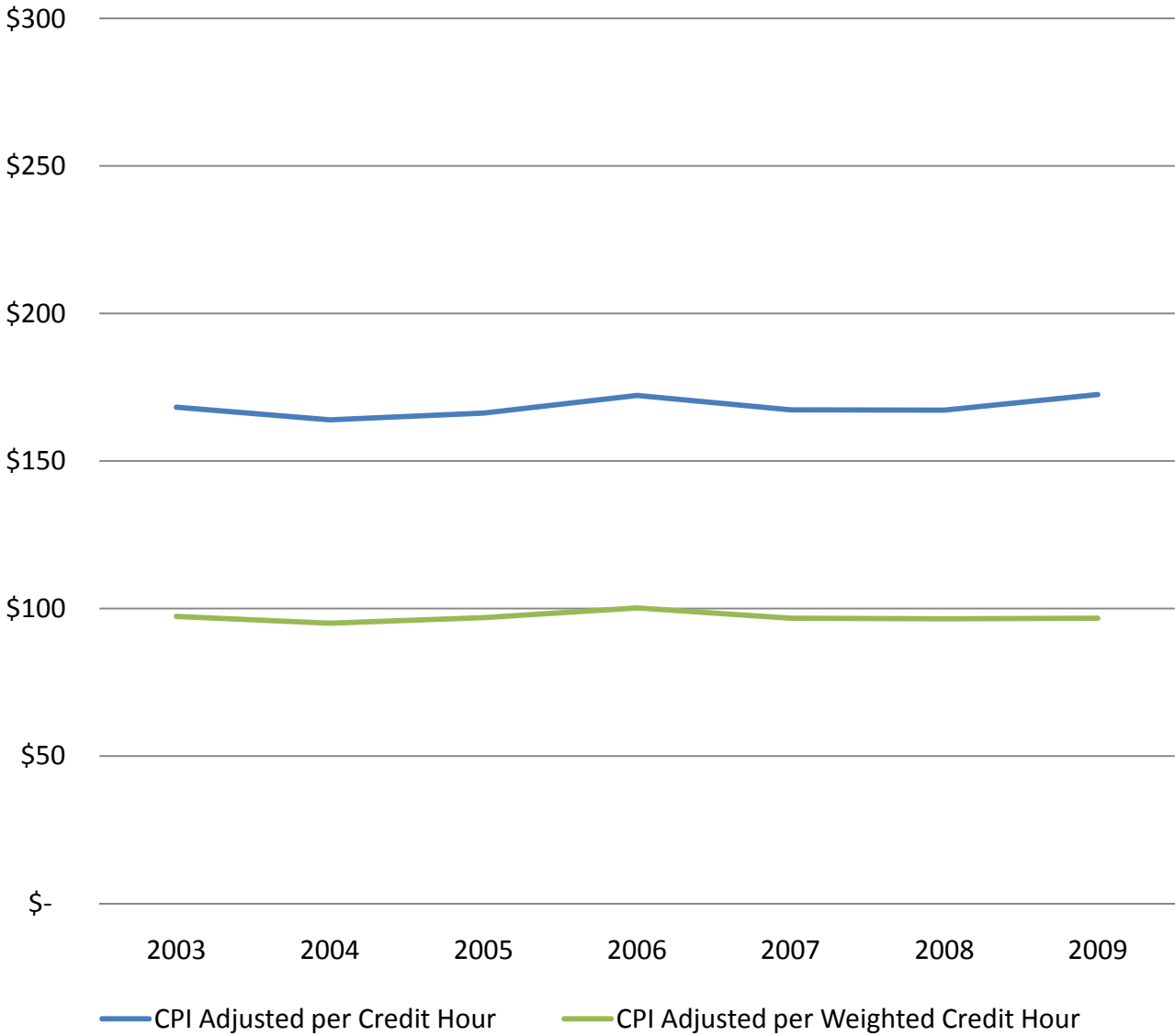
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## Boise State University

	2006	2007	2008	2009	Benchmark
Primary Reserve	0.48	0.56	0.66	0.54	0.40
Net Operating Revenues	4.3%	8.0%	3.6%	0.4%	2.00%
Return on Net Assets	9.5%	15.2%	13.0%	-1.9%	6.00%
Viability	0.80	0.67	0.87	0.67	1.25
CFI	3.52	4.70	4.30	1.86	3.0



**Boise State University  
Instructional Cost per Credit Hour  
Constant Dollars**



**Boise State University**  
**Net Asset Balances**

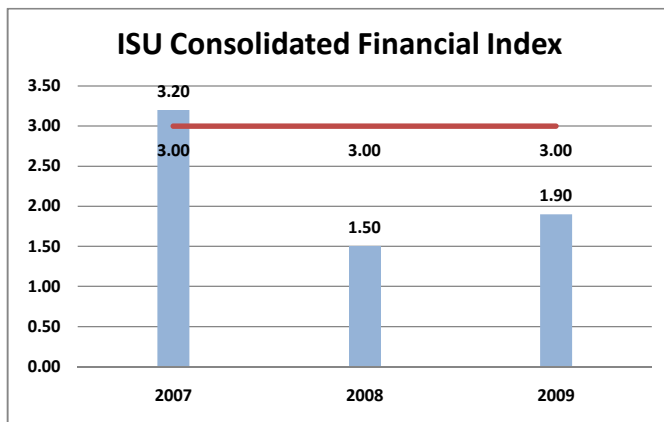
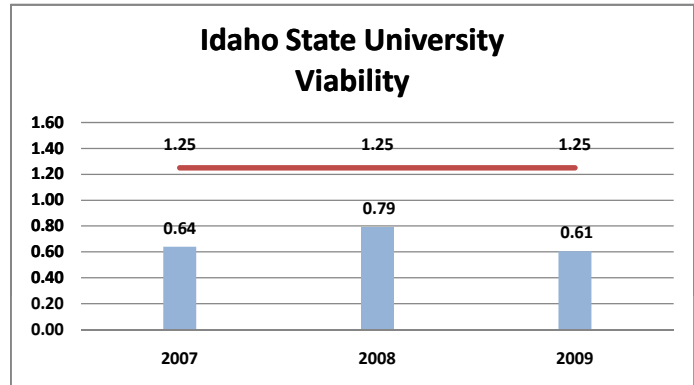
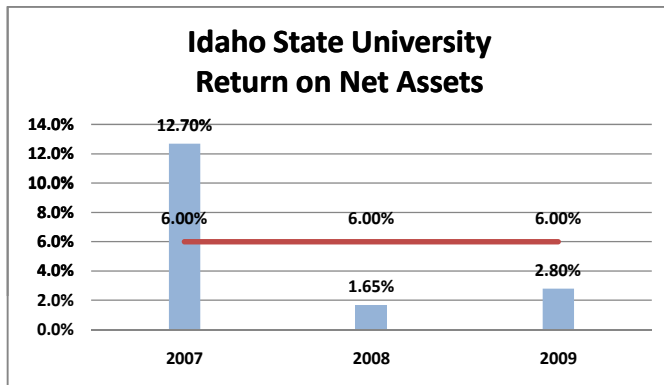
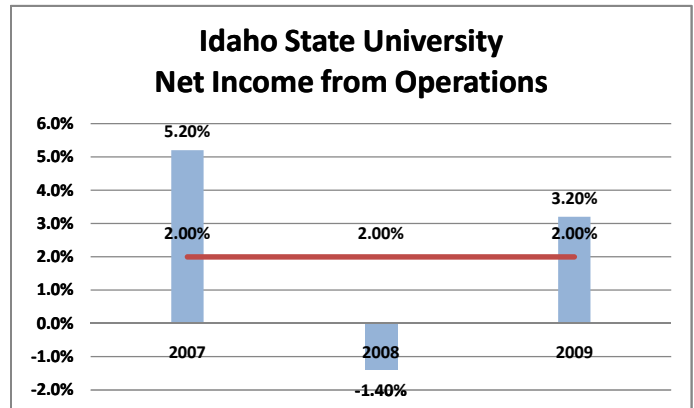
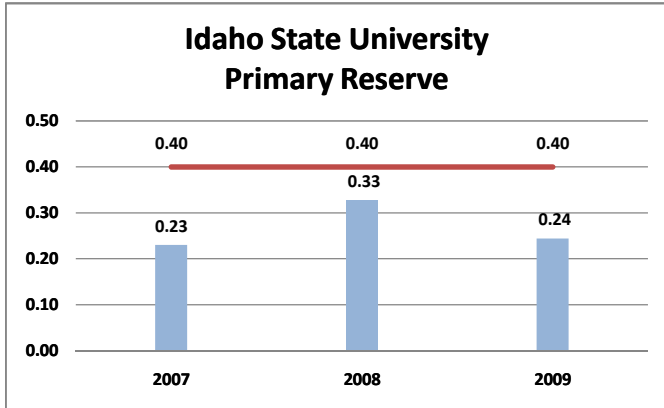
	<b>FY2002</b>	<b>FY2003</b>	<b>FY2004</b>	<b>FY2005</b>	<b>FY2006</b>	<b>FY2007</b>	<b>FY2008</b>	<b>FY2009</b>
<b>1 Net Assets:</b>								
2 Invested in capital assets, net of related debt	\$109,078,414	\$118,421,028	\$122,397,657	\$141,293,657	\$142,498,300	\$160,800,243	\$167,965,615	\$175,660,290
3 Restricted, expendable	17,573,046	16,627,105	18,583,364	9,894,806	18,346,964	20,246,055	22,892,158	17,442,188
4 Restricted, nonexpendable	0	0	0	0	0	0	0	0
5 Unrestricted	52,886,268	54,991,422	58,774,900	60,441,126	61,249,973	83,140,682	85,459,476	91,642,996
<b>6 Total Net Assets</b>	<b>179,537,728</b>	<b>190,039,555</b>	<b>199,755,921</b>	<b>211,629,589</b>	<b>222,095,237</b>	<b>264,186,980</b>	<b>276,317,249</b>	<b>284,745,474</b>
7								
8 <b>Unrestricted Increases since FY 2002</b>		4.0%	11.1%	14.3%	15.8%	57.2%	61.6%	73.3%
9								
10 <b>Unrestricted Net Assets</b>	\$ 52,886,268	\$ 54,991,422	\$ 58,774,900	\$ 60,441,126	\$ 61,249,973	\$ 83,140,682	\$ 85,459,476	\$ 91,642,996
11 <b>Designated:</b>								
12 Revenue Bond System	7,108,489	9,314,000	10,164,000	10,849,169	12,877,399	16,938,773	15,480,582	20,530,095
13 Auxiliary Fund Balance	15,574,146	13,436,800	17,363,000	18,181,336	13,765,374	11,503,294	12,264,322	6,874,385
14 Library Funds	3,310,903	4,140,000	3,900,000	3,900,000	3,365,000	3,365,000	332,829	220,711
15 Approved capital project costs	1,983,211	3,411,176	11,107,320	7,814,800	10,174,315	23,190,924	27,478,397	32,063,574
16 Start up costs related to strategic mission	235,626			2,150,000	1,000,000	1,396,000	837,144	3,244,779
17 Non-Academic Facility Repair & Replacement Reserve	291,742	4,605,639		2,200,000	2,139,653	1,723,622	1,309,795	4,089,522
18 Service Department Equipment/Operating Reserve	4,502,924	1,919,623	2,260,136	5,575,606	6,156,390	5,936,261	6,415,582	424,520
19 Academic Departments Operating Funds	17,871,052	17,303,569	12,863,900	7,520,215	7,870,860	14,270,789	16,133,281	9,718,548
20 Research Operating Funds					1,249,248	1,489,927	1,495,104	4,634,620
21 Vocational/Technical Net Assets								875,705
22 Encumbered Amounts not included in liabilities					651,734	826,091	1,212,440	4,378,205
<b>23 Total Unrestricted Operating Fund</b>	<b>\$2,008,175</b>	<b>\$860,615</b>	<b>\$1,116,544</b>	<b>\$2,250,000</b>	<b>\$2,000,000</b>	<b>\$2,500,000</b>	<b>\$2,500,000</b>	<b>\$4,588,332</b>
24								
25 Total net assets	\$179,537,728	\$190,039,555	\$199,755,921	\$211,629,589	\$222,095,237	\$264,186,980	\$276,317,249	\$284,745,474
26								
27 Unrestricted Operating Fund-to-Total Net Assets	1.1%	0.5%	0.6%	1.1%	0.9%	0.9%	0.9%	1.6%
28								
29 Student FTE	12,216	12,749	13,502	13,342	13,562	13,720	14,315	14,614
30 Unrestricted Operating Fund per Student FTE - Constant Dollars	\$ 164	\$ 66	\$ 80	\$ 158	\$ 134	\$ 160	\$ 149	\$ 258

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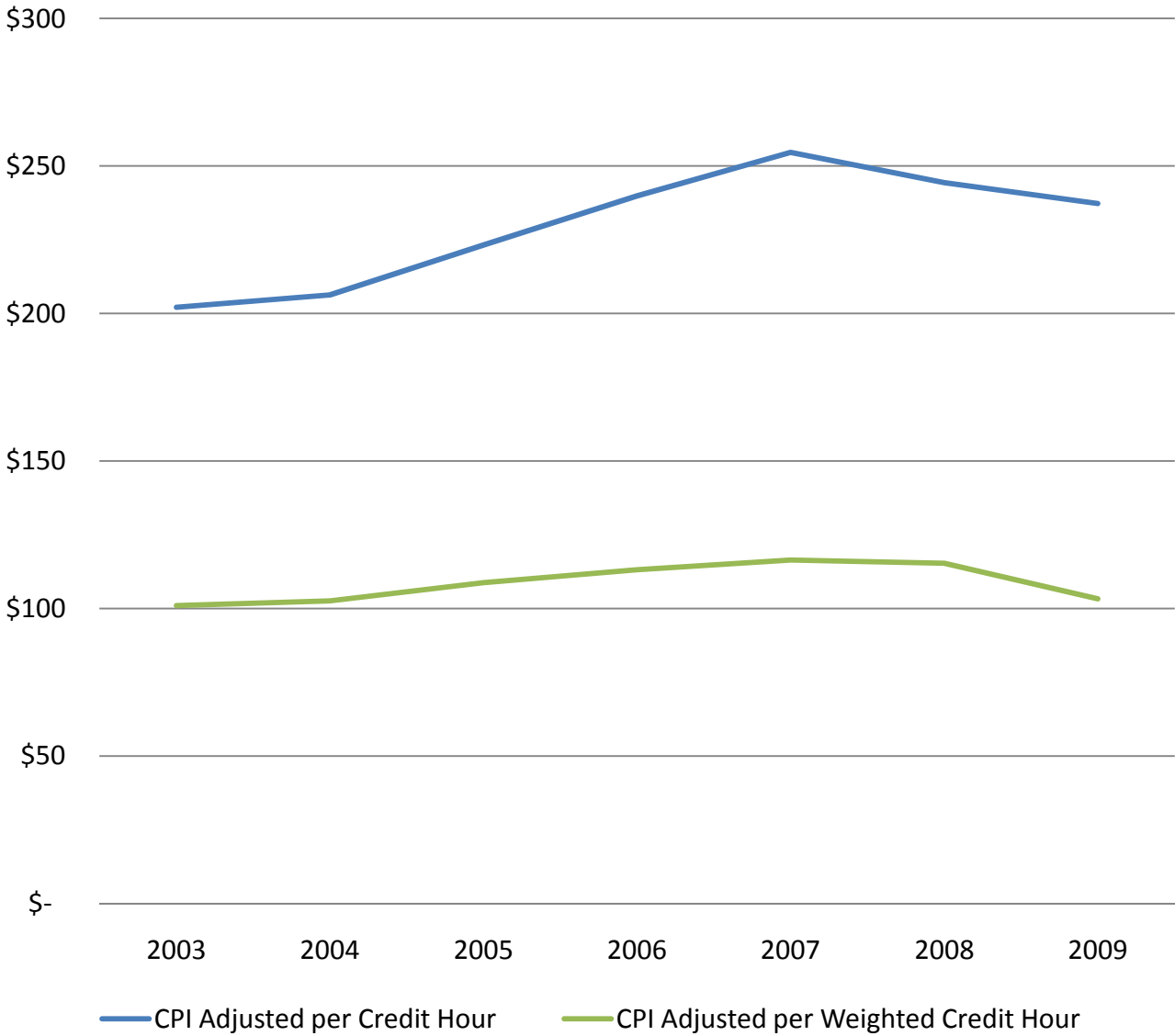


## Idaho State University

	2007	2008	2009	Benchmark
Primary Reserve	0.23	0.33	0.24	0.40
Net Operating Revenues	5.2%	-1.40%	3.20%	2.00%
Return on Net Assets	12.7%	1.65%	2.80%	6.00%
Viability	0.64	0.79	0.61	1.25
CFI	3.2	1.5	1.9	3.0



**Idaho State University  
Instructional Cost per Credit Hour  
Constant Dollars**



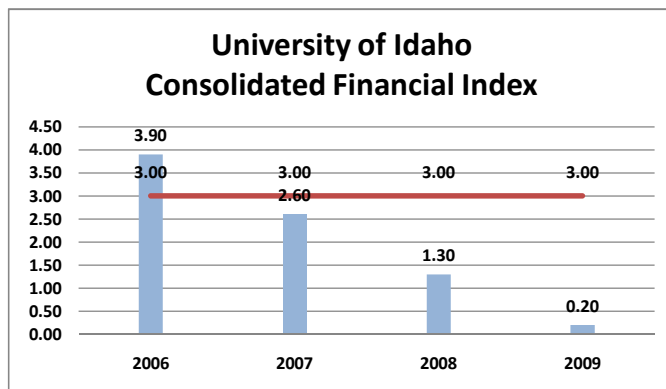
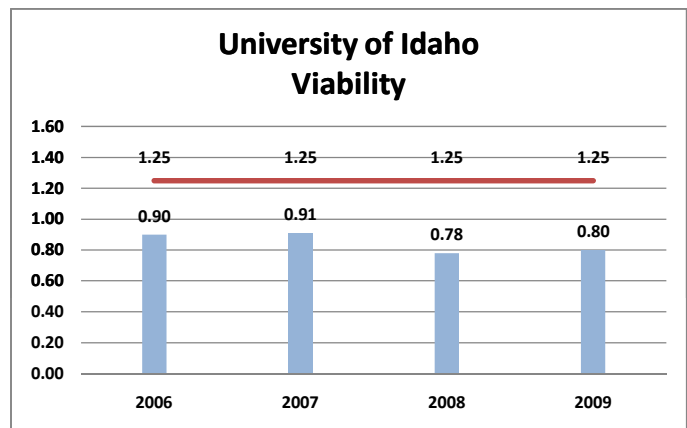
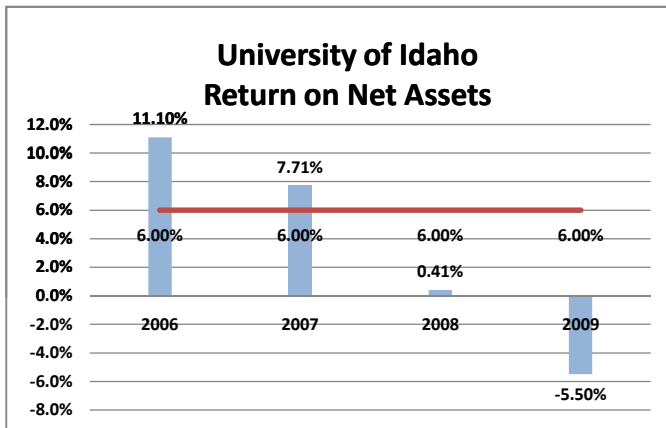
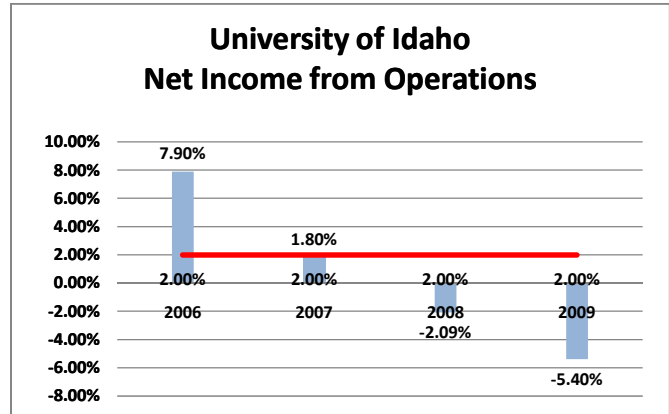
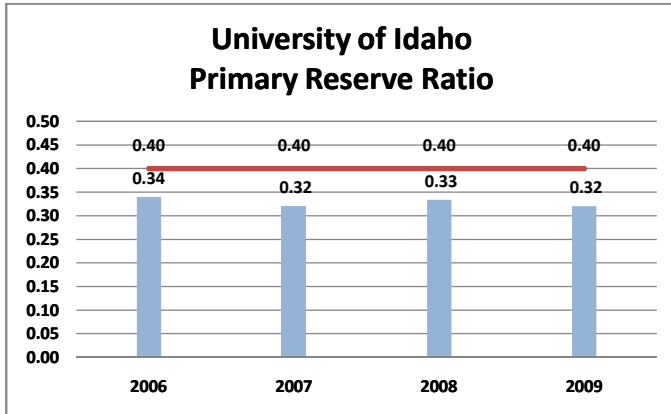
**Idaho State University**  
**Net Asset Balances**

	<b>FY2002</b>	<b>FY2003</b>	<b>FY2004</b>	<b>FY2005</b>	<b>FY2006</b>	<b>FY2007</b>	<b>FY2008</b>	<b>FY2009</b>
<b>1 Net Assets:</b>								
2 Invested in capital assets, net of related debt	\$77,229,368	\$89,894,909	\$75,255,243	\$81,347,825	\$91,299,662	\$91,907,601	\$85,173,954	\$105,883,990
3 Restricted, expendable	5,114,158	5,001,157	30,552,475	24,701,888	14,599,005	18,887,429	29,049,720	13,023,152
4 Restricted, nonexpendable	0	0	0	0				0
5 Unrestricted	19,322,865	24,365,620	28,506,019	30,860,800	31,115,989	31,540,034	27,244,904	33,771,312
<b>6 Total Net Assets</b>	<b>\$ 101,666,391</b>	<b>\$ 119,261,686</b>	<b>\$ 134,313,737</b>	<b>\$136,910,513</b>	<b>\$137,014,656</b>	<b>\$142,335,064</b>	<b>\$141,468,578</b>	<b>\$152,678,454</b>
7								
8 <b>Unrestricted Increases since FY 2002</b>		26.1%	47.5%	59.7%	61.0%	63.2%	41.0%	74.8%
9								
10 <b>Unrestricted Net Assets</b>	\$ 19,322,865	\$ 24,365,620	\$ 28,506,019	\$ 30,860,800	\$ 31,115,989	\$ 31,540,034	\$ 27,244,904	\$ 33,771,312
11 <b>Designated:</b>								
12 Revenue Bond System	5,798,778	6,074,689	7,630,933	8,563,368	9,326,331	7,292,106	6,474,222	6,152,666
13 Auxiliary Fund Balance	2,528,653	4,072,682	4,767,023	4,201,834	3,414,615	3,749,345	3,835,127	4,760,039
14 Library Funds	318,793	317,389	309,276	258,289	290,512	420,560	680,181	837,836
15 Approved capital project costs					1,500,000	2,000,000	200,695	2,600,000
16 Start up costs related to strategic mission								
17 Non-Academic Facility Repair & Replacement Reserve	2,840,626	3,573,183	3,583,183	3,583,183				
18 Service Department Equipment/Operating Reserve	2,877,358	3,223,518	3,501,428	3,965,765	3,941,254	5,000,096	3,154,195	3,661,315
19 Academic Departments Operating Funds	4,912,677	7,009,165	7,853,642	8,141,887	6,898,941	8,106,173	7,433,349	6,649,215
20 Research Operating Funds					2,929,723	2,615,857	4,118,216	3,207,200
21 Vocational/Technical Net Assets								
22 Encumbered Amounts not included in liabilities	985,798	1,087,212	1,174,587	1,334,363	1,430,830	703,673	1,143,148	1,577,817
<b>23 Total Unrestricted Operating Fund</b>	<b>-\$939,818</b>	<b>-\$992,218</b>	<b>-\$314,053</b>	<b>\$812,111</b>	<b>\$1,383,783</b>	<b>\$1,652,224</b>	<b>\$205,771</b>	<b>\$4,325,224</b>
24								
25 Total net assets	\$101,666,391	\$119,261,686	\$134,313,737	\$136,910,513	\$137,014,656	\$142,335,064	\$141,468,578	\$152,678,454
26								
27 Unrestricted Operating Fund-to-Total Net Assets	-0.9%	-0.8%	-0.2%	0.6%	1.0%	1.2%	0.1%	2.8%
28								
29 Student FTE	9,968	10,076	10,287	10,179	10,052	9,474	9,451	9,352
30 Unrestricted Operating Fund per Student FTE - Constant Dollars	\$ (94)	\$ (97)	\$ (29)	\$ 75	\$ 125	\$ 153	\$ 19	\$ 380

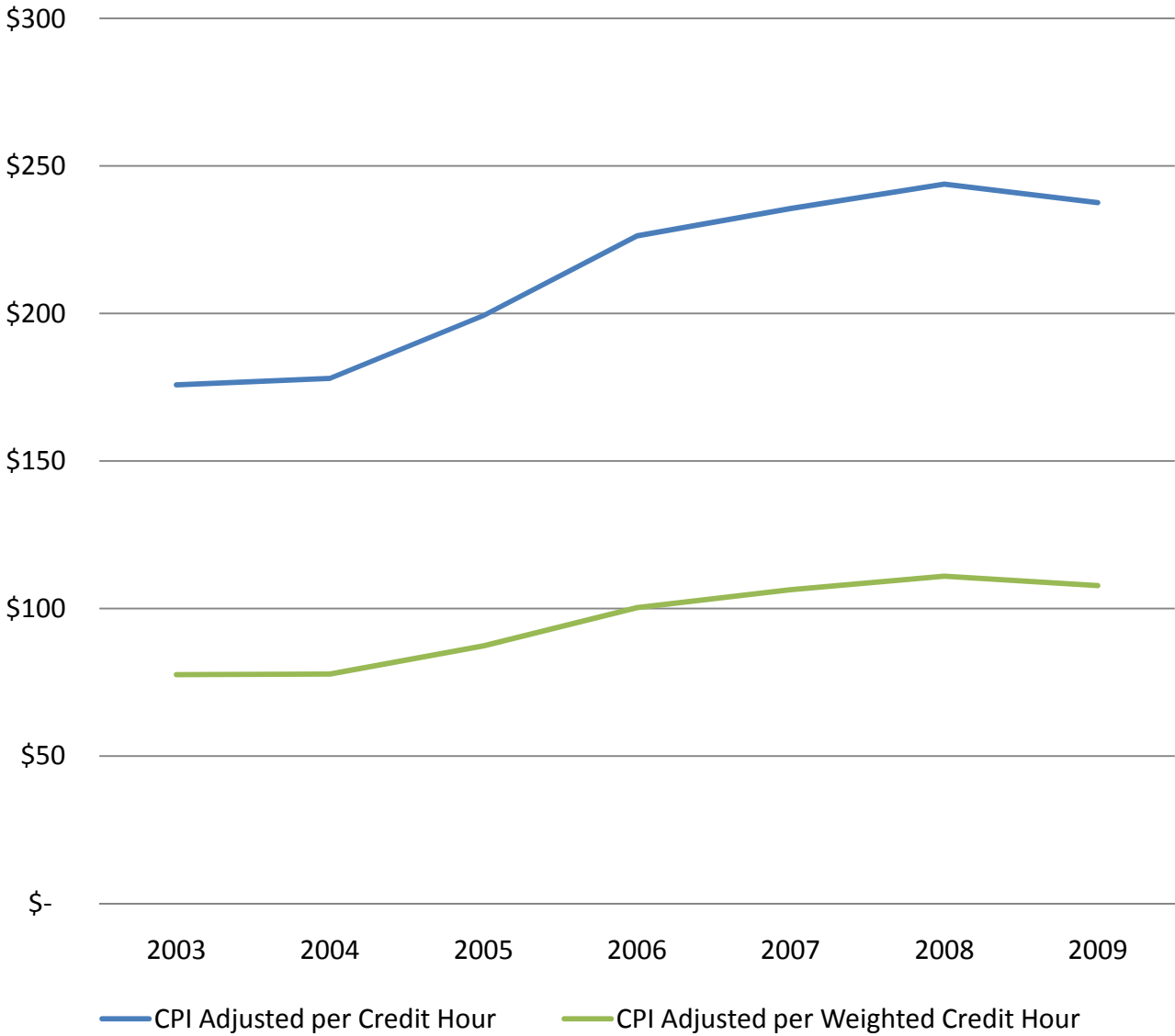
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## University of Idaho

	2006	2007	2008	2009	Benchmark
Primary Reserve Ratio	0.34	0.32	0.33	0.32	0.40
Net Operating Revenues	7.90%	1.80%	-2.09%	-5.40%	2.00%
Return on Net Assets	11%	7.71%	0.41%	-5.50%	6.00%
Viability	0.9	0.91	0.78	0.80	1.25
CFI	3.9	2.6	1.3	0.2	3.0



**University of Idaho  
Instructional Cost per Credit Hour  
Constant Dollars**



**University of Idaho**  
**Net Asset Balances**

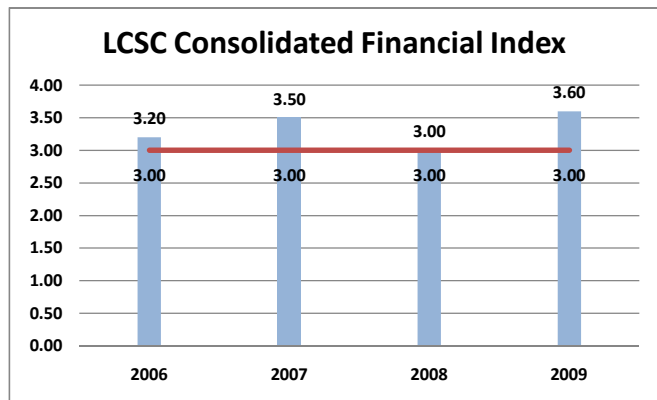
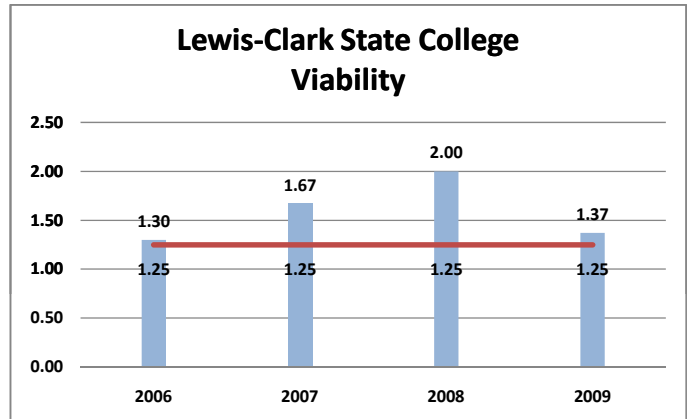
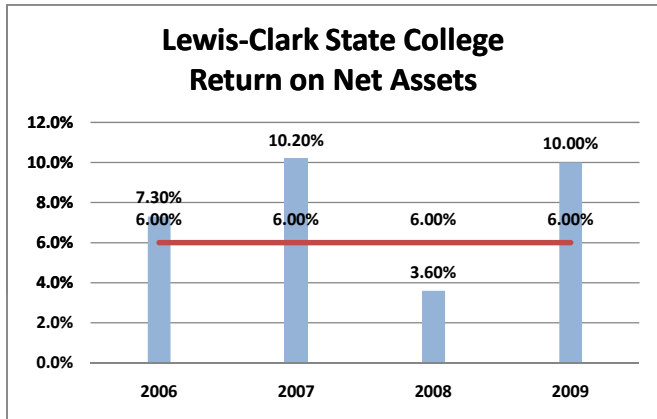
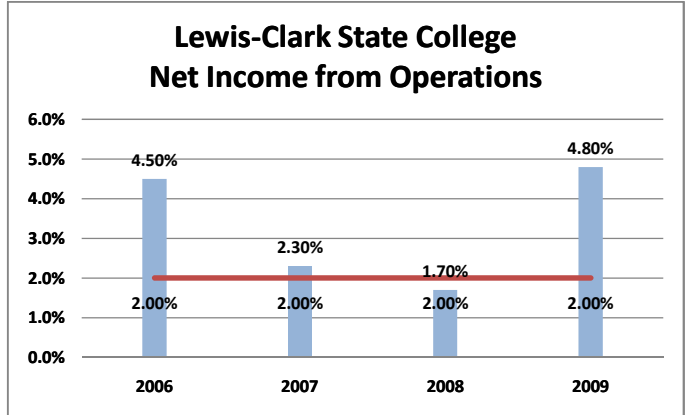
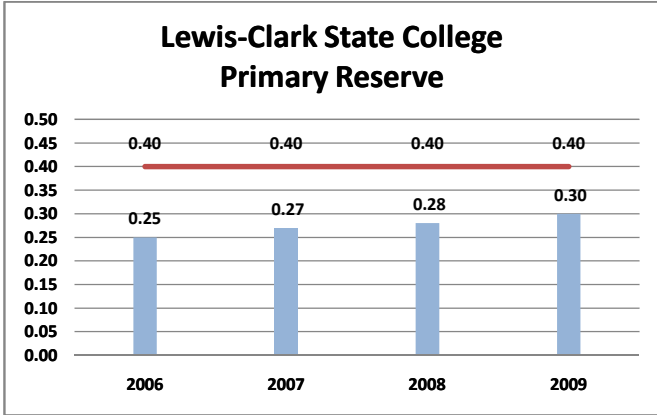
	<b>FY2002</b>	<b>FY2003</b>	<b>FY2004</b>	<b>FY2005</b>	<b>FY2006</b>	<b>FY2007</b>	<b>FY2008</b>	<b>FY2009</b>
1 <b>Net Assets:</b>								
2 Invested in capital assets, net of related debt	\$170,707,263	\$173,525,393	\$173,803,697	\$171,201,330	\$179,267,162	\$202,639,863	\$185,755,208	\$205,937,863
3 Restricted, expendable	16,869,347	21,610,103	20,631,048	21,252,064	29,202,744	39,823,699	84,837,542	68,225,541
4 Restricted, nonexpendable	70,173,559	70,746,186	71,171,461	78,667,182	84,671,646	88,788,847	77,042,418	62,391,971
5 Unrestricted	22,387,064	18,650,209	29,918,062	41,564,444	52,813,415	45,885,000	38,200,667	36,245,034
6 <b>Total Net Assets</b>	<b>\$ 280,137,233</b>	<b>\$ 284,531,891</b>	<b>\$ 295,524,268</b>	<b>\$ 312,685,020</b>	<b>\$ 345,954,967</b>	<b>\$ 377,137,409</b>	<b>\$ 385,835,835</b>	<b>\$ 372,800,409</b>
7								
8 <b>Unrestricted Increases since FY 2002</b>		-16.7%	33.6%	85.7%	135.9%	105.0%	70.6%	61.9%
9								
10 <b>Unrestricted Net Assets</b>	22,387,064	18,650,209	29,918,062	41,564,444	52,813,415	45,885,000	38,200,667	36,245,034
11 <b>Designated:</b>								
12 Revenue Bond System	3,249,848	4,642,338	5,731,372	4,733,576	7,120,160	11,238,236	4,983,663	8,085,228
13 Auxiliary Fund Balance	373,932	(29,253)	119,183	864,182	2,995,848	2,789,304	4,683,748	5,236,294
14 Library Funds	1,270,766	2,258,411	1,863,874	2,575,983	1,082,903	946,540	813,626	592,185
15 Approved capital project costs								
16 Start up costs related to strategic mission							2,200,000	4,473,409
17 Non-Academic Facility Repair & Replacement Reserve	5,997,654	5,021,016	9,237,907	8,755,663	10,949,809	13,178,220	11,903,939	6,391,320
18 Service Department Equipment/Operating Reserve				1,369,077	1,031,592	1,663,036	1,558,110	1,290,602
19 Academic Departments Operating Funds	9,139,645	6,277,684	9,921,376	20,843,746	26,364,234	14,230,781	8,545,343	6,045,944
20 Research Operating Funds							217,453	256,679
21 Vocational/Technical Net Assets								
22 Encumbered Amounts not included in liabilities							1,294,786	1,273,373
23 <b>Total Unrestricted Operating Fund</b>	<b>\$2,355,219</b>	<b>\$480,012</b>	<b>\$3,044,350</b>	<b>\$2,422,216</b>	<b>\$3,268,869</b>	<b>\$1,838,883</b>	<b>\$2,000,000</b>	<b>\$2,600,000</b>
24								
25 Total Net Assets	\$280,137,233	\$284,531,891	\$295,524,268	\$312,685,020	\$345,954,967	\$377,137,409	\$385,835,835	\$372,800,409
26								
27 Unrestricted Operating Fund-to-Total Net Assets	0.8%	0.2%	1.0%	0.8%	0.9%	0.5%	0.5%	0.7%
28								
29 Student FTE	10,224	10,672	11,073	11,040	10,791	10,252	10,078	10,209
30 Unrestricted Operating Fund per Student FTE - Constant Dollars	\$ 230	\$ 44	\$ 265	\$ 206	\$ 275	\$ 158	\$ 170	\$ 209

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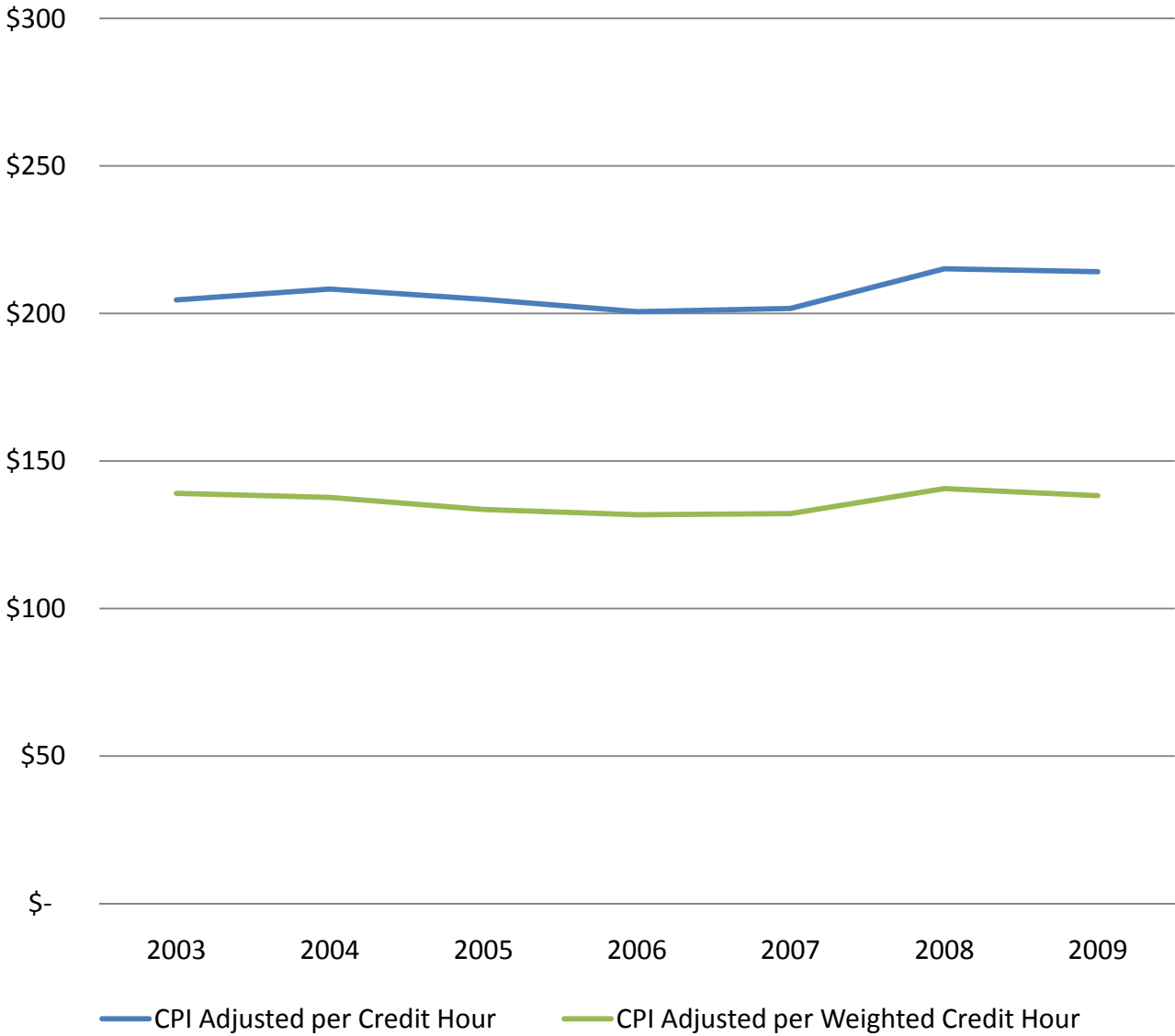


## Lewis-Clark State College

	2006	2007	2008	2009	Benchmark
Primary Reserve	0.25	0.27	0.28	0.30	0.40
Net Operating Revenues	4.5%	2.30%	1.70%	4.80%	2.00%
Return on Net Assets	7.3%	10.20%	3.60%	10.00%	6.00%
Viability	1.3	1.67	2.00	1.37	1.25
CFI	3.2	3.5	3.0	3.6	3.0



**Lewis-Clark State College  
Instructional Cost per Credit Hour  
Constant Dollars**



**Lewis-Clark State College**  
**Net Asset Balances**

	<b>FY2002</b>	<b>FY2003</b>	<b>FY2004</b>	<b>FY2005</b>	<b>FY2006</b>	<b>FY2007</b>	<b>FY2008</b>	<b>FY2009</b>
<b>1 Net Assets:</b>								
2 Invested in capital assets, net of related debt	\$16,446,632	\$17,076,656	\$18,662,356	\$19,615,225	\$19,599,852	\$21,805,295	\$21,636,172	\$23,991,356
3 Restricted, expendable	2,063,163	1,434,865	1,385,939	1,380,113	1,384,340	1,403,610	1,388,364	1,427,568
4 Restricted, nonexpendable	2,852	2,852	2,852					
5 Unrestricted	2,369,937	2,960,303	4,988,301	5,483,254	7,383,807	7,823,688	9,336,957	11,234,163
<b>6 Total Net Assets</b>	<b>\$ 20,882,584</b>	<b>\$ 21,474,676</b>	<b>\$ 25,039,448</b>	<b>\$26,478,592</b>	<b>\$28,367,999</b>	<b>\$31,032,593</b>	<b>\$32,361,493</b>	<b>\$36,653,087</b>
7								
8 <b>Unrestricted Increases since FY 2002</b>		24.9%	110.5%	131.4%	211.6%	230.1%	294.0%	374.0%
9								
10 <b>Unrestricted Net Assets</b>	\$ 2,369,937	\$ 2,960,303	\$ 4,988,301	\$ 5,483,254	\$ 7,383,807	\$ 7,823,688	\$ 9,336,957	\$ 11,234,163
11 <b>Designated:</b>								
12 Revenue Bond System	636,028	1,448,703	1,820,226	1,938,168	1,878,437	2,003,421	2,168,592	2,180,955
13 Auxiliary Fund Balance	58,665	133,102	297,591	176,680	125,706	103,139	264,525	453,428
14 Library Funds	6,274	9,074	6,066	9,166	81,270	61,165	75,898	75,427
15 Approved capital project costs								
16 Start up costs related to strategic mission								
17 Non-Academic Facility Repair & Replacement Reserve	643,964	775,569	907,924	1,030,555	1,521,713	1,347,336	1,939,407	2,302,345
18 Service Department Equipment/Operating Reserve	496,700	91,870	598,999	441,545	1,418,697	1,833,770	2,230,827	2,517,488
19 Academic Departments Operating Funds	272,467	203,975	929,674	1,306,649	1,771,329	1,932,092	1,982,631	2,232,244
20 Research Operating Funds								
21 Vocational/Technical Net Assets								
22 Encumbered Amounts not included in liabilities	106,077	93,500	129,552	270,533	294,777	245,198	259,484	235,536
<b>23 Total Unrestricted Operating Fund</b>	<b>\$149,762</b>	<b>\$204,510</b>	<b>\$298,269</b>	<b>\$309,958</b>	<b>\$291,878</b>	<b>\$297,567</b>	<b>\$415,592</b>	<b>\$1,236,740</b>
24								
25 Total net assets	\$20,882,584	\$21,474,676	\$25,039,448	\$26,478,592	\$28,367,999	\$31,032,593	\$32,361,493	\$36,653,087
26								
27 Unrestricted Operating Fund-to-Total Net Assets	0.7%	1.0%	1.2%	1.2%	1.0%	1.0%	1.3%	3.4%
28								
29 Student FTE	2,275	2,349	2,502	2,586	2,561	2,562	2,585	2,684
30 Unrestricted Operating Fund per Student FTE - Constant Dollars	\$ 66	\$ 86	\$ 115	\$ 112	\$ 103	\$ 102	\$ 137	\$ 379

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**SUBJECT**

First reading to amend Board policy V.K. Construction Projects

**REFERENCE**

August 2008

First Reading of Policy Section V.K., motion failed 5-3, not approved by Board

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.I.3.a and V.K.1-3.

**BACKGROUND / DISCUSSION**

Current policy requires that revisions that substantially alter the use of the project causing changes in project costs between \$250,000 and \$500,000 must first be submitted to the Executive Director for review and approval. Changes in project costs of more than \$500,000 must first be submitted to the Board for its review and approval.

**IMPACT**

The attached revised policies will increase the threshold for institutional CEO approval from \$250,000 to \$350,000, and increase the Executive Director's maximum approval authority from \$500,000 to \$750,000. It will increase the threshold for Board approval from \$500,000 to \$750,000.

**ATTACHMENTS**

Attachment 1 - Revised Governing Policy Section V.K.1-3

Page 3

**STAFF COMMENTS AND RECOMMENDATIONS**

The revised policies will assist the Board in maintaining its level of oversight without the requirement of direct approval by increasing the approval authority of the institutions and Executive Director.

**BOARD ACTION**

A motion to approve the first reading of the amendment to Board Policy V.K.. Construction Projects.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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### 1. Major Project Approvals - Proposed Plans

Without regard to the source of funding, before any institution, school or agency under the governance of the Board begin formal planning to make capital improvements, either in the form of renovation or addition to or demolition of existing facilities, when the cost of the project is estimated to exceed five hundred thousand dollars (\$500,000), must first be submitted to the Board for its review and approval. All projects identified on the institutions', schools or agencies' six-year capital plan must receive Board approval.

### 2. Project Approvals

Without regard to the source of funding, proposals by any institution, school or agency under the governance of the Board to make capital improvements, either in the form of renovation or addition to or demolition of existing facilities, when the cost of the project is estimated to be between ~~two~~three hundred fifty thousand dollars (\$2350,000) and ~~five~~ seven hundred fifty thousand dollars (~~\$50~~750,000), must first be submitted to the executive director for review and approval. Without regard to the source of funding, proposals by any institution, school or agency under the governance of the Board to make capital improvements, either in the form of renovation or addition to or demolition of existing facilities or construction of new facilities, when the cost of the project is estimated to exceed ~~five~~ seven hundred fifty thousand dollars (~~\$50~~750,000), must first be submitted to the Board for its review and approval. Project cost must be detailed by major category (construction cost, architecture fees, contingency funds, and other). When a project is under the primary supervision of the Board of Regents or the Board and its institutions, school or agencies, a separate budget line for architects, engineers, or construction managers and engineering services must be identified for the project cost. Budgets for maintenance, repair, and upkeep of existing facilities must be submitted for Board review and approval as a part of the annual operating budget of the institution, school or agency.

### 3. Fiscal Revisions to Previously Approved Projects

If the project budget increases above the approved amount, then the institution, school, or agency may be required to seek further authorization, as follows:

**Idaho State Board of Education  
GOVERNING POLICIES AND PROCEDURES**

**SECTION: V. FINANCIAL AFFAIRS**

**Subsection: K. Construction Projects**

**December 2008 February 2010**

<b>Project Originally Authorized By</b>	<b>Original Project Cost</b>	<b>Cumulative Value of Change(s)</b>	<b>Aggregate Revised Project Cost</b>	<b>Change Authorized By</b>
Local Agency	< <del>\$250,000</del> <u>350,000</u>	Any	< <del>\$250,000</del> <u>350,000</u>	Local Agency
Local Agency	< <del>\$250,000</del> <u>350,000</u>	Any	<del>\$250,000-\$500,000</del> <u>\$350,000-\$750,000</u>	Executive Director
Local Agency	< <del>\$250,000</del> <u>350,000</u>	Any	> <del>\$500,000</del> <u>\$750,000</u>	SBOE
Executive Director	<del>\$250,000-\$500,000</del> <u>\$350,000-\$750,000</u>	<= \$250,000	<= \$500,000	Local Agency
Executive Director	<del>\$250,000-\$500,000</del> <u>\$350,000-\$750,000</u>	Any	> <del>\$500,000</del> <u>\$750,000</u>	SBOE
SBOE	> <del>\$500,000</del> <u>\$750,000</u>	< <del>\$250,000</del> <u>350,000</u>	Any	Local Agency
SBOE	> <del>\$500,000</del> <u>\$750,000</u>	<del>\$250,000-\$500,000</del> <u>\$350,000-\$750,000</u>	Any	Executive Director
SBOE	> <del>\$500,000</del> <u>\$750,000</u>	> <del>\$500,000</del> <u>\$750,000</u>	Any	SBOE

All modifications approved by the Executive Director shall be reported quarterly to the Board.

**4. Project Acceptance**

Projects under the supervision of the Department of Administration are accepted by the Department on behalf of the Board and the state of Idaho. Projects under the supervision of an institution, school or agency are accepted by the institution, school or agency and the project architect. Projects under the supervision of the University of Idaho are accepted by the University on behalf of the Board of Regents.

**5. Statute and Code Compliance**

- a. All projects must be in compliance with Section 504 of the Rehabilitation Act of 1973 and must provide access to all persons. All projects must be in compliance with applicable state and local building and life-safety codes and applicable local land-use regulations as provided in Chapter 41, Title 39, and Section 67-6528, Idaho Code.
- b. In designing and implementing construction projects, due consideration must be given to energy conservation and long-term maintenance and operation savings versus short-term capital costs.



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**SUBJECT**

First Reading – Occupancy Costs funding policy

**REFERENCE**

April 2008                      JFAC Occupancy Costs Policy – Information Item

**APPLICABLE STATUTES, RULE OR POLICY**

Joint Finance Appropriations Committee’s “Occupancy Costs Policy for Higher Education Facilities”

**BACKGROUND / DISCUSSION**

Prior to adoption of this policy, occupancy costs were requested based on a formula in a spreadsheet maintained by the Board Office. On the funding side, JFAC had historically funded occupancy costs on an ad hoc basis, often subject to the whims of the political process. In recognition of the arbitrary nature of the funding process, the FY 2008 appropriation for the College & Universities included the following intent language: “It is legislative intent that no further occupancy costs for postsecondary institutions shall be funded by the Legislature until a written policy has been established which sets forth the eligibility criteria and formula by which occupancy costs are to be calculated.”

Pursuant to the intent language, on December 20, 2007, a JFAC subcommittee convened a work session with the institutional financial vice presidents, and reached agreement on a written policy related to requests for occupancy funding for general education spaces at higher education institutions. The Policy was ratified by the full committee in the 2008 Session.

**IMPACT**

The Policy defines terms and documents the formula used to calculate occupancy costs.

Under the Policy, the Office of the State Board of Education (OSBE) is required to provide JFAC and the Governor written notification of Board major project approval within 10 days of Board action in order for the project to be eligible for occupancy costs in the future.

The Policy provides that if occupancy costs are requested but not funded due to budgetary reasons, institutions may request occupancy costs again in the following year. If, however, occupancy costs are denied for non-budgetary reasons, no further requests for occupancy costs related to the space in question will be considered.

**ATTACHMENTS**

Attachment 1 - Proposed amendment to Board Policy V.B.

Page 3

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 18, 2010**

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**STAFF COMMENTS AND RECOMMENDATIONS**

The Board was first notified of this policy in an information item in the April 18, 2008 agenda. This policy clarifies for institutions and decisions-makers which space is eligible for occupancy funding and how much may be requested for each eligible space.

**BOARD ACTION**

A motion to approve the first reading of the proposed amendment to Board Policy V.B. as submitted.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**

SECTION: V. FINANCIAL AFFAIRS

Subsection: B. Budget Policies

August February 2009-2010

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## **B. Budget Policies**

### **1. Budget Requests**

For purposes of Items 1. and 10., the community colleges (CSI, CWI and NIC) are included.

#### **a. Submission of Budget Requests**

The Board is responsible for submission of budget request for the institutions, school and agencies under its governance to the executive and legislative branches of government. Only those budget requests which have been formally approved by the Board will be submitted by the office to the executive and legislative branches.

#### **b. Direction by the Office of the State Board of Education**

The preparation of all annual budget requests is to be directed by the Office of the State Board of Education which designates forms to be used in the process. The procedures for the preparation and submission of budget requests apply to operational and capital improvements budgets.

#### **c. Preparation and Submission of Annual Budget Requests**

Annual budget requests to be submitted to the Board by the institutions, school and agencies under Board governance are due in the Office of the State Board of Education on the date established by the Executive Director.

#### **d. Presentation to the Board**

Annual budget requests are formally presented to the designated committee by the chief executive officer of each institution, school or agency or his or her designee. The designated committee will review the requests and provide recommendations to the Board for their action.

### **2. Budget Requests and Expenditure Authority**

- a. Budget requests must include projected miscellaneous receipts based on the enrollment of the fiscal year just completed (e.g., the FY 2003 budget request, prepared in the summer of 2001, projected miscellaneous receipts revenue based on academic year 2001 enrollments which ended with the Spring 2001 semester).

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**

SECTION: V. FINANCIAL AFFAIRS

Subsection: B. Budget Policies

August February 2009-2010

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- b. Approval by the Executive Director, or his or her designee, as authorized, for all increases and decreases of spending authority caused by changes in miscellaneous receipts is required.
  - c. Miscellaneous receipts collected by an institution will not be allocated to another institution. The lump sum appropriation will not be affected by changes in receipts.
3. Operating Budgets (Appropriated)
- a. Availability of Appropriated Funds
    - i. Funds appropriated by the legislature from the State General Account for the operation of the institutions, school and agencies (exclusive of funds for construction appropriated to the Permanent Building Fund) become available at the beginning of the fiscal year following the session of the legislature during which the funds are appropriated, except when appropriation legislation contains an emergency clause.
    - ii. These funds are generally allotted periodically or are disbursed on submission of expenditure vouchers to the Office of the State Controller.
  - b. Approval of Operating Budgets
    - i. The appropriated funds operating budgets for the institutions, school and agencies under Board supervision are based on a fiscal year, beginning July 1 and ending on June 30 of the following year.
    - ii. During the spring of each year, the chief executive officer of each institution, school or agency prepares an operating budget for the next fiscal year based upon guidelines adopted by the Board. Each budget is then submitted to the Board in a summary format prescribed by the Executive Director for review and formal approval before the beginning of the fiscal year.
  - c. Budget Transfers and Revisions
    - i. Chief Executive Officer Approval
    - ii. The chief executive officer of each institution, agency, school, office, or department is responsible for approving all budget transfers.
    - iii. Allotment and Allotment Transfers
    - iv. Requests for allotments or changes in allotments are submitted by the institution, school or agency to the Division of Financial Management and copies provided concurrently to the Office of the State Board of Education.

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**

SECTION: V. FINANCIAL AFFAIRS

Subsection: B. Budget Policies

August February 2009-2010

(Refer to allotment form in the Fiscal Reference Manual of the Division of Financial Management.) The Office of the State Board of Education will coordinate the request for allotments and changes to allotments for the college and universities.

4. Operating Budgets (Non-appropriated -- Auxiliary Enterprises)

a. Auxiliary Enterprises Defined

An auxiliary enterprise directly or indirectly provides a service to students, faculty, or staff and charges a fee related to but not necessarily equal to the cost of services. The distinguishing characteristic of most auxiliary enterprises is that they are managed essentially as self-supporting activities, whose services are provided primarily to individuals in the institutional community rather than to departments of the institution, although a portion of student fees or other support is sometimes allocated to them. Auxiliary enterprises should contribute and relate directly to the mission, goals, and objectives of the college or university. Intercollegiate athletics and student health services should be included in the category of auxiliary enterprises if the activities are essentially self-supporting.

All operating costs, including personnel, utilities, maintenance, etc., for auxiliary enterprises are to be paid out of income from fees, charges, and sales of goods or services. No state appropriated funds may be allocated to cover any portion of the operating costs. However, rental charges for uses of the facilities or services provided by auxiliary enterprises may be assessed to departments or programs supported by state-appropriated funds.

b. Operating Budgets

- i. Reports of revenues and expenditures must be submitted to the State Board of Education at the request of the Board.
- ii. All proposed expenditures from accumulated operating reserves in excess of \$50,000 must be reported to the Board at the next scheduled meeting.

5. Operating Budgets (Non-appropriated -- Local Service Operations)

a. Local Service Operations Defined

Local service operations provide a specific type of service to various institutional entities and are supported by charges for such services to the user. Such a service might be purchased from commercial sources, but for reasons of convenience, cost, or control, is provided more effectively through a unit of the institution. Examples are mailing services, duplicating services, office machine maintenance, motor pools, and central stores.

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**

SECTION: V. FINANCIAL AFFAIRS

Subsection: B. Budget Policies

August February 2009-2010

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- b. The policies and practices used for appropriated funds are used in the employment of personnel, use of facilities, and accounting for all expenditures and receipts.
- c. Reports of revenues and expenditures must be submitted to the State Board of Education at the request of the Board.

6. Operating Budgets (Non-appropriated -- Other)

- a. The policies and practices used for appropriated funds are used in the employment of personnel, use of facilities, and accounting for all expenditures and receipts.
- b. Reports of revenues and expenditures must be submitted to the State Board of Education at the request of the Board.

7. Agency Funds

- a. Agency funds are assets received and held by an institution, school or agency, as custodian or fiscal agent for other individuals or organizations, but over which the institution, school or agency exercises no fiscal control.
- b. Agency funds may be expended for any legal purpose prescribed by the individual or organization depositing the funds with the institution, school or agency following established institutional disbursement procedures.

8. Major Capital Improvement Project -- Budget Requests

For purposes of Item 8., the community colleges (CSI, CWI and NIC) are included, except as noted in V.B.8.b. (2).

a. Definition

A major capital improvement is defined as the acquisition of an existing building, construction of a new building or an addition to an existing building, or a major renovation of an existing building. A major renovation provides for a substantial change to a building. The change may include a remodeled wing or floor of a building, or the remodeling of the majority of the building's net assignable square feet. An extensive upgrade of one (1) or more of the major building systems is generally considered to be a major renovation.

b. Preparation and Submission of Major Capital Improvement Requests

i. Permanent Building Fund Requests

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**

SECTION: V. FINANCIAL AFFAIRS

Subsection: B. Budget Policies

August February 2009-2010

---

Requests for approval of major capital improvement projects to be funded from the Permanent Building Fund are to be submitted to the Office of the State Board of Education on a date and in a format established by the Executive Director. Only technical revisions may be made to the request for a given fiscal year after the Board has made its recommendation for that fiscal year. Technical revisions must be made prior to November 1.

ii. Other Requests

Requests for approval of major capital improvement projects from other fund sources are to be submitted in a format established by the Executive Director. Substantive and fiscal revisions to a requested project are resubmitted to the Board for approval. This subsection shall not apply to the community colleges.

c. Submission of Approved Major Capital Budget Requests

The Board is responsible for the submission of major capital budget requests for the institutions, school and agencies under this subsection to the Division of Public Works. Only those budget requests which have been formally approved by the Board will be submitted by the office to the executive and legislative branches.

9. Approval by the Board

Requests for approval of major capital improvement projects must be submitted for Board action. Major capital improvement projects, which are approved by the Board and for which funds from the Permanent Building Fund are requested, are placed in priority order prior to the submission of major capital budget requests to the Division of Public Works.

10. Occupancy Costs.

a. Definitions.

- i. “Auxiliary Enterprise” is an entity that exists to furnish goods or services to students, faculty, or staff, and that charges a fee directly related to the cost of the goods or services.
- ii. “Eligible Space” means all space other than auxiliary enterprise space. Occupancy costs for “common use” space (i.e. space which shares eligible and auxiliary enterprise space) will be prorated based on its use.

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**

SECTION: V. FINANCIAL AFFAIRS

Subsection: B. Budget Policies

August February 2009-2010

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- iii. “Gross Square Feet” (GSF) means the sum of all areas on all floors of a building included within the outside faces of its exterior walls.
  - iv. “Occupancy costs” means those costs associated with occupying eligible space including custodial, utility, maintenance and other costs as outlined in the occupancy costs formula.
- b. Notification of New Eligible Space.
- i. No institution shall acquire, build, take possession of, expand, remodel, or convert any eligible space for which occupancy costs will be requested unless prior written notification has been received by the Governor and the Joint Finance-Appropriations Committee. Written notification shall be submitted by the Office of the State Board of Education or a community college within ten business days of final project approval by the State Board of Education or its executive director, or a community college board of trustees. Written notification shall include:
    - a. description of the eligible space, its intended use, and how it relates to the mission of the institution;
    - b. estimated cost of the building or facility, and source(s) of funds;
    - c. estimated occupancy costs; and
    - d. estimated date of completion.
  - ii. A facility approved by the Legislature and the Governor in the Permanent Building Fund budget satisfies the notice requirement for purposes of requesting occupancy costs.
- c. Sources of Funds. Institutions may request occupancy costs regardless of the source(s) of funds used to acquire or construct eligible space.
- d. Required Information. Requests for occupancy costs shall include the following information: (i) projected date of occupancy of the eligible space; (ii) gross square feet of eligible space; and (iii) number of months of the fiscal year the eligible space will be occupied (i.e. identify occupancy of eligible space for a full or partial fiscal year).
- e. Occupancy Costs Formula.
- i. Custodial: For the first 13,000 GSF and in 13,000 GSF increments thereafter, one-half (.50) custodial FTE. In addition, 10¢ per GSF may be requested for custodial supplies.
  - ii. Utility Costs: \$1.75 per GSF.



Idaho State Board of Education  
**GOVERNING POLICIES AND PROCEDURES**

SECTION: V. FINANCIAL AFFAIRS

Subsection: B. Budget Policies

August February 2009-2010

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- iii. Building Maintenance: 1.5% of the construction costs, excluding pre-construction costs (e.g. architectural/engineering fees, site work, etc.) and moveable equipment.
- iv. Other Costs:
  - (1) 77¢ per GSF for information technology maintenance, security, general safety, and research and scientific safety;
  - (2) .0005 current replacement value (CRV) for insurance; and
  - (3) .0003 current replacement value (CRV) for landscape maintenance.
- v. The formula rates may be periodically reviewed against inflation.
- vi. Reversions.
  - (1) If eligible space which received occupancy costs is later:
    - a) razed and replaced with non-eligible space; or
    - b) converted to non-eligible space,then the institution shall revert back to the state the occupancy cost funding at the base level originally funded.
  - (2) If eligible space is razed and replaced with new eligible space, then the institution may retain the base occupancy costs, net the funded GSF against any additional GSF, and request funding for the difference.
- f. Unfunded Occupancy Costs. If occupancy costs for eligible space have been requested but not funded due to budgetary reasons, institutions may request occupancy costs again in the following year. If, however, occupancy costs are denied for non-budgetary reasons, no further requests for occupancy costs related to the space in question will be considered.

Idaho State Board of Education  
**GOVERNING POLICIES AND PROCEDURES**

SECTION: V. FINANCIAL AFFAIRS

Subsection: B. Budget Policies

August February 2009-2010

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**SUBJECT**

Second Reading – Board Policy Section I.N.1.

**REFERENCE**

December 2009                      Board approved first reading

**APPLICABLE STATUTES, RULE OR POLICY**

Idaho Code §33-104  
Idaho Code §33-5213(6)  
Idaho Code §59-509(h)  
State Travel Policy and Procedures (SBEX Policy No. 442-50)

**BACKGROUND / DISCUSSION**

In December 2009 the Board approved the first reading to amend Board Policy I.N.1. regarding timely submission of requests for honorariums and reimbursements.

**IMPACT**

Approval of this proposed policy would ensure that honorariums and reimbursements are submitted and paid in a timely manner in accordance with Idaho Code.

**ATTACHMENTS**

Attachment 1 – Policies & Procedures, Section I.N.1. – 2<sup>nd</sup> reading                      Page 3

**STAFF COMMENTS AND RECOMMENDATIONS**

There were no changes from the first reading. Board staff recommends approval of the second reading of Board Policy I.N.1. as submitted.

**BOARD ACTION**

A motion to approve the second reading of the Idaho State Board of Education Governing Policies & Procedures, Section I.N.1. as submitted.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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**Idaho State Board of Education**

**GOVERNING POLICIES AND PROCEDURES**

**Section: I. GENERAL GOVERNING POLICIES AND PROCEDURES**

**Subsection: N. Miscellaneous Provisions** **February, 2010**

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1. Honorarium and Reimbursement for Actual and Necessary Expenses

State Board members, Charter School commissioners, and staff of either entity shall submit claims for honoraria and reimbursement for actual and necessary expenses in the fiscal year in which they were incurred. Likewise, all liabilities relating to said claims shall be satisfied in the fiscal year in which they were incurred. Claims which are not submitted in accordance with this policy will be denied.

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**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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**SUBJECT**

Second Reading – Board Policy V.W. Litigation

**REFERENCE**

December 2009                      Board approved 1<sup>st</sup> Reading

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.W.

**BACKGROUND / DISCUSSION**

In December 2009 the Board approved the first reading to amend Board Policy V.W. regarding dollar limits on settlements or claims that institutions can negotiate without approval by the executive director or the Board.

**IMPACT**

Approval of this policy will document service of process procedures, increase the threshold for chief executive officer approval for settlements, allow for executive director approval up to \$200,000 and increase the threshold requiring Board approval to amounts over \$200,000. This should decrease the number of agenda items submitted to the Board for action, allowing for more expedient resolution for the institutions. It also would permit the institution to initiate litigation without prior Board approval up to these thresholds.

**ATTACHMENTS**

Attachment 1 - Governing Policy Section V.W – 2<sup>nd</sup> Reading                      Page 3

**STAFF COMMENTS AND RECOMMENDATIONS**

There were no changes from the first reading. Board staff recommends approval of the second reading of Board Policy V.W. as submitted.

**BOARD ACTION**

A motion to approve the second reading of Idaho State Board of Education Governing Policies & Procedures V.W. – Litigation as submitted.

Moved \_\_\_\_\_ Seconded \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**

**SECTION: V. FINANCIAL AFFAIRS**

**Subsection: W. Litigation**

**February 2010**

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1. General

When a lawsuit, legal document, or other official notice is instituted against an institution and/or the Board, an institution's president or its general counsel, or the executive director of the Board, is authorized to accept service of process of such matter on behalf of the institution and/or Board. This authority to accept service pertains only to attempted service upon the institution and/or Board, and not to any attempt to serve the Idaho secretary of state or the Idaho attorney general. An institution president or general counsel who accepts service of any matter on behalf of such institution and/or the Board pursuant to this authority must promptly forward a copy of any such matter to the Board office, and in appropriate circumstances, should also forward a copy of such matter to the State of Idaho Department of Administration, Division of Internal Management Systems, Risk Management Program.

2. Initiation of Litigation

An institution or agency under the governance of the Board may initiate a legal action with respect to any matter in which the amount in controversy does not exceed one hundred thousand dollars (\$100,000). With the prior approval of the executive director, an institution, agency, or school under the governance of the Board may initiate a legal action with respect to any matter in which the amount in controversy does not exceed two hundred thousand dollars (\$200,000). Any other proposed legal action may not be instituted without the prior approval and authorization of the Board.

- a. Notwithstanding the authority to initiate litigation provided above, any legal action involving the exercise of the right of eminent domain must have the prior approval of the Board.
- b. Pursuant to Idaho Code §33-3804, an institution is permitted to initiate legal action in its own name.

3. Settlement of Litigation

The chief executive officer has authority to settle a legal matter involving the payment or receipt of up to one hundred thousand dollars (\$100,000) of institution or agency funds. The executive director may authorize the settlement of a legal matter involving the payment or receipt of up to two hundred thousand dollars (\$200,000) of institution, agency, or school funds. Any settlement of a legal matter that is in

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 18, 2010**

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excess of two hundred thousand dollars (\$200,000) in institution or agency funds must be approved by the Board prior to any binding settlement commitment.

34. Litigation Reporting by Institutions

Legal counsel for the institutions shall provide monthly attorney – client privileged litigation reports to the members of the Board, with a copy to the Board office (to the attention of the Board’s legal counsel). Such reports should include a description of all claims and legal actions filed against the institution since the date of the last report (and identify legal counsel for the parties involved, for conflict analysis purposes); a summary of the current status of all claims and pending litigation; risk analysis pertaining to all such claims and pending litigation; and the settlement of any legal claims or actions since the date of the last report, including settlements of matters handled by the State of Idaho Department of Administration, Division of Internal Management Systems, Risk Management Program. With respect to the reporting of a legal settlement, such report shall describe the amount of institution funds that were used, and the amount and source of any other funds that were provided in connection with such settlement, including funds from the Office of Insurance Management or from any other parties. Legal counsel for the institutions should also include in the report any significant incident occurring since the last report that is reasonably expected to give rise to a claim, as well as probable claims or legal actions the institution is aware of which have been threatened but not yet instituted.