CALL TO ORDER

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January 18, 2018, Regular Meeting Minutes
BE IT REMEMBERED, That the Mississippi Board of Trustees of State Institutions of Higher Learning of the State of Mississippi met in a regular session at the Board Office in Jackson, Mississippi, at 9:00 a.m., and pursuant to notice in writing mailed by certified letter with return receipt requested on November 28, 2017, to each and every member of said Board, said date being at least five days prior to this January 18, 2018 meeting. At the above-named place there were present the following members to wit: Dr. Ford Dye, Mr. Shane Hooper, Ms. Ann H. Lamar, Dr. Alfred E. McNair, Jr., Mr. Chip Morgan, Mr. Hal Parker, Mr. Alan Perry, Dr. Douglas Rouse, Mr. C.D. Smith (by phone), and Dr. J. Walt Starr. Mr. Tom Duff and Ms. Christy Pickering were absent. The meeting was called to order by Trustee Shane Hooper, Vice President, with Mr. Marcus Thompson, IHL Chief Administrative Officer, providing the invocation on behalf of Trustee Pickering.

INTRODUCTION OF GUESTS

- Vice President Shane Hooper welcomed the Student Government Association Officers: Patrick Herbert, SGA President at Alcorn State University and Edgar Meyer, SGA President of the University of Mississippi Medical Center.
- Dr. William Bynum, President of Jackson State University, introduced Mr. Howard Merlin, the new Vice President for Business and Finance/Chief Financial Officer at JSU. Dr. Bynum also thanked Dr. Ivory Nelson for serving as the Interim Provost since July. This is Dr. Nelson’s last board meeting.

APPROVAL OF THE MINUTES

On motion by Trustee Starr, seconded by Trustee McNair, with Trustees Duff and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to approve the Minutes of the Board meeting held on November 16, 2017.

CONSENT AGENDAS

Trustee Perry moved Finance Consent Agenda item #14 to the Finance Regular Agenda for consideration. On motion by Trustee Dye, seconded by Trustee Starr, with Trustees Duff and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to approve the following Consent Agendas, as amended.

ACADEMIC AFFAIRS

1. SYSTEM – Approved the following new academic programs:
   a. ASU – Bachelor of Arts in General Studies (Complete 2 Compete) (CIP 24.0102);
   b. JSU – Professional Interdisciplinary Studies (Complete 2 Compete) (CIP 24.0102);
   c. MSU – Advanced Learning Concentration in General Studies (Complete 2 Compete) (CIP 24.0102);
   d. UM – Bachelor of University Studies (Complete 2 Compete) (CIP 24.0102);
e. USM – Bachelor of Liberal Studies (Complete 2 Compete) (CIP 24.0102); and
f. UMMC – Bachelor of Science in Health Sciences (Complete 2 Compete) (CIP 24.0102).

FINANCE

2. UM – Approved the request to enter into a contract between the University of Mississippi Bursar and Financial Aid Offices and CMD Outsourcing Solutions, Inc. The contractor will assume temporary ownership of an established nationwide toll-free number owned by UM and will provide in-depth technical assistance on financial aid and bursar issues to UM customers. The Agreement shall be in effect from January 19, 2018, through January 18, 2021. This agreement may be extended for up to two successive two-year renewals upon the consent of both parties. If both renewals are agreed upon the contract will expire January 18, 2025. The amount of the agreement is $400,384 per year for 3 years for a total of $1,201,152, plus a one-time set-up fee of $15,000. The estimated volume is 87,870 calls per year and is based on actual call history. This agreement may be extended for up to two successive two-year renewals upon the consent of both parties. The Flat Rate Service Fee for each subsequent contract year will remain the same or less, unless CMD has provided the university with notice of an increase in fees at least one hundred and twenty (120) days prior to the beginning of the next year. Any requested increases must be tied to a nationally recognized index such as the Consumer Price Index or other appropriate measure such as call volume growth, and cannot exceed a maximum of 3% per year. If all renewals are exercised resulting in a seven year contract and maximum price increases were incorporated, the total contract value (including the one-time set-up fee) would be $2,941,461. The contract will be funded by E&G sources. The agreement, which was reviewed and approved by the IHL Associate Commissioner of Legal Affairs prior to the Board’s approval of this item, is on file in the Board Office.

3. UM – Approved the request to enter into contract between the University of Mississippi Department of Facilities Planning and Commissioning & Green Building Solutions, Inc. to provide building commissioning and test, adjusting, and balancing services for the new STEM building. This agreement is effective beginning on the initial approval date by the University and the IHL Board and ends when the warranty period of the STEM building construction contract ends. The commissioning fees total is $568,356.96. Should UM determine necessary, there are alternates for documentation or services that may be charged on a per year or per visit basis. Those charges are as follows: Additional Post-Occupancy Services (per year) $18,711.07; Additional Site Visits (per visit) $1,638.57; and Owner's Project Requirement Documentation $10,133.97. The funding source for this contract is Internal R&R funds. The agreement, which was reviewed and approved by the IHL Associate Commissioner of Legal Affairs prior to the Board’s approval of this item, is on file in the Board Office.

4. UM – Approved the request to enter into a contract between the University of Mississippi Office of Information Technology and EPI-USE America, Inc. for external consulting expertise required for the implementation of SAP SuccessFactors cloud-based Human Capital Management (HCM) software. The purpose of this contract is to define mutually agreed upon objectives and responsibilities regarding services to be performed as part of UM’s implementation of the software. It includes project deliverables, functional and technical services performed by the vendor, vendor responsibilities and university responsibilities. The contract will become effective upon full execution by both parties and will continue through project acceptance by UM. It is anticipated to be a 31-week project from inception to completion with an estimated completion
date of September 1, 2018. The contract amount includes 2,824 hours of consulting totaling $475,295. UM will compensate EPI-USE in six payments for the completion of work as described in Attachment A of the contract. The fee/payment schedule is included in the bound January 18, 2018 Board Working File. Additionally, travel and expenses are budgeted at 15% of the total project cost ($71,294.00). The total contract amount estimated to be paid is $546,589. This project will be funded through Educational and General funds. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

5. UM – Approved the request to enter into a contract between the University of Mississippi Center for Excellence in Literacy Instruction and Voyager Sopris Learning, Inc. The purpose of this contract is to ensure that university faculty responsible for preparing our next generation of teachers for effective reading instruction fully understand, consistently apply, and can explicitly model the evidence-based reading instructional practices established over 30 years and documented by the National Reading Panel and the Institute of Education Sciences. The initial term or period of the contract is January 22, 2018 through August 31, 2018 with an extension of up to two additional years by written amendment to the agreement. The contract amount is a total of $419,500 over three years. The total for the initial period is $176,000. The total for year two is $213,500. The total for year three is $30,000. The funding source for the contract is the W.K. Kellogg Foundation Grant. The agreement, which was reviewed and approved by the IHL Associate Commissioner of Legal Affairs prior to the Board’s approval of this item, is on file in the Board Office.

6. UMMC – Approved the request to amend its Master Agreement with Abbott Laboratories Inc. to add supplies needed for Procalcitonin testing on UMMC’s Abbott Architect i1000 analyzers. This testing is used as an indicator for sepsis. The term of the amendment will begin February 1, 2018, and end June 30, 2019, coterminous with the existing Master Agreement. The total cost of the amended Master Agreement is $3,090,289.86. This reflects an increase in the total contract cost of $236,530.25 in commodity costs for remaining one (1) year and five (5) months of the term of the contract. The agreement will be funded by hospital patient revenue. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

7. UMMC – Approved the request to enter into a collection agreement with One Advantage, LLC for the management and collection of bad debt accounts for both hospital and physician services. One Advantage will service patient accounts that meet the criteria for “bad debt” and have been determined uncollectable by standard institutional billing practices. The term of the agreement is five (5) years – March 1, 2018 through February 28, 2023. The total estimated cost of this agreement is $4,182,407.78. Under the agreement, UMMC will pay a contingency fee of 10.50% of funds collected. A breakdown of costs is included in the bound January 18, 2018 Board Working File. The agreement will be funded by hospital patient revenues. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

8. UMMC – Approved the request to enter into an agreement with Central Admixture Pharmacy Services, Inc. for the purchase of solutions to be used during heart surgeries and the request to add and/or remove solutions from the products covered under the agreement without requiring submission to the Board so long as there is adequate funding. The initial term of the agreement is three (3) years and will automatically renew thereafter year to year, up to a total term of five (5)
years for a term from February 1, 2018 through January 31, 2023. The total estimated cost of the five (5) year agreement is $1,208,183.37. UMMC has calculated a 20% potential annual volume increase over historical spend beginning in Year 1. UMMC has also calculated a 5% potential annual price increase beginning in Year 2. The current agreement will be funded by hospital patient revenues. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

9. **UMMC** – Approved Amendment 18 to its current license and support agreement with Epic Systems Corporation to provide the Patient Abstractor license to UMMC’s program property. This will allow UMMC to perform clinical data conversions from other legacy clinical systems into its EpicCare Electronic Health Record (EHR) production system. The term of amendment 18 will begin on or about February 1, 2018 and is coterminous with the current Epic License and Support Agreement which remains in effect in perpetuity in regards to the licenses, and it is also coterminous regarding maintenance coverage which ends August 22, 2019. The estimated cost for Amendment 18 is $8,000. With Amendment 18, the total estimated approved cost for the Epic agreement is now $67,367,789.01. The amendment cost will be funded by hospital patient revenue. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

10. **UMMC** – Approved a Service Request with Epic Systems Corporation to allow Epic to submit UMMC’s 2017 electronic Clinical Quality Measures data electronically to The Joint Commission (TJC), UMMC’s clinical accrediting body. This allows UMMC to meet the requirements of submitting quality metrics data electronically to TJC by a third-party vendor. The term of the Service Request will begin on or about February 1, 2018 and will expire upon completion of service or upon expiration of the current agreement which is August 22, 2019. The total estimated cost for this Service Request is $36,000. Including this request, the total estimated cost of the Epic Agreement increases to $67,403,789.01. The amendment cost will be funded by hospital patient revenue. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

11. **UMMC** – Approved the request to enter into a collection agreement with Hollis Cobb Associates, Inc. for the management and collection of bad debt accounts for both hospital and physician services. Hollis Cobb will service patient accounts that meet the criteria for “bad debt” and have been determined uncollectable by standard institutional billing practices. The term of the agreement is five (5) years – March 1, 2018 through February 28, 2023. The total estimated cost of this agreement is $4,281,988.92. Under the agreement, UMMC will pay a contingency fee of 10.75% of funds collected. A breakdown of costs is included in the bound January 18, 2018 Board Working File. The agreement will be funded by hospital patient revenues. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

12. **UMMC** – Approved the request to enter into a Commissioning Agreement with Smith Seckman Reid, Inc. d/b/a SSRCx for the provision of building commissioning services for the Children’s of Mississippi Expansion Project. SSRCx will review project drawings and inspect installation of mechanical, electrical, plumbing (MEP), and building envelope systems to ensure that those systems are installed and functioning according to project drawings and specifications. The term of the agreement is four (4) years, beginning January 25, 2018, and expiring January 31, 2022. The total cost for the four (4) year agreement shall not exceed $581,963.00. All fees include travel. A breakdown of costs is included in the bound January 18, 2018 Board Working File. This
agreement will be funded by long-term and intermediate term fixed bond rates, state 
appropriations, patient revenues, and development funds. The agreement, which was reviewed 
and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file 
in the Board Office.

13. **UMMC** – Approved the request to enter into an amendment with nThrive Revenue Systems, LLC 
f/k/a MedAssets Net Revenue Systems, LLC to update the contracting party and add the embedded 
claims conversion services to the existing statement of work (SOW). The Board also approved 
the request to pay for conversion services in advance pursuant to Board Policy 707.03 Approval 
of Prepayment for Goods or Services. The embedded claims conversion will allow UMMC to 
integrate the claims management system with Epic. The integration enables both systems to 
communicate allowing for automated acceptance and work que routing for claims. The term of 
the amendment will begin on or about February 1, 2018 and end August 31, 2020, which is 
coterminous with the existing SOW. The estimated cost of the amendment is $20,000. The total 
cost of the amended agreement will be $3,152,872.80. The agreement will be funded by hospital 
patient revenue. The agreement, which was reviewed and approved by the Attorney General’s 
Office prior to the Board’s approval of this item, is on file in the Board Office.

14. **UMMC** – Request approval to enter into a Lease Agreement with Winston County Medical 
Foundation for approximately 3,085 square feet of clinical space located at 17280 East Main 
Street, Louisville, MS, for UMMC’s Department of Dermatology. Pursuant to Board Policy 
707.03 Approval of Prepayment for Goods or Services, the university also requested approval to 
prepay rent on the first day of each month. This rural clinic will allow UMMC to further populate 
the state with dermatology providers – especially given the medically underserved populations in 
rural Mississippi. The term of the Lease Agreement is sixty (60) months with a single five (5) 
year automatic renewal term. UMMC expects the commencement date of the Lease Agreement to 
be on or about September 1, 2018, which would cause the expiration date to be August 31, 2028. 
The total cost over the ten (10) year term of the Lease Agreement is $726,267.62. Beginning in 
Year 2, UMMC has included an annual price increase of two percent (2%). The agreement will 
be funded by patient revenue. The agreement which was reviewed and approved by the Attorney 
General’s Office. *(THIS ITEM WAS MOVED FROM THE FINANCE CONSENT 
AGENDA.)*

15. **USM** – Approved the request to amend the lease with Oxiteno USA LLC., a Texas limited liability 
company with a registered address at 9801 Bay Area Blvd., Pasadena, TX 77507 (Tenant). Tenant 
wishes to increase their space by approximately 661 square feet at USM's Accelerator building for 
additional rent in the amount of $15,500 annually. The term of the original Lease was for two 
years commencing December 1, 2016, and expiring December 1, 2018, with three 1-year renewal 
options. This Amendment does not revise the term of the original Lease. The total increased 
contract amount for Amendment One, including options, is $62,000. This increase brings the total 
rent for the transition period, initial term and renewals to $375,750. The Accelerator building was 
constructed with federal grant funds. The agreement, which was reviewed and approved by the Attorney 
General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

16. **USM** – Approved the request to enter into a lease agreement with the University of Southern 
Mississippi Alumni Association (Association/Lessee). The premises involve approximately 7,500 
square feet of land known as Spirit Park located at Ray Guy Way, Hattiesburg, MS 39406. During 
the term of the Lease, the Association will construct an Event Venue of approximately 3,750 
square feet in accordance with plans and specifications as approved by USM. The purpose of the
Lease Agreement is to provide the Association the right to utilize the premises as needed and agreed upon by the parties, including the right to construct an event venue including a stage, gathering area, restrooms and storage area. All construction of the facilities by the Association shall be in accordance with plans and specifications as approved by USM. The term of the Lease shall commence subsequent to IHL Board approval and full execution of the Lease and shall expire on June 30, 2019 or thirty days subsequent to the completion and acceptance of the completed facilities, unless sooner terminated under the terms of Article XV of the contract. The contract amount shall be $1.00 cash in hand. This lease is being funded with private funds. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

17. UMMC – Exhibit 1 represents the approval of the Mississippi Information Technology Services (MS-ITS) Board for the provision of the CoverMe application for UMMC. This application will allow UMMC to screen self-pay patients for financial assistance, charitable or other assistance programs, such as Presumptive Medicaid eligibility. The Attorney General’s staff assigned to the MS-ITS reviewed this agreement prior to execution. The Software Subscription Agreement is between AutoGov and MS-ITS behalf of UMMC. (See Exhibit 1.)

18. UMMC – Exhibit 2 represents the approval of the Mississippi Information Technology Services (MS-ITS) Board for the provision of patient statement printing and skip tracing services for UMMC. The Attorney General’s staff assigned to the MS-ITS reviewed this agreement prior to execution. The Professional Services Agreement is between nThrive, Inc. and MS-ITS behalf of UMMC. (See Exhibit 2.)

19. UMMC – Exhibit 3 represents the approval of the Mississippi Information Technology Services (MS-ITS) Board of Technology Services Change Order Number 1 to the 2016 Lease Agreement with Toshiba America Business Solutions, Inc. to add additional printers for UP Belhaven and the Ripley Blackwell Head Start. The Attorney General’s staff assigned to the MS-ITS reviewed this Change Order prior to its execution. The Change Order and existing Lease Agreement are between Toshiba and MS-ITS behalf of UMMC. (See Exhibit 3.)

20. UMMC – Exhibit 4 represents the approval of the Mississippi Information Technology Services (MS-ITS) Board for the provision of services for UMMC. Under the agreement, Sierra-Cedar, Inc. will provide implementation services related to the Workday Enterprise Resource Planning (ERP) system. The Attorney General’s staff assigned to the MS-ITS reviewed this agreement prior to execution. The Services Agreement is between Sierra-Cedar, Inc. and MS-ITS behalf of UMMC. (See Exhibit 4.)

21. UMMC – Exhibit 5 represents the approval of the Mississippi Information Technology Services (MS-ITS) Board for the provision of the Enterprise Resource Planning (ERP) system for UMMC. This system will manage employee, financial, supply chain, student financial, and student administration solutions at UMMC. The Attorney General’s staff assigned to the MS-ITS reviewed this agreement prior to execution. The Master Subscription Agreement is between Workday, Inc. and MS-ITS behalf of UMMC. (See Exhibit 5.)

22. MVSU – Exhibit 6 represents the approval of the Mississippi Information Technology Services (MS-ITS) Board for the continuation of Technical Currency Services for MVSU. The Attorney General’s staff assigned to the MS-ITS reviewed the supplement prior to execution. The Supplement to the Master Software License and Service Agreement is between Ellucian and MS-ITS behalf of MVSU. (See Exhibit 6.)
REAL ESTATE

23. USM – Approved the initiation of GS 108-285, Cook Library Renovation, and the appointment of Wier Boerner Allin Architecture as the design professional. This project will renovate the first and second floor of the Cook Library to provide for an Academic Enhancement Center. The project will include new offices, computer labs, one-on-one tutoring space, academic advising space, student support services and career advising space. In addition, upgrades will be made to the fire sprinkler system, mechanical and electrical systems, as well as pertinent code upgrades. The proposed project budget is $1,580,480.14. Funds are available from SB 2906, Laws of 2015 ($521,844.92) – Transferred from Bolton Hall 108-283; and HB 787, Laws of 2014 ($1,058,635.22) – Transferred from Bolton Hall 108-283.

24. USM – Approved the initiation of IHL 208-336, McCain Library Envelope Repairs, and appointment of Shafer-Zahner-Zahner, PLLC as the design professional. This project is in the pre-planning stage. The university will stop at the Design Development phase until funding is fully secured for construction. The anticipated project budget for the project will be approximately $2,000,000. The university plans to seek the remaining funding for this project during the 2018 Legislative Bond Request as priority. The project will include but is not limited to the following: replacement of building envelope systems at the basement and plaza levels, replacement of all exterior joint sealants, replacement of the balusters on the ADA ramp, addition of a French drainage system to the basement level, repair of interior damages at the basement level, etc. The proposed project budget (design fees only) is $50,000. Funds are available from Physical Plant Funds ($50,000).

25. ASU – Approved the request to increase the budget for IHL 201-252, Morris-Boykin Renovation, from $1,777,500.35 to $2,660,872.50, for an increase of $883,372.15. This is the first budget escalation request made for this project by the university. The project will provide an interior renovation and roof replacement project on the Morris-Boykin building that houses part of the School of Agriculture and Applied Sciences. The project includes renovation of classrooms, meeting rooms, labs, office spaces, student study areas, and ADA parking improvements. Funds are available from NIFA (National Institute of Food and Agriculture) Federal Funds – US Department of Agriculture ($2,660,872.50).

26. ASU – Approved the request to increase the budget for IHL 201-255, Water Treatment Facility Improvement, from $3,311,592 to $3,840,092, for an increase of $528,500. The Board also approved the request to change the project from an IHL project (IHL 201-255) to a Bureau of Building project (GS 101-306). The funding source will change to state appropriated funds and discretionary funds. This is the first budget escalation request made for this project by the university. The project will allow for the design and construction of a new reverse osmosis water treatment system for the Lorman campus. The university will remove and replace the non-functioning cation exchange water system. The project will also include repairing and/or replacing any infrastructure damaged by the acid deterioration in the facility, as well as the construction of the necessary infrastructure for handling all discharged wastewater from the treatment facility. The project will add any technical control systems required to operate the water treatment plan as well. Funds are available from Summer of 2016 BOB Discretionary Funds ($28,500); Fall of 2016 BOB Discretionary Funds ($500,000); and SB 3015, Laws of 2017 ($3,311,592).

27. USM – Approved the request to grant a temporary construction easement to the City of Hattiesburg for property running along and near 31st Avenue in the City of Hattiesburg, Forrest County, Mississippi. The easement will allow the City of Hattiesburg to install and construct a new road.
over and across the parcels of real property. The property description is included in the bound
*January 18, 2018 Board Working File*. The Grantee, the City of Hattiesburg, Mississippi, is given
the right to do whatever may be necessary and proper for the enjoyment of the rights herein
granted, including the right of ingress and egress and the right to clear said right-of-way above
described of such trees and shrubs as may be necessary for the full enjoyment of the rights herein
granted. The Grantee shall be responsible for any damage to Grantor’s property or that of third
party’s resulting from the exercise of any of the rights granted in the easement. Grantee shall
promptly repair and restore to its original condition any of Grantor’s property that may be altered,
damaged, or destroyed in connection with the easement. This temporary construction easement
will revert back to the Grantor upon completion of construction. The Attorney General’s Office
has reviewed and approved this item.

28. **IHL** – Approved the request to grant a thirty-foot wide permanent right-of-way easement to
Entergy Mississippi, Inc. running from Eastover Drive through the ERC campus. The easement
will allow Entergy to locate, construct, reconstruct, improve, repair, operate, inspect, patrol,
replace, and maintain the electric and communication facilities, or the removal thereof, now or in
the future, including but not necessarily limited to poles, cross arms, insulators, wires, cables,
conduits, hardware, transformers, switches, guy wires, anchors, and other equipment, structures,
material, and appurtenances, now or hereafter used, useful, or desired in connection therewith by
Grantee (Entergy), over, across, under or on the land of Grantor (IHL) in the County of Hinds,
Mississippi. The parcel of land is described as lying and being situated in the NE ¼ of the NE ¼
of Section 25, Township 6 North, Range 1 East, Hinds County, Mississippi. The Grantee, Entergy
Mississippi, Inc., is given the right of ingress and egress to and from said right-of-way across the
adjoining land of the Grantor (IHL) and the right to attach wires and cables of any other party to
Grantee’s facilities, and the right to install guy wires, anchors, and anchor assemblies beyond the
limits of the said right-of-way. Unless otherwise specifically provided, the center line of the
electric power and communication lines initially constructed on this right-of-way shall be the
center line of said right-of-way. Grantee shall have the full and continuing right to clear and keep
clear vegetation within or growing into said right-of-way and the further right to remove or modify
from time to time trees, limbs, and/or vegetation outside the said right-of-way which Grantee
considers a hazard to any of its electric power or communication facilities or a hazard to the
rendering of adequate and dependable service to Grantor or any of Grantee’s customers, by use of
a variety of methods used in the vegetation management industry. Grantor shall not construct or
permit the construction of any structure, obstruction, or other hazard within the said right-of-way,
including but not limited to, house, barn, garage, shed, pond, pool, or well, excepting only
Grantor’s fences and Grantee’s facilities. Grantor shall not construct or permit the construction of
any buildings or other structures on land adjoining said right-of-way in violation of the minimum
clearances from the lines and facilities of Grantee, as provided in the National Electrical Safety
Code. The IHL Associate Commissioner for Legal Affairs has reviewed and approved this item.

**LEGAL**

29. **MSU** – Approved the request to modify a contract with JONES WALKER LLP, to perform
services necessary in assisting and advising the University on legal issues concerning review of
strategic financing options, tax exempt bond arbitrage, rebate compliance, the use of bond financed
building, and other matters relating to bond issues. This contract originated February 18, 2015,
renewed by Modifications #1 and #2, extending the term for one (1) year at each renewal, with
Modification 2 extending through February 17, 2018. Modification #3 will extend the term for one (1) year, or through February 17, 2019. The total amount payable during the extension period shall not exceed $50,000. All other provisions of the Contractual Agreement for Legal Services dated February 18, 2015 shall remain in effect. This Modification has been approved by the Office of Attorney General.

30. UMMC – Pending approval from the Attorney General, the Board approved the request to modify a contract with Watkins & Eager, PLLC, which is currently providing legal services related to real estate matters. The purpose of this amendment is to add assistance and advice on employment related matters to the scope of services and to approve the addition of attorney Walter J. Bland to assist with these employment related matters. All other terms of the contract remain the same including the hourly rate of $165 with a maximum amount payable under the contact of $350,000.

PERSONNEL REPORT

31. EMPLOYMENT

Jackson State University
- Howard Merlin; Vice President for Business and Finance/CFO; salary $185,000; per annum, pro rata; E&G Funds; effective January 1, 2018

Mississippi State University
- Julie L. Jessop; hired with tenure; Professor, Associate Director, and Endowed Chair, Swalm School of Chemical Engineering; salary $162,000 per annum, pro rata; E & G Funds 91.79% and Designated Funds 8.21%; 12 month; effective July 1, 2018

Mississippi University for Women
- Kathy Shapley; hired with tenure; Professor and Chair of the Department of Speech-Language Pathology, College of Nursing and Health Sciences; salary $100,000 per annum, pro rata; 12 month contract; E&G Funds; effective July 1, 2018

University of Mississippi Medical Center
- Javed Butler; hired with tenure; Professor and Chair of Medicine, School of Medicine; salary $90,000 per annum, pro rata; E&G Funds; 12 month contract; effective January 16, 2018
- Timothy Allen; hired with tenure; Professor and Chair of Pathology, School of Medicine, salary $90,000 per annum, pro rata; E&G Funds; 12 month contract; effective January 2, 2018

32. CHANGE OF STATUS

Jackson State University
- Ivory Nelson; Interim Provost and Vice President for Academic Affairs, salary $45,000; E&G Funds; 4 months; effective July 11, 2017 – November 30, 2017; contract extension to January 31, 2018 with additional salary $20,000; E&G Funds
- Steven Smith; Interim Vice President for Enrollment Management, salary $24,900; E&G Funds; 3 months; effective September 5, 2017 – November 30, 2017; contract extension to April 30, 2018 with additional salary of $54,890; E&G Funds
• Marvel Turner; Interim Vice President Business and Finance – Chief Financial Officer; salary $185,000; per annum, pro rata; E&G Funds; termination effective December 31, 2017

33. TENURE

University of Mississippi Medical Center
• Shou Tang; Professor of Medicine, School of Medicine; effective November 27, 2017

34. SABBATICAL

University of Mississippi

Corrections

Approved February 6, 2017: Dr. Vivian Ibrahim; Croft Associate Professor of History and International Studies; from salary of $75,196 per annum, pro rata; E&G Funds; to salary of $37,598 per annum, pro rata for sabbatical period; E&G Funds; effective January 22, 2018 to May 12, 2018 and August 17, 2018 (or beginning of contract date) to December 31, 2018; professional development.
CORRECTED: Dr. Vivian Ibrahim; Croft Associate Professor of History and International Studies; from salary of $75,196 per annum, pro rata; E&G Funds; to salary of $37,598 per annum, pro rata for sabbatical period; E&G Funds; effective January 22, 2018 to May 12, 2018; professional development.

Approved February 6, 2017: Dr. Arunachalam M. Rajendran; Professor of Mechanical Engineering; from salary of $227,795 per annum, pro rata; E&G Funds; to salary of $85,423 per annum, pro rata for sabbatical period (twelve-month contract); E&G Funds; effective January 22, 2018 to May 12, 2018; professional development.
CORRECTED: Dr. Arunachalam M. Rajendran; Professor of Mechanical Engineering; from salary of $227,795 per annum, pro rata; E&G Funds; to salary of $85,423 per annum, pro rata for sabbatical period (twelve-month contract); E&G Funds; August 17, 2018 (or beginning of contract date) to December 31, 2018; professional development.

ACADEMIC AFFAIRS

Presented by Trustee Ford Dye

On motion by Trustee Rouse, seconded by Trustee McNair, with Trustees Duff and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to approve item #1 as submitted on the Academic Affairs Agenda. On motion by Trustee Dye, seconded by Trustee Lamar, with Trustees Duff and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to approve item #2.
1. **SYSTEM** – Approved for first reading the proposed amendments to Board Policy 517 Teacher and Administrator Preparation Programs. Revisions to the policy are based on changes made by the Mississippi Department of Education to the name of the teacher and administrator preparation program and the educator program-specific accreditation organization and the change in nomenclature for these programs.

517 TEACHER AND ADMINISTRATOR EDUCATOR PREPARATION PROGRAMS

All teacher and administrator educator preparation programs shall be appropriately accredited by the National Council for Accreditation of Teacher Education (NCATE) or the Teacher Education Accreditation Council (TEAC) national accrediting body approved by the Mississippi Department of Education and meet all Mississippi Department of Education standards so program graduates may receive appropriate licensure from the Mississippi Department of Education.

2. **SYSTEM** – Approved for first reading the proposed amendments to Board Policy 608 Intermediate Courses. Revisions are based on changes to State Board of Education policy approved in April 2017. SREB Math and Literacy Ready courses are now available to students who earn less than a 15 on the corresponding ACT sub-score. The State Board of Education has changed the name of the SREB courses for students with a minimum ACT sub-score of 15 to Essentials for College Math and Essentials for College Literacy. Additional revisions align board policy with current strategies to reduce time-to-degree and promote student success. (See Exhibit 7.)

**FINANCE AGENDA**
Presented by Trustee Alan Perry

Trustee Perry tabled item #1 for further consideration. Trustees Perry and Morgan recused themselves from voting on item #2 by leaving the room before there was any discussion or vote regarding the same. After Trustees Perry and Morgan left the room, on motion by Trustee McNair, seconded by Trustee Starr, with Trustees Duff, Morgan, Perry, and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to approve item #2 as submitted on the Finance Agenda. On motion by Trustee McNair, seconded by Trustee Rouse, with Trustees Duff and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to approve item #3. On motion by Trustee Dye, seconded by Trustee Perry, with Trustees Duff and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to approve item #4. On motion by Trustee Perry, seconded by Trustee McNair, with Trustees Duff and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to approve item #5.

1. **SYSTEM** – Request for approval of new Board Policy 714 Origination, Expansion, or Acquisition of Business or Healthcare Enterprise for first reading. (See Exhibit 8.)

2. **MSU** – Approved the request to amend a lease agreement with the BF Smith Foundation on behalf of MAFES to allow for alterations to buildings on the leased premises. MSU will soon be receiving a grant from the U.S. Department of Agriculture to establish the Delta Water Center. A portion of the grant funds are dedicated to making alterations to buildings on the leased premises that will house USDA-ARS and MSU scientists associated with the new Delta Water Center. The duration
MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
January 18, 2018

of the lease agreement is for 10 years. MSU will pay no additional rent as a result of the amendment. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office.

3. **MUW** – Approved the request to enter into a contract with Barnes & Noble College Booksellers, LLC to continue to operate and provide services for the University Bookstore. The purpose of this agreement is to extend the business relationship for an additional five years, starting April 1, 2018. Language has been added to the prior contract to allow an exception to the exclusivity clause by authorizing the Mississippi University for Women Foundation to sell designated team issue items. The contract is for five (5) years from April 1, 2018 through March 31, 2023. The projected revenue for the five-year contract is $826,263. A breakdown is included in the bound January 18, 2018 Board Working File. The agreement, which was reviewed and approved by the IHL Associate Commissioner for Legal Affairs prior to the Board’s approval of this item, is on file in the Board Office.

4. **USM** – Pursuant to requirements of Department of Defense Regulations, the Board approved a Resolution that 1) requires that certain present and future USM officers both meet the requirements for eligibility for access to classified information and be processed for Personnel Security Clearance; and, 2) permits formal exclusion of members of the IHL Board and Commissioner from both access to classified information disclosed to USM and from processing for Personnel Security Clearance. With the approval of the proposed Resolution, USM will be able to obtain its Facility Security Clearance through the National Industrial Security Program (NISP) which makes the university eligible for contracts from the Department of Defense, Department of Homeland Security, Nuclear Regulatory Commission, NASA, and other agencies under NISP. A copy of the resolution is available in the bound January 18, 2018 Board Working File. The Resolution was reviewed by the Attorney General’s Office and recommended for consideration by the Board.

5. **UMMC** – Approved the request to enter into a Lease Agreement with Winston County Medical Foundation for approximately 3,085 square feet of clinical space located at 17280 East Main Street, Louisville, MS, for UMMC’s Department of Dermatology. Pursuant to Board Policy 707.03 Approval of Prepayment for Goods or Services, the Board also approved the prepayment of rent on the first day of each month. This rural clinic will allow UMMC to further populate the state with dermatology providers – especially given the medically underserved populations in rural Mississippi. The term of the Lease Agreement is sixty (60) months with a single five (5) year automatic renewal term. UMMC expects the commencement date of the Lease Agreement to be on or about September 1, 2018, which would cause the expiration date to be August 31, 2028. The total cost over the ten (10) year term of the Lease Agreement is $726,267.62. Beginning in Year 2, UMMC has included an annual price increase of two percent (2%). The agreement will be funded by patient revenue. The agreement, which was reviewed and approved by the Attorney General’s Office prior to the Board’s approval of this item, is on file in the Board Office. (THIS ITEM WAS MOVED FROM THE FINANCE CONSENT AGENDA.)
INFORMATION AGENDA
Presented by Commissioner Glenn F. Boyce

REAL ESTATE
1. SYSTEM – The Board received the Real Estate items that were approved by the Board staff subsequent to the November 16, 2017 Board meeting in accordance with Board Policy 904 Board Approval. (See Exhibit 9.)

LEGAL
2. SYSTEM – The Board received a report of the payment of legal fees to outside counsel. (See Exhibit 10.)
3. USM – Trustee Alan Perry, as Board Legal Committee Chair, on behalf of the Board, has approved the University of Southern Mississippi’s emergency request to contract with the law firm of Roedel Parsons to defend the University in litigation filed against it in the State of Louisiana. The hourly rate will be $250 for shareholders, $175 for associates, and $75 for paralegal services, with a maximum amount payable under the contract of $50,000.

ADMINISTRATION/POLICY
4. SYSTEM – The following items have been approved by the Commissioner on behalf of the Board and are available for inspection at the Board Office.
   a. ASU – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” On November 29, 2017, Commissioner Glenn F. Boyce approved the Lease Agreement with Wilcox Energy Company for the classroom and office space located at 300 Franklin Street, Natchez, MS, for use by ASU to house the ASU Business Incubator. The term of the agreement is one year beginning December 1, 2017 at a cost of $3,166 per month. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.
   b. MSU – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” Pursuant to Board Policy 707.03 Approval for Prepayment for Goods or Services, the Commissioner is authorized to approve certain prepayment/waivers on behalf of the Board. It further provides in part that written permission from the Commissioner or Board must be obtained prior to making or contracting to make prepayment of goods or services before such goods or services are received. On December 1, 2017, Commissioner Glenn F. Boyce approved the Lease Agreement between MSU (lessee) and The Bulldog Club (lessor) for property described in Exhibit A for the purpose of the construction of the Left Field Lofts adjacent to Polk-Dement Stadium. The term of the lease is 18 months during which time lessor will make improvements through construction on the premises at no cost or other expense to lessor with an end result that all improvements will be owned “free and clear” by lessor on the date this lease terminates. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.
c. **MSU** – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” Pursuant to Board Policy 707.03 Approval for Prepayment for Goods or Services, the Commissioner is authorized to approve certain prepayment/waivers on behalf of the Board. It further provides in part that written permission from the Commissioner or Board must be obtained prior to making or contracting to make prepayment of goods or services before such goods or services are received. On December 11, 2017, Commissioner Glenn F. Boyce approved the Lease Agreement Addendum #3 with Houndstooth Commercial Properties, LLC for 2400 square feet of building space for use by the OSHA Consultation employees of MSU Industrial Health and Safety. The agreement was originally approved January 2013 and has been twice before amended and extended. The current amendment extends the term of the agreement through January 31, 2019, with no change to the monthly cost of $2900 per month to be paid monthly in advance. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.

d. **MVSU** – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” On November 20, 2017, Commissioner Glenn F. Boyce approved the Motor Vehicle License to Use Agreement with Toyota Motor Sales, U.S.A., Inc. for the use of a Toyota Prius vehicle by the MVSU Athletic Department as part of a partnership between the SWAC and Toyota. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.

e. **UMMC** – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” On November 10, 2017, Commissioner Glenn F. Boyce approved the Lease Agreement with Pitney Bowes, Inc. for the rental of a postage meter at the Children’s of Mississippi Hattiesburg Clinic. The term of the Lease is 60 months beginning on or about November 15, 2017, at a cost as set out in Exhibit A of the Lease Agreement and total estimate break down in the corresponding agenda request. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.

f. **UMMC** – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” Pursuant to Board Policy 707.03 Approval for Prepayment for Goods or Services, the Commissioner is authorized to approve certain prepayment/waivers on behalf of the Board. It further provides in part that written permission from the Commissioner or Board must be obtained prior to making or contracting to make prepayment of goods or services before such goods or services are received. On November 10, 2017, Commissioner Glenn F. Boyce approved the First Amendment to the Lease Agreement with Taylor Holdings, Inc. for the lease of approximately 2,475 square feet of temporary clinic space located at 313 North Court Avenue, Louisville, Winston County, MS for use by the UMMC Department of Dermatology. The initial term for the lease was for one year beginning March 1, 2017 at a cost of $2,500 per month. This amendment is for the purpose of extending the term of
the lease for eleven months through January 2019 and to amend the termination for convenience provision in paragraph 8. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.

g. USM – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” Pursuant to Board Policy 707.03 Approval for Prepayment for Goods or Services, the Commissioner is authorized to approve certain prepayment/waivers on behalf of the Board. It further provides in part that written permission from the Commissioner or Board must be obtained prior to making or contracting to make prepayment of goods or services before such goods or services are received. On December 13, 2017, Commissioner Glenn F. Boyce approved the Public Trust Tidelands Lease with the State of Mississippi for .14 acres of submerged lands and tidelands located within the region of USM’s Cedar Point campus for the construction of floating kayak launches adjacent to the Cedar Point campus property. The term of the lease is forty years beginning October 1, 2017 at no cost to the University. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.

h. USM – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” Pursuant to Board Policy 707.03 Approval for Prepayment for Goods or Services, the Commissioner is authorized to approve certain prepayment/waivers on behalf of the Board. It further provides in part that written permission from the Commissioner or Board must be obtained prior to making or contracting to make prepayment of goods or services before such goods or services are received. On December 18, 2017, Commissioner Glenn F. Boyce approved the Public Trust Tidelands Lease with the State of Mississippi for 1.47 acres of submerged lands and tidelands located within the region of USM’s Cedar Point campus for the construction of floating kayak launches adjacent to the Cedar Point campus property. The term of the lease is forty years beginning October 1, 2017 at no cost to the University. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.

i. SYSTEM – On December 6, 2017, Commissioner Glenn F. Boyce reviewed and approved the Quarterly Employment Reports which lists all hires and all separations for the period beginning July 1, 2017 and ending September 30, 2017. These reports are required by Board Policies 401.0102 Delegation of Authority and 801.09 Resignations. The Executive Office financial staff has reviewed and approved the institutions’ submissions. A copy of these reports will be maintained in the IHL Department of Finance and Administration.

j. SYSTEM – In accordance with Board Policy 703.04 Institutional Scholarships, Tuition Waivers and Fellowships Subsection F Policy Guidelines, each institution is required to submit an annual summary of actual expended E&G Scholarships, Fellowships and Tuition Waivers for the past fiscal year. Included in this presentation would be a summary of the actual E&G student aid expenditures by financial aid category as well as the number of category award recipients. On December 6, 2017, Commissioner Glenn F. Boyce reviewed and approved the FY 2017 presentation. The Executive Office financial staff has reviewed and approved the institutions’ submissions. A copy of these reports will be maintained in the IHL Department of Finance and Administration for review.
HEALTH AFFAIRS
COMMITTEE REPORT
Wednesday, January 17, 2018

The meeting was called to order by Chairman Ford Dye at approximately 4:20 p.m. The following items were discussed. In accordance with Miss. Code Ann., §25-41-1, as amended, all votes taken during this teleconference meeting were recorded by name in a roll-call. The teleconference meeting was held to discuss University of Mississippi Medical Center projects and priorities.

1. The Committee discussed the contract with Workday, Inc. No action was taken.
2. Executive Session
   On motion by Trustee Hooper, seconded by Trustee Starr, with Trustees Duff, Pickering and Smith absent and not voting and Trustee Rouse participating by phone, all Trustees legally present and participating voted unanimously to close the meeting to determine whether to declare an Executive Session. On motion by Trustee Perry, seconded by Trustee Starr, with Trustees Duff, Pickering and Smith absent and not voting and Trustee Rouse participating by phone, all Trustees legally present and participating voted unanimously to enter into Executive Session for the reasons reported to the public and stated in these minutes, as follows:
   Discussion of 3 sets of strategic business plans related to a public hospital.
   During Executive Session, the following matters were discussed:
   The Committee discussed the first set of strategic business plans related to a public hospital. No action was taken.
   The Committee discussed the second set of strategic business plans related to a public hospital. No action was taken.
   The Committee discussed the third set of strategic business plans related to a public hospital. No action was taken.
   On motion by Trustee Starr, seconded by Trustee Parker, with Trustees Duff, Pickering and Smith absent and not voting and Trustee Rouse participating by phone, all trustees legally present and participating voted unanimously to return to open session.
3. On motion by Trustee Lamar, seconded by Trustee Rouse, with Trustees Duff, Pickering and Smith absent and not voting and Trustee Rouse participating by phone, all Trustees legally present and participating voted unanimously to adjourn at approximately 5:50 p.m.

The following Committee members were present for the first half of the meeting: Dr. Ford Dye (Chair), Mr. Shane Hooper, Ms. Ann Lamar, Dr. Alfred McNair, Mr. Chip Morgan, Mr. Hal Parker, Mr. Alan Perry, Dr. Doug Rouse (by phone), and Dr. Walt Starr. Mr. Tom Duff, Ms. Christy Pickering, and Mr. C. D. Smith were absent.

ANNOUNCEMENTS

- Vice President Shane Hooper announced that the next scheduled Board meeting will be February 15, 2018 at the IHL Board Office.
- Vice President Hooper invited the university presidents to report on current activities on their campuses.
EXECUTIVE SESSION

On motion by Trustee Dye, seconded by Trustee Perry, with Trustees Duff and Pickering absent and not voting and Trustee Smith participating by phone, all Trustees legally present and participating voted unanimously to close the meeting to determine whether to declare an Executive Session. On motion by Trustee Perry, seconded by Trustee Parker, with Trustees Duff, Pickering, and Smith absent and not voting, all Trustees legally present and participating voted unanimously to enter into Executive Session for the reason reported to the public and stated in these minutes, as follows:

Discussion of a personnel matter at a state university.

During Executive Session, the following matter was discussed:

The Board discussed a personnel matter at a state university. No action was taken.

On motion by Trustee Lamar, seconded by Trustee Perry, with Trustees Duff, Pickering, and Smith absent and not voting, all Trustees legally present and participating voted unanimously to return to Open Session.

ADJOURNMENT

There being no further business to come before the Board, on motion by Trustee Perry, seconded by Trustee Lamar, with Trustees Duff, Pickering, and Smith absent and not voting, all Trustees legally present and participating voted unanimously to adjourn the meeting.
### EXHIBITS

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
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<tbody>
<tr>
<td>Exhibit 1</td>
<td>Approval of MS-ITS of agreement between the University of Mississippi Medical Center and AutoGov.</td>
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<tr>
<td>Exhibit 2</td>
<td>Approval of MS-ITS of agreement between the University of Mississippi Medical Center and nThrive, Inc.</td>
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<tr>
<td>Exhibit 3</td>
<td>Approval of MS-ITS of Services Change Order Number 1 to lease agreement between the University of Mississippi Medical Center and Toshiba Business Solutions, Inc.</td>
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<td>Exhibit 4</td>
<td>Approval of MS-ITS of agreement between the University of Mississippi Medical Center and Sierra-Cedar, Inc.</td>
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<td>Exhibit 5</td>
<td>Approval of MS-ITS of agreement between the University of Mississippi Medical Center and Workday, Inc.</td>
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<td>Exhibit 6</td>
<td>Approval of MS-ITS of agreement between Mississippi Valley State University and Ellucian Company L.P.</td>
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<td>Exhibit 7</td>
<td>Proposed amendments to Board Policy 608 Intermediate Courses for first reading.</td>
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<td>Exhibit 8</td>
<td>Proposed new Board Policy 714 Origination, Expansion, or Acquisition of Business or Healthcare Enterprise for first reading.</td>
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<td>Exhibit 9</td>
<td>Real Estate items that were approved by the IHL Board staff subsequent to the November 16, 2017 Board meeting.</td>
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<tr>
<td>Exhibit 10</td>
<td>Report of the payment of legal fees to outside counsel.</td>
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PROJECT NUMBER 43332
SOFTWARE AS A SERVICE AGREEMENT
BETWEEN
AUTOGOV
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

This Software as a Service Agreement (hereinafter referred to as "Agreement") is entered into by and between, AutoGov, a Texas corporation having its principal place of business at One Chase Corporation Drive, Suite 400, Birmingham, Alabama 35244 (hereinafter referred to as "Licensor"), and Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for the University of Mississippi Medical Center located at 2500 North State Street, Jackson, Mississippi 39216 (hereinafter referred to as "Licensee" and/or "UMMC"). ITS and UMMC are sometimes collectively referred to herein as "State."

WHEREAS, the sole source laws in Mississippi changed during the 2015 Legislative Session; and

WHEREAS, ITS issued a Notice of Intent to Certify Sole Source No. 4024 in an attempt to certify the sole source status of this procurement; and

WHEREAS, there being no objections to the sole source status being filed by any person or entity and the parties thereby determining this is indeed a sole source project;

NOW THEREFORE, in consideration of the mutual understandings, promises and agreements set forth, the parties hereto agree as follows:

ARTICLE 1  DEFINITIONS
1.1 "Active User" means UMMC, its employees, and any third party consultants or outsourcers engaged by UMMC actively participating on the system in any given month of operation, who shall be bound to the terms and conditions of this Agreement. Licensor does not impose a limit on the number of Active Users accessing or registering to use the system.

1.2 "Application(s)" or "SaaS Application(s)" means those Licensor software application programs which are made accessible for UMMC to use under the terms of this Agreement.

1.3 "Available Date" means the date upon which Licensor notifies UMMC that the Applications may be accessed on the Licensor's SaaS server and UMMC may begin acceptance testing.

1.4 "Cloud Services" or "SaaS Services" means those services related to Licensor's private cloud environment provided to UMMC, including but not limited to, infrastructure, equipment, bandwidth, server monitoring, backup services, disaster recovery services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto.
1.5 "Content" means any content UMMC or Active Users post or otherwise input into the Services.

1.6 "Documentation" means the user and technical manuals and documentation published by Licensor relating to the use of the Services or Applications; the help files included within the Applications, and any files containing presentation materials or manuals or other related materials to train and educate Licensee and the Active Users on the use of the Applications.

1.7 "Initial Term" means the three (3) year term of Services as indicated in Article 2.

1.8 "Licensee" means the University of Mississippi Medical Center, its employees, and any third party consultants or outsourcers engaged by UMMC who have a need to know and who shall be bound by the terms and conditions of this Agreement.

1.9 "Licensor" means AutoGov, and its successors and assigns.

1.10 "Personally Identifiable Information ("PII")" means information concerning individually identifiable Active Users that is protected against disclosure under applicable law or regulation.

1.11 "Services" means any Cloud Services, on-line user access, customizations, interface development, consulting, education, SaaS installation, system administration, training, maintenance, support, and Help Desk services provided by Licensor to Licensee.

1.12 "Supported Interfaces" means application-based interfaces (API), network protocols, data formats, database schemas, and file formats used in the Applications as described in the Documentation.

ARTICLE 2 PERIOD OF PERFORMANCE
2.1 Unless this Agreement is extended by mutual agreement or terminated as prescribed elsewhere herein, this Agreement shall begin on the date it is signed by all parties and shall continue in effect for three (3) years thereafter ("Initial Term"). At the end of the Initial Term, the Agreement may, upon the written agreement of the parties, be renewed under the same terms and conditions for an additional term, the length of which will be agreed upon by the parties. One hundred and eighty (180) days prior to the expiration of the Initial Term or any renewal term of this Agreement, Licensor shall notify UMMC and ITS of the impending expiration and UMMC shall have sixty (60) days in which to notify Licensor of its intention to either renew or cancel the Agreement.

2.2 This Agreement will become a binding obligation on the State only upon the issuance of a valid purchase order by UMMC following contract execution and the issuance by ITS of the CP-1 Acquisition Approval Document.

ARTICLE 3 SCOPE OF SERVICES
3.1 The Licensor agrees to provide to UMMC a SaaS based CoverMe Software subscription and associated deliverables as described in this Agreement. While the scope of work for this project is defined by the contract documents set forth herein in the article titled "Entire Agreement", a summary of such work is outlined in Article 3.2 below.

3.2 Licensor shall be responsible for the following:
EXHIBIT 1
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A. Ensuring that all deliverables are complete and accepted by UMMC pursuant to a mutually agreed upon project work plan;
B. Tracking date sensitive items to ensure timely updates;
C. Acknowledging that the Content is and shall remain the sole and exclusive property of UMMC. Further, Licensor acknowledges that the Content may contain protected health information ("PHI") or PHI and Licensor agrees to maintain the confidentiality of the Content and shall not make the Content publicly available except as may be necessary in performing the SaaS Services or to comply with applicable laws. Upon the termination or expiration of this Agreement, Licensor shall provide such Content in its possession to UMMC pursuant to a mutually agreed upon release schedule and in a format acceptable to UMMC;
D. Working with UMMC to achieve access rates that meet UMMC’s needs;
E. Providing security for the site that is agreeable to UMMC with Licensor responsible for all necessary equipment and software related to security;
F. Maintaining the accessibility of the site twenty-four (24) hours a day, seven (7) days a week at an uptime rate of 99% or greater, subject to the limitations set forth in this Agreement, including but not limited to, those in Article 4.4;
G. Completing daily backups of the site;
H. Notifying UMMC at least three (3) business days prior to any anticipated service interruption, with said notice containing a general description of the reason for the service interruption;
I. Proposing and adhering to a disaster recovery plan and providing access to such plan to the State, all at Licensor's expense;
J. Participating with UMMC in disaster recovery planning and testing based on a mutually agreed upon schedule;
K. Maintaining the confidentiality of the information entered;
L. Providing UMMC access to all of the technical information concerning operation of the CoverMe Software subscription, including but not limited to, server specifications, internet connection information, personnel requirements and software implementations;
M. Identifying any commercially available software, by vendor and version number, integrated into the Applications and describing the particular functionality of any software that is proprietary to the Licensor;
N. Maintaining the host site, with the cost for such support, maintenance, and hosting for years following the initial three (3) year period not increasing annually beyond three percent (3%) or the percent increase in the consumer price index for all Urban Consumers, US City Average (C.P.I.-U) for the preceding year, whichever is less;
O. Providing 24x7x365 support of the site;
P. Providing redundant internet connections;
Q. Providing Transport Layer Security ("TLS") secure server support;
R. Maintaining sufficient bandwidth and server capacity to meet UMMC’s and Active Users’ demand as it may fluctuate and increase during the term of this Agreement, and;
S. Ensuring that all Licensee data remains within the continental United States;
T. Partitioning Licensee's data from other customer data so Licensee's access is not impaired due to e-discovery, seizure, or the like, and
U. Ensuring that upon termination or expiration of this Agreement that transition from the Licensor to UMMC or to a successor host will be accomplished at no expense to UMMC.
3.3 In the event Licensor creates any revisions to or upgrades of the system, Licensor shall provide UMMC thirty (30) days written notification of such revision or upgrade, and shall, upon request of UMMC, furnish such revision or upgrade to UMMC free of charge as part of the SaaS fees.

ARTICLE 4 SCOPE OF LICENSE AND RIGHT TO USE
4.1 Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a non-exclusive and non-transferable license to access the Applications over the Internet and to use it for Licensee’s business operations and use it on the Licensor’s host server for the Initial Term of the Agreement and any subsequent renewal terms in accordance with, and subject to, the terms and conditions set forth in this Agreement. Licensee and Active Users are granted access to the Applications and Services twenty-four (24) hours a day, seven (7) days a week, three hundred and sixty five (365) days a year, subject to regularly scheduled maintenance and required repairs. The terms and conditions of this Agreement will apply to any enhancements or additional software products Licensee may procure from Licensor.

4.2 Licensor will provide Licensee storage space on and access to Licensor’s Applications via the Internet and provide Internet access to the Applications and Cloud Services to the Active Users through Licensor’s site ("SaaS Services").

4.3 In connection with the SaaS Services, Licensor will provide and maintain all Applications and hardware, including, but not limited to, the server hardware and software, telecommunication hardware and software, security hardware and software and other software that is reasonably necessary to operate and maintain the Services.

4.4 The Applications and Services will be accessible at least ninety-nine percent (99%) of the time, twenty-four (24) hours a day, seven (7) days a week, except for scheduled maintenance and required repairs, and except for any loss or interruption of the SaaS Services due to causes beyond the control of Licensor. In the event that UMMC or an Active User is unable to achieve the 99% application availability during any given month, excluding scheduled maintenance, required repairs, and unavailability due to causes beyond the control of Licensor, the Licensor shall reimburse UMMC twenty-five percent (25%) of the monthly SaaS hosting fees for each twenty-four (24) hour day during which there were any incidents of unavailability. Licensor shall maintain the server at a secured location with restricted access.

4.5 Licensor shall provide the Licensee with its standard managed firewall service, which shall enable secure delivery of Licensor’s Services using fully redundant hardware-based firewalls. Licensor’s managed firewall service will be available twenty-four (24) hours a day, seven (7) days a week.

4.6 The use of the Services by Active Users will be governed solely by the terms and conditions of this Agreement.

4.7 UMMC acknowledges that Licensor retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein and under any other agreement in writing with UMMC, UMMC shall not obtain or claim any rights in or ownership interest to the Services or Applications or any associated intellectual property rights in any of the foregoing. UMMC agrees
to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by UMMC through the Services.

ARTICLE 5 ACCEPTANCE

5.1 Licensor shall make the Applications and Documentation available through its Services pursuant to the delivery schedule mutually agreed to by the parties.

5.2 UMMC shall have thirty (30) calendar days after the Available Date to evaluate and conduct the final acceptance testing of the Applications and Services to confirm that they perform without any defects and perform in accordance with the requirements of this Agreement. UMMC shall immediately thereafter notify Licensor of any defects in the Applications or Services which must be corrected. Thereafter, unless both parties agree to extend this period, Licensor shall have ten (10) business days in which to repair the Service or repair or replace the defective Applications, all at Licensor's expense, and UMMC shall have an additional thirty (30) calendar days to evaluate the Applications and Services. In the event Licensor is unable to repair the defect within this ten (10) day period, UMMC may terminate this Agreement pursuant to the Termination Article herein.

ARTICLE 6 CONSIDERATION AND METHOD OF PAYMENT

6.1 The total compensation to be paid to the Licensor by UMMC for all Applications, development, maintenance and SaaS Services, customizations, products, travel, performances and expenses under this Agreement shall not exceed the specified sum of $862,000.00, and shall be payable as set forth in the Payment Schedule attached hereto as Exhibit A.

6.2 Licensor shall submit invoices with the appropriate documentation to UMMC monthly for any month in which SaaS Services and/or other services are rendered. Licensor shall submit invoices and supporting documentation to UMMC electronically during the term of this Agreement using the processes and procedures identified by the State. UMMC agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by UMMC within forty-five (45) days of receipt of the invoice. Licensor understands and agrees that UMMC is exempt from the payment of taxes. All payments shall be in United States currency. Payments by state agencies using Mississippi’s Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The payments by these agencies shall be deposited into the bank account of the Licensor’s choice. No payment, including final payment, shall be construed as acceptance of defective products or incomplete work, and the Licensor shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled "Entire Agreement."

6.3 Acceptance by the Licensor of the last payment due from UMMC under this Agreement shall operate as a release of all claims for money against the State by the Licensor and any subcontractors or other persons supplying labor or materials used in the performance of the work under this Agreement.

ARTICLE 7 WARRANTY

7.1 Licensor represents and warrants that it has the right to license the Applications provided under this Agreement.
7.2 Licensor represents and warrants that the Applications provided by Licensor shall meet or exceed the minimum specifications set forth in Sole Source No. 4024 and Licensor's Proposal, as accepted by the State, in response thereto.

7.3 During the term of this Agreement, the Licensor represents and warrants that all deliverables shall be free from any defect, deficiency, faultiness, imperfection, inadequacy, incompleteness or other condition (collectively referred to herein as "Defect") which would render any such deliverable inoperable in any way or which would prevent full performance in accordance with this Agreement. This warranty includes, without limitation, correction of errors, design deficiencies, performance deficiencies, and incorrect or defective Documentation, including those found during acceptance testing, implementation, and the warranty period. Acceptance testing shall not in any way relieve the Licensor of its responsibilities to correct any Defect during the warranty period. The Licensor shall repair any Defect at no cost to the State within ten (10) business days of receiving notice of the Defect from the State, unless UMMC consents in writing to a longer period of repair time. In the event Licensor is unable to repair or replace the Application within the mutually agreed upon time frame after receipt of notice of the Defect, UMMC shall be entitled to a full refund of fees paid and shall have the right to terminate this Agreement in whole or in part as provided for in the Termination Article herein. Licensee's rights hereunder are in addition to any other rights Licensee may have.

7.4 During the term of this Agreement, the Licensor represents and warrants that its Services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such Services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, Licensor shall perform the Services again, at no cost to the State, or if Licensor is unable to perform the Services as warranted, Licensor shall reimburse the State the fees paid to Licensor for the unsatisfactory Services.

7.5 Licensor represents and warrants that the Application shall not contain a disabling code, lockup program or device. Licensor further agrees that it will not, under any circumstances including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Licensee's licensed use of the Applications and/or which would restrict Licensee from accessing its data files or in any way interfere with the transaction of Licensee's business. For any breach of this warranty, Licensor at its expense shall, within ten (10) business days after receipt of notification of the breach, remove any such disabling code, lockup program or device.

7.6 Licensor represents and warrants that it has tested and will test (not less than on a daily basis) the Applications using commercially reasonable methods to ensure that the Applications provided to UMMC do not and will not contain or incorporate any computer code, programs, procedures, mechanisms or programming devices (including but not limited to, viruses, trojan horses, or worms) that are designed to, or would enable Licensor or any third-party to, disrupt, modify, delete, damage, deactivate, disable, harm or otherwise impede the operation of the Licensor's system, or any other associated software, firmware, hardware, computer system or network, including UMMC's applications and UMMC's Content. For any breach of this warranty, Licensor at its expense shall, within five (5) business days after receipt of notification of the breach, be responsible for repairing, at Licensor's expense, any and all damage done by the virus or such to UMMC's applications and UMMC's Content.
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7.7 Licensor represents and warrants that the CoverMe Software subscription provided by the Licensor shall be reasonably expandable and scalable so UMMC can add and support additional business functions and users over time. It is understood and agreed that any standard revisions, enhancements, improvements, and upgrades to the Applications and host site equipment during the term of this Agreement, including operating system, database management system, and other software, shall be provided by Licensor to UMMC at no additional cost to UMMC.

7.8 Licensor represents and warrants that it presently has and will continue to maintain, at its own expense, throughout the term of this Agreement, valid licenses for all software, trademarks, service marks, patents and copyrighted material and any other proprietary information of a third party that it will deploy in support of all products Licensor uses in the performance of this Agreement.

7.9 If applicable under the given circumstances, Licensor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Licensor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security where required, to provide a copy of each such verification to the State. Licensor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Licensor understands and agrees that any breach of these warranties may subject Licensor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Licensor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Licensor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

7.10 Licensor represents and warrants that the system provided pursuant to this Agreement will pass both internal security audits and independent security audits. For any breach of the preceding warranty at any time during which the system is covered by warranty and/or software support, Licensor shall, at its own expense and at no cost to Licensee, remedy any defect, anomaly or security vulnerability in the system by repairing and/or replacing any and all components of the system necessary in order for the system to be secure.

7.11 Licensor represents and warrants that no official or employee of Licensee or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of said project, voluntarily acquire any personal interest, direct or indirect, in this Agreement. The Licensor warrants that it has removed any material conflict of interest prior to the signing of this Agreement, and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under this Agreement.
The Licensor also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

7.12 The Licensor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Licensor, terminate the right of the Licensor to proceed under this Agreement if it is found, after notice and hearing by the ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Licensor to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Licensor as it would pursue in the event of a breach of contract by the Licensor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

7.13 Licensor will not knowingly (a) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (b) use the Content for any purpose other than needed to provide the Services to UMMC hereunder; or (c) otherwise act in a fraudulent, malicious or negligent manner when providing the Services.

ARTICLE 8 INFRINGEMENT INDEMNIFICATION
8.1 Licensor represents and warrants, to the best of its knowledge, that neither the Applications and Services provided to UMMC under this Agreement nor their use by UMMC will violate or infringe on any copyright, patent, trade secret or other proprietary right of any person or entity. Licensor, at its own expense, shall defend or settle any and all infringement actions filed against Licensor or UMMC which involve the Applications, Services or other items provided under this Agreement and shall pay all costs, attorney fees, damages and judgment finally awarded against UMMC provided that: (a) UMMC notifies Licensor in writing of any such claim of which it has knowledge; (b) Licensor has, to the extent authorized by Mississippi law, sole control of the defense of any actions or negotiations related to the defense or settlement of any such claim, and (c) UMMC cooperates in the defense of the claim by supplying Licensor all relevant information currently available and in its possession, all at Licensor's expense. In no event shall the State compromise, settle or adversely impact the defense of any actions or negotiations without the prior, written consent of Licensor. Further, in no event shall Licensor compromise or settle any such actions or negotiations without the prior written consent of UMMC if such compromise or settlement would create an obligation or liability upon UMMC or the State. If, in any such suit arising from such claim, the continued use of the items for the purpose intended is enjoined or threatened to be enjoined by any court of competent jurisdiction, Licensor shall, at its expense: (a) first procure for UMMC the right to continue using such Applications or Services, or upon failing to procure such right; (b) modify or replace them with non-infringing items with equivalent functionality, or upon failing to secure either such right at Licensor's reasonable expense, (c) issue a pro-rata refund to UMMC for the fees previously paid by UMMC for the infringing Applications.
and Services UMMC may no longer use. Said refund shall be paid within ten (10) business days of notice to UMMC to discontinue said use.

8.2 Licensor shall have no obligation for infringement claims caused by: (a) an unauthorized modification of the Applications or Service by UMMC or a third party; (b) use of the Service other than in accordance with the Documentation for the Service or as authorized herein; (c) use of the Services in conjunction with any data, equipment or software not provided by Licensor where the Services would not otherwise be infringing except for such combination; or (d) use of the Services or Application by UMMC other than in accordance with this Agreement.

ARTICLE 9 DATA SECURITY

9.1 As part of the Services, Licensor shall provide administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of UMMC Content. Licensor agrees to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under this Agreement.

9.2 Prior to initiation of the Services under this Agreement and on an ongoing basis thereafter, UMMC agrees to provide notice to Licensor of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to UMMC’s industry and which could be imposed on Licensor as a result of provision of the Services. UMMC will ensure that: (a) the transfer to Licensor and storage of any PHI or PII by Licensor is permitted under applicable data protection laws and regulations; and, (b) UMMC will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

9.3 Licensor shall maintain a hosting environment that undergoes examinations from an independent auditor in accordance with the American Institute of Certified Public Accounts SSAE 16 (i.e. SOC 1) and the AICPA Trust Services Principles Section 100a, Trust Services for Security, Availability, Processing Integrity, Confidentiality and Privacy (i.e. SOC 2). Licensor’s private cloud shall be evaluated for the principles of Security, Availability and Confidentiality by the independent auditor. The data center in which Licensor’s private cloud is located shall undergo pertinent security examinations. Management access to Licensor's private cloud shall be limited to Licensor’s authorized support staff and UMMC’s authorized staff. The Applications shall provide UMMC with the ability to configure application security and logical access per UMMC’s business processes. In the event UMMC identifies a security issue, UMMC will notify Licensor.

9.4 At a minimum, Licensor’s safeguards for the protection of PHI and PII shall include: (i) limiting access of PHI and PII to authorized employees; (ii) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, device application, database and platform security; (iv) securing information transmission, storage and disposal; (v) implementing authentication and access controls within media, applications, operating systems and equipment; (vi) encrypting PII and PHI stored on any mobile media; (vii) encrypting PII and PHI transmitted over public or wireless networks; (viii) strictly segregating PII and PHI from information of Licensor or its other customers so that PII and PHI is not commingled with any other types of information; (ix) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (x) providing appropriate privacy and information security training to Licensor’s employees. Any and all subcontractors shall
achieve the aforementioned protection and encryption (in transit and at rest) of PHI and PII, as well as follow the stated breach policy.

9.5 Licensor will comply with all applicable federal and state laws to resolve security breaches, and, to the extent Licensor is responsible for such security breaches, will cover the cost of remedial measures as required by such laws and otherwise consistent with this Agreement. UMMC may seek equitable relief including a restraining order, injunctive relief, specific performance, and such other relief that may be available from a court in addition to any other remedy to which UMMC may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity.

9.6 At any time during the term of this Agreement at UMMC's request or upon the termination or expiration of this Agreement for any reason, Licensor shall promptly return to UMMC all copies, whether in written, electronic or other form or media, of PHI and PII in its possession, or securely dispose of all such copies, and certify in writing to UMMC that such has been returned to UMMC or disposed of securely. Licensor shall comply with all reasonable directions provided by UMMC with respect to the return or disposal of PHI and PII.

9.7 Upon UMMC's request, to confirm Licensor's compliance with this Agreement, as well as any applicable laws, regulations and industry standards, Licensor grants UMMC or, upon UMMC's election, a third party on UMMC's behalf, permission to perform an assessment, audit, examination or review of all controls in Licensor's physical and/or technical environment in relation to all PHI or PII being handled and/or services being provided to UMMC pursuant to this Agreement. Licensor shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, Documentation, infrastructure and application software that processes, stores or transports PHI or PII for UMMC pursuant to this Agreement.

9.8 It is understood and agreed that at least once per year, Licensor shall conduct site audits of the information technology and information security controls for all facilities used in complying with its obligations under this Agreement, including but not limited to, obtaining a network-level vulnerability assessment performed by a recognized third-party audit firm based on the recognized industry best practices. Licensor shall make the reports available to UMMC for review. Any exceptions noted on the Statement on Standards for Attestation Engagements (SSAE) report or other audit reports will be promptly addressed with the development and implementation of a corrective action plan by Licensor's management and resolved, at Licensor's sole expense, within thirty (30) calendar days of the audit.

ARTICLE 10 EMPLOYMENT STATUS
10.1 Licensor shall, during the entire term of this Agreement, be construed to be an independent contractor. Nothing in this Agreement is intended to nor shall be construed to create an employer-employee relationship, or a joint venture relationship.

10.2 Licensor represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of Licensee.

10.3 Any person assigned by Licensor to perform the Services hereunder shall be the
employee of Licensor, who shall have the sole right to hire and discharge its employee. Licensee may, however, direct Licensor to replace any of its employees under this Agreement.

10.4 Licensor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither Licensor nor employees of Licensor are entitled to state retirement or leave benefits.

ARTICLE 11 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS
Licensor will be responsible for the behavior of all its employees and subcontractors while on the premises of any Licensee location. Any employee or subcontractor acting in a manner determined by the administration of that location to be detrimental, abusive or offensive to any of the staff will be asked to leave the premises and may be suspended from further work on the premises. All Licensor employees and subcontractors who will be working at such locations shall be covered by Licensor’s comprehensive general liability insurance policy.

ARTICLE 12 MODIFICATION OR RENEGOTIATION
This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 13 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS
13.1 In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Licensor represents all contractors, third parties, and/or subcontractors Licensor has assembled for this project. The Licensee is required to negotiate only with Licensor, as Licensor’s commitments are binding on all proposed contractors, third parties, and subcontractors.

13.2 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties’ respective successors and assigns.

13.3 Licensor must obtain the written approval of Licensee before subcontracting any portion of this Agreement. No such approval by Licensee of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of Licensee in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that Licensee may deem necessary.

13.4 Licensor represents and warrants that any subcontract agreement Licensor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Licensee, and that the subcontractor acknowledges that no privity of contract exists between the Licensee and the subcontractor and that the Licensor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Licensor. The Licensor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions,
damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Licensor’s failure to pay any and all amounts due by Licensor to any subcontractor, third party liensor, materialman, laborer or the like.

13.5 All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication or settlement of any dispute between the Licensor and the Licensee, where such dispute affects the subcontract.

ARTICLE 14  AVAILABILITY OF FUNDS
It is expressly understood and agreed that the obligation of Licensee to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the fulfillment of this Agreement are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to Licensee for the payments or performance due under this Agreement, Licensee shall have the right to immediately terminate this Agreement, in whole or in part, without damage, penalty, cost or expense to Licensee of any kind whatsoever, except for payment for work completed by Licensor and accepted by Licensee prior to termination. The effective date of termination shall be as specified in the notice of termination. Licensee shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement.

ARTICLE 15  TERMINATION
15.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, as follows: (a) upon the mutual, written agreement of the parties; (b) If either party fails to comply with the terms of this Agreement, the non-defaulting party may terminate the Agreement upon the giving of thirty (30) calendar days written notice unless the breach is cured within said thirty (30) day period; (c) Licensee may terminate the Agreement in whole or in part without the assessment of any penalties upon ten (10) calendar days written notice to Licensor if Licensee becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary, or (d) Licensee may terminate this Agreement in whole or in part for any reason without the assessment of any penalties after giving thirty (30) calendar days written notice specifying the effective date thereof to Licensor. The provisions of this Article do not limit either party’s right to pursue any other remedy available at law or in equity.

15.2 In the event Licensee terminates this Agreement, Licensor shall be paid for Services rendered by Licensor and accepted by Licensee prior to the termination. Further, upon termination of this Agreement, Licensor shall refund any and all applicable unexpended prorated annual SaaS fees previously paid by Licensee.

ARTICLE 16  GOVERNING LAW
This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Licensor expressly agrees that under no circumstances shall the State be obligated to pay an attorney’s fee, prejudgment interest or the cost of legal action to Licensor. Further, nothing in this Agreement shall affect any statutory rights the parties may have that cannot be waived or limited by contract.
ARTICLE 17 WAIVER
Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by either party, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of that party.

ARTICLE 18 SEVERABILITY
If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law provided that the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

ARTICLE 19 CAPTIONS
The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or Article in this Agreement.

ARTICLE 20 HOLD HARMLESS
To the fullest extent allowed by law, Licensor shall indemnify, defend, save and hold harmless, protect and exonerate Licensee, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or caused by Licensor and/or its partners, principals, agents, employees or subcontractors in the performance of or failure to perform this Agreement.

ARTICLE 21 THIRD PARTY ACTION NOTIFICATION
Licensor shall notify Licensee in writing within five (5) business days of Licensor filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Licensor or Licensee by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Licensor's performance under this Agreement. Failure of the Licensor to provide such written notice to Licensee shall be considered a material breach of this Agreement and Licensee may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

ARTICLE 22 AUTHORITY TO CONTRACT
Licensor warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 23 NOTICE
Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent
by certified United States mail, postage prepaid, return receipt requested, or overnight courier
with signed receipt, to the party to whom the notice should be given at their business address
listed herein. ITS' address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi
Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi
39211. Licensee’s address for notice is: Mr. Kevin Yearick, Chief Technology Officer, University
of Mississippi Medical Center, 2500 North State Street, Jackson, Mississippi 39216. The
Licensor’s address for notice is: Mr. Gregg A. Phillips, Chief Executive Officer, AutoGov, One
Chase Corporation Drive, Suite 400, Birmingham, Alabama 35244. Notice shall be deemed given
when actually received or when refused. The parties agree to promptly notify each other in writing
of any change of address.

ARTICLE 24 RECORD RETENTION AND ACCESS TO RECORDS
Licensor shall establish and maintain financial records, supporting documents, statistical records
and such other records as may be necessary to reflect its performance of the provisions of this
Agreement. The Licensee, ITS, any state or federal agency authorized to audit Licensee, and/or
any of their duly authorized representatives, shall have unimpeded, prompt access to this
Agreement and to any of the Licensor’s proposals, books, documents, papers and/or records that
are pertinent to this Agreement to make audits, copies, examinations, excerpts and transcriptions
at the State’s or Licensor’s office as applicable where such records are kept during normal
business hours. All records relating to this Agreement shall be retained by the Licensor for three
(3) years from the date of receipt of final payment under this Agreement. However, if any litigation
or other legal action, by or for the state or federal government has begun that is not completed at
the end of the three (3) year period, or if an audit finding, litigation or other legal action has not
been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 25 INSURANCE
Licensor represents that it will maintain workers’ compensation insurance as prescribed by law
which shall inure to the benefit of Licensor’s personnel, as well as comprehensive general liability
and employee fidelity bond insurance. Licensor will, upon request, furnish Licensee with a
certificate of conformity providing the aforesaid coverage.

ARTICLE 26 DISPUTES
Any dispute concerning a question of fact under this Agreement which is not disposed of by
agreement of the Licensor and Licensee, shall be decided by the Executive Director of ITS or
his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished
to the parties. Disagreement with such decision by either party shall not constitute a breach under
the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights
and remedies it may have at law or in equity.

ARTICLE 27 COMPLIANCE WITH LAWS
27.1 Licensor shall comply with, and all activities under this Agreement shall be subject to, all
Licensee policies and procedures which Licensor has received copies of, and all applicable
federal, state, and local laws, regulations, policies and procedures as now existing and as may
be amended or modified. Specifically, but not limited to, Licensor shall not discriminate against
any employee nor shall any party be subject to discrimination in the performance of this
Agreement because of race, creed, color, sex, age, national origin or disability. Further, if
applicable, Licensor shall comply with the provisions of the Davis-Bacon Act including, but not
limited to, the wages, recordkeeping, reporting and notice requirements set forth therein.
27.2 Licensor represents and warrants that it will comply with the state’s data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Licensor represents and warrants that it will comply with the applicable provisions of the Family Educational Rights & Privacy Act (FERPA) of 1974 (34 CFR Part 99); HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) ("Privacy Rule" and "Security Regulations", individually; or "Privacy and Security Regulations", collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (the "HITECH Act").

ARTICLE 28 CONFLICT OF INTEREST
Licensor shall notify Licensee of any potential conflict of interest resulting from the provision of services to other customers. If such conflict cannot be resolved to Licensee’s satisfaction, Licensee reserves the right to terminate this Agreement.

ARTICLE 29 SOVEREIGN IMMUNITY
By entering into this Agreement with Licensor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 30 CONFIDENTIAL INFORMATION
30.1 Licensor shall treat all Licensee data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Licensee. In the event that Licensor receives notice that a third party requests divulge of confidential or otherwise protected information and/or has served upon it a validly issued judicial order requiring divulge of such information, Licensor shall promptly inform Licensee and thereafter respond in conformity with such court order to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement and shall continue in full force and effect and shall be binding upon the Licensor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in this Agreement on behalf of, or under the rights of the Licensor following any termination or completion of this Agreement.

30.2 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Licensor. ITS will provide third party notice to Licensor of any requests received by ITS for any such confidential exhibits so as to allow Licensor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

30.3 The parties understand and agree that pursuant to §25-81-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed confidential information.

ARTICLE 31 EFFECT OF SIGNATURE
Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Licensor on the basis of
draftsmanship or preparation hereof.

ARTICLE 32 NON-SOLICITATION OF EMPLOYEES
Licensor agrees not to employ or to solicit for employment, directly or indirectly, any of Licensee's employees until at least one (1) year after the expiration/termination of this Agreement unless mutually agreed to the contrary in writing by Licensee and the Licensor and provided that such an agreement between these two entities is not a violation of the laws of the State of Mississippi or the federal government.

ARTICLE 33 ENTIRE AGREEMENT
33.1 This contract constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating thereto, including all terms of any "shrink-wrap", "click-wrap" or "browse-wrap" license of the Software. The Notice of Intent to Certify Sole Source No. 4024 and Licensor's Proposal, as accepted by the State, in response thereto are hereby incorporated into and made a part of this Agreement.

33.2 The contract made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

A. This Agreement signed by the parties hereto;
B. Any exhibits attached to this Agreement;
C. Notice of Intent to Certify Sole Source No. 4024 and written addenda, and
D. Licensor's Proposal, as accepted by the State, in response to the Notice of Intent to Certify Sole Source.

33.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Licensor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("D. Licensor's Proposal").

ARTICLE 34 STATE PROPERTY
Licensor shall be responsible for the proper custody of any Licensee-owned property furnished for Licensor's use in connection with Services performed pursuant to this Agreement. Licensor shall reimburse the Licensee for any loss or damage, normal wear and tear excepted.

ARTICLE 35 SURVIVAL
Articles 7, 8, 18, 20, 24, 29, 30, 32, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 36 DEBARMENT AND SUSPENSION CERTIFICATION
Licensor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed
for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

ARTICLE 37 SPECIAL TERMS AND CONDITIONS
It is understood and agreed by the parties to this Agreement that there are no special terms and conditions except as specifically provided in this Agreement.

ARTICLE 38 STATUTORY AUTHORITY
By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the executive director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of the Licensee’s or Licensor’s contractual obligations, financial or otherwise, contained within this Agreement. The parties further acknowledge that ITS is not responsible for ensuring compliance with any guidelines, conditions, or requirements mandated by Licensee’s funding source.

ARTICLE 39 COMPLIANCE WITH ENTERPRISE SECURITY POLICY
Licensor and Licensee understand and agree that all products and services provided by Licensor under this Agreement must be and remain in compliance with the State of Mississippi’s Enterprise Security Policy. The parties understand and agree that the State’s Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Agreement and require the Licensor to comply with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

ARTICLE 40 SOFTWARE SUPPORT AND MAINTENANCE
40.1 As part of the maintenance services, Licensor will maintain the Applications and Services in an operable condition according to the specifications contained in the technical manuals and as outlined in the RFP and Licensor’s Proposal in response thereto. Licensor shall provide Licensee with enhancements to the Applications as they are made generally available from time to time.

40.2 Licensor shall also provide unlimited email and toll-free telephone technical support in the operation of the Applications and Service twenty-four (24) hours a day, seven (7) days a week. Licensor shall respond by telephone within one (1) hour to requests for support services. Licensee shall be given priority placement in the support queue for all system locking situations or problems.
claimed by Licensee to be a mission critical process. Upon receipt of Licensee’s call, Licensor will (a) create an error report, (b) assign a severity level and (c) attempt to resolve the problem in accordance with the procedures and processes for problem resolution detailed below. It is understood by the parties that the Licensee and Licensor must mutually agree on whether an error is classified as a Severity Level 1, 2, or 3 error.

40.3 Severity Level 1 implies that the Application is not functioning. Some examples of Severity Level 1 problems are as follows: (a) Application is down and will not restart; (b) Application is not able to communicate with external systems; and (c) Application is generating a data corruption condition. Licensor shall resolve Severity Level 1 Errors within one (1) business day, or within a mutually agreed upon time frame. When a Severity Level 1 Error is reported, Licensor will assign resources necessary to correct the Error.

40.4 Severity Level 2 implies that (a) an essential function does not work as documented, or (b) testing and usage can continue but the task cannot be completed, and no workarounds exist. Licensor shall assign at least one (1) dedicated person to the problem and shall resolve Severity Level 2 Errors within two (2) business days, or within a mutually agreed upon time frame.

40.5 Severity Level 3 implies an Application Error such that implementations of function do not match specification and/or technical Documentation, and a workaround may exist. Licensor shall resolve Severity Level 3 Errors within ten (10) business days, or within a mutually agreed upon time frame.

ARTICLE 41  FORCE MAJEURE
Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war or terrorism, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events"). When such a cause arises, the Licensor shall notify the Licensee immediately in writing of the cause of its inability to perform; how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate this Agreement.

ARTICLE 42  TRANSPARENCY
In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Agreement and any subsequent amendments and change orders shall be posted to the State of Mississippi’s accountability website at: https://www.transparency.mississippi.gov. Prior to ITS posting the Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as “confidential” will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed a trade secret or confidential.
commercial or financial information and shall thus not be redacted.

For the faithful performance of the terms of this Agreement, the parties hereto have caused this Agreement to be executed by their undersigned authorized representatives.

State of Mississippi, Department of Information Technology Services, on behalf of the University of Mississippi Medical Center

By: ____________________________
    Authorized Signature

Printed Name: Craig P. Orgeron, Ph.D.
Title: Executive Director
Date: ____________________________

AutoGov

By: ____________________________
    Authorized Signature

Printed Name: ____________________
Title: ____________________________
Date: ____________________________
## Exhibit A

**CoverMe Subscription Fee Schedule**

<table>
<thead>
<tr>
<th>Client</th>
<th>University of Mississippi Medical Center</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solution Plan</td>
<td>Thirty-six (36) month Subscription Agreement</td>
</tr>
<tr>
<td>Subscription Fee</td>
<td>$24,500.00 per month, includes 1,000 Score Requests per month</td>
</tr>
<tr>
<td>Call Center Interview Fee</td>
<td>$6.00 per call</td>
</tr>
<tr>
<td>Score Request Overage Fee</td>
<td>$2.00 per Score Request</td>
</tr>
<tr>
<td>Access to all standard CoverMe Features</td>
<td>Included</td>
</tr>
<tr>
<td>User Accounts</td>
<td>Unlimited</td>
</tr>
<tr>
<td>Custom Rule and Risk Indexes</td>
<td>Included</td>
</tr>
<tr>
<td>Bulk Import Case Processing</td>
<td>Included</td>
</tr>
<tr>
<td>Dynamic Applications, including Information Autofill</td>
<td>Included</td>
</tr>
<tr>
<td>Reporting and Analytics</td>
<td>Included</td>
</tr>
<tr>
<td>Implementation and Training</td>
<td>Included</td>
</tr>
<tr>
<td>Technical Support</td>
<td>Included</td>
</tr>
</tbody>
</table>
PROJECT NUMBER 42041
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
NTHRIVE, INC.
(Formerly MedAssets-Precyse)
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

This Professional Services Agreement (hereinafter referred to as "Agreement") is entered into by and between nThrive, Inc. (formerly MedAssets-Precyse), a Delaware corporation having its principal place of business at 200 North Point Center East, Suite 400, Alpharetta, Georgia 30022 (hereinafter referred to as "Contractor"), and Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for the University of Mississippi Medical Center located at 2500 North State Street, Jackson, Mississippi 39216 (hereinafter referred to as "Customer"). ITS and Customer are sometimes collectively referred to herein as "State".

WHEREAS, Customer, pursuant to Request for Proposals ("RFP") No. 3821 requested proposals for the acquisition of key services for Patient Statement and Skip Tracing Services, and

WHEREAS, Contractor submitted a proposal as MedAssets-Precyse and has since changed their name to nThrive, Inc., and

WHEREAS, Contractor was the successful proposer in an open, fair and competitive procurement process to provide the services described herein;

NOW THEREFORE, in consideration of the mutual understandings, promises and agreements set forth, the parties hereto agree as follows:

ARTICLE 1 PERIOD OF PERFORMANCE
1.1 Unless this Agreement is extended by mutual agreement or terminated as prescribed elsewhere herein, this Agreement shall begin on the date it is signed by all parties ("Effective Date") and shall continue in effect for five (5) years thereafter ("Initial Term"). At the end of the Initial Term, this Agreement may, upon the written agreement of the parties, be renewed for an additional term, the length of which will be agreed upon by the parties. Sixty (60) days prior to the expiration of the Initial Term or any renewal term of this Agreement, Contractor shall notify Customer and ITS of the impending expiration and Customer shall have thirty (30) days in which to notify Contractor of its intention to either renew or cancel the Agreement.

1.2 This Agreement will become a binding obligation on the State only upon the issuance of a valid purchase order by the Customer following contract execution and the issuance by ITS of the CP-1 Acquisition Approval Document.
ARTICLE 2 SCOPE OF SERVICES
Contractor shall perform all work specified in RFP No. 3821 and Contractor’s proposal, as accepted by the Customer, in response thereto. A summary description of the services Contractor will be providing and the price associated therewith is set out in the attached "Exhibit A" which is incorporated herein by reference.

ARTICLE 3 CONSIDERATION AND METHOD OF PAYMENT
3.1 The total compensation to be paid to the Contractor by Customer for all products, services, travel, performances and expenses under this Agreement shall not exceed the specified sum of $2,506,800.00 unless prior written authorization from ITS has been obtained, and shall be payable as set forth in the Payment Schedule and Deliverables List attached hereto as Exhibit A.

3.2 Customer shall have ten (10) working days to review each deliverable and to either notify Contractor of acceptance or to provide Contractor a detailed list of deficiencies that must be remedied prior to payment being made. In the event the Customer notifies the Contractor of deficiencies, the Contractor shall correct such deficiencies within five (5) working days unless the Customer consents in writing to a longer period of time.

3.3 Contractor shall submit an invoice with the appropriate documentation to Customer upon Customer’s acceptance of the deliverables. Contractor shall submit invoices and supporting documentation to Customer electronically during the term of this Agreement using the processes and procedures identified by the State. Customer agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by Customer within forty-five (45) days of receipt of the invoice. Contractor understands and agrees that Customer is exempt from the payment of taxes. All payments shall be in United States currency. Payments by state agencies using Mississippi’s Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The payments by these agencies shall be deposited into the bank account of the Contractor’s choice. No payment, including final payment, shall be construed as acceptance of defective products or incomplete work, and the Contractor shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled “Entire Agreement.”

3.4 Acceptance by the Contractor of the last payment from the Customer shall operate as a release of all claims against the State by the Contractor and any subcontractors or other persons supplying labor or materials used in the performance of the work under this Agreement.

ARTICLE 4 WARRANTIES
4.1 The Contractor represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Contractor shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to Customer, or if Contractor is unable to perform the services as warranted, Contractor shall reimburse Customer the fees paid to Contractor for the unsatisfactory services.
4.2 If applicable under the given circumstances, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq., of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

4.3 Contractor represents and warrants that no official or employee of Customer or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of said project, voluntarily acquire any personal interest, direct or indirect, in this Agreement. The Contractor warrants that it has removed any material conflict of interest prior to the signing of this Agreement, and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under this Agreement. The Contractor also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

4.4 The Contractor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Agreement if it is found, after notice and hearing by the ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Contractor to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Contractor as it would pursue in the event of a breach of contract by the Contractor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.
EXHIBIT 2
January 18, 2018

ARTICLE 5 EMPLOYMENT STATUS
5.1 Contractor shall, during the entire term of this Agreement, be construed to be an independent contractor. Nothing in this Agreement is intended to nor shall be construed to create an employer-employee relationship, or a joint venture relationship.

5.2 Contractor represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of Customer.

5.3 Any person assigned by Contractor to perform the services hereunder shall be the employee of Contractor, who shall have the sole right to hire and discharge its employee. Customer may, however, direct Contractor to replace any of its employees under this Agreement.

5.4 Contractor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither Contractor nor employees of Contractor are entitled to state retirement or leave benefits.

5.5 It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to Contractor shall be paid as a gross sum with no withholdings or deductions being made by Customer for any purpose from said contract sum, except as permitted herein in the article titled "Termination".

ARTICLE 6 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS
Contractor will be responsible for the behavior of all its employees and subcontractors while on the premises of any Customer location. Any employee or subcontractor acting in a manner determined by the administration of that location to be detrimental, abusive or offensive to any of the staff and/or student body, will be asked to leave the premises and may be suspended from further work on the premises. All Contractor employees and subcontractors who will be working at such locations shall be covered by Contractor’s comprehensive general liability insurance policy.

ARTICLE 7 MODIFICATION OR RENEGOTIATION
This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 8 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS
8.1 In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Contractor represents all contractors, third parties, and/or subcontractors Contractor has assembled for this project. The Customer is required to negotiate only with Contractor, as Contractor’s commitments are binding on all proposed contractors, third parties,
and subcontractors.

8.2 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties' respective successors and assigns.

8.3 Contractor must obtain the written approval of Customer before subcontracting any portion of this Agreement. No such approval by Customer of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of Customer in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that Customer may deem necessary.

8.4 Contractor represents and warrants that any subcontract agreement Contractor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Customer, and that the subcontractor acknowledges that no privity of contract exists between the Customer and the subcontractor and that the Contractor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Contractor. The Contractor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Contractor's failure to pay any and all amounts due by Contractor to any subcontractor, materialman, laborer or the like.

8.5 All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication or settlement of any dispute between the Contractor and the Customer, where such dispute affects the subcontract.

ARTICLE 9  AVAILABILITY OF FUNDS
It is expressly understood and agreed that the obligation of Customer to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the fulfillment of this Agreement are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to Customer for the payments or performance due under this Agreement, Customer shall have the right to immediately terminate this Agreement, without damage, penalty, cost or expense to Customer of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. Customer shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement.

ARTICLE 10  TERMINATION
10.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, as follows: (a) upon the mutual, written agreement of the
parties; (b) If either party fails to comply with the terms of this Agreement, the non-defaulting party may terminate the Agreement upon the giving of thirty (30) days written notice unless the breach is cured within said thirty (30) day period; (c) Customer may terminate the Agreement in whole or in part without the assessment of any penalties upon thirty (30) days written notice to Contractor if Contractor becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary, or (d) Customer may terminate the Agreement for any reason without the assessment of any penalties after giving thirty (30) days written notice specifying the effective date thereof to Contractor. The provisions of this Article do not limit either party's right to pursue any other remedy available at law or in equity.

10.2 In the event Customer terminates this Agreement, Contractor shall be paid for satisfactory work completed by Contractor and accepted by Customer prior to the termination. Such compensation shall be based upon the amounts set forth in the Article herein on "Consideration and Method of Payment", but in no case shall said compensation exceed the total fixed price of this Agreement.

10.3 Notwithstanding the above, Contractor shall not be relieved of liability to Customer for damages sustained by Customer by virtue of any breach of this Agreement by Contractor, and Customer may withhold any payments to Contractor for the purpose of set off until such time as the exact amount of damages due Customer from Contractor are determined.

ARTICLE 11 GOVERNING LAW
This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Contractor expressly agrees that under no circumstances shall Customer be obligated to pay an attorney’s fee, prejudgment interest or the cost of legal action to Contractor. Further, nothing in this Agreement shall affect any statutory rights Customer may have that cannot be waived or limited by contract.

ARTICLE 12 WAIVER
Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by the State, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of the State.

ARTICLE 13 SEVERABILITY
If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law provided that the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

ARTICLE 14 CAPTIONS
The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or Article in this Agreement.
ARTICLE 16  HOLD HARMLESS
To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect and exonerate Customer, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or caused by Contractor and/or its partners, principals, agents, employees or subcontractors in the performance of or failure to perform this Agreement.

ARTICLE 16  THIRD PARTY ACTION NOTIFICATION
Contractor shall notify Customer in writing within five (5) business days of Contractor filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Contractor or Customer by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Contractor’s performance under this Agreement. Failure of the Contractor to provide such written notice to Customer shall be considered a material breach of this Agreement and the Customer may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

ARTICLE 17  AUTHORITY TO CONTRACT
Contractor warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 18  NOTICE
Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS’ address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Customer’s address for notice is: Ms. Cindy Freeman, Senior Contract Administrator, University of Mississippi Medical Center, 2500 North State Street, Jackson, Mississippi 39216. The Contractor’s address for notice is: Ms. Amy Amick, President-Revenue Cycle Management, MedAssets-Precyse, 200 North Point Center East, Suite 400, Alpharetta, Georgia 30022. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

ARTICLE 19  RECORD RETENTION AND ACCESS TO RECORDS
Contractor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Customer, ITS, any state or federal agency authorized to audit Customer, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this
Agreement and to any of the Contractor's proposals, books, documents, papers and/or records that are pertinent to this Agreement to make audits, copies, examinations, excerpts and transcriptions at the State's or Contractor's office as applicable where such records are kept during normal business hours. All records relating to this Agreement shall be retained by the Contractor for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 20  INSURANCE
Contractor represents that it will maintain workers' compensation insurance as prescribed by law which shall inure to the benefit of Contractor's personnel, as well as comprehensive general liability and employee fidelity bond insurance. Contractor will, upon request, furnish Customer with a certificate of conformity providing the aforesaid coverage.

ARTICLE 21  DISPUTES
Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Contractor and Customer, shall be decided by the Executive Director of ITS or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

ARTICLE 22  COMPLIANCE WITH LAWS
22.1 Contractor shall comply with, and all activities under this Agreement shall be subject to, all Customer policies and procedures, and all applicable federal, state, and local laws, regulations, policies and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Contractor shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin or disability. Further, if applicable, Contractor shall comply with the provisions of the Davis-Bacon Act including, but not limited to, the wages, recordkeeping, reporting and notice requirements set forth therein.

22.2 Contractor represents and warrants that it will comply with the state's data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Contractor represents and warrants that it will comply with the applicable provisions of the HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) ("Privacy Rule" and "Security Regulations", individually; or "Privacy and Security Regulations", collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (the "HITECH Act").

ARTICLE 23  CONFLICT OF INTEREST
Contractor shall notify the Customer of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to the Customer's satisfaction, the Customer reserves the right to terminate this Agreement.
ARTICLE 24 SOVEREIGN IMMUNITY
By entering into this Agreement with Contractor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 25 CONFIDENTIAL INFORMATION
25.1 Contractor shall treat all Customer data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Customer. In the event that Contractor receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Contractor shall promptly inform Customer and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement and shall continue in full force and effect and shall be binding upon the Contractor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in this Agreement on behalf of, or under the rights of the Contractor following any termination or completion of this Agreement.

25.2 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Contractor. ITS will provide third party notice to Contractor of any requests received by ITS for any such confidential exhibits so as to allow Contractor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

25.3 The parties understand and agree that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed confidential information.

ARTICLE 26 EFFECT OF SIGNATURE
Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Contractor on the basis of draftsmanship or preparation hereof.

ARTICLE 27 OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS
All data, electronic or otherwise, collected by Contractor and all documents, notes, programs, data bases (and all applications thereof), files, reports, studies, and/or other material collected and prepared by Contractor in connection with this Agreement, whether completed or in progress, shall be the property of Customer upon completion of this Agreement or upon termination of this Agreement. Customer hereby reserves all rights to the databases and all applications thereof and to any and all information and/or materials prepared in connection with this Agreement. Contractor is prohibited from use of the above described information and/or materials without the express written approval of Customer.
ARTICLE 28 NON-SOLICITATION OF EMPLOYEES
Contractor agrees not to employ or to solicit for employment, directly or indirectly, any of the Customer's employees until at least one (1) year after the expiration/termination of this Agreement unless mutually agreed to the contrary in writing by the Customer and the Contractor and provided that such an agreement between these two entities is not a violation of the laws of the State of Mississippi or the federal government.

ARTICLE 29 ENTIRE AGREEMENT
29.1 This Contract constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating thereto. The RFP No. 3821 and Contractor's Proposal, as accepted by Customer, in response thereto are hereby incorporated into and made a part of this Contract.

29.2 The Contract made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

A. This Agreement signed by the parties hereto;
B. Any exhibits attached to this Agreement;
C. RFP No. 3821 and written addenda, and
D. Contractor's Proposal, as accepted by Customer, in response to RFP No. 3821.

29.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Contractor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("D. Contractor's Proposal").

ARTICLE 30 STATE PROPERTY
Contractor shall be responsible for the proper custody of any Customer-owned property furnished for Contractor's use in connection with work performed pursuant to this Agreement. Contractor shall reimburse the Customer for any loss or damage, normal wear and tear excepted.

ARTICLE 31 SURVIVAL
Articles 4, 11, 15, 19, 24, 25, 27, 28, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 32 DEBARMENT AND SUSPENSION CERTIFICATION
Contractor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by
any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

ARTICLE 33 SPECIAL TERMS AND CONDITIONS
It is understood and agreed by the parties to this Agreement that there are no special terms and conditions.

ARTICLE 34 COMPLIANCE WITH ENTERPRISE SECURITY POLICY
Contractor and Customer understand and agree that all products and services provided by Contractor under this Agreement must be and remain in compliance with the State of Mississippi's Enterprise Security Policy. The parties understand and agree that the State's Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Agreement and require the Contractor to comply with same in the event the Industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

ARTICLE 35 STATUTORY AUTHORITY
By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the executive director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of Customer's or Contractor's contractual obligations, financial or otherwise, contained within this Agreement. The parties further acknowledge that ITS is not responsible for ensuring compliance with any guidelines, conditions, or requirements mandated by Customer's funding source.

ARTICLE 36 TRANSPARENCY
In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Agreement and any subsequent amendments and change orders shall be posted to the State of Mississippi's accountability website at: https://www.transparency.mississippi.gov. Prior to ITS posting the Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as
exhibit 2
January 18, 2018

"confidential" will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.

For the faithful performance of the terms of this Agreement, the parties hereto have caused this Agreement to be executed by their undersigned authorized representatives.

State of Mississippi, Department of Information Technology Services, on behalf of University of Mississippi Medical Center

By: __________________________
Authorized Signature

Printed Name: Craig P. Orgeron, Ph.D.
Title: Executive Director
Date: _________________________
nThrive, Inc.

By: __________________________
Authorized Signature

Printed Name: __________________
Title: __________________________
Date: __________________________
## EXHIBIT A

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<th>Total Paid</th>
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### Optional Services

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<td>Pressure Sealed Letter</td>
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<td>ViewLogic Web</td>
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<tr>
<td>ViewLogic FTP</td>
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This document is your authorization from ITS to purchase the following products and/or services from the vendor listed, at or below the prices itemized. If no vendor is listed, proceed according to ITS exemption instructions or instructions included on the Planned Purchase Approval Letter accompanying this CP-1. This procurement is contingent upon availability of funds and will not become final until the vendor has received your purchase order. Keep this form with your financial records as an audit trail of ITS procurement approval.

For additional information regarding the ITS Procurement Process and CP-1 Approval Documents, refer to the ITS Procurement Handbook, located at http://www.its.state.ms.us/its/procman.nsf. The following sections of the Procurement Handbook include information specifically related to CP-1 approvals: 009-025, 013-040, and 013-080.

If you need additional assistance regarding this CP-1, please contact the ITS Procurement Help Desk at 601-432-8168 or e-mail isshelp@its.ms.gov.

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<th>UMMC-University of MS Medical Center</th>
<th>PLACE ORDER TO: 3100034795 TOSHIBA CORPORATION CONNECTED OFFICE PROD OF MS P. O. BOX 1217 COLUMBUS, MS 39703-1217</th>
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<td>ATTN: Cindy Freeman</td>
<td>MAKE PAYMENT TO: 7000005361 TOSHIBA CORPORATION CONNECTED OFFICE PROD OF MS P. O. BOX 1217 COLUMBUS, MS 39703-1217</td>
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<tr>
<td>2500 North State Street</td>
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<td>Jackson, MS 39216</td>
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MAX ANNUAL % INCREASE 0.00 | CP1 LIFECYCLE LIMIT 7,741,954.80 | NUMBER OF PAYMENTS 1 |

Toshiba Business Solutions will supply, manage, and maintain the document output devices. This solution is scalable and will be able to reach all of the business units that make up the UMMC organization.

A Lease Agreement has been executed.

APPROVED ITS DATE: 08/22/2016

PRODUC TS AND SERVICES PURCHASE DETAILS

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<tr>
<th>QTY</th>
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<td>Optional Trays ($5.92/month*60 months)</td>
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TOTAL | MAXIMUM 7,741,954.80 |
**EXHIBIT 3**

Effective Date: 08/10/2016  
Expiration Date: 08/09/2021  
Date Printed: 08/22/2016  
Procurement Type: COMPETITIVE PROCUREMENT

**COMMODITY CODES – 61920000000**

**DISTRIBUTION TO**  
ISS MAGIC - EMAIL: issmagic@its.ms.gov

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<th>REPLACEMENT</th>
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<td>ATHY</td>
<td>04/21/2016</td>
<td>REPLACEMENT</td>
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**CP-1 LIFECYCLE REPORT**

Product/Services: Managed Document Solution for 5 years

Payment frequency: MAXIMUM  
Max Annual % Increase: 0.00

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<th>PERIOD</th>
<th>PAYMENT AMOUNT</th>
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<td>Total</td>
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<td>7,741,954.80</td>
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PROJECT NUMBER 43393
CHANGE ORDER NUMBER 1 TO
LEASE AGREEMENT
BETWEEN
TOSHIBA BUSINESS SOLUTIONS
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
UNIVERSITY OF MISSISSIPPI MEDICAL CENTER
(ORIGINAL PROJECT NUMBER 41621)

WHEREAS, a Lease Agreement (hereinafter referred to as “Original Contract”) was entered into by and between Toshiba Business Solutions, a Division of Toshiba America Business Solutions, Inc, a California corporation having a local place of business at 371 Highland Colony Parkway, Ridgeland, Mississippi 39157 (hereinafter referred to as “Lessor”) and the Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as “ITS”) as contracting agent for the University of Mississippi Medical Center located at 2500 North State Street, Jackson, Mississippi 39216 (hereinafter referred to as “UMMC”) on August 10, 2016 and amended on May 10, 2017, for Lessor to provide certain equipment; and

WHEREAS, UMMC desires to lease additional equipment for a new site and expand the scope of the project and Lessor is amenable to providing same as described herein;

NOW THEREFORE, in consideration of the mutual understandings, promises, consideration and agreements set forth herein, the parties agree as follows:

SECTION 1 TERMS AND CONDITIONS
Except as provided herein, all other terms and conditions set forth in the Original Contract of the parties and not in conflict with this Change Order Number 1, shall remain in full force and effect and shall apply to this Change Order Number 1. The parties understand and agree that termination of the Original Contract also terminates this Change Order Number 1. In the event of termination, Lessor shall, as of the date specified in the notice of termination, cease any further work pursuant to the Original Contract and this Change Order Number 1, and Lessee shall be relieved of any further liability for payments under the Original Contract and/or this Change Order Number 1.

SECTION 2 BACKGROUND
In August 2016, a Lease Agreement was executed between the State of Mississippi and Toshiba Business Solutions to provide a full-service print/copy/scan/fax equipment solution for UMMC’s main campus. The State of Mississippi later executed Amendment Number 1 to establish a Delivered & Accepted Equipment List to be managed by UMMC and Lessor. This Change Request adds the RAD/Watkins Building site and the Ripley Blackwell Head Start to the Delivered & Accepted Equipment List for additional printer equipment.

SECTION 3 SCOPE OF WORK
The Scope of Work shall be expanded so as to include the additional equipment reflected in the attached Exhibit A-2, which is incorporated herein by reference. All references to Exhibit A-1 shall be and hereby are revised to read “Exhibit A-1 and Exhibit A-2”.

Toshiba Business Solutions-UMMC-43393-3823-July2017-Change Order #1 to Lease Agreement
SECTION 4   FINANCIAL TERMS
The total compensation to be paid to Lessor by UMMC for all services, deliverables, travel, performances, and expenses, provided under this Change Order Number 1 shall not exceed $88,586.10.

For the faithful performance of the terms of this Change Order Number 1, the parties have caused this Change Order Number 1 to be executed by their undersigned representatives.

State of Mississippi, Department of Information Technology Services, on behalf of University of Mississippi Medical Center

By: ____________________________  Authorized Signature

Printed Name: Craig P. Orgeron, Ph.D.

Title: Executive Director

Date: ____________________________

Toshiba Business Solutions

By: ____________________________  Authorized Signature

Printed Name: ____________________

Title: ____________________________

Date: ____________________________

Toshiba Business Solutions-UMMC-43393-3823-July2017-Change Order #1 to Lease Agreement
**EXHIBIT A-2**

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<th>Summary Table</th>
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<tbody>
<tr>
<td>Additional Printers for RAD/Watkins Building and</td>
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<td>the Ripley Blackwell Head Start (Monthly Charge)</td>
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<tr>
<td>Grand Total for 45 Month Lease Term:</td>
<td>$88,586.10</td>
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EXHIBIT 3
January 18, 2018

PROJECT NUMBER 41621
LEASE AGREEMENT
BETWEEN
TOSHIBA BUSINESS SOLUTIONS
A DIVISION OF TOSHIBA AMERICA BUSINESS SOLUTIONS, INC.
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

This Lease Agreement (hereinafter referred to as “Agreement”) is entered into by and between Toshiba Business Solutions, a Division of Toshiba America Business Solutions, Inc., a Delaware corporation having its place of business at 371 Highland Colony Parkway, Ridgeland, Mississippi 39157 (hereinafter referred to as “Lessor”), and Mississippi Department of Information Technology Services, with its principal office at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as “ITS”), as contracting agent for the University of Mississippi Medical Center located at 2500 North State Street, Jackson, Mississippi 39216 (hereinafter referred to as “Lessee”). ITS and Lessee are sometimes collectively referred to herein as “State.”

WHEREAS, Lessee, pursuant to Request for Proposals ("RFP") Number 3823, requested proposals for the acquisition of certain equipment as listed in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, Lessor was the successful proposer in an open, fair, and competitive procurement process to provide the Equipment and services described above;

NOW THEREFORE, in consideration of the mutual promises, consideration, and agreements set forth, the parties hereto agree as follows:

ARTICLE 1  DEFINITIONS
The following terms as used herein shall have the following meanings:

1.1  “Equipment” means the hardware and software listed in the attached Exhibit A, and any and all additions, repairs, replacements, and modifications.

1.2  “Lessee” means the University of Mississippi Medical Center and its assignees, if any.

1.3  “Lessor” means Toshiba Business Solutions, a Division of Toshiba America Business Solutions, Inc., and its assignees, if any.

1.4  “Original Term” means a period of five (5) years commencing on the date the Equipment is accepted by Lessee.

1.5  “Term” means the Original Term and any renewal terms.

ARTICLE 2  TERM OF LEASE
2.1  The Original Term of this Agreement shall commence on the date that the Equipment is accepted by Lessee, as specified in Article 9 herein, and shall continue in effect for a period of
five (5) years thereafter, unless the Agreement is extended by mutual, written agreement or terminated as prescribed elsewhere herein.

2.2 This Agreement will become a binding obligation on the State only upon the issuance of a valid purchase order by the Lessee following contract execution and the issuance by ITS of the CP-1 Acquisition Approval Document.

ARTICLE 3 LEASE OF EQUIPMENT
Subject to the terms and conditions hereof, Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the Equipment specified in the attached Exhibit A. Lessee agrees that Lessor shall have the right, at all reasonable times during Lessee’s business hours, to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

ARTICLE 4 COVENANTS OF LESSEE
4.1 Lessee is a sovereign State of the United States of America within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the “Code”), and the related regulations and rulings, and is duly authorized to enter into this Agreement and to carry out its obligations hereunder.

4.2 Lessee has complied with all applicable public procurement requirements, and this Agreement constitutes a valid, legal, and binding obligation of Lessee, enforceable in accordance with its terms.

4.3 Lessee has sufficient appropriations or other funds available to pay the amounts due hereunder for the current fiscal year. Further, Lessee agrees to make its best effort to budget for and have appropriated each budget and/or appropriation cycle sufficient funds to make the periodic payments throughout the Term of this Agreement.

4.4 The Equipment covered under this Agreement is essential to Lessee’s proper, efficient, and economic operation.

4.5 The Equipment is, and shall remain during the period this Agreement is in force, personal property and, when subject to use by Lessee under this Agreement, will not be or become fixtures.

4.6 Lessee, to the extent permitted or required under Mississippi law, agrees to file IRS form 8038G in accordance with the provisions of Section 103(c) of the Internal Revenue Code of 1986, as amended.

ARTICLE 5 WARRANTIES
5.1 Lessor represents and warrants that all Equipment provided by Lessor shall meet or exceed the minimum specifications set forth in RFP No. 3823 and Lessor’s Proposal in response thereto.

5.2 For a period of five (5) years, Lessor warrants that the Equipment provided pursuant to this Agreement shall operate without defects in material and workmanship. All Equipment provided by Lessor shall be covered by the manufacturer’s warranties beginning upon acceptance of the Equipment. Lessor’s obligations pursuant to these warranties shall include, but are not limited to, the correction of all material defects in the Equipment and the repair, or in Lessor’s sole
discretion, replacement of the Equipment, all at Lessor's reasonable expense, except to the extent such defect is caused by the gross negligence or willful misconduct of Lessee.

5.3 Lessor represents and warrants that it has the right to lease the Equipment provided under this Agreement.

5.4 Lessor represents and warrants that each unit of hardware delivered as part of the Equipment hereunder shall be delivered new and not as “used, substituted, rebuilt, refurbished, or reinstalled” Equipment.

5.5 Lessor represents and warrants that the Equipment shall be fit for the particular purpose set forth in this Agreement and RFP No. 3823, with regard to Lessee's foreseeable or projected needs.

5.6 Lessor represents and warrants that it has and will obtain and pass through to Lessee any and all warranties obtained or available from the licensor of software or the manufacturer of the hardware and replacement parts supplied to Lessor and delivered as part of the Equipment hereunder.

5.7 Lessor represents and warrants that it shall maintain all Equipment provided hereunder pursuant to the manufacturer's warranty policies throughout the equipment manufacturer's specified warranty period.

5.8 Lessor represents and warrants that all work performed hereunder, including but not limited to consulting, training, and maintenance, shall be performed by competent personnel, shall be of professional quality consistent with generally accepted industry standards for the performance of such services, and shall reasonably comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Lessor shall, for a period of ninety (90) days from the performance of service, perform the services again at no cost to the Lessee, or if the Lessor is unable to perform the services as warranted, the Lessor shall reimburse the Lessee the fees paid to the Lessor for the unsatisfactory services, except to the extent the breach is caused by the gross negligence or willful misconduct of Lessee.

5.9 Lessor represents and warrants that there is no disabling code or a lockup program or device embedded in the Equipment provided to Lessee. Lessor further agrees that it will not, under any circumstances including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Lessee's use of the Equipment and/or which would restrict Lessee from accessing its data files or in any way interfere with the transaction of Lessee's business. For any breach of this warranty, Lessor, at its expense, shall, within five (5) working days after receipt of notification of the breach, deliver Equipment to Lessee that is free of such disabling code or a lockup program or device.

5.10 Lessor represents and warrants that the Equipment, as delivered to Lessee, does not contain a computer virus. For any breach of this warranty, Lessor, at its expense, shall, within five (5) working days after receipt of notification of the breach, deliver Equipment to Lessee that is free of any virus and shall be responsible for repairing, at Lessor's expense, any and all damage done by the virus to Lessee's site.

5.11 If applicable under the given circumstances, Lessor represents and warrants that it will
ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Lessor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security where required, to provide a copy of each such verification to the State. Lessor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Lessor understands and agrees that any breach of these warranties may subject Lessor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Lessor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both.

In the event of such termination/cancellation, Lessor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

5.12 Lessor represents and warrants that the system provided pursuant to this Agreement will pass both internal security audits and independent security audits. For any breach of the preceding warranty at any time during the Term of this Lease Agreement, Lessor shall, at its own expense and at no cost to Lessee, remediate any defect, anomaly or security vulnerability in the system by repairing and/or replacing any and all components of the system necessary in order for the system to be secure.

5.13 Lessor represents and warrants that no official or employee of Lessee or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of said project, voluntarily acquire any personal interest, direct or indirect, in this Agreement. The Lessor warrants that it has removed any material conflict of interest prior to the signing of this Agreement, and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under this Agreement. The Lessor also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

5.14 The Lessor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Lessor, terminate the right of the Lessor to proceed under this Agreement if it is found, after notice and hearing by the ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Lessor to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this
Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Lessor as it would pursue in the event of a breach of contract by the Lessor.

ARTICLE 6 INFRINGEMENT INDEMNIFICATION
6.1 Lessor represents and warrants that neither the Equipment, their elements, nor the use thereof knowingly violates or infringes on any copyright, patent, trademark, servicemark, trade secret, or other proprietary right of any person or entity. Lessee shall notify Lessor promptly of any infringement claim of which it has knowledge and shall cooperate with Lessor in the defense of such claim, all at Lessor’s expense. Lessor, at its own expense, shall defend or settle any and all infringement actions filed against Lessor or Lessee which involves the Equipment provided under this Agreement and shall pay all settlements, as well as all costs, reasonable attorney fees, damages, and judgment finally awarded against Lessee, except to the extent the Equipment was in any way modified or altered by Lessee without the express written consent of Lessor as set forth in Article 6.2 below. If the continued use of the Equipment for the purpose intended is threatened to be enjoined or is enjoined by any court of competent jurisdiction, Lessor shall, at its expense: (a) first procure for Lessee the right to continue using the Equipment, or upon failing to procure such right; (b) modify or replace the Equipment or components thereof so it becomes non-infringing, or upon failing to secure either such right; (c) refund the lease payments previously paid by Lessee for the Equipment Lessee may no longer use. Said refund shall be paid within ten (10) working days of notice to Lessee to discontinue said use.

6.2 Lessor shall have no indemnification obligations to Lessee for claims resulting directly from any of the following: (a) Lessee’s modification of the Equipment where such modification was not authorized in writing by Lessor and where such modification creates said infringement; (b) Infringement resulting from the combination or use of the Equipment provided by Lessor with any other items provided by Lessee or others; and (c) infringement resulting from the gross negligence or willful misconduct of Lessee.

ARTICLE 7 TITLE
During the Term of this Agreement, title to the Equipment and any and all additions, repairs, replacements, or modifications shall be and remain vested at all times in Lessor or its assignee, subject to the rights of Lessee, and nothing in this Agreement shall give or convey to Lessee any right, title, or interest therein.

ARTICLE 8 RISK OF LOSS; DELIVERY; INSTALLATION, AND RELOCATION
8.1 Lessor shall assume and shall bear the entire risk of loss and damage to the Equipment from any cause whatsoever while in transit and at all times until the Equipment is installed at Lessee’s location. After the Equipment is installed at Lessee’s facility, the risk of loss and damage is assumed by Lessee except where the loss or damage is caused by Lessor or its subcontractors.

8.2 Lessor shall be responsible for all charges relating to the transportation of the leased Equipment to Lessee’s location and installation at such location. Further, Lessor shall deliver the Equipment to the location specified by Lessee, pursuant to the delivery schedule agreed to by the parties.

8.3 Lessor shall complete installation of the Equipment pursuant to the requirements set forth in RFP No. 3823. Lessor shall be responsible for installing all Equipment, cable, and materials in accordance with all state, federal, and industry standards for such items.
8.4 Lessor shall be responsible for replacing, restoring, or bringing to at least original condition, ordinary wear and tear excepted, any damage to floors, ceilings, walls, furniture, grounds, pavements, sidewalks, and the like caused by its personnel and operations during the installation and de-installation, subject to final approval of ITS, which approval will not be unreasonably withheld. The repairs will be done only by technicians skilled in the various trades involved, using materials and workmanship to match those of the original construction in type and quality.

8.5 Lessee may transfer the Equipment to a new location after notifying Lessor in writing of the transfer at least thirty (30) calendar days before the move is made, and receiving written approval thereof from Lessor, which approval shall not be unreasonably withheld. If Lessee moves the Equipment without such approval, Lessee assumes all risks and obligations associated with the move.

ARTICLE 9 SCHEDULE AND ACCEPTANCE
9.1 Lessor warrants that all Equipment shall be properly delivered, installed, and integrated for acceptance testing within the scheduling deadlines set forth by Lessee as the site is deemed ready for installation. Lessor shall provide Lessee with an installation schedule identifying the date, time, and location.

9.2 Full implementation must be completed within sixty (60) calendar days of execution of this Agreement unless otherwise agreed to by the parties. Full implementation includes (a) training for all applicable Lessee personnel having been completed, and (b) the Equipment having been successfully tested by Lessee's personnel and reported defects having been corrected by Lessor.

9.3 Upon notification by Lessor that the Equipment has been implemented for acceptance testing, Lessee shall have thirty (30) calendar days to evaluate and test the Equipment to confirm that it performs without any defects and performs pursuant to the specifications set forth in RFP No. 3823 and the Lessor's Proposal in response thereto. In the event the Equipment fails to perform to Lessee's reasonable satisfaction, Lessee shall immediately notify Lessor. Lessor shall, at Lessee's sole expense, correct material defects identified by Lessee within four (4) working days, or such other period as the parties may agree upon, subject to Equipment delivery delays. Lessee shall re-test the Equipment within thirty (30) calendar days from receipt of notice of the completion of any required fixes. The thirty (30) day testing period will be extended by system down-time.

9.4 Monthly lease payments shall not begin or be due from Lessee until such time as Lessee notifies Lessor of its acceptance of the Equipment. Upon notification from Lessee of its acceptance, Lessor shall submit its first monthly billing to Lessee.

ARTICLE 10 TRAINING
Lessor shall, for the fees specified in the attached Exhibit A, provide ongoing training for multifunctional printers where required. Lessor and Lessee shall mutually agree on the time for the training and an outline of the training to be provided. Lessor specifically agrees and understands that Lessee will not accept the Equipment until Lessor completes the training requirements. Lessor agrees to provide, upon delivery, all user documentation and technical manuals needed to fully acquaint the user with operation of all of the Equipment.
ARTICLE 11 LEASE PAYMENTS AND TAXES

11.1 The charges for the Equipment and services covered by this lease Agreement are specified in the attached Exhibit A. Charges for any partial month for the Equipment shall be prorated based on a thirty (30) day month. In no event will the total compensation to be paid hereunder exceed the specified sum of $6,451,629.00, unless prior written authorization from ITS has been obtained. Upon notification from Lessee of its acceptance of the Equipment, Lessor shall submit an invoice with the appropriate documentation to Lessee. Lessor shall submit invoices and supporting documentation to Lessee electronically during the term of this Agreement using the processes and procedures identified by the State. Lessee agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," Sections 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by Lessee within forty-five (45) days of receipt of the invoice. Lessor understands and agrees that Lessee is exempt from the payment of taxes. All payments should be made in United States currency. Payments by state agencies using Mississippi's Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The payments by these agencies shall be deposited into the bank account of the Lessor's choice. No payment, including final payment, shall be construed as acceptance of defective products or incomplete work, and the Lessor shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled "Entire Agreement."

11.2 Penalties for late payments shall be as stated in the aforementioned statute set forth in Article 11.1 herein, which generally provides that if payment is not made to Lessor within forty-five (45) days of Lessee's receipt of the invoice, Lessee shall be liable to Lessor for interest at a rate of one and one-half percent (1 1/2%) per month (or such lesser rate as may be the maximum permissible rate under the law) on the unpaid amount due from the expiration of such forty-five (45) day period until such time as payment is made.

11.3 The obligations of Lessee under this Agreement, including its obligation to pay the lease payments due with respect to the Equipment in any fiscal year for which this Agreement is in effect, shall constitute a current expense of Lessee for such fiscal year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and the laws of Mississippi. A portion of each lease payment is paid as and represents the payment of interest. Exhibit A sets forth the interest component of each lease payment.

11.4 Subject to the availability of funds as specified in Article 13 herein, Lessee agrees that its obligation to make lease payments once the Equipment has been accepted, as prescribed in Article 9 herein, is absolute, unconditional, and independent and is not subject to any abatement, set-off, defense, or counterclaim, except those pertaining to Equipment failure or to the damage or loss of the Equipment.

ARTICLE 12 INSURANCE

Lessor shall, at its expense, maintain at all times during the Term fire and extended coverage, public liability, and property damage insurance with respect to the Equipment in such amount, covering such risks, and with such insurers as shall be satisfactory to Lessor. Each insurance policy will name Lessor as insured and Lessee as additional insured and will contain a clause requiring the insurer to give Lessee at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of such policy will be payable to Lessor and Lessee or their assigns as their interests may appear. Upon acceptance of the
Equipment and upon each insurance renewal date, Lessor will deliver to Lessee a certificate evidencing such insurance. In the event of any loss, damage, injury, or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

ARTICLE 13 AVAILABILITY OF FUNDS
13.1 Lessee believes that funds can be obtained in amounts sufficient to make all lease payments during the Term. Lessee hereby covenants that it will do all things within its power to obtain, maintain, and properly request and pursue funds from which lease payments may be made, specifically including in Lessee’s annual budget requests an amount sufficient to make lease payments for the full Term. Lessee intends to make lease payments for the full Term if funds are legally available for that purpose.

13.2 It is expressly understood and agreed that the obligation of Lessee to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi Legislature and the receipt of state and/or federal funds. If the funds anticipated for the fulfillment of this Agreement are, at any time, not forthcoming or are insufficient through no fault of Lessee, or if there is a discontinuance or material alteration of the program under which funds were available to Lessee for the payments due under this Agreement, Lessee shall have the right to immediately terminate this Agreement without damage, penalty, cost, or expense to Lessee of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. Lessee shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement.

ARTICLE 14 USE AND PERMITS
Lessee shall exercise due care in the use, operation, and maintenance of the Equipment. Lessee shall obtain all permits and licenses necessary for the installation, operation, possession, and use of the Equipment and Lessee shall comply with all state and federal laws applicable to the Equipment. Lessee shall subscribe to Lessor’s maintenance services so as to maintain, preserve, and keep the Equipment in good repair, working order, and condition.

ARTICLE 15 QUIET ENJOYMENT
Provided that Lessee has duly performed its obligations pursuant to this Agreement, Lessee shall have the right to use and possess the Equipment during the Term of this Agreement, including any renewals hereof, without disturbance, interference, or interruption by Lessor or any person claiming by, through, or under Lessor, including without limitation any assignee financial institution.

ARTICLE 16 MAINTENANCE SERVICES
16.1 During the Term of this Agreement, Lessor agrees to provide on-site maintenance service on all Equipment and any other devices that would be included within them. Lessor will respond by telephone within four (4) hours to requests for maintenance service Monday through Friday, 8:00 A.M. to 5:00 P.M. (Central Time), and will come on-site with the necessary crash kit for critical components within three (3) hours from the point the call is made to service the Equipment. Lessor will respond to service calls in Critical Care areas during normal business hours and after-hours within three (3) hours.

16.2 Lessor agrees it will maintain in house the most frequently used supply replacement parts needed to service the Equipment. Replacement parts will be new and not refurbished and will
either be manufactured by and/or meet the minimum specifications established by the manufacturer of the Equipment.

16.3 Lessor agrees to a maximum forty-eight (48) hour turnaround from the point the call is made on all repairs not requiring parts ordering and a maximum five (5) working days on all other repairs. If the repairs have not been made within these designated time frames.

16.4 Lessor agrees to provide preventive maintenance based on the specific needs of the Equipment during normal business hours and at intervals specified in RFP No. 3823 and Lessor’s Proposal as accepted by the State in response thereto. Preventive maintenance may be performed concurrently with remedial maintenance activity. Lessor must record all activities related to preventive maintenance on a log to be retained on-site.

16.5 Maintenance does not cover damage to Equipment caused by Lessee's abuse or neglect; damage caused by an act of God (flood, earthquake, lightning, etc.), or loss due to fire or theft; neglect, misuse, alterations, or deviation from intended machine use; maintenance or repair of the machine performed by persons other than Lessor, or maintenance or removal of alterations or attachments.

16.6 If Lessor is unable to maintain the Equipment in good working order, Lessor shall replace the Equipment with either an identical product or another product that provides equal or greater capabilities. If a replacement product is provided under this Article, there will be no additional charges for the Term of this Agreement.

16.7 All lease prices and maintenance rates applicable to this transaction are set forth in Lessor’s Proposal in response to RFP No. 3823 and are firm and not subject to being increased during the Term of this Agreement.

ARTICLE 17 TERMINATION AND RETURN OF EQUIPMENT
17.1 This Agreement may be terminated as follows: (a) by Lessee due to the unavailability of funds as set forth in Article 13 herein; or (b) by Lessee if all payments authorized or required to be paid by Lessee hereunder have been made; or (c) by Lessee if Lessor becomes the subject of bankruptcy, reorganization, liquidation, or receivership proceedings, whether voluntary or involuntary; or (d) excepting for leased equipment which has previously been delivered and accepted, by Lessee if Lessee determines it to be in Lessee's best interest to so terminate; or (e) if either party fails to comply with any material term or condition of this Agreement, the non-defaulting party may terminate this Agreement or suspend its performance under this Agreement upon the giving of thirty (30) days written notice, unless the breach is cured within said thirty (30) day period. The non-defaulting party may also pursue any remedy available to it in law or in equity. Upon termination, all obligations of Lessee to make payments required hereunder shall cease.

17.2 Upon the expiration or termination of this Agreement and de-installation of the Equipment by Lessor, Lessee shall return the Equipment to Lessor in its original condition, normal wear and tear excepted, and Lessee shall not be responsible for the payment of any further payments coming due past the date of termination. Lessor shall bear all costs associated with the return of the Equipment.

ARTICLE 18 NO REMEDY EXCLUSIVE
No remedy herein conferred upon or reserved to either party is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity.

ARTICLE 19 ASSIGNMENT AND SUBLEASE
19.1 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties' respective successors and assigns.

19.2 No such assignment shall be effective against Lessee unless and until Lessor files a copy of same with Lessee. Lessee shall pay all lease payments due hereunder to or at the direction of Lessor or the assignee named in the most recent assignment or notice of assignment filed with Lessee.

19.3 Lessee may not assign or dispose of any of its interests under this Agreement to any other person or enter into any sublease of all or part of the Equipment without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

ARTICLE 20 MODIFICATION
This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 21 GOVERNING LAW
This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi, and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Lessor expressly agrees that under no circumstances shall Lessee or ITS be obligated to pay an attorney's fee, prejudgment interest, or the cost of legal action to Lessor. Further, nothing in this Agreement shall affect any statutory rights Lessee may have that cannot be waived or limited by contract.

ARTICLE 22 WAIVER
Failure of either party hereto to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by the State, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of the State.

ARTICLE 23 SEVERABILITY
If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.
ARTICLE 24 CAPTIONS
The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provision or section of this Agreement.

ARTICLE 25 THIRD PARTY ACTION NOTIFICATION
Lessor shall notify Lessee in writing within ten (10) business days of Lessor filing bankruptcy, reorganization, liquidation or receivership proceedings or within ten (10) business days of its receipt of notification of any action or suit being filed or any claim being made against Lessor or Lessee by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Lessor’s performance under this Agreement. Failure of the Lessor to provide such written notice to Lessee shall be considered a material breach of this Agreement and the Lessee may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

ARTICLE 26 AUTHORITY TO CONTRACT
Lessor warrants that it is a validly organized business with valid authority to enter into this Agreement, that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and, notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 27 NOTICE
Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means, provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS’ address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Lessee’s address for notice is: Mr. Kevin Yearick, Chief Technology Officer, University of Mississippi Medical Center, 2500 North State Street, Jackson, Mississippi 39216. The Lessor’s address for notice is: Bob Greenhalgh, Senior Vice President, Toshiba Business Solutions, 371 Highland Colony Parkway, Ridgeland, Mississippi 39157. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

ARTICLE 28 RECORD RETENTION AND ACCESS TO RECORDS
Lessor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Lessee, ITS, any state or federal agency authorized to audit Lessee, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this Agreement and to any of the Lessor’s proposals, books, documents, papers and/or records that are pertinent to this Agreement to make audits, copies, examinations, excerpts and transcriptions at the State’s or Lessor’s office as applicable where such records are kept during normal business hours, provided, however, such audit rights are limited to occur not more than one (1) time per year. All records relating to this Agreement shall be retained by the Lessor for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three
(3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 29 COMPLIANCE WITH LAWS
29.1 Lessor shall comply with, and all activities under this Agreement shall be subject to, all applicable Lessee policies and procedures and all applicable federal, state, and local laws, regulations, policies, and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Lessor shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin, or disability. Further, if applicable, Lessor shall comply with the provisions of the Davis-Bacon Act including, but not limited to, the wages, recordkeeping, reporting and notice requirements set forth therein.

29.2 Lessor represents and warrants that it will comply with the state’s data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Lessor represents and warrants that it will comply with the applicable provisions of the HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) (“Privacy Rule” and “Security Regulations”, individually; or “Privacy and Security Regulations”, collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (the “HITECH Act”).

ARTICLE 30 CONFLICT OF INTEREST
Lessor shall notify Lessee of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to Lessee’s satisfaction, Lessee reserves the right to terminate this Agreement.

ARTICLE 31 SOVEREIGN IMMUNITY
By entering into this Agreement with Lessor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 32 CONFIDENTIAL INFORMATION
32.1 Lessor shall treat all Lessee data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Lessee. In the event that Lessor receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Lessor shall promptly inform Lessee and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules, and regulations. This article shall survive the termination or completion of this Agreement, shall continue in full force and effect, and shall be binding upon the Lessor and its agents, employees, successors, assigns, subcontractors, or any party or entity claiming an interest in this Agreement on behalf of or under the rights of the Lessor, following any termination or completion of this Agreement for three (3) years.

32.2 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Lessor. ITS will provide third party notice to Lessor of any requests
received by ITS for any such confidential exhibits so as to allow Lessor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

32.3 The parties understand and agree that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed confidential information.

ARTICLE 33 EFFECT OF SIGNATURE
Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties, and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the Lessee or the Lessor on the basis of draftsmanship or preparation hereof.

ARTICLE 34 DISPUTES
Any dispute concerning a question of fact under this Agreement, which is not disposed of by agreement of the Lessor and Lessee, shall be decided by the Executive Director of ITS or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

ARTICLE 35 HOLD HARMLESS
To the extent allowed by law, Lessor shall indemnify, defend, save and hold harmless, Lessee, ITS and the State, its Board Members, officers, employees, agents, and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs, and reasonable expenses, including, court costs, investigative fees and expenses, reasonable attorney fees, and claims for damages arising out of or caused by the negligence or intentional and willful misconduct of Lessor and/or its partners, principals, agents, employees, or subcontractors in the performance of or failure to perform this Agreement. Lessor will not be responsible for damages resulting from the gross negligence or willful misconduct of Lessee.

ARTICLE 36 ENTIRE AGREEMENT
36.1 This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings, and agreements, written or oral, between the parties relating hereto, including all terms of any unsigned or "shrink-wrap" license included in any package, media, or electronic version of Lessor-furnished software. The RFP No. 3823 and Lessor's Proposal in response thereto are hereby incorporated into and made a part of this Agreement.

36.2 The Agreement made by and between the parties hereto shall consist of and precedence is hereby established by the order of the following:

A. This Agreement signed by both parties;
B. Any exhibits attached to this Agreement;
C. RFP No. 3823 and written addenda; and
D. Lessor's Proposal, as accepted by Lessee, in response thereto.
36.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Lessor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof, provided, however, that in the event an issue is addressed in one of the above mentioned documents, but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("D. Lessor's Proposal").

ARTICLE 37 SURVIVAL
Articles 5, 6, 21, 28, 31, 32, 35, and all other articles, which by their express terms so survive or which should reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 38 DEBARMENT AND SUSPENSION CERTIFICATION
Lessor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and (d) have, within a three (3) year period preceding this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

ARTICLE 39 COMPLIANCE WITH ENTERPRISE SECURITY POLICY
Lessor and Lessee understand and agree that all products and services provided by Lessor under this Agreement must be and remain in compliance with the State of Mississippi's Enterprise Security Policy. The parties understand and agree that the State's Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Agreement and require the Lessor to comply with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

ARTICLE 40 STATUTORY AUTHORITY
By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the Executive Director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software, and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of Lessee's or Lessor's contractual obligations, financial or otherwise, contained within this Agreement. The parties
further acknowledge that ITS is not responsible for ensuring compliance with any guidelines, conditions, or requirements mandated by Lessee's funding source.

ARTICLE 41 TRANSPARENCY
In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Agreement and any subsequent amendments and change orders shall be posted to the State of Mississippi's accountability website at: https://www.transparency.mississippi.gov. Prior to ITS posting the Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as "confidential" will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.

For the faithful performance of the terms of this Agreement, the parties have caused this Agreement to be executed by their undersigned representatives.

State of Mississippi, Department of Information Technology Services, on behalf of University of Mississippi Medical Center
By: [Signature]
Printed Name: Craig P. Orgeron, Ph.D.
Title: Executive Director
Date: 8/10/11

Toshiba Business Solutions, a Division of Toshiba America Business Solutions, Inc.
By: [Signature]
Printed Name: Michael Torcaso
Title: Executive CFO + CIO
Date: 08/04/2016
## EXHIBIT A

### Make/Model

<table>
<thead>
<tr>
<th>Make/Model</th>
<th>QTY</th>
<th>Monthly Unit Cost</th>
<th>Monthly Extended Cost</th>
<th>Overage: Cost Black</th>
<th>Overage: Cost Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>M3150</td>
<td>1,465</td>
<td>11.61</td>
<td>$17,020.26</td>
<td>0.0053</td>
<td>0.05</td>
</tr>
<tr>
<td>Optional Trays (550 Sheet) 2 per device</td>
<td>2,932</td>
<td>4.43</td>
<td>$12,988.76</td>
<td></td>
<td></td>
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<tr>
<td>CS748DE</td>
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<td>16.64</td>
<td>$299.52</td>
<td>0.0053</td>
<td>0.05</td>
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<tr>
<td>Optional Trays (550 Sheet)</td>
<td>18</td>
<td>5.92</td>
<td>$106.56</td>
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<tr>
<td>XM3150 MFP</td>
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<td>23.23</td>
<td>$12,497.74</td>
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<td>XM5163 MFP</td>
<td>17</td>
<td>36.15</td>
<td>$614.55</td>
<td>0.0053</td>
<td>0.05</td>
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<tr>
<td>XC2132 MFP</td>
<td>92</td>
<td>24.76</td>
<td>$2,279.76</td>
<td>0.0053</td>
<td>0.05</td>
</tr>
</tbody>
</table>

**Monthly Sub-Total:** $45,807.15

**Total Annual Lease Cost:** $549,685.80

---

**Impression Charges B/W**

<table>
<thead>
<tr>
<th>QTY</th>
<th>Monthly Unit Cost</th>
<th>Monthly Extended Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,300,000</td>
<td>0.0053</td>
<td>$28,090.00</td>
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</tbody>
</table>

**Impression Charges Color**

<table>
<thead>
<tr>
<th>QTY</th>
<th>Monthly Unit Cost</th>
<th>Monthly Extended Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>462,000</td>
<td>0.0500</td>
<td>$23,100.00</td>
</tr>
</tbody>
</table>

**Monthly Sub-Total:** $51,190.00

**Total Annual Impression Cost (not including overages):** $614,280.00

---

### Professional Services

<table>
<thead>
<tr>
<th>Role</th>
<th>Full Loaded Hourly Rate</th>
<th>Professional Services Annual Cost based on 2,080 hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>$20.25</td>
<td>$42,120.00</td>
</tr>
<tr>
<td>Staff</td>
<td>$20.25</td>
<td>$42,120.00</td>
</tr>
<tr>
<td>Staff</td>
<td>$20.25</td>
<td>$42,120.00</td>
</tr>
<tr>
<td>Project Manager</td>
<td>No Charge</td>
<td>No Charge</td>
</tr>
</tbody>
</table>

**Annual Professional Services Sub-Total:** $126,360.00

---

**Summary Table**

---

Page 16 of 17

Toshiba Business Solutions-UMMC-41621-3623-July2016-Lease
<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Professional Services for 5 year Contract Term (based on 2,030 hours/year):</td>
<td>$831,800.00</td>
</tr>
<tr>
<td>Total Lease for 5 year Contract Term:</td>
<td>$2,748,429.00</td>
</tr>
<tr>
<td>Total Imression Cost for 5 year Contract Term:</td>
<td>$3,071,400.00</td>
</tr>
<tr>
<td>Grand Total for Project (not including overages):</td>
<td>$6,651,629.00</td>
</tr>
</tbody>
</table>

Fixed Per Call Price for Critical Care After Hours: $37.50 with a 2 hour minimum
Fixed Per Call Price for Non-Critical Care After Hours: $37.50 with a 2 hour minimum
Memorandum

To: Craig P. Orgeron, Ph.D.

Date: December 14, 2017

Re: Recommendation for Project Number 43930 to utilize the City and County of Denver, Colorado RFP No. 7241 for the acquisition of Workday software, support, and implementation for the UNIVERSITY OF MISSISSIPPI MEDICAL CENTER (UMMC)

I. BACKGROUND

The University of Mississippi Medical Center (UMMC) Department of Information Systems (DIS) is responsible for maintaining all enterprise applications used by UMMC's schools, hospitals, research facilities, and administrative areas. These enterprise applications require maximum functionality in order for UMMC to achieve its operational objectives. UMMC is requesting approval for the acquisition of services from Sierra-Cedar, Inc. as the implementation agent for Workday software and support. UMMC is also requesting to purchase the software from Workday, Inc.

II. PROCUREMENT

In November 2014, the City and County of Denver, Colorado issued RFP No. 7241 for an Enterprise Resource Planning (ERP) Financials/Human Resource Management Software, Support, and Implementation Services. In July 2015, a Master Agreement was executed between the City and County of Denver, Colorado and Workday for software and support. An Agreement was also executed between the City and County of Denver, Colorado and Sierra-Cedar, Inc. for implementation of the Workday software.

ITS is able to re-use awards made by other governmental entities (i.e., piggyback, a procurement sourcing term) when certain conditions are met.

- Piggyback Language: language reserving the right for the award to be used by other governmental entities must have been in the solicitation (e.g., RFP, Invitation for Bid)
- Publicly Advertised: the solicitation must have been publicly advertised, using whatever methods/means required by the governmental entity that issued the solicitation
- Award based at least in part on Cost: the evaluation must have considered cost as part of the award
- Awarded vendor must be willing to share proposal from the solicitation with ITS and the customer agency
- Awarded vendor must be willing to share executed contract(s) with ITS and the customer agency
EXHIBIT 4
January 18, 2018

- Awarded vendor must be willing to honor pricing from the award
- Awarded vendor must be willing to sign a contract with ITS, including Mississippi-specific terms and conditions.

UMMC is requesting approval from ITS to purchase Workday software, support, and implementation utilizing the City and County of Denver, Colorado awards made to Workday and Sierra-Cedar, Inc.

UMMC has prepared the attached Business Case in support of this request.

III. RECOMMENDATION

The staffs of ITS and UMMC jointly recommend the selection of Sierra-Cedar and Workday, Inc. to provide Workday software, support, implementation, and training at a total 5-year lifecycle cost of $25,218,905.00.

IV. SOURCE OF FUNDS

Funding will be provided by UMMC.

Jill Chastant
Technology Consultant

Attachment: Business Case for IT Projects
BUSINESS CASE FOR IT PROJECTS

PROJECT IDENTIFICATION

<table>
<thead>
<tr>
<th>Agency/Division</th>
<th>University of Mississippi Medical Center (UMMC)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Department of Information Systems (DIS)</td>
</tr>
<tr>
<td>Project Manager</td>
<td>Al Faulk</td>
</tr>
<tr>
<td>Project Number and Name</td>
<td>43930 Enterprise Resource Planning (ERP)</td>
</tr>
</tbody>
</table>

CURRENT SITUATION / BUSINESS NEED FOR THE PROJECT

The University of Mississippi Medical Center (UMMC) Department of Information Systems (DIS) is responsible for maintaining all enterprise applications used by the institutions' schools, hospitals, research facilities and administrative areas. These enterprise applications require maximum functionality in order for UMMC to achieve its operational objectives.

Currently, UMMC uses a variety of applications for Enterprise Resource Planning (ERP) and Student Information Systems (SIS) to manage employee, financial, supply chain, student financial, and student administration. These systems include:

<table>
<thead>
<tr>
<th>System</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infor/Lawson S3</td>
<td>Human resources administration, payroll, grants management (post-award), supply chain, requisition center, financial accounting, asset management</td>
</tr>
<tr>
<td>Infor/Lawson Business Intelligence</td>
<td>Reporting</td>
</tr>
<tr>
<td>Infor/Lawson Mobile Supply Chain Management</td>
<td>Receiving, inventory</td>
</tr>
<tr>
<td>Infor/Lawson Landmark</td>
<td>Contracts management</td>
</tr>
<tr>
<td>Allscripts/EPSI</td>
<td>Budgeting</td>
</tr>
<tr>
<td>MHC</td>
<td>Check printing, W2 distribution</td>
</tr>
<tr>
<td>Halogen Systems</td>
<td>Employee Performance Reviews</td>
</tr>
<tr>
<td>PeopleAdmin</td>
<td>Recruiting</td>
</tr>
<tr>
<td>BSI Tax Factory</td>
<td>Tax regulatory updates</td>
</tr>
<tr>
<td>SAP/SLCM</td>
<td>Student administration, student records, student accounting,</td>
</tr>
<tr>
<td>ProSam/Sigma</td>
<td>Student Financial Aid</td>
</tr>
<tr>
<td>Academic Works</td>
<td>Scholarship management</td>
</tr>
<tr>
<td>Touchnet</td>
<td>Electronic Payment System for student tuition and fees</td>
</tr>
<tr>
<td>Kofax</td>
<td>Scanning</td>
</tr>
</tbody>
</table>

(please note that we will refer to "Infor" as the vendor of the "Lawson" ERP product)

The variety of systems has led to several operational and technical concerns. Operationally, the nature of the systems has led to a reluctance to modernize business processes because the software is inflexible or non-functional. Two examples:

- UMMC worked with Infor for 2 years unsuccessfully to implement budgeting in their system. Infor was unable to make their software accommodate the staff budgeting calculations and was unable to make the software stable.
• An internal audit completed in December 2016, by the Institutes of Higher Learning (IHL) stated that ProSam produces many significant errors and integrates poorly with SAP. This causes operational issues for the Student Financial Aid office who have to manually verify financial aid awards.

In addition, it has been difficult to provide relevant management data to operational executives for operational decisions. UMMC is unable to effectively:

• Track contract spend for commodities.
• Identify valuable employees at risk of turnover.
• Make all required accounting adjustments in the ERP system to produce financial reports.
• Drill into financial reports to determine root cause of budget variances.
• Create reports quickly using a reporting tool for SAP. UMMC develops all reports using native SAP code. This significantly delays our ability to provide academic leadership with needed, timely data.

Technically, there has been an increasing burden on operational staff to maintain aging ERP and SIS systems, including but not limited to building and maintaining custom enhancements and work-arounds.

Enterprise Resource Planning

UMMC originally purchased the Lawson Human Resources and Payroll Systems in 2002 and subsequently the Lawson Absence Management module in 2006. In November 2008, UMMC purchased the remaining primary Lawson Enterprise Resource Planning (ERP) software suites for financials, procurement, and business intelligence for a total cost of $2,505,800.00.

UMMC has continued to expand and enhance the use of Lawson for its 10,500 users, most recently adding a Contracts Management module to become a single repository for all UMMC contracts (except Payor contracts), thus enabling improved spend and expiry tracking.

With Version 9 of Lawson set to expire in May 2016, in June 2015 UMMC signed a 3-year agreement with Infor to upgrade to Lawson Version 10, add applications for talent acquisition and budgeting, and migrate to a hosted environment. The migration plan was necessary because the Lawson infrastructure had grown very complex spanning several technology platforms that require integration and maintenance. The vendor partner explained that implementing Version 10 (and subsequently Version 11) in Infor’s hosted environment would allow UMMC to rely on Infor’s expert resources to successfully maintain the platform, enabling DIS staff to focus on improving functionality for its core customers.

Unfortunately, Infor was not able to successfully implement the talent acquisition and budgeting applications UMMC purchased. Neither application had the stated and required functionality nor was the budgeting software stable. Infor was able to offer a separate solution for talent acquisition, but UMMC was left without a budgeting application. Additionally, the 6-month upgrade to Version 10 was cancelled by UMMC after 9 months due to concerns with the Infor Implementation Team’s performance and the anticipated level of customer service after go-live.

Based on the experience and overall performance with the upgrades, UMMC has had a significant erosion in trust in Infor and its ability to maintain its software. The marketplace has reacted similarly causing a decrease in ratings from at least two industry leading analysts, Gartner and KLAS. UMMC has thus decided that it is in its best interest to search for a new solution.
Student Information Systems

In July 2008, the University of Mississippi (UM) and UMMC entered into an agreement by which UM would host UMMC’s student information system (SIS). A letter outlined an understanding between the two entities with inherent costs based on a five-year project plan and had an end date of June 30, 2012. It was extended in March 2012 and again June 30, 2017 (termination with notification included).

Although the partnership with UM has worked well, UMMC is dissatisfied with SAP’s commitment to its SIS. The application has not been significantly upgraded since 2007. Because SAP did not achieve the market penetration it had hoped for (there are only 3 other universities using its SIS), the application cannot support trends that will eventually be the norm in health education such as competency-based education and flexible program start dates. Additionally, SAP has never had an integrated Student Financial Aid application, which led to UMMC acquiring Sigma’s ProSam application for that purpose. Sigma has not significantly upgraded its application during the time UMMC has been a customer. As business practices evolve UMMC has paid ProSam for custom development to the system. Even with this customization, many of the current business practices remain manual processes.

The aforementioned internal audit by the IHL in 2016 stated that the data integration between ProSam and SAP causes system posting errors and inappropriate corrections which leads to incorrect student aid being provided to students and poor reporting of activities. All of this requires significant maintenance for UMMC staff in the Financial Aid office and in DIS.

PROPOSED SOLUTION

The purpose of this request is to replace the software applications listed in the table above with Workday’s ERP and SIS solutions. This will be a multi-phase implementation conducted by Sierra-Cedar beginning with Human Resources, Payroll and Financials, then Supply Chain, and Student (SIS). Workday’s ERP and SIS solutions are anticipated to provide UMMC’s staff and students with a fully integrated and user-friendly experience. Maintenance of the system will also be much simpler because the applications will be hosted by Workday and Workday will provide all infrastructure and upgrades on a scheduled basis at no additional cost.

UMMC is requesting the acquisition of services from Sierra-Cedar, Inc. as the implementation agent for Workday software and support, and the purchase of software, hosting, and training from Workday, Inc.

PROJECT GOALS AND OBJECTIVES

- To have a fully integrated ERP and SIS in one application, on a single platform
- To achieve significant operational improvements in administrative services, making them more customer friendly and efficient
- To have a system that relies on configuration rather than custom programming
- To build a governance model at UMMC that will coordinate operational and technical decisions during implementation and thereafter
- To improve business practices where applicable based on best practices

CRITICAL SUCCESS FACTORS

- Workday and Sierra-Cedar must provide an implementation team that has operational and technical expertise. Each member of the implementation team must have significant experience with Workday implementations.
EXHIBIT 4
January 18, 2018

- UMMC’s governance model must be willing to make significant operational and technical decisions in a timely manner and embrace the organizational changes that come from their decisions. The governance group must reinforce the organization's use of the Workday best practice workflows.

RISKS
- Technical support risk: the risk of relying on a vendor to support the infrastructure and the application. Workday’s hosted model requires that all active customers are on the same version and take version upgrades at the same time.
- Implementation risk: the timeline for this effort is aggressive and will require an organizational commitment to provide adequate resource availability and nimble governance.

COLLABORATION
- Similar to the User Group model emphasized by Epic, the Workday client model encourages collaboration between client organizations across all businesses and the sharing of ideas and system configurations to improve operational efficiencies.
- A guiding principle of this implementation is to align the business practices of UMMC to industry best practice.
- If they so choose, UM can count on UMMC to work with them to facilitate the procurement of the Workday SIS module for use at the Oxford campus as well.

IMPACT IF NO ACTION TAKEN
Sunset Infor/Lawson V9 – UMMC would have to go to Infor/Lawson V10 at significant cost without receiving appreciable improved functionality. Additionally, V11 is the latest release, but it is a significant rewrite of the platform with very few early adopters, meaning less live sites finding bugs and system issues.

At best, UMMC would be able to maintain current functionality of the system, but would be limited in its ability to improve business processes for the organization. The organization will continue to operate on a SIS that is not integrated with key business systems at the organization.

TECHNICAL ENVIRONMENT AND HOSTING
The Workday solution is a cloud-based, multi-tenant solution that will not require additional hardware purchases at UMMC to implement. None of Workday’s 1,800+ clients have a local installation of this system, nor do they house it in a separate, off-site data center of their own. As such, the pricing information below will reflect the Full Service Equivalent (FSE), subscription-based model that Workday uses to price their product(s).

INFORMATION TECHNOLOGY SECURITY
Workday’s security was reviewed by UMMC’s interim Chief Information Security Officer, Chief Compliance Officer and Meditology (UMMC’s contracted IT security consultant). It meets with UMMC’s Cloud Services Policy, which incorporates the State of Mississippi Enterprise Security Policy.
FUNDING

UMMC will provide funding for this initiative through cash on hand from operations of the Medical Center. No grant or federal funds will be used, nor will there be a charge-back to customers who use the system.

PROJECT COST / RESOURCE ESTIMATE SUMMARY

<table>
<thead>
<tr>
<th>Category and Student Count Details (Full Service Equivalent – FSE)</th>
<th>Number</th>
<th>Worker to FSE Conversion</th>
<th>FSE</th>
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</thead>
<tbody>
<tr>
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<td>100%</td>
<td>8,568</td>
</tr>
<tr>
<td>Part-time</td>
<td>1,429</td>
<td>25%</td>
<td>358</td>
</tr>
<tr>
<td>Associates</td>
<td>3,155</td>
<td>12.5%</td>
<td>395</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>13,152</strong></td>
<td></td>
<td><strong>9,321</strong></td>
</tr>
<tr>
<td>Category – Student</td>
<td>Number</td>
<td>Student to FSE</td>
<td>FSE</td>
</tr>
<tr>
<td>Students reported to IPEDS</td>
<td>1,968</td>
<td>100%</td>
<td>1,968</td>
</tr>
<tr>
<td>Students NOT reported to Integrated Postsecondary Education Data System (IPEDS)</td>
<td>0</td>
<td>25%</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>1,968</strong></td>
<td></td>
<td><strong>1,968</strong></td>
</tr>
</tbody>
</table>

IPEDS: Integrated Postsecondary Education Data System

Full Time: scheduled 20+ hours per week regardless of method of payment, actual hours worked, or benefits eligibility

Part-time: scheduled for 20 or less hours per week regardless of method of payment, actual hours worked, or benefits eligibility

Current Request

With approval of this request, the Total 5-year Life Cycle Cost will be:

<table>
<thead>
<tr>
<th></th>
<th>Workday</th>
<th>Sierra-Cedar</th>
</tr>
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- UMMC operational and IT staff will be able to focus on continually improving business processes instead of on maintaining and upgrading software.
EXHIBIT 4
January 18, 2018

- Through an interface between Workday and a time and attendance system, Chipotle was able to improve the way it analyzes data to quickly uncover discrepancies in employee time records and reduce overtime payments on each pay cycle.
- CityMD is using financial reports to track vendor spend and improve contract consolidation and negotiation.
- Workday customers have seen their supplier spend improved as well — Shelter Insurance saves almost $900k per year, and CityYear experienced a 90% simplification of their supplier data set.

ALTERNATIVES TO THE PROPOSED SOLUTION

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<tr>
<th>Other Options Considered</th>
<th>Reasons for Rejecting Alternative Solution</th>
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<tr>
<td>Option 1: Migrate to Infor/Lawson v10</td>
<td>This option was pursued in 2015 and Infor/Lawson was not able to deliver the upgrade on time or on budget, so UMMC put the project on hold.</td>
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<td>Option 2: Migrate to Infor/Lawson v11</td>
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<tr>
<td>Option 3: Maintain Status Quo</td>
<td>If the system were to remain as it is, the organization would not be able to pay any employees after 1/1/2019. Finance and Payroll will not be supported by Infor/Lawson, thus exposing UMMC to operational or security vulnerabilities.</td>
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</tbody>
</table>
Memorandum

To: Craig P. Orgeron, Ph.D.

Date: December 14, 2017

Re: Recommendation for Project Number 43930 to utilize the City and County of Denver, Colorado RFP No. 7241 for the acquisition of Workday software, support, and implementation for the UNIVERSITY OF MISSISSIPPI MEDICAL CENTER (UMMC)

I. BACKGROUND

The University of Mississippi Medical Center (UMMC) Department of Information Systems (DIS) is responsible for maintaining all enterprise applications used by UMMC's schools, hospitals, research facilities, and administrative areas. These enterprise applications require maximum functionality in order for UMMC to achieve its operational objectives. UMMC is requesting approval for the acquisition of services from Sierra-Cedar, Inc. as the implementation agent for Workday software and support. UMMC is also requesting to purchase the software from Workday, Inc.

II. PROCUREMENT

In November 2014, the City and County of Denver, Colorado issued RFP No. 7241 for an Enterprise Resource Planning (ERP) Financials/Human Resource Management Software, Support, and Implementation Services. In July 2015, a Master Agreement was executed between the City and County of Denver, Colorado and Workday for software and support. An Agreement was also executed between the City and County of Denver, Colorado and Sierra-Cedar, Inc. for implementation of the Workday software.

ITS is able to re-use awards made by other governmental entities (i.e., piggyback, a procurement sourcing term) when certain conditions are met.

- Piggyback Language: language reserving the right for the award to be used by other governmental entities must have been in the solicitation (e.g., RFP, Invitation for Bid)
- Publicly Advertised: the solicitation must have been publicly advertised, using whatever methods/means required by the governmental entity that issued the solicitation
- Award based at least in part on Cost: the evaluation must have considered cost as part of the award
- Awarded vendor must be willing to share proposal from the solicitation with ITS and the customer agency
- Awarded vendor must be willing to share executed contract(s) with ITS and the customer agency
EXHIBIT 5
January 18, 2018

- Awarded vendor must be willing to honor pricing from the award
- Awarded vendor must be willing to sign a contract with ITS, including Mississippi-specific terms and conditions.

UMMC is requesting approval from ITS to purchase Workday software, support, and implementation utilizing the City and County of Denver, Colorado awards made to Workday and Sierra-Cedar, Inc.

UMMC has prepared the attached Business Case in support of this request.

III. RECOMMENDATION
The staffs of ITS and UMMC jointly recommend the selection of Sierra-Cedar and Workday, Inc. to provide Workday software, support, implementation, and training at a total 5-year lifecycle cost of $25,218,905.00.

IV. SOURCE OF FUNDS
Funding will be provided by UMMC.

Jill Chastant
Technology Consultant

Attachment: Business Case for IT Projects
BUSINESS CASE FOR IT PROJECTS

PROJECT IDENTIFICATION

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<th>Agency/Division</th>
<th>University of Mississippi Medical Center (UMMC)</th>
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<tbody>
<tr>
<td></td>
<td>Department of Information Systems (DIS)</td>
</tr>
<tr>
<td>Project Manager</td>
<td>Al Faulk</td>
</tr>
<tr>
<td>Project Number and Name</td>
<td>43930 Enterprise Resource Planning (ERP)</td>
</tr>
</tbody>
</table>

CURRENT SITUATION / BUSINESS NEED FOR THE PROJECT

The University of Mississippi Medical Center (UMMC) Department of Information Systems (DIS) is responsible for maintaining all enterprise applications used by the Institutions' schools, hospitals, research facilities and administrative areas. These enterprise applications require maximum functionality in order for UMMC to achieve its operational objectives.

Currently, UMMC uses a variety of applications for Enterprise Resource Planning (ERP) and Student Information Systems (SIS) to manage employee, financial, supply chain, student financial, and student administration. These systems include:

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<th>Purpose</th>
</tr>
</thead>
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<td>Infor/Lawson S3</td>
<td>Human resources administration, payroll, grants management (post-award), supply chain, requisition center, financial accounting, asset management</td>
</tr>
<tr>
<td>Infor/Lawson Business Intelligence</td>
<td>Reporting</td>
</tr>
<tr>
<td>Infor/Lawson Mobile Supply Chain Management</td>
<td>Receiving, inventory</td>
</tr>
<tr>
<td>Infor/Lawson Landmark</td>
<td>Contracts management</td>
</tr>
<tr>
<td>Allscripts/EPSI</td>
<td>Budgeting</td>
</tr>
<tr>
<td>MHC</td>
<td>Check printing, W2 distribution</td>
</tr>
<tr>
<td>Halogen Systems</td>
<td>Employee Performance Reviews</td>
</tr>
<tr>
<td>PeopleAdmin</td>
<td>Recruiting</td>
</tr>
<tr>
<td>BSI Tax Factory</td>
<td>Tax regulatory updates</td>
</tr>
<tr>
<td>SAP/SLCM</td>
<td>Student administration, student records, student accounting,</td>
</tr>
<tr>
<td>ProSam/Sigma</td>
<td>Student Financial Aid</td>
</tr>
<tr>
<td>Academic Works</td>
<td>Scholarship management</td>
</tr>
<tr>
<td>Touchnet</td>
<td>Electronic Payment System for student tuition and fees</td>
</tr>
<tr>
<td>Kofax</td>
<td>Scanning</td>
</tr>
</tbody>
</table>

(please note that we will refer to “Infor” as the vendor of the “Lawson” ERP product)

The variety of systems has led to several operational and technical concerns. Operationally, the nature of the systems has led to a reluctance to modernize business processes because the software is inflexible or non-functional. Two examples:

- UMMC worked with Infor for 2 years unsuccessfully to implement budgeting in their system. Infor was unable to make their software accommodate the staff budgeting calculations and was unable to make the software stable.
EXHIBIT 5
January 18, 2018

- An internal audit completed in December 2016, by the Institutes of Higher Learning (IHL) stated that ProSam produces many significant errors and integrates poorly with SAP. This causes operational issues for the Student Financial Aid office who have to manually verify financial aid awards.

In addition, it has been difficult to provide relevant management data to operational executives for operational decisions. UMMC is unable to effectively:

- Track contract spend for commodities.
- Identify valuable employees at risk of turnover.
- Make all required accounting adjustments in the ERP system to produce financial reports.
- Drill into financial reports to determine root cause of budget variances.
- Create reports quickly using a reporting tool for SAP. UMMC develops all reports using native SAP code. This significantly delays our ability to provide academic leadership with needed, timely data.

Technically, there has been an increasing burden on operational staff to maintain aging ERP and SIS systems, including but not limited to building and maintaining custom enhancements and work-arounds.

Enterprise Resource Planning

UMMC originally purchased the Lawson Human Resources and Payroll Systems in 2002 and subsequently the Lawson Absence Management module in 2006. In November 2008, UMMC purchased the remaining primary Lawson Enterprise Resource Planning (ERP) software suites for financials, procurement, and business intelligence for a total cost of $2,505,800.00.

UMMC has continued to expand and enhance the use of Lawson for its 10,500 users, most recently adding a Contracts Management module to become a single repository for all UMMC contracts (except Payor contracts), thus enabling improved spend and expiry tracking.

With Version 9 of Lawson set to expire in May 2016, in June 2015 UMMC signed a 3-year agreement with Infor to upgrade to Lawson Version 10, add applications for talent acquisition and budgeting, and migrate to a hosted environment. The migration plan was necessary because the Lawson infrastructure had grown very complex spanning several technology platforms that require integration and maintenance. The vendor partner explained that implementing Version 10 (and subsequently Version 11) in Infor’s hosted environment would allow UMMC to rely on Infor’s expert resources to successfully maintain the platform, enabling DIS staff to focus on improving functionality for its core customers.

Unfortunately, Infor was not able to successfully implement the talent acquisition and budgeting applications UMMC purchased. Neither application had the stated and required functionality nor was the budgeting software stable. Infor was able to offer a separate solution for talent acquisition, but UMMC was left without a budgeting application. Additionally, the 6-month upgrade to Version 10 was cancelled by UMMC after 9 months due to concerns with the Infor Implementation Team’s performance and the anticipated level of customer service after go-live.

Based on the experience and overall performance with the upgrades, UMMC has had a significant erosion in trust in Infor and its ability to maintain its software. The marketplace has reacted similarly causing a decrease in ratings from at least two industry leading analysts, Gartner and KLAS. UMMC has thus decided that it is in its best interest to search for a new solution.
Student Information Systems

In July 2008, the University of Mississippi (UM) and UMMC entered into an agreement by which UM would host UMMC’s student information system (SIS). A letter outlined an understanding between the two entities with inherent costs based on a five-year project plan and had an end date of June 30, 2012. It was extended in March 2012 and again June 30, 2017 (termination with notification included).

Although the partnership with UM has worked well, UMMC is dissatisfied with SAP’s commitment to its SIS. The application has not been significantly upgraded since 2007. Because SAP did not achieve the market penetration it had hoped for (there are only 3 other universities using its SIS), the application cannot support trends that will eventually be the norm in health education such as competency-based education and flexible program start dates. Additionally, SAP has never had an integrated Student Financial Aid application, which led to UMMC acquiring Sigma’s ProSam application for that purpose. Sigma has not significantly upgraded its application during the time UMMC has been a customer. As business practices evolve UMMC has paid ProSam for custom development to the system. Even with this customization, many of the current business practices remain manual processes.

The aforementioned internal audit by the IHL in 2016 stated that the data integration between ProSam and SAP causes system posting errors and inappropriate corrections which leads to incorrect student aid being provided to students and poor reporting of activities. All of this requires significant maintenance for UMMC staff in the Financial Aid office and in DIS.

PROPOSED SOLUTION

The purpose of this request is to replace the software applications listed in the table above with Workday’s ERP and SIS solutions. This will be a multi-phase implementation conducted by Sierra-Cedar beginning with Human Resources, Payroll and Financials, then Supply Chain, and Student (SIS). Workday’s ERP and SIS solutions are anticipated to provide UMMC’s staff and students with a fully integrated and user-friendly experience. Maintenance of the system will also be much simpler because the applications will be hosted by Workday and Workday will provide all infrastructure and upgrades on a scheduled basis at no additional cost.

UMMC is requesting the acquisition of services from Sierra-Cedar, Inc. as the implementation agent for Workday software and support, and the purchase of software, hosting, and training from Workday, Inc.

PROJECT GOALS AND OBJECTIVES

- To have a fully integrated ERP and SIS in one application, on a single platform
- To achieve significant operational improvements in administrative services, making them more customer friendly and efficient
- To have a system that relies on configuration rather than custom programming
- To build a governance model at UMMC that will coordinate operational and technical decisions during implementation and thereafter
- To improve business practices where applicable based on best practices

CRITICAL SUCCESS FACTORS

- Workday and Sierra-Cedar must provide an implementation team that has operational and technical expertise. Each member of the implementation team must have significant experience with Workday implementations.
EXHIBIT 5
January 18, 2018

- UMMC’s governance model must be willing to make significant operational and technical decisions in a timely manner and embrace the organizational changes that come from their decisions. The governance group must reinforce the organization’s use of the Workday best practice workflows.

RISKS
- Technical support risk: the risk of relying on a vendor to support the infrastructure and the application. Workday’s hosted model requires that all active customers are on the same version and take version upgrades at the same time.
- Implementation risk: the timeline for this effort is aggressive and will require an organizational commitment to provide adequate resource availability and nimble governance.

COLLABORATION
- Similar to the User Group model emphasized by Epic, the Workday client model encourages collaboration between client organizations across all businesses and the sharing of ideas and system configurations to improve operational efficiencies.
- A guiding principle of this implementation is to align the business practices of UMMC to industry best practice.
- If they so choose, UM can count on UMMC to work with them to facilitate the procurement of the Workday SIS module for use at the Oxford campus as well.

IMPACT IF NO ACTION TAKEN
Sunset Infor/Lawson V9 – UMMC would have to go to Infor/Lawson V10 at significant cost without receiving appreciable improved functionality. Additionally, V11 is the latest release, but it is a significant rewrite of the platform with very few early adopters, meaning less live sites finding bugs and system issues.

At best, UMMC would be able to maintain current functionality of the system, but would be limited in its ability to improve business processes for the organization. The organization will continue to operate on a SIS that is not integrated with key business systems at the organization.

TECHNICAL ENVIRONMENT AND HOSTING
The Workday solution is a cloud-based, multi-tenant solution that will not require additional hardware purchases at UMMC to implement. None of Workday’s 1,800+ clients have a local installation of this system, nor do they house it in a separate, off-site data center of their own. As such, the pricing information below will reflect the Full Service Equivalent (FSE), subscription-based model that Workday uses to price their product(s).

INFORMATION TECHNOLOGY SECURITY
Workday’s security was reviewed by UMMC’s interim Chief Information Security Officer, Chief Compliance Officer and Meditology (UMMC’s contracted IT security consultant). It meets with UMMC’s Cloud Services Policy, which incorporates the State of Mississippi Enterprise Security Policy.
FUNDING

UMMC will provide funding for this initiative through cash on hand from operations of the Medical Center. No grant or federal funds will be used, nor will there be a charge-back to customers who use the system.

PROJECT COST / RESOURCE ESTIMATE SUMMARY

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<th>Number</th>
<th>Worker to FSE Conversion</th>
<th>FSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Time</td>
<td>8,568</td>
<td>100%</td>
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<tr>
<td>Part-time</td>
<td>1,429</td>
<td>25%</td>
<td>358</td>
</tr>
<tr>
<td>Associates</td>
<td>3,155</td>
<td>12.5%</td>
<td>395</td>
</tr>
<tr>
<td>Total:</td>
<td>13,152</td>
<td></td>
<td>9,321</td>
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<tr>
<th>Category – Student</th>
<th>Number</th>
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<td>Students reported to IPEDS</td>
<td>1,968</td>
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Students NOT reported to Integrated Postsecondary Education Data System (IPEDS)

| Total:         | 1,968 |

IPEDS: Integrated Postsecondary Education Data System

Full Time: scheduled 20+ hours per week regardless of method of payment, actual hours worked, or benefits eligibility

Part-time: scheduled for 20 or less hours per week regardless of method of payment, actual hours worked, or benefits eligibility

Current Request

With approval of this request, the Total 5-year Life Cycle Cost will be:

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January 18, 2018

- Through an interface between Workday and a time and attendance system, Chipotle was able to improve the way it analyzes data to quickly uncover discrepancies in employee time records and reduce overtime payments on each pay cycle.
- CityMD is using financial reports to track vendor spend and improve contract consolidation and negotiation.
- Workday customers have seen their supplier spend improved as well – Shelter Insurance saves almost $900k per year, and CityYear experienced a 90% simplification of their supplier data set.

ALTERNATIVES TO THE PROPOSED SOLUTION

<table>
<thead>
<tr>
<th>Other Options Considered</th>
<th>Reasons for Rejecting Alternative Solution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1: Migrate to Infor/Lawson v10</td>
<td>This option was pursued in 2015 and Infor/Lawson was not able to deliver the upgrade on time or on budget, so UMMC put the project on hold.</td>
</tr>
<tr>
<td>Option 2: Migrate to Infor/Lawson v11</td>
<td>This is the latest version of the Infor/Lawson product and has very few early adopters. A large academic medical center has budgeted $9 million for their 18-month implementation of V11 (HR, Supply Chain and Finance).</td>
</tr>
<tr>
<td>Option 3: Maintain Status Quo</td>
<td>If the system were to remain as it is, the organization would not be able to pay any employees after 1/1/2019. Finance and Payroll will not be supported by Infor/Lawson, thus exposing UMMC to operational or security vulnerabilities.</td>
</tr>
</tbody>
</table>
This document (hereinafter referred to as “Supplement”) shall serve as a Supplement to the original Master Software License and Service Agreement (hereinafter referred to as “Master Agreement”) executed on May 21, 1998, between Ellucian Company L.P., formerly known as “SunGard SCT, Inc.” and SCT Software & Resource Management Corporation, and “SunGard” (hereinafter referred to as “Licensor” and/or “Ellucian”), and Mississippi Department of Information Technology Services (hereinafter referred to as “ITS”), as contracting agent for the agencies and institutions of the State of Mississippi. It is understood by the parties that ITS is executing this Supplement on behalf of Mississippi Valley State University (hereinafter referred to as “Licensee”). ITS and Licensee are sometimes collectively referred to herein as “State.”

WHEREAS, the Licensee desires to acquire the Technical Currency Services as specified herein;

NOW THEREFORE, in consideration of the mutual understandings, promises, consideration and agreements set forth, the parties hereto agree as follows:

1) This Supplement will become effective on the date it is signed by all parties (“Effective Date”) and will continue in effect until June 30, 2024 unless terminated pursuant to Article 14 of the Master Agreement. Licensor agrees to provide the Technical Currency Services in accordance with Article 32 of the Master Agreement.

2) Licensor agrees to provide Licensee with Technical Currency Services for the Licensed Software identified in the Licensee Order Form, which is attached hereto as Exhibit A and incorporated herein by reference, and at the fees and for the periods set forth therein.

3) Licensor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Licensor agrees to maintain records of such compliance and, upon request of the State, to provide a copy of each such verification to the State. Licensor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Licensor understands and agrees that any breach of these warranties may subject Licensor to the following: (a) termination of this Supplement and ineligibility for any state or public contract in
Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Licensor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Licensor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

4) The parties understand and agree that all terms and conditions set forth in the Master Agreement are incorporated herein by reference and that this acquisition is subject to and controlled by the terms and conditions set forth in the Master Agreement.

5) All other provisions in the underlying Master Agreement shall remain unchanged.

For the faithful performance of the terms of this Supplement, the parties have caused this Supplement to be executed by their undersigned representatives.

State of Mississippi, Department of Information Technology Services, on behalf of Mississippi Valley State University

By:__________________________________________
    Authorized Signature

Printed Name: Craig P. Orgeron, Ph.D.
Title: Executive Director
Date: __________________________

Ellucian Company L.P.

By:__________________________________________
    Authorized Signature

Printed Name:________________________
Title:________________________
Date:________________________
Licensee: Mississippi Valley State University ("Licensee")
Delivery Address: 14000 Highway 82 West, Itta Bena, MS 38941

Licensee is hereby obtaining Technical Currency Services for the Licensed Software listed below pursuant to the Master Software License and Services Agreement between Ellucian and ITS as Contracting Agent for the Agencies and Institutions of the State of Mississippi dated May 21, 1998 (the “Master Agreement”). The fees due hereunder shall be in addition to any fees due under any prior Order Form, Amendment or Agreement entered into between Ellucian and either ITS or the Board of Trustees of the Mississippi Institutions of Higher Learning.

**TABLE 1: Technical Currency Services (Maintenance):**
Technical Currency Year Begins/Ends: July 1/June 30
Technical Currency Expiration Date: June 30, 2024

<table>
<thead>
<tr>
<th>Time Period:</th>
<th>February 1, 2018 to June 30, 2018</th>
<th>July 1, 2018 to June 30, 2019</th>
<th>July 1, 2019 to June 30, 2020</th>
<th>July 1, 2020 to June 30, 2021</th>
<th>July 1, 2021 to June 30, 2022</th>
<th>July 1, 2022 to June 30, 2023</th>
<th>July 1, 2023 to June 30, 2024</th>
</tr>
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<tbody>
<tr>
<td>Maintenance Paid in Arrears:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Banner Student</td>
<td>$15,615.00</td>
<td>$38,975.00</td>
<td>$40,534.00</td>
<td>$42,155.00</td>
<td>$43,842.00</td>
<td>$45,595.00</td>
<td>$47,419.00</td>
</tr>
<tr>
<td>Banner Student Self-Service</td>
<td>$5,007.00</td>
<td>$12,497.00</td>
<td>$12,997.00</td>
<td>$13,517.00</td>
<td>$14,057.00</td>
<td>$14,619.00</td>
<td>$15,204.00</td>
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<tr>
<td>Banner Faculty and Advisor Self-Service</td>
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<td>$9,984.00</td>
<td>$10,384.00</td>
<td>$10,799.00</td>
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<td>$11,680.00</td>
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<tr>
<td>Banner Financial Aid</td>
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<td>$34,727.00</td>
<td>$36,116.00</td>
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<td>Banner Financial Aid Self-Service</td>
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<td>$0.00</td>
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<tr>
<td>CSS Profile for Financial Aid</td>
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<td>$0.00</td>
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<tr>
<td>Financial Aid FM Need Analysis</td>
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<tr>
<td>Banner Finance</td>
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<tr>
<td>Banner Finance Self-Service</td>
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<tr>
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<tr>
<td>Banner Employee Self-Service</td>
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</table>
### Banner Advancement

<table>
<thead>
<tr>
<th>Time Period</th>
<th>February 1, 2018 to June 30, 2018</th>
<th>July 1, 2018 to June 30, 2019</th>
<th>July 1, 2019 to June 30, 2020</th>
<th>July 1, 2020 to June 30, 2021</th>
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<th>July 1, 2022 to June 30, 2023</th>
<th>July 1, 2023 to June 30, 2024</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$5,193.00</td>
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### Banner Advancement Self-Service

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<th>Time Period</th>
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<th>July 1, 2018 to June 30, 2019</th>
<th>July 1, 2019 to June 30, 2020</th>
<th>July 1, 2020 to June 30, 2021</th>
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<th>July 1, 2022 to June 30, 2023</th>
<th>July 1, 2023 to June 30, 2024</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$2,709.00</td>
<td>$6,761.00</td>
<td>$7,032.00</td>
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<td>$7,605.00</td>
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<td>$8,226.00</td>
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### EDI Smart

<table>
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<th>Time Period</th>
<th>February 1, 2018 to June 30, 2018</th>
<th>July 1, 2018 to June 30, 2019</th>
<th>July 1, 2019 to June 30, 2020</th>
<th>July 1, 2020 to June 30, 2021</th>
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<th>July 1, 2023 to June 30, 2024</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>$0.00</td>
</tr>
</tbody>
</table>

### Banner Workflow

<table>
<thead>
<tr>
<th>Time Period</th>
<th>February 1, 2018 to June 30, 2018</th>
<th>July 1, 2018 to June 30, 2019</th>
<th>July 1, 2019 to June 30, 2020</th>
<th>July 1, 2020 to June 30, 2021</th>
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<th>July 1, 2023 to June 30, 2024</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

### Grand Total

<table>
<thead>
<tr>
<th>Time Period</th>
<th>February 1, 2018 to June 30, 2018</th>
<th>July 1, 2018 to June 30, 2019</th>
<th>July 1, 2019 to June 30, 2020</th>
<th>July 1, 2020 to June 30, 2021</th>
<th>July 1, 2021 to June 30, 2022</th>
<th>July 1, 2022 to June 30, 2023</th>
<th>July 1, 2023 to June 30, 2024</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$81,171.00</td>
<td>$202,600.00</td>
<td>$210,705.00</td>
<td>$219,132.00</td>
<td>$227,897.00</td>
<td>$237,011.00</td>
<td>$246,493.00</td>
</tr>
</tbody>
</table>

**Total Maintenance Cost:** $1,425,009.00

---

**NOTES TO TABLE 1:**

1. Indicates the Component System is owned by a third party.

**NOTES:**

The hours during which Maintenance will be provided for each Component System, the targeted response times for certain defined categories of Maintenance calls for each Component System, and other details and procedures (collectively, the “Maintenance Standards”) relating to the provision of Maintenance for each Component System are described in the applicable Maintenance Standards stated below.

The Technical Currency (Maintenance) amounts specified in Table 1 above will be reflected by Ellucian in annual invoices in arrears. Licensee will make payment for invoices in accordance with the terms of Article 10 of the Master Agreement and penalties for late payments shall be calculated in accordance with the terms of Article 10.2 of the Master Agreement. Following the Expiration Date of the final Technical Currency Year (i.e. June 30, 2024), Technical Currency Services may be extended upon mutual written agreement of the parties, in the form of an amendment to this Supplement signed by an authorized representative of each party hereto.

Notwithstanding anything in the Master Agreement to the contrary, except in the case of: (a) a termination for cause as described in Article 14.1 or 14.2 of the Master Agreement, or (b) as the result of mutual written agreement of the parties as described in Article 14.3, or (c) a lack of appropriation of funds as described in Article 27 of the Master Agreement, the Technical Currency Term as it applies to each Baseline Component System listed in Table 1 above is for the period beginning on the Commencement Date (i.e. July 1, 2018) and shall continue, and remain in full force and effect, until the Expiration Date of the final Technical Currency Year, in accordance with its terms.

**Advantage Level Maintenance Standards**
I. Defined Terms:

“Notification” means a communication to Ellucian’s ActionLine by means of: (i) Ellucian’s Customer Support Center; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with Ellucian’s then-current policies and procedures for submitting such communications.

“Priority One Call” means a Notification that Licensee believes that a Documented Defect has caused: (i) a full failure (i.e., “crash”) of its computer system; (ii) a full failure of the Licensed Software; or (iii) a failure of its computer system or the Licensed Software which, in either case, prevents Licensee from performing data processing which is critical to Licensee’s operations on the day on which the alleged Documented Defect is reported.

“Priority Two Call” means a Notification that Licensee believes that a Documented Defect has caused a partial failure of Licensee’s computer system or the Licensed Software which significantly hinders its ability to perform data processing which is critical to Licensee’s operations on the day on which the alleged Documented Defect is reported.

“Priority Three Call” means a Notification that Licensee believes that a Documented Defect has caused an intermittent failure of, or problem with, its computer system or the Licensed Software that causes a significant delay in Licensee’s ability to perform data processing on the day on which the alleged Documented Defect is reported, but where the processing is not critical to Licensee’s operations.

“Priority Four Call” means a Notification that Licensee believes that a Documented Defect has caused a problem with its computer system or the Licensed Software that does not significantly affect critical processing.

II. Hours During Which Ellucian’s “ActionLine” Telephone Support Will be Available to Licensee in Connection with the Provision of Maintenance: Five (5) days per week, Monday through Friday, excluding United States holidays and Ellucian-observed holidays, from 8:00 AM to 8:00 PM (Central US Time).

III. Targeted Response Times: With respect to Ellucian’s Maintenance obligations, Ellucian will respond to Notifications from Licensee relating to the Baseline Component Systems identified in this Supplement in accordance with the following guidelines, with the time period to be measured beginning with Ellucian’s receipt of the Notification:

Priority One Calls – two (2) hours or less.
Priority Two Calls – four (4) hours or less.
Priority Three Calls – twenty-four (24) hours or less.
Priority Four Calls – seventy-two (72) hours or less.

Notes: For purposes of these targets, a “response” will mean an initial contact from an Ellucian representative to Licensee to begin evaluation of the problem reported under one of the categories of calls identified above; (2) As a prerequisite to Ellucian’s obligation to respond to
Licensee, Licensee must follow the policies and procedures of Ellucian’s ActionLine (such as the dialing of a particular phone number, the categorization of a particular problem, etc.) when submitting its Notification.
608 INTERMEDIATE COURSES

A. All entering freshmen students admitted under Board Policy 602 enrolled at an IHL university with an ACT Mathematics subtest score of 16 or less will be required to take Intermediate Algebra Mathematics during their first semester of enrollment. At the discretion of the admitting IHL institution, students whose Mathematics subtest score is 17, 18 or 19 may be required to take Intermediate Algebra Mathematics. Students with a minimum ACT Mathematics subtest score of 15 who have completed the SREB Math Ready Mississippi Department of Education approved mathematics transitional course with a grade of “80” or higher regardless of ACT Mathematics subtest score will not be required to take Intermediate Algebra Mathematics and should be enrolled in a college-level mathematics course during their first semester of enrollment.

B. All entering freshmen students admitted under Board Policy 602 enrolled at an IHL university with an ACT English subtest score of 16 or less will be required to take Intermediate English during their first semester of enrollment. At the discretion of the admitting IHL institution, students whose English subtest score is 17, 18 or 19 may be required to take Intermediate English. Students with a minimum ACT English subtest score of 15 who have completed the SREB Literacy Ready Mississippi Department of Education approved literacy transitional course with a grade of “80” or higher regardless of ACT English subtest score will not be required to take Intermediate English and should be enrolled in a college-level English course during their first semester of enrollment.

C. All entering freshmen students admitted under Board Policy 602 enrolled at an IHL university with an ACT Reading subtest score of 16 or less will be required to take Intermediate Reading during their first semester of enrollment. At the discretion of the admitting IHL institution, students whose Reading subtest score is 17, 18 or 19 may be required to take Intermediate Reading. Students taking Intermediate Reading should not be permitted to take reading-intensive courses, such as History. Students with a minimum ACT Reading subtest score of 15 who have completed the SREB Literacy Ready Mississippi Department of Education approved literacy transitional course with a grade of “80” or higher regardless of ACT Reading subtest score will not be required to take Intermediate Reading.

D. Students taking two or more intermediate courses must enroll in the yearlong Academic Support Program or some other IHL-recognized intervention strategy to promote success in the courses in which they are not fully prepared, according to ACT subtest scores, and will not be permitted to take more than 17 semester hours.
E. Intermediate courses may be delivered through a corequisite model coupled with a credit bearing gateway course.

F. Regarding course placement using an ACT subtest score, exemptions to this policy based on prior high school course performance, postsecondary course performance, or other academic experiences must be approved by the institution’s Chief Academic Officer or designee.
Prior to Board consideration of an institution’s request to acquire or engage in new or substantially expanded operations of a business or a healthcare facility, the institution shall promptly notify the Commissioner of such intent with sufficient time for the Commissioner to engage a Subject Matter Expert in the field of the project. Such operations may include, but are not limited to, any creation, expansion, or acquisition of a business or healthcare enterprise, business-type functions of institutional auxiliaries or proprietary operations, significant strategic financial initiatives of an institution, or material financial initiatives entered into by an institution. The institution will provide the Commissioner with sufficient information to allow a determination by the Commissioner as to the projected scope of the project and its projected impact on the revenues, expenses, and indebtedness of the institution. The Commissioner shall make a determination, upon consultation with the Board, whether the potential financial characteristics of the proposed project and the financial condition of the institution requires the appointment of a Subject Matter Expert to assist the Board. If the Commissioner determines that it is appropriate to retain a Subject Matter Expert, the Expert shall be engaged by the Board through the Commissioner and shall represent solely the interests of the Board in its capacity as the fiduciary of the state university system. The Subject Matter Expert shall meet such qualifications and perform other such services as may be prescribed by the Board or the Commissioner. The requesting institution shall reimburse the Board office for all expenses incurred related to the selection and engagement of the Subject Matter Expert. Payment of the Subject Matter Expert shall not be contingent on any outcome other than contractual performance as an impartial advisor. The Subject Matter Expert shall review the underlying business and market assumptions of the proposed project, evaluate historical financial information, consider current and future market conditions in the field of the project, evaluate pro forma financial information used in the decision-making process, and prepare a written analysis of these and other matters relevant for the Board’s consideration. The written analysis shall provide advice to the Board – which is independent of any advice provided by or to the institution -- as to the anticipated effect(s) of the proposed transaction and operations on the institution and the entire IHL system. The Subject Matter Expert shall make a determination, based on the analysis contained in the report, as to whether the proposed project justifies approval by the Board and explain the likely impacts and prudence of the proposed transaction.
SYSTEM: REAL ESTATE ITEMS APPROVED SUBSEQUENT TO THE NOVEMBER 16, 2017 BOARD MEETING SUBMISSION DEADLINE

NOTE: THE FOLLOWING ITEMS WERE APPROVED BY THE BOARD'S REAL ESTATE AND FACILITIES STAFF ACCORDING TO BOARD POLICY §904 (A) BOARD APPROVAL.

Change Order Approval Note: No change orders approved by Board staff, as reflected within any of the following informational agenda items, increase the Board approved total project budget. The total project budget as approved by the Board provides for a contingency fund, which allows for an increase in the construction budget of between five and ten percent. Any increase in the total project budget caused by a change order, would require Board approval and could not be approved by Board staff until the budget increase is approved by the Board.

ALCORN STATE UNIVERSITY

1. ASU – GS 101-310 – Faculty Housing
   NOTE: This is a Bureau of Building project
   Approval Request #1: Approval of Schematic Design Documents
   Board staff approved the Schematic Design Documents as submitted by Architecture South.
   Approval Status & Date: APPROVED, November 8, 2017
   Project Initiation Date: April 20, 2017
   Design Professional: Architecture South
   General Contractor: TBD
   Total Project Budget: $10,000,000.00

JACKSON STATE UNIVERSITY

2. JSU– GS 103-281 – Alexander Center Renovation-Phase II (Building A Buildout)
   NOTE: This is a Bureau of Building project
   Approval Request #1: Change Order #3
   Board staff approved Change Order #3 in the amount of $18,184.90 and zero (0) additional days to the contract of Sullivan Enterprises, Inc. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.
   Approval Status & Date: APPROVED, November 2, 2017
   Change Order Description: Change Order #3 includes the following items: add two (2) power circuits per floor.
   Change Order Justification: This change was necessary to modify the existing detectors in order to report them in groups.
   Total Project Change Orders and Amount: Three (3) change orders for a total amount of $131,645.75.
   Project Initiation Date: February 18, 2016
EXHIBIT 9
January 18, 2018

Design Professional: Foil Wyatt Architects & Planners, PLLC
General Contractor: Sullivan Enterprises, Inc.
Total Project Budget: $2,018,827.06

MISSISSIPPI STATE UNIVERSITY

3. MSU – GS 105-355 – Engineering and Science Complex (Engineering Building)
   NOTE: This is a Bureau of Building project
   Approval Request #1: Approval of Design Development Documents
   Board staff approved the Design Development Documents as submitted by Eley Guild Hardy Architects, P.A.
   Approval Status & Date: APPROVED, November 29, 2017
   Project Initiation Date: May 18, 2017
   Design Professional: Eley Guild Hardy Architects, P.A.
   General Contractor: TBD
   Total Project Budget: $34,000,000.00

4. MSU – GS 113-145 (formerly IHL #213-142) – NWARC Roof Replacement
   NOTE: This is a Bureau of Building project
   Approval Request #1: Contract Documents
   Board staff approved Contract Documents as submitted by Pryor & Morrow Architects and Engineers, P.A.
   Approval Status & Date: APPROVED, November 13, 2017
   Approval Request #2: Advertise
   Board staff approved request to advertise for receipt of bids.
   Approval Status & Date: APPROVED, November 13, 2017
   Project Initiation Date: October 21, 2016
   Design Professional: Pryor & Morrow Architects and Engineers, P.A.
   General Contractor: TBD
   Total Project Budget: $2,000,000.00

5. MSU – IHL 205-285A – Chilled Water Loop Upgrade
   Approval Request #1: Approval of Schematic Design Documents
   Board staff approved the Schematic Design Documents as submitted by Cooke Douglas Farr Lemons Architects & Engineers.
   Approval Status & Date: APPROVED, November 30, 2017
   Approval Request #2: Waiver of Design Development Documents
   Board staff approved the Waiver of Design Development Documents as submitted by Cooke Douglas Farr Lemons Architects and Engineers.
   Approval Status & Date: APPROVED, November 30, 2017
   Project Initiation Date: August 17, 2017
   Design Professional: Cooke Douglas Farr Lemons Architects and Engineers
   General Contractor: TBD
   Total Project Budget: $4,000,000.00
MISSISSIPPI UNIVERSITY FOR WOMEN

   
   NOTE: This is a Bureau of Building project
   
   **Approval Request #1: Award of Construction Contract**
   
   Board staff approved the Award of Contract in the amount of $6,885,000.00 to the apparent low bidder, Amason & Associates, Inc.
   
   **Approval Status & Date:** APPROVED, October 25, 2017
   
   **Project Initiation Date:** June 18, 2015
   
   **Design Professional:** Pryor & Morrow Architects & Engineers
   
   **General Contractor:** Amason & Associates, Inc.
   
   **Total Project Budget:** $9,042,914.87

UNIVERSITY OF MISSISSIPPI

7. **UM– GS 107-308 – Union Addition & Renovation**
   
   NOTE: This is a Bureau of Building project
   
   **Approval Request #1: Change Order #10**
   
   Board staff approved Change Order #10 in the amount of $284,401.00 and twenty-five (25) additional days to the contract of Roy Anderson Corporation. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.
   
   **Approval Status & Date:** APPROVED, November 15, 2017
   
   **Change Order Description:** Change Order #10 includes the following items: provided raceways for the revised/added access control devices; changed the location of the dumpster, bollards and electrical service to the west side of the service drive; modified the edges of the floor slabs at stair #5 with minor saw-cutting & removal of structural steel & concrete slab edge, and rework of the storm piping at the top of the stair shaft; changed the standard polymer tile grout to epoxy grout at the bathroom floors; provided data raceways & power to the video board matrix; added two (2) nyloplast storm inlets & related piping outside stair #5 & #6; added six (6) total card readers at two elevators, including devices, wire and set up; revised the connection to the circuits of 120v in lieu of the designed 277v bathroom cove light fixtures; performed additional asbestos abatement in phase 3 under the topping slab and floor tile; provided telecom manhole racks; and twenty-five (25) days to the contract.
   
   **Change Order Justification:** These changes are due to errors & omissions in the plans and specifications; latent job site conditions; user/owner requested modifications; and days for work as indicated herein.
   
   **Total Project Change Orders and Amount:** Ten (10) change orders for a total amount of $2,080,062.00.
   
   **Project Initiation Date:** August 18, 2011
   
   **Design Professional:** Eley Guild Hardy Architects – Jackson, P.A.
   
   **General Contractor:** Roy Anderson Corporation
8. **UM– GS 107-308.2 Union Addition & Renovation – C101 Qdoba Buildout**

   **NOTE:** This is a Bureau of Building project

   **Approval Request #1: Change Order #1**

   Board staff approved Change Order #1 in the amount of $5,918.00 and ninety (90) additional days to the contract of Roy Anderson Corporation. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.

   **Approval Status & Date:** APPROVED, November 13, 2017

   **Change Order Description:** Change Order #1 includes the following items: added new hot water heater and electrical service at the added hand sink; disconnected & relocated the ice machine to level 3; and ninety days (90) to the contract.

   **Change Order Justification:** These changes are due to the late issuance of the contract resulting in the addition of seventy-one (71) days to the contract and nineteen (19) days for work as indicated herein.

   **Total Project Change Orders and Amount:** One (1) change order for a total amount of $5,918.00.

   **Project Initiation Date:** November 15, 2012

   **Design Professional:** Eley Guild Hardy Architects - Jackson P.A.

   **General Contractor:** Roy Anderson Corporation

   **Phased Project Budget:** $133,028.16

   **Total Project Budget:** $58,900,000.00


   **Approval Request #1: Change Order #7**

   Board staff approved Change Order #7 in the amount of $7,031.46 and twenty-three (23) additional days to the contract of Zellner Construction Services, LLC.

   **Approval Status & Date:** APPROVED, November 20, 2017

   **Change Order Description:** Change Order #7 includes the following items: credit for deletion of all motion sensors and push to exit buttons; installation of an owner-supplied extension sleeve to the existing fire hydrant on the northwest corner of the building; additional conduit rough-ins for the owner-supplied signage; added an exterior grade lay-in ceiling with insulation to the soccer storage room; filled in the voids in the attack lines and center lines of the volleyball court; credit for deletion of rubber treads, risers and landings at the main stair next to the elevator; removed the “tick” marks at all four corners of the volleyball court; added conduits to the middle of the court for a scorer’s table; reconciliation of the floor patch allowance; credit to accept the 1” sports floor as installed; and twenty-three (23) days to the contract.

   **Change Order Justification:** These changes are due to latent job site conditions; user/owner requested modifications; and days for work as indicated herein.

   **Total Project Change Orders and Amount:** Seven (7) change orders for a total amount of $244,442.88.

   **Project Initiation Date:** June 19, 2014

   **Design Professional:** Pryor & Morrow Architects and Engineers
General Contractor: Zellner Construction Services, LLC
Total Project Budget: $13,800,000.00

10. UM – IHL 207-415 – Golf Practice Facility Renovation
Approval Request #1 (INTERIM): In accordance with Board Policy §904 (B) Board Approval, Interim Chair Approval was granted by Mr. Hal Parker, Chair of the Real Estate and Facilities Committee on November 15, 2017 to approve the budget increase from $500,000.00 to $3,198,000.00, an increase of $2,698,000.00.
Interim Approval Status & Date: APPROVED, November 15, 2017
Project Initiation Date: February 18, 2016
Design Professional: Pryor & Morrow Architects & Engineers
General Contractor: TBD
Total Project Budget: $3,198,000.00

11. UM – IHL 207-415 – Golf Practice Facility Renovation
Approval Request #1: Approval of Schematic Design Documents
Board staff approved the Schematic Design Documents as submitted by Pryor & Morrow Architects & Engineers.
Approval Status & Date: APPROVED, November 20, 2017
Approval Request #2: Waiver of Design Development Documents
Board staff approved the Waiver of Design Development Documents as submitted by Pryor & Morrow Architects & Engineers.
Approval Status & Date: APPROVED, November 20, 2017
Project Initiation Date: August 17, 2017
Design Professional: Pryor & Morrow Architects & Engineers
General Contractor: TBD
Total Project Budget: $3,198,000.00

12. UM – IHL 207-423 – Jackson Avenue Center Phase III – Swing Space
Approval Request #1: Change Order #5R
Board staff approved Change Order #5R in the amount of $8,184.00 and zero (0) additional days to the contract of Murphy & Sons, Inc.
Approval Status & Date: APPROVED, October 25, 2017
Change Order Description: Change Order #5R includes the following items: added two (2) new light fixtures in the area next to the skylight; added six (6) type 4 can fixtures at the neighborhood entrances & repaired the drywall; added two (2) layers of drywall to a wall; major floor repairs in the existing slab; added three (3) slot diffusers; revised the interior signage; electrical work was performed on the doors for access controls; added electrical and data for digital signage; installed blocking, repaired the drywall and repainted the wall; added four (4) type 15 can light fixtures in two areas; patched and repainted drywall damage; and repainted the ceiling clouds in two areas.
Change Order Justification: These changes are due to changes in requirements or recommendations by government agencies; errors and omissions in the plans and specifications; latent job site conditions; and user/owner requested modifications.
Total Project Change Orders and Amount: Five (5) change orders for a total amount of $99,357.00.

Project Initiation Date: September 2, 2016
Design Professional: Shafer & Associates, PLLC
General Contractor: Murphy & Sons, Inc.
Total Project Budget: $3,800,000.00

13. UM– IHL 207-425 Crosby Hall Boiler Replacement
   NOTE: This is a Bureau of Building project
   Approval Request #1: Change Order #1
   Board staff approved Change Order #1 in the amount of $8,467.00 and zero (0) additional days to the contract of Tri Star Mechanical Contractors, Inc.
   Approval Status & Date: APPROVED, November 15, 2017
   Change Order Description: Change Order #1 includes the following items: performed a chemical cleaning/flushing of heat exchanger 1 and 2; flushed the domestic water side and heating water side; and repaired two (2) leaks on the heating water and domestic water piping using copper and wrapped with fiberglass insulation.
   Change Order Justification: These changes are due to the latent job site conditions.
   Total Project Change Orders and Amount: One (1) change order for a total amount of $8,467.00.
   Project Initiation Date: September 15, 2016
   Design Professional: Corbett Legge & Associates, PLLC
   General Contractor: Tri Star Mechanical Contractors, Inc.
   Total Project Budget: $1,100,000.00

14. UM – IHL 207-436 Kinard Water Treatment Replacement
   Approval Request #1: Contract Documents
   Board staff approved Contract Documents as submitted by Engineering Solutions Inc.
   Approval Status & Date: APPROVED, November 13, 2017
   Approval Request #2: Advertise
   Board staff approved request to advertise for receipt of bids.
   Approval Status & Date: APPROVED, November 13, 2017
   Project Initiation Date: June 15, 2017
   Design Professional: Engineering Solutions, Inc.
   General Contractor: TBD
   Total Project Budget: $1,100,000.00

15. UM – IHL 207-438 – Deaton and Hefley Hall Elevator Refurbishment
   Approval Request #1: Approval of Schematic Design Documents
   Board staff approved the Schematic Design Documents as submitted by Corbett Legge & Associates, PLLC.
   Approval Status & Date: APPROVED, November 29, 2017
   Approval Request #2: Waiver of Design Development Documents
   Board staff approved the Waiver of Design Development Documents as submitted by Corbett Legge & Associates, PLLC.
UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

16. UMMC– GS 109-210 (GC-001) – School of Medicine

NOTE: This is a Bureau of Building project

Approval Request #1: Change Order #16

Board staff approved Change Order #16 in the amount of $328,138.00 and zero (0) additional days to the contract of Roy Anderson Corporation. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.

Approval Status & Date: APPROVED, October 23, 2017

Change Order Description: Change Order #15 includes the following items: credit for University Drive road revisions; installed quartzite boxes for the receptacles in the courtyard planters; installed airflow measuring stations in the supply and return ducts for each air handling unit; repaired the terrazzo seal that was damaged when installed; replaced the copper rubber base at the black wall covering the café with terrazzo base; additional elbows for the boiler vents; installed limestone in lieu of select fill in the excavated areas; installed area of refuge signage; installed a controller and panel for the added med gas alarms; installed twenty-four (24) end switches on the air handling unit fan isolation damper shafts; replaced the installed galvanized bollards with new stainless steel bollards; removed the existing concrete in the northwest corner of the north parking lot; graded and installed 6” of asphalt; removed the existing panics on the exterior aluminum doors that are tied to the smoke evacuation system and installed dummy panics; added magnetic locks to a door; removed the construction cylinders on all glass doors to group study/conference rooms and installed blank cylinders; removed the locks on the communication room doors and installed blank cylinders.

Change Order Justification: These changes are due to errors & omissions in the plans & specifications; latent job site conditions; and user/owner requested modifications.

Approval Request #2: Change Order #17

Board staff approved Change Order #15 in the amount of $120,777.00 and zero (0) additional days to the contract of Roy Anderson Corporation.

Approval Status & Date: APPROVED, October 23, 2017

Change Order Description: Change Order #17 includes the following items: revised the southeast corner of the north parking lot which provided two (2) handicap parking spaces; provided UMMC requested additions/revisions on the ground and third floors; removed and replaced Hunter Douglas specialty ceiling tiles for installation of UMMC’s wireless access point (WAP) equipment; added two (2) stop signs and stop bars on the pavement at the intersection of Peachtree Road and West University Drive; installed BAC network controller to the roller shades; added Hunter Douglas specialty ceiling trim
at the HVAC diffusers; repaired the damaged gas line; and installed stainless steel edge plates at the ends of the concrete paver bands of the north plaza emergency roadway.

Change Order Justification: These changes are due to errors and omissions in the plans & specifications; latent job site conditions; and user/owner requested modifications.

Total Project Change Orders and Amount: Seventeen (17) change orders for a total amount of $1,960,142.00.

Project Initiation Date: June 16, 2011
Design Professional: Cooke Douglas Farr Lemons + Eley Guild Hardy – A Joint Venture
General Contractor: Roy Anderson Corporation
Phased Project Budget: $65,742,205.00
Total Project Budget: $66,000,000.00

17. UMMC – IHL 209-544 – Translational Research Center

Approval Request #1: Change Order #7

Board staff approved Change Order #7 in the amount of $214,049.89 and zero (0) additional days to the contract of Fountain Construction Co., Inc.

Approval Status & Date: APPROVED, October 23, 2017

Change Order Description: Change Order #7 includes the following items: added primer & paint for concrete floors; added corner guards at the first floor, west wing; revised the door hardware to the penthouse stair door; installed a booster pump at the penthouse; added a railing at the steam generator; added convenience lighting at the bulk sterilizer; credit for SE drive gate feed and communication; changed the location of the irrigation controller; added required electrical items at the elevator; added cabling; changes made to the sidewalk/American Disabilities Act (ADA) parking lot; fabricated & installed trim for the cage washer; added twelve (12) strand fiber for the alarm; added a French drain at the south sidewalk; added two (2) crepe myrtles at the construction entrance; provided eleven (11) stainless steel, removable bollards; added two (2) return air grilles; added carpet in three (3) rooms on the 3rd floor; electrical revisions done on the 3rd floor; added data for the basement and 4th floor furniture connections; added a visual device at the 1st floor; added receptacles for the lab gas cabinets; added lab gas regulators & connectors on the 4th floor; provided nitrogen vacuum for the gas cabinets; and added acoustical closure at the round columns.

Change Order Justification: These changes are due to errors and omissions in the plans and specifications; latent job site conditions; and user/owner requested modifications.

Total Project Change Orders and Amount: Seven (7) change orders for a total credit amount of $395,566.81.

Project Initiation Date: November 17, 2011
Design Professional: Foil Wyatt Architects & Planners, PLLC
General Contractor: Fountain Construction Co., Inc.
Phased Project Budget: $44,259,496.98
Total Project Budget: $50,572,743.00

18. UMMC – IHL 209-558 – MS Integrated Public Safety Communications Center

Approval Request #1: Approval of Schematic Design Documents

Board staff approved the Schematic Design Documents as submitted by Gensler
UNIVERSITY OF SOUTHERN MISSISSIPPI

19. USM– GS 110-097 – Campus Repairs & Renovations

   NOTE: This is a Bureau of Building project
   Approval Request #1: Award of Construction Contract
   Board staff approved the Award of Contract in the amount of $1,707,500.00 to the apparent low bidder, J.W. Puckett & Company, Inc.
   Approval Status & Date: APPROVED, November 29, 2017
   Project Initiation Date: October 15, 2015
   Design Professional: Allred Architectural Group
   General Contractor: J.W. Puckett & Company, Inc.
   Total Project Budget: $2,000,000.00

EDUCATION AND RESEARCH CENTER

20. ERC– GS 111-053 – Primary Electrical Replacement

   NOTE: This is a Bureau of Building project
   Approval Request #1: Change Order #1
   Board staff approved Change Order #1 in the credit amount of $215,000.00 and zero (0) additional days to the contract of Moses Electric, Inc.
   Approval Status & Date: APPROVED, October 18, 2017
   Change Order Description: Change Order #1 includes the following items: deleted the second primary feed (underground) on Eastover Drive; provided a new primary electrical service from the overhead high voltage power service; added new power poles; added a new underground primary service; and two (2) transformers were installed by Entergy.
   Change Order Justification: These changes are due to latent job site conditions; and user/owner requested modifications.
   Total Project Change Orders and Amount: One (1) change order for a total credit amount of $215,000.00.
   Project Initiation Date: September 17, 2015
   Design Professional: Atherton consulting Engineers, Inc.
   General Contractor: Moses Electric, Inc.
   Total Project Budget: $2,000,000.00
1. SYSTEM – REPORT OF PAYMENTS TO OUTSIDE COUNSEL

Legal fees approved for payment to outside counsel in relation to litigation and other matters:

Payment of legal fees for professional services rendered by Baker & Hostetler (statements dated 9/22/17 and 10/18/17) from the funds of Alcorn State University. Alcorn State University previously paid $1,828.00 toward the $5,000.00 deductible under the cyber insurance policy leaving a balance of $3,172.00. (These statements, in the amounts of $1,058.50 and $3,025.00, respectively, represent services and expenses in connection with legal advice.)

TOTAL DUE..........................................................$ 3,172.00

Payment of legal fees for professional services rendered by Ware Immigration (statements dated 11/1/17, 12/1/17, 12/1/17, 12/1/17 and 12/1/17) from the funds of Alcorn State University. (These statements, in the amounts of $30.71, $13.10, $30.49, $27.98 and $23.24, respectively, represent services and expenses in connection with immigration/labor certification.)

TOTAL DUE..........................................................$ 125.52

Payment of legal fees for professional services rendered by Brunini, PLLC (statements dated 10/24/17 and 11/17/17) from the funds of Mississippi State University. (These statements, in the amounts of $100.00 and $450.00, respectively, represent services and expenses in connection with general legal advice.)

TOTAL DUE..........................................................$ 550.00

Payment of legal fees for professional services rendered by Butler|Snow (statement dated 11/14/17) from the funds of Mississippi State University. (This statement, in the amount of $13,368.00, represents services and expenses in connection with general legal advice.)

TOTAL DUE..........................................................$ 13,368.00

Payment of legal fees for professional services rendered by Ware Immigration (statements dated 11/1/17, 12/1/17 and 12/1/17) from the funds of Mississippi State University. (These statements, in the amounts of $2,500.00, $2,000.00 and $466.00, respectively, represent services and expenses in connection with immigration/labor certification.)

TOTAL DUE..........................................................$ 4,966.00

Payment of legal fees for professional services rendered by the Winfield Law Firm (statement dated 12/5/17) from the funds of Mississippi State University. (This statement, in the amount of $1,287.70, represents services and expenses in connection with legal advice.)

TOTAL DUE..........................................................$ 1,287.70
Payment of legal fees for professional services rendered by Gian Franco Borio (statement dated 10/24/17) from the funds of the Mississippi University for Women. (This statement, in the amount of $3,500.00, represents services and expenses in connection with general legal advice.)

TOTAL DUE..............................................................................$ 3,500.00

Payment of legal fees for professional services rendered by Butler|Snow (statement dated 11/6/17) from the funds of the University of Mississippi. (This statement, in the amount of $37,600.00, represents services and expenses in connection with the University of Mississippi Educational Building Corporation (EBC) matters.)

TOTAL DUE..............................................................................$ 37,600.00

Payment of legal fees for professional services rendered by Mayo|Mallette (statements dated 10/4/17, 11/7/17 and 11/7/17) from the funds of the University of Mississippi. (These statements, in the amounts of $18,515.09, $4,728.93 and $19,590.32, respectively, represent services and expenses in connection with general legal advice.)

TOTAL DUE..............................................................................$ 42,834.34

Payment of legal fees for professional services rendered by Ware Immigration (statements dated 2/1/17, 4/1/17, 9/1/17, 9/1/17, 11/1/17, 11/1/17, 11/1/17, 12/1/17, 12/1/17, 12/1/17, 12/1/17 and 12/1/17) from the funds of the University of Mississippi. (These statements, in the amounts of $2,000.00, $4,000.00, $2,500.00, $4,000.00, $4,000.00, $4,000.00, $58.80, $79.55, $1,975.00, $52.43, $63.88, $4,000.00 and $4,500.00, respectively, represent services and expenses in connection with immigration/labor certifications.)

TOTAL DUE..............................................................................$ 31,229.66

Payment of legal fees for professional services rendered by Baker|Donelson (statement dated 9/12/17) from the funds of the University of Mississippi Medical Center. (This statement, in the amount of $1,127.00, represents services and expenses in connection with legal advice.)

TOTAL DUE..............................................................................$ 1,127.00

Payment of legal fees for professional services rendered by Bradley|Arant (statements dated 11/4/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $3,356.50 and $9,359.00, represent services and expenses in connection with general legal advice.)

TOTAL DUE..............................................................................$ 12,715.50
Payment of legal fees for professional services rendered by Butler|Snow (statements dated 10/10/17, 10/10/17, 10/10/17, 10/10/17, 10/13/17, 10/19/17, 10/25/17, 11/10/17, 11/15/17, 11/15/17, 11/15/17 and 11/15/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $1,563.50, $28,650.00, $265.50, $4,546.39, $52,640.32, $3,540.00, $74,396.45, $8,852.52, $25.00, $20,061.30, $1,681.50 and $2,215.30, respectively, represent services and expenses in connection with legal advice.)

TOTAL DUE..........................................................$ 198,437.78

Payment of legal fees for professional services rendered by Hogan|Lovells (statements dated 9/19/17, 10/13/17 and 10/24/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $8,738.30, $5,038.20 and $15,442.10, respectively, represent services and expenses in connection with legal advice.)

TOTAL DUE..........................................................$ 31,858.60

Payment of legal fees for professional services rendered by Watkins & Eager (statements dated 10/18/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $14,293.90, $825.00, $1,831.50, $825.00, $1,963.50, $247.50, $1,831.50 and $561.00, represent services and expenses in connection with legal advice.)

TOTAL DUE..........................................................$ 22,378.90

Payment of legal fees for professional services rendered by Whitfield Law Group (statements dated 10/5/17, 10/5/17, 10/9/17 and 10/10/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $199.42, $678.75, $11,944.50 and $1,962.00, respectively, represent services and expenses in connection with legal advice.)

TOTAL DUE..........................................................$ 14,784.67

Payment of legal fees for professional services rendered by Bryan, Nelson, Schroeder, Castigliola & Banahan (statement dated 12/8/17) from the funds of the University of Southern Mississippi. (This statement, in the amount of $1,443.00, represents services and expenses in connection with legal advice.)

TOTAL DUE..........................................................$ 1,443.00

Payment of legal fees for professional services rendered by Butler|Snow (statements dated 10/9/17, 10/18/17, 11/13/17, 11/14/17, 11/17/17 and 12/11/17) from the funds of the University of Southern Mississippi. (These statements, in the amounts of $708.00, $708.00, $1,150.50, $590.00, $3,864.50 and $59.00, respectively, represent services and expenses in connection with legal advice.)

TOTAL DUE..........................................................$ 7,080.00
Payment of legal fees for professional services rendered by Mayo|Mallette (statement dated 11/7/17) from the funds of the University of Southern Mississippi. (This statement, in the amount of $462.00, represents services and expenses in connection with general legal advice.)

**TOTAL DUE.................................................................$** 462.00

Payment of legal fees for professional services rendered by Ware Immigration (statements dated 4/1/17, 11/1/17, 11/1/17, 11/1/17, 11/1/17, 11/1/17 and 12/1/17) from the funds of the University of Southern Mississippi. (These statements, in the amounts of $37.50, $21.36, $1,500.00, $30.71, $1,000.00, $446.00 and $30.49, respectively, represent services and expenses in connection with immigration/labor certifications.)

**TOTAL DUE.................................................................$** 3,066.06

Legal fees approved for payment to outside counsel in relation to patent and other matters:

Payment of legal fees for professional services rendered by Butler|Snow (statements dated 10/17/17, 10/17/17, 10/17/17, 11/17/17 and 11/21/17) from the funds of Mississippi State University. (These statements represent services and expenses in connection with the following patents: “Fully Scalable Computer Architecture for Parallel Discrete Event” - $1,850.00; “Method for Early Evaluation in Micropipeline Processors” - $1,850.00; “System and Methods for Pest Reduction” - $600.00; “System and Methods for Pest Reduction” - $1,121.00 and “Cancer Therapeutic Use of Occidiofungin” - $687.00, respectively.)

**TOTAL DUE.................................................................$** 6,108.00

Payment of legal fees for professional services rendered by Mendelsohn Dunleavy (statements dated 9/22/17, 9/22/17 and 11/16/17) from the funds of Mississippi State University. (These statements represent services and expenses in connection with the following patents: “Phenoxyalkyl Pyridinium Oxime Therapeutics for Treatment of Organophosphate” - $130.00; “Engineering of the Production of a Conformational Variant of Occidiofungin that has Enhanced Inhibitory Activity Against Fungal Species” - $1,346.00 and “Phenoxyalkyl Pyridinium Oxime Therapeutics for Treatment of Organophosphate” - $400.00, respectively.)

**TOTAL DUE.................................................................$** 1,876.00

Payment of legal fees for professional services rendered by Stites & Harbison (statements dated 10/31/17, 10/31/17, 10/31/17, 11/16/17 and 11/16/17) from the funds of Mississippi State University. (These statements represent services and expenses in connection with the following patents: “Methods of Synthesizing Graphene from a Lignin Source” - $38.00; “Novel Catalysts and Process for Liquid Hydrocarbon Fuel Production” - $4,515.00; “Novel Catalysts and Process for Liquid Hydrocarbon Fuel Production” - $38.00; “Extruder Device” - $578.00 and “Methods of Synthesizing Graphene from a Lignin Source” - $38.00, respectively.)

**TOTAL DUE.................................................................$** 5,207.00
Payment of legal fees for professional services rendered by Armstrong|Teasdale (statements dated 10/9/17) from the funds of the University of Mississippi. (These statements represent services and expenses in connection with the following patents: “Systems and Methods for Detecting Transient Acoustic Signals” - $39.48; “Systems and Methods for Detecting Transient Acoustic Signals” - $450.42 and “Systems and Methods for Detecting Transient Acoustic Signals” - $2,096.91.)

TOTAL DUE……………………………….…….………………$                      2,586.81

Payment of legal fees for professional services rendered by Butler|Snow (statements dated 9/30/17 and 11/3/17) from the funds of the University of Mississippi. (These statements represent services and expenses in connection with the following patents: “Cache Mapping Technology Matter” - $2,478.00 and “Cache Mapping Technology Matter” - $619.50, respectively.)

TOTAL DUE……………………………….…….………………$                      3,097.50

Payment of legal fees for professional services rendered by Hershkovitz & Associates (statements dated 8/17/17, 9/14/17, 10/1/17, 10/1/17, 10/1/17, 10/1/17, 10/1/17, 10/1/17, 10/1/17, 10/1/17, 10/1/17, 10/1/17 and 10/24/17) from the funds of the University of Mississippi. (These statements represent services and expenses in connection with the following patents: “Highly Selective Sigma Receptor Ligands” - $1,155.00; “Highly Selective Sigma Receptor Ligands” - $355.72; “Biologically Active Cannabidiol” - $2,219.60; “Compositions for Prevention/Prophylactic Treatment of Poison Ivy Dermatitis” - $3,452.70; “Compositions Containing Delta-9-THC Amino Acid Esters” - $2,445.37; “Compositions Containing Delta-9-THC Amino Acid Esters” - $3,076.36; “Compositions Containing Delta-9-THC Amino Acid Esters” - $1,281.95; “Compositions Containing Delta-9-THC Amino Acid Esters” - $2,585.58; “Compositions Containing Delta-9-THC Amino Acid Esters” - $919.85; “Compositions Containing Delta-9-THC Amino Acid Esters” - $3,451.26; “Compositions Containing Delta-9-THC Amino Acid Esters” - $1,953.61; “Compositions Containing Delta-9-THC Amino Acid Esters” - $1,075.58 and “Biologically Active Cannabidiol” - $7,196.15, respectively.)

TOTAL DUE……………………………….…….………………$                    31,168.73

Payment of legal fees for professional services rendered by Stites & Harbison (statements dated 9/21/17, 9/21/17, 9/21/17, 9/25/17, 9/25/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 11/16/17, 11/16/17, 11/16/17 and 11/16/17) from the funds of the University of Mississippi. (These statements represent services and expenses in connection with the following patents: “Highly Purified Amphoterocin-B” - $1,150.00; “Indolizine-Based Donors as Organic Sensitizer Components” - $47.50; “Use of Trans-gnetin H or Extracts Containing Genetic H as a Lactic Acid Production Inhibitor” - $1,002.50; “High Photovoltage per Area by Sequential Series Tandem (SST)” - $38.00; “High Photovoltage per Area by Sequential Series Tandem (SST)” - $1,907.00; “Delivery of Medicaments to the Nail” - $768.00; “Highly Purified Amphoterocin-B” - $847.00; “Highly Purified Amphoterocin-B” - $1,755.00; “Highly Purified Amphoterocin-B” - $953.00; “Highly Purified Amphoterocin-B” -
$802.00; “Agents with Selective K-Opioid Receptor Affinity” - $2,150.00; “Acoustic Instruments for Use Aquaculture” - $2,150.00; “Stabilized Formulation of Triamcinolone Acetonide” - $2,088.00; “Stabilized Formulation of Triamcinolone Acetonide” - $719.00; “Gas Separating Membranes” - $47.50; “High Photovoltage per Area by Sequential Series Tandem (SST)” - $168.00; “Use of Trans-gnetin H or Extracts Containing Genetic H” - $38.00; “Longitudinal Gait Velocity Monitoring of Older Population” - $96.00; “Stabilized Formulation of Triamcinolone Acetonide” - $1,037.50; “Gas Separating Membranes” - $540.00 and “Stabilized Formulation of Triamcinolone Acetonide” - $38.00, respectively.

TOTAL DUE…………………………………………………………..$ 19,233.00

Payment of legal fees for professional services rendered by Stites & Harbison (statements dated 9/21/17, 9/21/17, 9/25/17, 9/25/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 10/31/17, 11/16/17, 11/16/17, 11/16/17, 11/16/17 and 11/16/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $28.50, $76.00, $38.00, $409.00, $252.00, $28.50, $1,152.00, $19.00, $625.00, $38.00, $935.00, $941.00, $332.50, $38.00, $962.00, $836.00, $38.00, $795.00 and $2,073.21, respectively, represent services and expenses in connection with intellectual property patents.)

TOTAL DUE…………………………………………………………..$ 9,616.71
Consent
Agendas
1. **SYSTEM – APPROVAL OF NEW ACADEMIC PROGRAMS**

In accordance with Board Policy 501: Academic Programs and Units “All new curricula, departments, programs of study, organized research or services being proposed by any or all of the institutions must be submitted to the Board and must be approved by the Board before being initiated,” Board approval is requested for establishing two new academic programs.

a. *University of Mississippi Medical Center* requests permission to offer the *Executive Master of Science* in *Population Health Management* degree.

- **CIP:** 51.2208
- **Hours to Degree:** 30
- **State Need:** The changing health care landscape requires that health care providers stay abreast of these current and future trends, regardless of the settings in which they practice. Population health management has quickly become the standard guiding the transformation of clinical practice to patient-centered systems delivering team-based, multi-disciplinary, quality-focused forms of care. The proposed Executive Master’s Degree Program in Population Health Management will be uniquely designed and tailored to the needs, interests, and challenging schedules of practicing clinicians. The program will be based on adult learning theory and will incorporate program input from a professional diverse group of clinicians/practitioners.

- **Employment:** Health care support occupations and health care practitioners and technical occupations are projected to be the two fastest growing occupational groups during the 2014 and 2024 projections decade. These groups are projected to contribute a combined increase of 2.3 million in employment, representing about 1 in 4 new jobs. The proposed program will offer practicing clinicians/practitioners an opportunity to gain knowledge and skills that will allow them to provide high quality and cost-effective health care in a rapidly changing environment, and thus, be more effective in their current positions.

- **Funding:** The six-year cost of implementation is estimated at $90,000. The Chair of the Department of Population Health Science will serve as the Program Director for the Executive Master of Population Health program. A three-year
grant has been awarded to cover start-up costs for the program, inclusive of the salary for the Program Director. The proposed student enrollment numbers and tuition costs will enable the program to be self-sustaining by the end of the third year of the program.

- **Enrollment**: An estimate of 45 students are projected to enroll over a six-year period, with a total of 45 students expected to graduate within the first six years.

- **Earning Potential**: An estimate $95-102,000, depending on the setting. i.e. hospital, physician office, nursing and residential care facility.

- **Duplication**: No other institutions within the state offer a similar program.

b. **University of Mississippi Medical Center** requests permission to offer the **Doctor of Philosophy in Biomedical Sciences** degree.

- **CIP**: 26.0102

- **Hours to Degree**: 60

- **State Need**: As of 2013, Mississippi ranked first in cardiovascular disease death, second in diabetes prevalence, second in adult obesity rates, and second in age-adjusted death due to cancer (1). Medical costs associated with these chronic illnesses are more than $4 billion dollars in Mississippi, alone, and medical costs are projected to increase up to 70% by 2020 (2). The mission of the School of Graduate Studies in the Health Sciences at UMMC is to train highly qualified researchers who will make significant contributions to medical knowledge for understanding of diseases prevalent within the state of Mississippi, and for advancement of therapeutic options for these disease states. Within the state of Mississippi, the projected employment growth from 2012-2022 in the fields of biomedical sciences, life sciences, and medical scientists, are 50%, 6.5%, and 33.3%, respectively (3).

3. [http://www.mdes.ms.gov/media/63514/oep_state.pdf](http://www.mdes.ms.gov/media/63514/oep_state.pdf)
• **Employment:** According to the Bureau of Labor Statistics (BLS), there will be a projected 8% increase in national employment growth for biomedical researchers from 2014 to 2024. “A larger and aging population, increased rates of several chronic conditions, and a growing reliance of pharmaceuticals are all factors that are expected to increase demand for medical scientists. In addition, a greater understanding of biological processes and new discoveries should open frontiers in research that are expected to require the services of medical scientists” (1). Further, the BLS reports a median salary for biomedical researchers of $80,530 as of May 2016, with the lowest 10% earning less than $44,550 and the top 10% earning more than $159,570. In Mississippi, the projected employment growth from 2012-2022 in the fields of biomedical sciences, life sciences, and medical scientists, are 50%, 6.5%, and 33.3%, respectively (2).

(2) [http://www.mdes.ms.gov/media/63514/oep_state.pdf](http://www.mdes.ms.gov/media/63514/oep_state.pdf)

• **Funding:** The six-year cost of implementation is estimated at $45,000. Students will be in existing courses for which no additional faculty will be required. The administrative supplement is for the Program Director, who will oversee the program and student progression. The expenses will largely be covered by research assistantships and the tuition contributed from the program.

• **Enrollment:** An estimate of 19 students are projected to enroll over a six-year period, with a total of 9 students expected to graduate within the first six years.

• **Earning Potential:** BLS reports a median salary for biomedical researchers of $80,530 as of May 2016, with the lowest 10% earning less than $44,550 and the top 10% earning more than $159,570.

• **Duplication:** No other institutions within the state offer a similar program.
c. *University of Southern Mississippi* requests permission to offer the *Bachelor of Science* in *Health Sciences* degree.

- **CIP**: 51.9999
- **Hours to Degree**: 120
- **State Need**: The development and proposal of the Health Sciences degree plan emerged for various reasons, with the primary reason to develop a degree plan for pre-nursing majors to be compliant with federal financial aid regulations. At any one time, we have 500 to 600 pre-nursing students in the College of Nursing, most of whom receive federal financial aid, making this an important issue for our students and the university. In addition to this issue, the faculty in the College of Nursing have struggled for years with the dilemma of students entering the university as pre-nursing majors and if not admitted to the BSN program, the students are left with the option of either changing their major or leaving the university. Through the development of this program, it is anticipated that retention and graduation rates for the group of students that are not admitted to the BSN program will increase. The healthcare sector in Mississippi continues to grow. The Mississippi Department of Employment Security includes healthcare support and healthcare technical support as areas of an annual demand jointly of overs 3,000 jobs.
- **Employment**: Between 2004 and 2014, the rate of employment in the health care sector grew faster than the rate of employment in all other sectors. Between 2014 and 2024, jobs in the home health care sector are expected to increase by 60%, while jobs in the offices of health care practitioners are anticipated to grow by 25%. According to the Bureau of Labor statistics 2016 data, 30 out of 1,000 jobs in Mississippi are in healthcare support occupations. The job openings in healthcare support areas are predicted to increase through 2024 in Mississippi and nationally due to both growth and replacement needs.
- **Funding**: It is not anticipated that additional personnel will be required for the new degree plan since the courses included in the plan are all currently offered by the university. If there are any costs associated with the program, it would be due to additional sections of a few courses being offered to accommodate increased
demand for the courses. Costs associated with any additional course sections will be funded through generation of student credit hours.

- **Enrollment**: An estimate of 450 students are projected to enroll over a six-year period, with a total of 250 students expected to graduate within the first six years.

- **Earning Potential**: Depending on the occupation, the annual wage ranges from $39,040 - $45,500 for healthcare support occupations.

- **Duplication**: UMMC offers Health Sciences program.

**STAFF RECOMMENDATION**: Board staff recommends approval of items a-c.
1. **IHL EXECUTIVE OFFICE – REQUEST FOR APPROVAL TO ENTER INTO A LEASE AND MAINTENANCE AGREEMENT WITH ENTERGY MISSISSIPPI, INC.**

**Agenda Item Request:** The IHL Executive Office request approval to enter into a lease and maintenance agreement with Entergy Mississippi, Inc. retroactive to August 1, 2017.

**Contractor’s Legal Name:** Entergy Mississippi, Inc.

**History of Contract:** Although this is a new lease agreement, IHL Executive Office has a service agreement with Entergy since December 1969.

**Specific Type of Contract:** New lease and maintenance agreement.

**Purpose:** To provide power and energy at 13,800 volts, provide and maintain one 1,500 kVA pad transformer suitable for delivery of power and Energy at 277,480 volts.

**Scope of Work:** Entergy Mississippi will provide for the delivery of power to IHL at approximately 13,800 volts with metering at 277/480 volts and deliver a maximum of 1,500 kW. Entergy will provide, install, operate, maintain on IHL’s plant property and lease to IHL one 1,500 kVA pad mounted transformer with all necessary insulators, fuse switches, lighting arrestors, and primary connectors serviceable at 277/480 volts.

**Term of Contract:** Term of the agreement is effective upon the date installation is completed and shall run concurrently with the term of the present or any superseding Agreement for Service.

**Termination Options:** The agreement may be terminated as follows:
- By either party on 30 days’ notice should the leased facilities be no longer required.
- By Entergy for default in payment, upon 30 days’ notice.

**Contract Amount:** The monthly lease amount is $871.13, which totals $10,453.56 annually.

**Funding Source of Contract:** General Funds

**Contractor Selection Process:** N/A

**Staff Recommendation:** 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of the contract for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. The agreement has been reviewed and approved by the Associate Commissioner for Legal Affairs. Board staff recommends approval of this item.
2. **MSU- REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH DOUBLEMAP, INC.**

   **Agenda Item Request:** Mississippi State University (MSU) requests approval to modify the total expenditure amount applicable to its agreement with DoubleMap, Inc. for passenger bus tracking and passenger counting software, hardware, services, and maintenance.

   **Contractor’s Legal Name:** DoubleMap, Inc. (DoubleMap)

   **History of Contract:** In the spring of 2017, MSU went through a lengthy RFP process and ultimately selected DoubleMap as our new provider of bus tracking and passenger count software. In June of 2017, the Board of Trustees approved the contract that resulted from that RFP. We are now requesting the flexibility to add items to that contract that may arise with either new technology or with the addition of new buses to our fleet. The possibility of these additional purchases was written in to the RFP, but was not accounted for financially when requesting approval on the original contract.

   A CP-1 was received from the Mississippi Department of Information Technology Services on October 20, 2016 with an expiration date of September 20, 2026, that allowed for up to 1.8 million in purchases over the proposed ten year life of the contract.

   **Specific Type of Contract:** Amendment to Services Agreement

   **Purpose:** This request for additional spending authority is necessary for both upgrades to current buses and outfitting new buses for passenger bus tracking and passenger counting software, hardware, services, and maintenance.

   **Scope of Work:** The terms of the original agreement remain the same which include the configuration, training, and deployment of the DoubleMap software, a mobile App, SMS texting service and all subsequent hardware to operate the necessary systems (real time passenger information, automated voice annunciation, automatic passenger count, digital estimated time of arrival signage, and automatic vehicle location).

   **Term of Contract:** The term of the agreement remains at ten (10) years – approximately June 23, 2017 through June 22, 2027.

   **Termination Options:** The agreement may be terminated for the following:

   - by either party for a material breach of the agreement upon thirty (30) days written notice,
   - reduction of funds,
• failure by DoubleMap to comply with the Mississippi Employment Protection Act, and
• force majeure.

**Contract Amount:** The original contract was approved specifically for the training, installation, hardware and future maintenance/licenses required for the initial purchase of the DoubleMap system which totaled $528,177.97 over the ten year period. However the RFP indicated that we would also make various purchases over the contract period from DoubleMap as new buses came online and new software updates and hardware became available. The CP-1 was approved for this contingency up to $1.8 million dollars.

MSU is requesting approval to spend up to $1,800,000, as allowed by the CP-1 over the remaining term of the contract.

**Funding Source of Contract:** This agreement is funded by Paid by Starkville-MSU Area Rapid Transit which is a partnership between the Mississippi Department of Transportation and MSU Parking and Transit Services. Through this grant, the Mississippi Department of Transportation covers 80% of capital and 50% of annual operation cost. This contract is funded as a capital item and cover by 80% grant funds and 20% local cash match from MSU Parking and Transit Services.

**Contractor Selection Process:** N/A. This is a modification to an existing agreement.

**Staff Recommendation:** Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of the contract for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. Board staff recommends approval of this item. Board staff recommends approval of this item. (As the Board is being asked to provide approval to modify the total expenditure amount of the agreement, no additional approval by the Attorney General’s Office is required.)

3. **MVSU- REQUEST FOR APPROVAL OF A RESOLUTION FOR A GRANT APPLICATION**

Mississippi Valley State University requests approval of a resolution authorizing the filing of an application to the Mississippi Department of Transportation for a grant to assist in providing transportation services.

Through an agreement with the Mississippi Department of Transportation and the Federal Transit Administration, Mississippi Valley State University provides public transportation services in eight (8) Delta counties: Carroll, Grenada, Holmes, Humphreys, Leflore, Sunflower, Tallahatchie and Washington.
The mass transit system serves as a vital means of transportation for students to attend the university. The resolution is shown below.

AUTHORIZING RESOLUTION

The Board of Trustees of State Institutions of Higher Learning, herein after referred to as the BOARD, which is the governing body of Mississippi Valley State University (herein after referred to as the Applicant), is aware of the provisions of 49 U.S.C. 5311 of the Federal Transit Act and the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), Moving Ahead for Progress in the 21st Century (MAP-21) and Fixing America’s Surface Transportation (FAST) Act. The Board hereby duly authorizes Jerryl Briggs, acting as the President of Mississippi Valley State University, on behalf of the Applicant to file an application with the Mississippi Department of Transportation for a Section 5311 Rural Areas Transportation Program grant to assist in providing transportation services. The BOARD also does hereby certify that the Applicant is eligible to apply for this grant and is not aware of any reasons or conditions that prohibit the Applicant organization nor any of its staff, officers or directors from receiving, administering or disbursing federal funds. If this application is approved, (1) the Board resolves that the Applicant will provide the required local match; (2) the Board agrees to comply with the Federal Transit Administration’s and The Mississippi Department of Transportation’s requirements as contained in the award agreement; (3) the Applicant will carry out the project as described in the approved application. By this resolution the Board also officially authorizes Mississippi Valley State University to execute a contract agreement with the Mississippi Department of Transportation.

Approved and Adopted this ______ day of ______________________, 20_____ 

__________________________________________________
(Chairman/President)

__________________________________________________
(Typed Name)

__________________________________________________
(Attest)

__________________________________________________
(Typed Name)
Staff Recommendation: The Resolution has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

4. UM—REQUEST FOR APPROVAL TO ENTER INTO A CONTRACTUAL SERVICES AGREEMENT WITH HOAR PROGRAM MANAGEMENT, LLC

Agenda Item Request: The University of Mississippi Department of Facilities Planning requests approval to enter into a contract with Hoar Program Management, LLC (HPM).

Contractor’s Legal Name: Hoar Program Management, LLC

History of Contract: This is a new contract. In April 2016, the Board approved a request from UM to use the Construction Manager at Risk (CMAR) to construct the STEM building project in the Real Estate agenda. In November 2017, the Board approved a request to hire an Owner’s Representative through a Request for Qualifications process.

Specific Type of Contract: This is a professional services contract.

Purpose: The purpose of this contract is to provide Owner’s Representative services for the new STEM building construction project. A restriction on hiring paragraph (12.1) is included in this contract to protect the University against potential loss of employees.

Scope of Work: The scope of work includes all tasks as identified in Exhibit A – Scope of Services for the new STEM Building. Services will include but not be limited to the following: assisting with development of the CMAR contract; validating the construction budget; assisting with review of bids received; providing a full-time on-site construction professional; reviewing contractor’s deliverables; reviewing and auditing change orders; reviewing payment applications; assisting with punch list development; coordinating owner-provided items and vendors; assisting in scheduling of training, commissioning, and start-ups; and performing a final audit and project evaluation.

Term of Contract: This agreement is effective beginning on February 16, 2018 and ends at the anticipated completion of construction and close-out on June 16, 2020.

Termination Options: The contract may be terminated by UM for convenience if project is canceled or indefinitely deferred, for default, for force majeure, in the event that funds associated for payment of this contract become unavailable due to a decrease or change in the legislative appropriation, or for HPM’s lack of compliance with the Mississippi Employment Protection Act. HPM may terminate the contract for nonpayment by UM, suspension of the Project for more than ninety (90) days, material breach or failure of UM to comply with this Contract, or force majeure.
Contract Amount: The commissioning fees total is $1,025,706. Should UM determine necessary, there is an option for Warranty Period Services. Those charges are as follows: Warranty Period Services – $94,452.

Funding Source for Contract: The funding source for this contract is Internal R&R funds.

Contractor Selection Process: UM solicited Request for Qualifications (RFQ #605) via public advertisement. Five (5) firms submitted qualification packages. From the five (5) firms, the selection committee selected three (3) firms for in-person interviews. The selection committee interviewed the three firms and selected HPM as the successful firm to provide Owner’s Representative Services.

Staff Recommendation: Based on Board Policy 707.01, Land, Property, and Service Contracts, Board approval is required prior to execution of contracts for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. This agreement has been reviewed and approved by the Attorney General's Office. Board staff recommends approval of this item.

5. UM – REQUEST FOR APPROVAL TO ENTER INTO A CONTRACTUAL SERVICES AGREEMENT WITH MEDICAT, LLC

Agenda Item Request: The University of Mississippi Health Service Department requests approval to enter into a contract with Medicat, LLC.

Contractor’s Legal Name: Medicat, LLC

History of Contract: This is a new contract for managing cloud-based Electronic Medical records for the Student and Employee Health, Athletics, Speech and Hearing and Counseling.

Specific Type of Contract: This contract is for a cloud-based service to securely store Electronic Medical Record data.

Purpose: The Oxford campus is a HIPAA hybrid entity with specific defined covered entities within the campus. The covered entities within these areas need to access, store and maintain electronic medical records to provide services. Covered entities are Student Health and Employee Health, Athletics, Speech and Hearing, and Counseling.

Scope of Work: Selected Data from an existing on-site Electronic Medical Record system will be migrated into the cloud-based provider system, and Medicat will maintain HIPAA compliant protection of the data while permitting access from care providers.
Term of Contract: This contract has a one-year initial term with automatic annual renewals unless notice is provided by either party at least sixty (60) days prior to the end of then-current term.

Termination Options: The contract may be terminated for the following:

- by either party at least sixty (60) days prior to the then current term,
- by Medicat should UM breach a material term of the agreement upon ten (10) days notice of opportunity to cure,
- by UM upon ten (10) days written notice to Medicat,
- Medicat’s violation of the Business Associate Agreement,
- Medicat’s lack of compliance with the Mississippi Employment Protection Act,
- reduction of funds, and
- by Medicat, upon ten (10) days notice to UM, upon the following:
  - UM’s unauthorized use, copying or distribution of the Licensed Software,
  - cessation of business by UM,
  - UM’s filing of bankruptcy,
  - the initiation of solvency proceedings by UM or it’s assignment for the benefit of creditors,
  - nonpayment of invoices by UM.

Contract Amount: The five year cost is $226,950; however, there is the likelihood the software will be utilized longer than five years.

Funding Source for Contract: The funding source for this contract will be E&G funds.

Contractor Selection Process: UM RFP 598 was issued, and the lowest and best proposer was chosen based on evaluation criteria listed in the Request for Proposals.

Staff Recommendation: Based on Board Policy 707.01, Land, Property, and Service Contracts, Board approval is required prior to execution of contracts for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. This agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

6. UM – REQUEST FOR APPROVAL TO ENTER A CONTRACTUAL SERVICES AGREEMENT WITH RUFFALO NOEL LEVITZ, LLC

Agenda Item Request: The University of Mississippi Office of Admissions requests approval to enter into a contract with Ruffalo Noel Levitz, LLC.
Contractor’s Legal Name: Ruffalo Noel Levitz, LLC (RNL)

History of Contract: This is a first-time contract with this vendor.

Specific Type of Contract: This is a consulting services agreement.

Purpose: The purpose of the agreement is to provide consulting services to the University of Mississippi with respect to recruitment strategies for transfers, high school students, and their parents. These services will include the design, creation and implementation of a marketing campaign for student recruitment.

Scope of Work: The contractor will provide feedback on the effectiveness of our current admissions work, communication, and recruitment plans and will make recommendations to increase our success in recruiting prospective students. Specifically, the contract will provide feedback on the following:

a. current recruitment strategies,
b. data monitoring systems,
c. communication methods and marketing,
d. the University’s image, and
e. applicant and enrollee decision factors with the intent of understanding how these are influencing our application numbers and enrollment.

Targeting strategy must provide considerations for the following:

a. maximization of market penetration – as we have adjusted our nonresident admission standards, we must make adjustments in strategy to increase growth,
b. identification of new market opportunities,
c. optimized targeting to consider,
d. net tuition revenue, scholarship packages, and ROI, and
e. diversity of campus community.

Also, the contractor will provide a realistic and strategic plan to enhance our recruitment and outreach to prospective students allowing us to grow our undergraduate programs in size, quality, and diversity.

Term of Contract: The initial term of the Agreement shall be in effect from February 16, 2018 through December 31, 2018 for Statements of Work 1 and 3 and in effect from September 1, 2018 through August 31, 2019 for Statement of Work 2. Each Statement of Work may be renewed for two separate one year terms at the same price as the initial term. Annual renewals shall be contingent upon the University’s satisfaction with the services performed and the need to continue services.
**Termination Options:** This Agreement may be terminated at any time and for any reason, with or without cause, by UM providing sixty (60) days advance written notice to RNL or by RNL providing one hundred eighty (180) days advance written notice to UM. The contract may also be terminated for force majeure, in the event that funds associated for payment of this contract become unavailable due to a decrease or change in the legislative appropriation, or for lack of compliance with the Mississippi Employment Protection Act.

**Contract Amount:** The contract amount for the initial term of the agreement is $332,850. If all options to renew are exercised, the total contract amount would be $998,550. Annual renewals shall be contingent upon the University’s satisfaction with the services performed and the need to continue services.

**Funding Source for Contract:** The contract will be funded by E&G sources.

**Contractor Selection Process:** This contract resulted from a Request for Proposals process that began in August, 2017. The University received five proposals, which were evaluated per the criteria listed in RFP 601. The two (2) vendors submitting proposals that most closely matched the criteria in the RFP were allowed to submit a best and final offer for the services. RNL, who submitted the lowest cost proposal was chosen as vendor.

**Staff Recommendation:** Based on Board Policy 707.01, Land, Property, and Service Contracts, Board approval is required prior to execution of contracts for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. This agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

7. **UMMC – REQUEST FOR APPROVAL TO ENTER INTO A SERVICES AGREEMENT WITH BHATE GEO SCIENCES CORPORATION**

**Agenda Item Request:** The University of Mississippi Medical Center (UMMC) requests approval to enter into a Children’s Hospital Independent Testing & Inspection Services Agreement with Bhate Geosciences Corporation (Bhate) for the provision of construction materials testing and inspection services for the Children’s of Mississippi Expansion Project (Expansion Project). These services include testing and inspecting soils and foundations, cast-in-place concrete, pre-cast concrete, masonry, structural steel, sprayed fire-resistant material, and pavement materials used in construction.

**Contractor’s Legal Name:** Bhate Geosciences Corporation (Bhate)

**History of Contract:** This is a new contract with Bhate to provide construction testing and inspection services for the Children’s of Mississippi Expansion Project. In the past, construction materials testing and inspection services for UMMC projects were included as part of the designated project architect’s scope. However, due to the size and complexity of
the Expansion Project, and also in consideration of industry standards regarding contracting for construction materials testing and inspection services, UMMC elected to contract directly with a third-party firm to provide these services.

In June 2017, UMMC publicly advertised Request for Qualifications (RFQ) 1252 for Independent Testing & Inspection. UMMC elected to contract with Bhate as the chosen vendor.

**Specific Type of Contract:** This is a new Children’s Hospital Independent Testing & Inspection Services Agreement

**Purpose:** The purpose of this agreement is to provide construction materials testing and inspection services for the Children’s of Mississippi Expansion Project throughout the construction phase of the project. Bhate will test and inspect soils and foundations, cast-in-place concrete, pre-cast concrete, masonry, structural steel, sprayed fire resistant material, and pavement materials used to construct the Children’s of Mississippi Expansion project.

**Scope of Work:** Under the agreement, Bhate will:

- Participate in pre-construction and construction meetings related to construction materials testing and inspection services;
- Provide an on-site field engineer to coordinate field and lab testing and inspection with contractor, review lab and field test results, monitor project budget, and prepare testing and inspection reports;
- Provide an on-site senior special inspection technician to perform field testing, laboratory testing, and inspection of construction materials;
- Provide an on-site construction materials testing laboratory;
- Perform testing and inspections of soils and foundations, cast-in-place concrete, pre-cast concrete, masonry, structural steel, sprayed fire resistant material, and pavement materials;
- Report any deficiencies from testing and inspection of construction materials to UMMC and construction manager;
- Prepare and distribute testing and inspection reports to the project architect, structural engineer, construction manager, sub-contractor, and UMMC on a monthly basis during construction;
- Provide any necessary certifications based on testing and inspection reports; and
- Provide a final report of testing and inspection results as part of the project close-out.

Under the agreement, UMMC will:

- Designate a specific individual to serve as primary point of contact for UMMC; and
- Provide access to water and electricity for on-site laboratory.
Term of Contract: The term of the agreement is three (3) years, beginning March 1, 2018, and expiring February 28, 2021.

Termination Options: The agreement may be terminated as follows:

- Failure by Bhate to comply with the federal E-Verify program;
- By UMMC with or without cause upon providing thirty (30) days’ written notice to Bhate;
- By UMMC if Bhate refuses or fails to perform any of the provisions of the agreement, otherwise fails to timely satisfy the agreement provisions, or commits any other substantial breach of this agreement, UMMC may notify Bhate in writing of the nonperformance and if not cured in ten (10) days or any longer time specified in writing by UMMC;
- Immediately upon Bhate’s breach of any of the following ongoing representations and warranties that Bhate, its officers, directors and employees:
  - are not currently excluded, debarred, or otherwise ineligible to participate in any federal health care programs or any state healthcare programs;
  - have not been convicted of a criminal offense related to the provision of healthcare items or services and have not been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs or any state healthcare programs;
  - are not, nor have ever been included on the Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons list;
  - are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in Bhate being excluded from participation in the Federal Healthcare Programs or any state healthcare programs;
- In the event of a reduction in funds; and
- By either party in the event of a change in law resulting in an adverse consequence and the parties cannot agree to renegotiated terms.

Contract Amount: The estimated cost of the agreement over the three (3) year term is $498,980.00, including service fees and potential travel costs.

Funding Source of Contract: This agreement will be funded by long-term and intermediate term fixed bond rates, state appropriations, patient revenues, and development funds.

Contractor Selection Process: UMMC selected Bhate utilizing a Request for Qualifications (RFQ 1252 Independent Testing & Inspection for Children’s Hospital Expansion) that was publicly advertised. UMMC received two (2) responses to the RFP. A selection committee composed of representatives from UMMC’s Planning, Design, and Construction reviewed the responses submitted and arrived at a consensus for selection. UMMC selected Bhate as
the bidder with the best proposal based on pricing provided and its responses to the specifications indicating an ability to meet or exceed the requirements to provide independent construction materials testing and inspection services.

Staff Recommendation: Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of the contract for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. The agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

8. UMMC – REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH COMPUTER TASK GROUP, INC.

**Agenda Item Request:** The University of Mississippi Medical Center (UMMC) requests approval to enter into a Master Agreement with **Computer Task Group, Incorporated (CTG)** for augmentation of information technology (IT) staffing, to be utilized on an as-needed basis. UMMC utilizes staff augmentation for work on Epic related projects, such as Community Connect, Gulfport Clinics crossover, any potential Epic upgrades, and various other Epic resource needs.

**Contractor’s Legal Name:** Computer Task Group, Inc. (CTG)

**History of Contract:** This is a new agreement for IT staff augmentation with CTG. UMMC currently contracts with TEKsystems, Inc. (TEKsystems) for IT staff augmentation. Contracting with multiple vendors for IT staff augmentation at the same time will allow UMMC to utilize resources with specific skills needed for various ongoing application and infrastructure projects. At times, the specific skills needed are not available within UMMC’s current staff, and other times, the planning efforts of particular projects benefit from outside expertise and perspective.

In January 2017, UMMC publicly advertised Request for Proposal (RFP) 1235 for Healthcare IT Consulting Services. UMMC received fifteen (15) responses to the RFP. UMMC selected CTG and Pivot Point Consulting, LLC (Pivot Point) as bidders with the best proposals based on pricing provided and responses to the specifications indicating an ability to meet or exceed the requirements for the requested services.

In addition to this request, UMMC has submitted for consideration a separate services agreement with Pivot Point. UMMC seeks to contract with three (3) healthcare IT staffing vendors at the same time in order to provide UMMC with instant outside resources for specific skills needed for its various ongoing application and infrastructure projects.

**Specific Type of Contract:** This is a new Master Agreement
Purpose: The purpose of the agreement is to augment UMMC’s IT staffing to support Epic and other UMMC technical projects.

Scope of Work: This agreement will provide professional IT staff to augment UMMC’s current staff on an as needed basis, to include assistance with Epic related projects, such as Community Connect, Gulfport Clinics crossover, any potential Epic upgrades, and various other Epic resource needs.

Term of Contract: The term of this agreement will be for three (3) years beginning March 1, 2018 and ending February 28, 2021.

Termination Options: The Agreement may be terminated as follows:

- By UMMC without cause provided sixty (60) days prior written notice is given;
- By UMMC or CTG subject to the following conditions: a) the party terminating the Contract is not in breach of any material provision of the Contract; b) the non-terminating party has breached a material provision of the Contract; and c) the non-terminating party has been given written notice of the breach and has failed to cure such breach within 30 days of the date of said notice;
- By CTG immediately by issuing a termination notice to UMMC if, in CTG’s reasonable judgement, the UMMC is unable to pay its debts as they become due, or in the event UMMC fails to perform its obligation for payment of invoices pursuant to the agreement;
- Failure of CTG to comply with the federal E-verify program; and
- By UMMC upon written notice to CTG of a material breach of the Business Associate Agreement or violation of the Health Insurance Portability and Accountability Act (HIPAA) regulations that remains uncured following ten (10) days written notice, or immediately if cure is not possible, in the event CTG improperly uses or discloses protected health information.

The agreement contains a clause that addresses non-solicitation for both UMMC and CTG’s employees or contractors. The clause reads specifically as follows:

Section 5. Staff. The parties agree that while CTG is performing Services under this Agreement, and for a period of twelve (12) months following the date of the final invoice of the last Authorizing Document pursuant to which Services were performed, neither party will, except with the other parties prior written approval, solicit, offer employment to, employ, or retain the services of (directly or indirectly) CTG’s employees or contractors engaged in any efforts generated by this Agreement.
This clause was included as the IT world is extremely competitive when dealing with qualified IT professionals, especially in the field of Healthcare. The non-solicitation language contained in the agreement protects the interest of both UMMC and CTG.

**Contract Amount:** The estimated cost of this agreement is $750,000.00. Fees are based upon hourly rates for the various levels of staff that may be utilized.

**Funding Source of Contract:** This agreement will be funded through patient revenue for work performed for UMMC, but for work performed for Epic Community Connect clients, the cost will be reimbursed to UMMC by the client.

**Contractor Selection Process:** In 2016, the MS Department for Information Technology Services (ITS) approved UMMC’s request to perform a Request for Proposal (RFP) for Healthcare IT Consulting Services. In January 2017, UMMC publicly advertised Request for Proposal (RFP) 1235 for Healthcare IT Consulting Services. UMMC received fifteen (15) responses to the RFP. UMMC selected CTG and Pivot Point Consulting, LLC (Pivot Point) as bidders with the best proposals based on pricing provided and responses to the specifications indicating an ability to meet or exceed the requirements for the requested services.

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<thead>
<tr>
<th>Vendor</th>
<th>Score</th>
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<tbody>
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<tr>
<td>Impact</td>
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</table>

The difference between the cost of the RFP proposal and the cost requested for the agreement herein is because the RFP was calculated in a certain way in order to apply a fair comparison of the RFP respondents’ cost proposals, which were based on hourly rates of employee types. To compare the cost proposals, UMMC multiplied the hourly rate of each type of consultant below by 1,040 hours for a quantity of one (1) consultant for Epic Community Connect Project Director, Epic Planning Consultant, Epic go live support analyst, Epic credentialed
trainer, and a quantity of two (2) consultants for Epic instructional designer and Epic build analyst (lead or senior). UMMC does not anticipate using only those types of consultants or for that amount of time; UMMC will use Pivot Point and CTG on an as-needed basis for various positions.

Staff Recommendation: Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of the contract for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. The agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

9. UMMC- REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH HEALTHTRONICS MOBILE SOLUTIONS, LLC

Agenda Item Request: The University of Mississippi Medical Center (UMMC) requests approval to enter into a Mobile Lithotripsy Services Agreement with HealthTronics Mobile Solutions, LLC (HealthTronics) to provide Extracorporeal Shock Wave Lithotripsy (ESL) procedural services and a mobile, digital lithotripter unit and imaging equipment for use on UMMC patients to treat kidney stones found in the urinary tract.

Contractor’s Legal Name: HealthTronics Mobile Solutions, LLC (HealthTronics)

History of Contract: On February 21, 2013, the Board approved a five (5) year agreement with Pontchartrain Lithotripsy, LLC (Pontchartrain) for lithotripsy services. The current agreement will expire February 26, 2018. In May 2017, UMMC conducted Request for Proposal (RFP) 8002 for Lithotripsy Services. UMMC received proposals from three (3) bidders and, in July 2017, selected HealthTronics based on cost and its responses to specifications indicating an ability to meet or exceed the requirements to provide the services requested.

Specific Type of Contract: This is a new Mobile Lithotripsy Services Agreement.

Purpose: The purpose of this agreement is to perform Extracorporeal Shock Wave Lithotripsy (ESWL) procedural services and a mobile, digital lithotripter unit and imaging equipment for use on UMMC patients to treat kidney stones found in the urinary tract.

Scope of Work: Under the agreement, HealthTronics will:

- Provide transportation of the ESL equipment to and from UMMC’s facility;
- Provide and maintain the ESL and all related equipment in good working order;
- Deliver and set up the ESL equipment for UMMC’s operation of the ESL;
Perform all maintenance services and parts in connection with maintenance of the ESL equipment;
Be responsible for all licensing and certification requirements in connection with ownership and operation of the ESL;
Create and maintain a quality assurance program for monitoring and improving efficacy of the ESL operations and provide such reports quarterly to UMMC;
Provide a radiologic technologist trained in ESL services and operation of the ESL equipment to assist UMMC’s physician in lithotripsy procedures;
Participate upon request in any UMMC utilization review program or other committee with respect to ESL services;
Submit promptly written reports to UMMC’s medical records department for all examinations, treatments, and procedures performed under this agreement;
Comply with UMMC’s policies and other required guidelines aimed at ensuring the accurate and safe operation of the ESL; and
Cooperate with UMMC’s reasonable risk management and quality assurance activities.

UMMC will:

Provide and have sole responsibility for the registration of all ESL patients to be treated at UMMC;
Provide a pregnancy test for all menstruating female patients, as well as all lab work;
Designate and provide use of a suitable specific site for the ESL services to be performed;
Provide all utilities required for use of the ESL equipment at UMMC’s facilities;
Provide all necessary medical disposables and supplies needed for each ESL procedure;
Coordinate the provision of physicians necessary for each ESL procedure;
Arrange for and maintain all necessary statutory requirements and compliance with all applicable regulatory approvals for the provision of ESL services;
Provide immediate transportation of a patient from the site of ESL services to UMMC’s emergency department, if necessary;
Review and monitor all ESL services in accordance with UMMC’s policies and procedures;
Assign a qualified operation room registered nurse to provide ESL services; and
Perform billing and collection services for all ESL procedures performed at UMMC.

**Term of Contract:** The term of the contract will be five (5) years from March 1, 2018, through February 28, 2023.

**Termination Options:** Termination options include:

- at any time by UMMC upon thirty (30) days’ written notice;
- at any time by HealthTronics upon 180 days’ written notice;
upon notice in the event of a material breach which goes uncured for a period of fifteen (15) days if the breach is for nonpayment or thirty (30) days for any other breach;

immediately in the event of an adverse change in reimbursement laws and the parties cannot renegotiate terms within sixty (60) days after receiving notice of the adverse change;

immediately in the event of an adverse change in federal or state law and the parties cannot renegotiate terms within thirty (30) days after receiving notice of the adverse change;

immediately upon HealthTronics’ breach of any of the following ongoing representations and warranties that HealthTronics, its officers, directors and employees:

- are not currently excluded, debarred, or otherwise ineligible to participate in any federal health care programs;
- have not been convicted of a criminal offense related to the provision of healthcare items or services;
- are not under investigation or otherwise aware of any circumstances which may result in HealthTronics being excluded from participation in the Federal Healthcare Programs; and

- Failure by HealthTronics to comply with the federal E-Verify program.

**Contract Amount:** The total estimated cost of the five (5) year agreement is $981,000. UMMC calculated the total estimated cost based on the volume of historical procedures performed at UMMC plus ten percent (10%) potential volume growth each year. The base fee for the ESL services is $1,500 per lithotripsy procedure. If a patient must undergo additional treatment within ninety (90) days from the patient’s initial procedure due to continued symptoms, each additional procedure shall be charged fifty percent (50%) of the base fee. Treatment of bilateral stones constitutes one and a half procedures. Treatment of a stone in the kidney and a distal stone also constitutes one and a half procedures.

**Funding Source of Contract:** The contract will be funded by hospital patient revenue.

**Contractor Selection Process:** In May 2017, UMMC conducted Request for Proposal (RFP) 8002 for Lithotripsy Services. UMMC received proposals from HealthTronics, ForTec Litho Florida, LLC (ForTec), and Pontchartrain Lithotripsy, LLC (Pontchartrain). Pontchartrain submitted two (2) proposals, with and without a Performance Improvement Plan. In July 2017, selected HealthTronics based on cost and its responses to specifications indicating an ability to meet or exceed the requirements to provide the services requested. A breakdown of each bidder’s proposed price and score is as follows:

<table>
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<tr>
<th>Vendor</th>
<th>RFP Score</th>
<th>Cost</th>
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<tr>
<td>HealthTronics</td>
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<tr>
<td>ForTec</td>
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<tr>
<td>Pontchartrain, option 1</td>
<td>72.35</td>
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</table>
The difference between the cost of the RFP and the cost requested for the agreement herein is because the RFP was calculated based upon a flat procedure volume of 85 procedures at the base rate each year over five (5) years. The agreement cost requested hereunder includes potential annual volume growth, as well as allowance for procedures at the half-price and one and a half procedure rates.

Staff Recommendation: Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of the contract for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. The agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item

10. UMMC- REQUEST FOR APPROVAL TO AMEND LETTER OF ARRANGEMENT AGREEMENT WITH IMPLEMENTATION MANAGEMENT ASSISTANCE, INC.

Agenda Item Request: The University of Mississippi Medical Center (UMMC) requests approval to amend its Letter of Arrangement agreement with Implementation Management Assistance, Inc. to extend the term of the agreement by two (2) years and to increase the spend amount of the agreement from $350,000 to $700,000. professional services related to the identification and recovery of monies due UMMC.

Contractor’s Legal Name: Implementation Management Assistance, Inc. (IMA Consulting)

History of Contract: On November 19, 2015, the Board approved a three (3) year agreement with IMA Consulting for Transfer DRG revenue recovery review for a total cost of $350,000. To date, IMA Consulting has identified and assisted UMMC in the recovery of a total of $1,988,813.14 in Transfer DRG revenue for UMMC, for which UMMC has paid IMA Consulting $348,042.30. UMMC wishes to extend the agreement and add additional funding for the contingency fees payable for the services.

Specific Type of Contract: Amendment 1 to the Letter of Arrangement

Purpose: The purpose of the amendment is to extend the term of the agreement by two (2) years and to increase the spend amount of the agreement from $350,000 to $700,000. professional services related to the identification and recovery of monies due UMMC.

The purpose of the agreement is to perform a Transfer Diagnosis-related Group (DRG) revenue recovery review of UMMC’s relevant transfer cases to identify and recover any lost monies that are rightfully due to UMMC as a result of improperly-paid Transfer DRGs for
UMMC inpatients. IMA Consulting identifies and recovers missed Transfer DRG revenue, as well as finds other net revenue and/or revenue recovery opportunities.

**Scope of Work:** IMA Consulting reviews all transfer cases related to Medicare, Tri-Care, and Medicare Advantage patients and makes a determination based on documentation in the medical record and actual discharge disposition as to the accurate reimbursement. UMMC uses this determination to send amended claims to the applicable third party to seek recovery of underpayments previously received.

**Term of Contract:** The amendment extends the term of the agreement by two (2) years. The total amended term of the agreement is five (5) years, December 1, 2015 through November 30, 2020.

**Termination Options:** The agreement may be terminated for the following:

- by either party upon thirty (30) days written notice,
- reduction in funds,
- a breach by IMA Consulting of any representations and warranties regarding eligibility to participate in a federal or state healthcare program,
- an inability to agree to renegotiated contract terms in the event a change in law occurs that materially restricts or prohibits the rights of either party or otherwise makes it desirable for the parties to renegotiate the agreement,
- failure by IMA Consulting to comply with the federal E-Verify Program, and
- a material violation by IMA Consulting of the Business Associate Addendum (HIPAA Addendum).

**Contract Amount:** The total estimated amount of the amended contract over the five (5) year term is $700,000. The original contract cost was projected to be $350,000, and UMMC anticipates the need for an additional $350,000 for the extended term. IMA Consulting’s rate is a contingency fee of 17.5% of all additional reimbursement recovered by UMMC. To date, IMA Consulting has identified and assisted UMMC in the recovery of a total of $1,988,813.14 in Transfer DRG revenue for UMMC, for which UMMC has paid IMA Consulting $348,042.30. UMMC estimates that up to an additional $2,000,000 will be recovered as additional revenue due to underpayments previously received.

**Funding Source of Contract:** The agreement will be funded by hospital patient revenues received through additional reimbursement as a result of IMA Consulting’s services.

**Contractor Selection Process:** UMMC is currently contracted with this vendor.

**Staff Recommendation:** Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of the contract for all other land,
personal property, and service contracts that require an aggregate total expenditure of more than $250,000. The agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

11. UMMC- REQUEST FOR APPROVAL TO ENTER INTO A LICENSE AGREEMENT WITH KYRUUS, INC.

Agenda Item Request: The University of Mississippi Medical Center (UMMC) requests approval to enter into a five (5) year agreement with Kyruus, Inc. (Kyruus) to purchase licenses, maintenance, and implementation for the Kyruus system, consisting of KyruusOne and ProviderMatch, which will assist UMMC schedulers in coordinating patients with the appropriate provider for treatment. Utilizing the Kyruus system, UMMC schedulers are able to input patient symptoms and treatment criteria to optimally match each patient with the appropriate provider for treatment, as well as allow UMMC to track paths of patients and providers throughout the treatment process. Pursuant to IHL policy 707.03 Approval of Prepayment for Goods or Services, UMMC also requests a waiver to allow prepayment of the implementation fees.

Contractor’s Legal Name: Kyruus, Inc.

History of Contract: This is a new agreement to purchase the Kyruus system, consisting of KyruusOne and ProviderMatch software, as well as maintenance and implementation. Currently, UMMC relies on its schedulers' knowledge of UMMC's provider network and each provider's practice area to match patients to the appropriate provider for proper treatment. Utilizing the Kyruus system, UMMC schedulers are able to input patient symptoms and treatment criteria to optimally match each patient with the appropriate provider for treatment, as well as allow UMMC to track paths of patients and providers throughout the treatment process.

Specific Type of Contract: This is a new Licensor End User License Agreement and three (3) Customer Orders.

Purpose: The purpose of this agreement is to purchase licenses, maintenance, and implementation for the Kyruus system to assist UMMC schedulers in coordinating patients with the appropriate provider for treatment. The Kyruus system consists of two (2) components, the KyruusOne data management platform and the Kyruus ProviderMatch software. The KyruusOne data management platform will enable UMMC to consolidate and maintain provider data and profiles by populating the platform with all provider data, including practice and specialty areas. The Kyruus ProviderMatch software will be used by schedulers to input general patient data and symptoms of needs for treatment. Utilizing the
entire Kyruus system, UMMC schedulers then are able to input patient symptoms and
treatment criteria to optimally match each patient with the appropriate provider for treatment.
This software system also will allow UMMC to track paths of patients and providers
throughout the treatment process.

**Scope of Work:** Under the Agreement, Kyruus will provide:

- KyruusOne, a data management platform to consolidate, enrich, and maintain
  provider data effectively;
- Authorized user access for unlimited number of administration users and up to 800
  provider users for KyruusOne;
- ProviderMatch software system to enhance patient-provider matching;
- Authorized user access for up to 50 administration users and up to 100 scheduling and
  referral agent users for ProviderMatch;
- Passwords for authorized users;
- Implementation services to configure provider information, data fields and tabs for
  editing, approval workflows, standard analytics and reports, and to assist with data
  integration and data import; and
- Annual support services for the data management platform and software system.

UMMC will provide:

- Necessary data for input into the data management platform in a timely manner;
- Appropriate registration data for UMMC's account; and
- Confidentiality and security of UMMC passwords and prompt notification to Kyruus
  if any password is lost, stolen, or otherwise compromised.

**Term of Contract:** The initial term of the agreement is three (3) years and six (6) months
with the option to renew for two (2) additional one (1) year terms. UMMC requests approval
for the entire five (5) year and six (6) month term from February 19, 2018, through August
18, 2023.

**Termination Options:** The agreement may be terminated as follows:

- By UMMC during the ninety (90) day period following go-live and upon Kyruus'
breach of warranty in providing software functions based upon Kyruus' receipt of
written notice from UMMC of the breach and if Kyruus fails to remedy the breach
within thirty (30) days after written notice of the breach is received;
- By either Kyruus or UMMC as the non-breaching party in the event of a material
breach of any Customer Order or the End User License Agreement, provided that the
breaching party fails to cure such material breach within thirty (30) days after notice of that breach, effective upon ten (10) days' notice of termination;

• By UMMC after the second anniversary of the effective date upon 180 days' written notice to Kyruus;

• By UMMC in the event of a reduction in funds, on an annual basis after fiscal year 2018, by providing written notice to Kyruus at least sixty (60) days prior to July 1 of each year;

• By UMMC upon the occurrence of a force majeure event continuing more than thirty (30) consecutive days;

• By UMMC upon Kyruus' failure to comply with federal E-Verify program; and

• By UMMC upon written notice to Kyruus of a material breach of the Agreement or violation of the HIPAA Regulations that remains uncured following ten (10) days written notice, or immediately if cure is not possible, in the event Kyruus improperly uses or discloses protected health information.

**Contract Amount:** The total estimated cost of this agreement over the entire five (5) year term is $1,270,000.00. UMMC will pay license and maintenance fees in an amount of $236,000.00 per year and a one-time implementation fee of $90,000.00.

**Funding Source of Contract:** This contract will be funded by hospital patient revenue.

**Contractor Selection Process:** Kyruus provided pricing for this agreement through its reseller MoreDirect, Inc. d/b/a Connection, who is an approved vendor contracted with Vizient, one of UMMC’s group purchasing organizations (GPO).

**Staff Recommendation:** Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of the contract for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. Based on Board Policy 707.03, Approval of Prepayment for Goods and Services, Board approval of a prepayment/waiver is required at the same time permission is sought from the Board under Board Policy 707.01. The agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

**12. UMMC – REQUEST FOR APPROVAL TO ENTER INTO A CONSUMABLE COMMITMENT AGREEMENT WITH NOVA BIOMEDICAL CORPORATION**

**Agenda Item Request:** The University of Mississippi Medical Center (UMMC) requests approval to enter into a new Consumable Commitment Agreement with Nova Biomedical Corporation (Nova). The agreement allows UMMC to purchase supplies for point-of-care finger-stick glucose analyzers. The point-of-care finger-stick glucose analyzers are used for bedside testing of the glucose analyte.
Contractor’s Legal Name: Nova Biomedical Corporation

History of Contract: On November 21, 2013, the Board of Trustees approved a five (5) year agreement with Nova Biomedical Corporation (Nova) for equipment and supplies for point-of-care finger-stick glucose analyzers. The approved cost of the agreement was $724,006.59. On November 17, 2016, the Board approved an amendment to the agreement to clarify pricing and commitments. The approved amended contract cost is $846,146.75. The proposed agreement will replace the existing agreement.

Specific Type of Contract: This is a new Consumable Commitment Agreement.

Purpose: The purpose of agreement is to purchase supplies for point-of-care finger-stick glucose analyzers in order to perform bedside glucose testing.

Scope of Work: The agreement will serve the entire patient population of main campus hospitals and their clinics, UMMC Grenada, Lexington Hospital and its clinics, College of Dentistry, and University Physician Clinics. UMMC will purchase StatStrip Point-of-Care Glucose Strips at discounted pricing in exchange for a commitment to purchase 1,112 cases of strips over five (5) years.

Term of Contract: The term of the contract is five (5) years, from on or about March 1, 2018, to February 28, 2023.

Termination Options: Termination options include the following:

- by UMMC at any time upon a thirty (30) day written notice, after UMMC has met its purchase (volume) commitment;
- in the event of any reduction in available funds to UMMC, the contract may be terminated without penalty to UMMC;
- immediately upon Nova’s breach of any of the following ongoing representations and warranties that Nova, its officers, directors and employees:
  - are not currently excluded, debarred, or otherwise ineligible to participate in any federal health care programs or any state healthcare programs;
  - have not been convicted of a criminal offense related to the provision of healthcare items or services and have not been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs or any state healthcare programs,
  - are not, nor have ever been included on the Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons list;
  - are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in Nova being excluded from
participation in the Federal Healthcare Programs or any state healthcare programs; and
  o if Nova is to receive any patients' personal health information, Nova represents and warrants that it has implemented safeguards to ensure that the privacy and confidentiality of patients' personal health information is protected;
  • failure by Nova to comply with the federal E-Verify Program; and
  • in the event of a default by UMMC.

The agreement contains a clause that addresses non-solicitation for both UMMC and Nova’s employees or contractors. The clause reads specifically as follows:

**Section 6. Non-Solicitation.** Each party agrees that, during the term of the Agreement and for a period of one year after termination, it will not solicit the employment of any employee or contractor of the other party without such other party's prior written consent thereto (other than through general solicitations not targeted at such persons).

This clause was included in the 2013 agreement between UMMC and Nova, and Nova requested to keep the language in the new agreement. The non-solicitation language contained in the agreement does not apply to general, non-targeted solicitations and protects the interest of both UMMC and Nova.

**Contract Amount:** The total estimated cost of the five (5) year agreement is $917,207.50, including UMMC's minimum committed purchases and additional anticipated purchases. UMMC has calculated a five percent (5%) increase in volume each year of the agreement for potential patient volume growth.

**Funding Source of Contract:** The agreement will be funded by hospital patient revenue.

**Contractor Selection Process:** Nova Biomedical Corporation is an approved vendor contracted with Novation, UMMC's primary group purchasing organization (GPO) pursuant to Miss. Code Ann. § 31-7-13(m)(x). Nova also provides the only FDA approved glucose testing products for use in hospitals.

**Staff Recommendation:** Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of the contract for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. The agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

13. **UMMC – REQUEST FOR APPROVAL TO ENTER INTO A CONTRACTUAL SERVICES AGREEMENT WITH PIVOT POINT CONSULTING, LLC**
Agenda Item Request: The University of Mississippi Medical Center (UMMC) requests approval to enter into a Master Client Services Agreement with Pivot Point Consulting, LLC (pivot Point) for augmentation of information technology (IT) staffing, to be utilized on an as needed basis. UMMC utilizes staff augmentation for work on Epic related projects, such as Community Connect, Gulfport Clinics crossover, any potential Epic upgrades, and various other Epic resource needs.

Contractor’s Legal Name: Pivot Point Consulting, LLC

History of Contract: This a new agreement for IT staff augmentation with Pivot Point. UMMC currently contracts with TEKsystems, Inc. (TEKsystems) for IT staff augmentation. Contracting with multiple vendors for IT staff augmentation at the same time will allow UMMC to utilize resources with specific skills needed for various ongoing application and infrastructure projects. At times, the specific skills needed are not available within UMMC's current staff, and other times, the planning efforts for particular projects benefit from outside expertise and perspective.

In January 2017, UMMC publicly advertised Request for Proposal (RFP) 1235 for Healthcare IT Consulting Services. UMMC received fifteen (15) responses to the RFP. UMMC selected Pivot Point and Computer Task Group, Incorporated (CTG) as bidders with the best proposals based on pricing provided and responses to the specifications indicating an ability to meet or exceed the requirements for the requested services.

In addition to this request, UMMC has submitted for consideration a separate services agreement with CTG. UMMC seeks to contract with three (3) healthcare IT staffing vendors at the same time in order to provide UMMC with instant outside resources for specific skills needed for its various ongoing application and infrastructure projects.

Specific Type of Contract: This is a new Master Client Services Agreement.

Purpose: The purpose of the agreement is to augment UMMC’s IT staffing to support Epic related projects.

Scope of Work: This agreement will provide professional IT staff to augment UMMC's current staff on an as needed basis, to include assistance with Epic Community Connect clients during Epic implementation and go live, crossover of the Gulfport clinics, any potential Epic upgrades, and various other Epic resource needs.

Term of Contract: The term of this agreement will be for three (3) years, beginning on March 1, 2018, and ending February 28, 2021.

Termination Options: This Agreement may be terminated as follows:
• By UMMC without cause upon thirty (30) days prior written notice;
• By either party upon thirty (30) days written notice in the event that the other party has breached any of the terms or conditions of this agreement and such breach has not been cured within the period;
• Failure of Pivot Point to comply with E-verify; and
• By UMMC upon written notice to Pivot Point of a material breach of the Business Associate Agreement or violation of the Health Insurance Portability and Accountability Act (HIPAA) regulations that remains uncured following ten (10) days written notice, or immediately if cure is not possible, in the event Pivot Point improperly uses or discloses protected health information.

The agreement contains a clause that addresses non-solicitation for both UMMC and Pivot Point's employees or consultants. The clause reads specifically as follows:

Section 6. Non-Solicitation: Except as provided by this Agreement, neither party will hire or offer employment to, or otherwise directly or indirectly use the service of, on a full-time, part-time or temporary basis an employee of consultant of other party within one (1) year of the expiration or termination of this agreement, whichever comes first.

This clause was included as the IT world is extremely competitive when dealing with qualified IT professionals, especially in the field of Healthcare. The non-solicitation language contained in the agreement protects the interest of both UMMC and the company.

Contract Amount: The estimated cost of this agreement is $750,000.00. Fees are based upon hourly rates for the various levels of staff that may be utilized.

Funding Source for Contract: This agreement will be funded through patient revenue for work performed for UMMC, but for work performed for Epic Community Connect clients, the cost will be reimbursed to UMMC by the client.

Contractor Selection Process: In 2016, the MS Department for Information Technology Services (ITS) approved UMMC's request to perform a Request for Proposal (RFP) for Healthcare IT Consulting Services. In January 2017, UMMC publicly advertised RFP 1235 for Healthcare IT Consulting Services. UMMC received fifteen (15) responses to the RFP. UMMC selected Computer Task Group, Incorporated (CTG) and Pivot Point as bidders with the best proposals based on pricing provided and responses to the specifications indicating an ability to meet or exceed the requirements for the requested services.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Score</th>
<th>Cost</th>
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</thead>
<tbody>
<tr>
<td>Pivot Point</td>
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<td>$ 970,320.00</td>
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<tr>
<td>Computer Task Group</td>
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<tr>
<td>Virtelligence</td>
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Leidos Health 76.75 $ 1,346,800.00
Clinical Path Consulting/Anchor 69.67 $ 1,361,360.00
Apex 69.58 $ 1,438,320.00
HCI Group 71.84 $ 1,438,320.00
Huron Consulting 71.16 $ 1,440,400.00
MedITology 68.71 $ 1,454,960.00
Cognizant Technology Solutions 66.40 $ 1,581,840.00
Impact 61.34 $ 1,768,000.00

The difference between the cost of the RFP proposal and the cost requested for the agreement herein is because the RFP was calculated in a certain way in order to apply a fair comparison of the RFP respondents' cost proposals, which were based on hourly rates of employee types.

To compare the cost proposals, UMMC multiplied the hourly rate of each type of consultant below by 1,040 hours for a quantity of one (1) consultant for Epic Community Connect Project Director, Epic Planning Consultant, Epic go live support analyst, Epic credentialed trainer, and a quantity of two (2) consultants for Epic instructional designer and Epic build analyst (lead or senior). UMMC does not anticipate using only those types of consultants or for that amount of time; UMMC will use Pivot Point and CTG on an as-needed basis for various positions.

Staff Recommendation: Based on Board Policy 707.01, Land, Property, and Service Contracts, Board approval is required prior to execution of contracts for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. This agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

14. UMMC – REQUEST FOR APPROVAL TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH SELLERS DORSEY & ASSOCIATES, LLC

Agenda Item Request: The University of Mississippi Medical Center (UMMC) is requesting approval to enter into a professional services agreement with Sellers Dorsey & Associates, LLC for the purpose of developing and assisting with the implementation of a Medicaid Managed Care Physician Supplemental Payment Program for the State of Mississippi.

Contractor’s Legal Name: Sellers Dorsey & Associates, LLC (Sellers Dorsey)

History of Contract: This is a new agreement for the development and implementation of Medicaid Managed Care Physician Supplemental Payment Program.

Specific Type of Contract: Consulting Services Agreement
Purpose: The purpose of the agreement is to provide professional services to develop and assist with the implementation of a Medicaid Managed Care Physician Supplemental Payment Program. The program is very similar to the current Medicaid Fee-For-Service (FFS) physician upper payment limit (UPL) program implemented in 2015 that benefited the State of Mississippi. The Medicaid Managed Care Physician Supplemental Payment Program will allow UMMC to maximize federal Medicaid payments for physician payments occurring through Medicaid Managed Care. Under the proposed agreement, Sellers Dorsey will design the Medicaid Managed Care Physician Supplemental Payment Program, assist in obtaining federal approval for the program, and aid in implementing the program by targeting physician practices affiliated with UMMC.

Scope of Work: Under the agreement, Sellers Dorsey will provide the following:

- identifying physicians eligible for the program,
- develop the Medicaid Managed Care supplemental payment financial models,
- draft necessary documents to submit to the federal government,
- provide assistance throughout the federal approval process, and
- manage the overall project under the direction of UMMC staff.

Term of Contract: The term of the agreement is three (3) years, March 1, 2018 through February 28, 2021.

Termination Options: Termination options include the following:

- by either party upon sixty (60) days’ written notice,
- by either party for a breach of the provisions of the agreement upon ten (10) days notice of opportunity to cure,
- reduction of funds,
- an inability to agree to renegotiated contract terms in the event a change in law occurs that materially restricts or prohibits the rights of either party or otherwise makes it desirable for the parties to renegotiate the agreement,
- breach by Sellers Dorsey of the Business Associate Agreement (BAA) or HIPAA regulations upon ten (10) days notice of opportunity to cure,
- failure by Sellers Dorsey to comply with the federal E-Verify provisions, and
- upon Seller Dorsey’s breach of any of the following ongoing representations and warranties:
  - that Sellers Dorsey, its officers directors and employees are not currently excluded, debarred, or otherwise ineligible to participate in any federal health care programs or any state healthcare programs,
  - that Sellers Dorsey, its officers directors and employees have not been convicted of a criminal offense related to the provision of healthcare items or services and have not been excluded, debarred, or otherwise declared
ineligible to participate in the Federal Healthcare Programs or any state healthcare programs,
  o that Sellers Dorsey, its officers directors and employees are not, nor have ever been included on the Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons list,
  o that Sellers Dorsey, its officers directors and employees are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in Sellers Dorsey being excluded from participation in the Federal Healthcare Programs or any state healthcare programs, and
  o that Sellers Dorsey, its officers directors and employees has implemented safeguards to ensure that the privacy and confidentiality of patients' personal health information is protected.

**Contract Amount:** The total estimated cost of this agreement is $3,834,414. Under the agreement, UMMC will pay Sellers Dorsey a contingency fee of 4.75% of the new federal funds generated for UMMC from participation in the Medicaid Managed Care Physician Supplemental Payment Program, as well as travel expenses. UMMC anticipates an additional $26,655,535 in reimbursement under the program, which will require a contingency fee of $3,798,414. UMMC has anticipated up to $36,000 in travel under the agreement.

**Funding Source for Contract:** The agreement will be funded by hospital patient revenue.

**Contractor Selection Process:** In September 2016, UMMC publicly advertised Request for Proposals (RFP) 1230 for a Medicaid Managed Care Physician Supplemental Payment Program. Sellers Dorsey was the sole responding bidder to RFP 1230. UMMC subsequently cancelled RFP 1230, revised the specifications, and re-solicited responses via RFP 1232 in November 2016. Sellers Dorsey was the sole responding bidder to RFP 1232 as well. Thereafter, UMMC elected to cancel RFP 1232 to reconsider the timing of the project. UMMC now wishes to contract with a vendor to implement a Medicaid Managed Care Physician Supplemental Payment Program. As Sellers Dorsey was the sole responding bidder to both of UMMC’s RFPs for this service, UMMC has elected to contract with Sellers Dorsey.

**Staff Recommendation:** Based on Board Policy 707.01, Land, Property, and Service Contracts, Board approval is required prior to execution of contracts for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. This agreement has been reviewed and approved by the Attorney General’s Office. Board staff recommends approval of this item.

15. **UMMC – REQUEST FOR APPROVAL TO ENTER INTO A CONTRACTUAL REAL PROPERTY LEASE AGREEMENT WITH TCP BLOCK 1 NORTH, LLC**

**Agenda Item Request:** The University of Mississippi Medical Center (UMMC) requests approval to enter into a new Real Property Lease (lease) with TCP Block 1 North, LLC (TCP) to lease approximately 5,382 square feet of clinical space located at The Township at
Colony Park, 201 Northlake Avenue, Suite 211, Ridgeland, Mississippi. The property is managed by Kerioth Corporation. The clinic has been in operation at this location since January 2008 and is currently utilized for dermatology. Pursuant to IHL policy 707.03 Approval of Prepayment for Goods or Services, UMMC also requests a waiver to allow prepayment of rent on the first day of each month.

Contractor’s Legal Name: TCP Block 1 North, LLC

History of Contract: The University Physicians, PLLC (UP) had leased the space since January 2008. Effective September 1, 2012 UMMC began the process of merging UP units with UMMC’s general operations. This original lease was an obligation of UP’s Face and Skin Center and was paid by UP through the term of the contracted lease and on a month-to-month basis since its expiration. This contract became the obligation of UMMC.

On April 18, 2013, the Board approved a five (5) year lease with TCP for the clinic space, which expires on April 30, 2018. UMMC wishes to enter into a new five (5) year lease at this time to replace the existing lease.

The agreement contains a non-compete clause that prohibits UMMC from opening and operating a specialty medical clinic for dermatology and plastic surgery within a four (4) mile radius of the The Township that directly or indirectly causes the closure of the existing clinic. The non-compete clause is required by the landlord and was a non-negotiable point for the landlord. The same requirement was negotiated and included in the prior lease for this space. As this is an existing clinic in this location and UMMC has no plans to move the clinic, this requirement should not be detrimental to UMMC’s interests.

Specific Type of Contract: This is a new Real Property Lease.

Purpose: The purpose of the lease is lease approximately 5,382 square feet of clinic space located at The Township at Colony Park, 201 Northlake Avenue, Suite 211, Ridgeland, Mississippi. The clinic has been in operation at this location since January 2008 and is currently utilized for dermatology specialties. Historically, the primary services performed at this clinic are facial plastic surgery, cosmetic dermatology, oculoplastic surgery, Mohs surgery, and general dermatology.

Scope of Work: Under the lease, UMMC will reimburse TCP for its provision of maintenance, repair and upkeep of the property, including roof and foundation; payment of utilities; and property insurance.

UMMC is responsible for using the premises only for the practice of specialty medicine as required by the lease; maintaining the premises in a state of good condition; to make any minor repairs caused by and in the event of relocation; and timely payment of rent and operating expenses.
Term of Contract: The term of the lease will be 60 months, from March 1, 2018, through February 28, 2023.

Termination Options: The lease may be terminated for the following:

- by UMMC upon thirty (30) days written notice should the premises be destroyed or rendered tenantable and TCP either elects to not restore or is unable to restore the premises with ninety (90) days,
- by either party during the final year of the lease term should the premises be destroyed,
- in the event the premises is taken as a result of eminent domain or condemnation,
- by TCP for a default of the lease by UMMC,
- by TCP in the event of an unpermitted transfer of the premises by UMMC,
- by TCP in the event of an involuntary assignment of UMMC, and
- an inability to agree to renegotiated contract terms in the event a change in law occurs that materially restricts or prohibits the rights of either party or otherwise makes it desirable for the parties to renegotiate the agreement.

Contract Amount: The total estimated cost of the lease over the 60 month term is $976,569.73, including rent and a pro rata share of operating expenses. Beginning in Year 2, UMMC has included an annual price increase of three percent (3%) for rental payments and five percent (5%) for operating expenses.

Funding Source for Contract: The lease will be funded by patient revenue.

Contractor Selection Process: UMMC currently leases this space from TCP.

Staff Recommendation: Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of leases in an amount greater than $100,000. Based on Board Policy 707.03, Approval of Prepayment for Goods and Services, Board approval of a prepayment/waiver is required at the same time permission is sought from the Board under Board Policy 707.01. The agreement has been reviewed and approval by the Attorney General’s Office. Board staff recommends approval of this item.

16. USM – REQUEST FOR APPROVAL OF TO AMEND CONTRACTUAL SERVICES AGREEMENT WITH EDGEROCK TECHNOLOGIES

Agenda Item Request: The University of Southern Mississippi requests approval to amend its current Agreement with EdgeRock Technologies, LLC to increase funding for the
services in the existing contract for consulting services that support the Office of Research Administration with its grants business process redesign project.

Contractor’s Legal Name: EdgeRock Technologies, LLC

History of Contract: The original contract was in effect from June 13, 2016 until January 31, 2017, with an amendment executed in September 2016 to change the consultant on the project. In January 2017 a revision and restatement to extend the project completion date to December 31, 2017 was executed. In May 2017, an amendment (#2) was executed to extend the contract end date to December 31, 2018. The original amount budgeted for the project was $246,900, and was not anticipated to exceed $250,000, but due to additional requirements, we are requesting approval of Amendment #3 for an increase in the contract amount to $288,700 to help complete all the remaining and additional project tasks.

Specific Type of Contract: This is a contract for consulting and staff augmentation services. The amendment being presented for approval would amend the existing contract for consulting and staff augmentation services of a subject matter expert.

Purpose: The purpose of the contract is to purchase consulting and staff augmentation services to help the Office of Research Administration complete a business process redesign in the University ERP system that eliminates customized processes that hinder more effective usage of the existing grants management system.

Scope of Work: Description of Services: The consultant has analyzed the grants suite and reverted it to delivered functionality as much as possible, using best practice business processes. The contractor will help us implement efficient time and effort processes, implement efficient salary recovery (salary savings) processes, implement the grants portal, prepare for the upcoming v9.2 upgrade, prepare documentation and guidance related to commitment accounting for payroll journals as it relates to payroll documentation for grants, and remove customizations for subcontracts to use as the current system is delivered.

Term of Contract: The agreement became effective 06/13/2016 and ends 12/31/2018.

Termination Options: It is expressly understood and agreed that the obligation of USM to proceed under this agreement is conditioned upon the availability and receipt of funds by USM to specifically perform the obligations set forth for USM under this agreement

Termination for Convenience: USM may, when the interests of USM so require, terminate this agreement in whole or in part for convenience of USM. Written notice of the same is required to be provided by USM and shall allow no less than two weeks’ notice prior to the effective date of termination.
Termination for Cause: Either party may terminate this agreement immediately upon issuance of written notice if the other party fails to perform the obligations to the other party under this agreement. The party issuing such a termination notice may allow 30 days within which the other party may attempt to cure the failure to fulfill its obligations, but such 30-day cure time is not required.

Contract Amount: The original total contract cost was not to exceed $250,000 without IHL approval. With the proposed amendment, the total cost will now be $288,700.

Funding Source for Contract: The contract will be funded by a combination of research funds and development funds.

Contractor Selection Process: A Request for Proposals was issued by The University of Southern Mississippi. Four proposals were received. The University selected EdgeRock Technologies, Inc. The University evaluated these proposals based on interviews, the proposal, and cost of services. After rating the proposals, the key factor in making this decision was the confidence level gained by the selection committee from interviewing each consultant to ascertain their skill level and confidence in being able to efficiently resolve the issues USM faced.

Staff Recommendation: Based on Board Policy 707.01, Land, Property, and Service Contracts, Board approval is required prior to execution of contracts for all other land, personal property, and service contracts that require an aggregate total expenditure of more than $250,000. Board staff recommends approval of this item. (As the Board is being asked to approve additional expenses under an on-going agreement, no approval by the Attorney General’s Office is required.)

17. ASU – MISSISSIPPI INFORMATION TECHNOLOGY SERVICES SOFTWARE LICENSE AND APPLICATION SERVICE PROVIDER AGREEMENT WITH INSTRUCTURE, INC.

The following document represents the approval of MS-ITS for the provision of a hosted Learning Management System for Alcorn State University (ASU). The Attorney General’s staff assigned to the MS-ITS reviews such agreements prior to execution. The Software License and Application Service Provider Agreement is between Instructure and MS-ITS behalf of ASU.

See Exhibit 1.
PROJECT NUMBER 43968
SOFTWARE LICENSE AND APPLICATION SERVICE PROVIDER AGREEMENT
BETWEEN
INSTRUCTURE INC.
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
ALCORN STATE UNIVERSITY

This Software License and Application Service Provider Agreement (hereinafter referred to as "Agreement") is entered into by and between, Instructure Inc., a Delaware corporation having its principal place of business at 6330 South 3000 East, Suite 700, Salt Lake City, Utah 84121 (hereinafter referred to as "Licensor"), and Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for Alcorn State University, located at 1000 ASU Drive, Lorman, Mississippi 38996 (hereinafter referred to as "Licensee" and/or "ASU"). ITS and ASU are sometimes collectively referred to herein as "State."

WHEREAS, ITS on behalf of the Mississippi Community College Board (MCCB), pursuant to Request for Proposals ("RFP") No. 3692 requested proposals for the services of a contractor to host and maintain an Application Service Provider ("ASP") solution for a Learning Management System (LMS); and

WHEREAS, Licensor was the successful proposer in an open, fair and competitive procurement process to provide the software and services described herein; and

WHEREAS, RFP No. 3692 contained a provision stating that the State reserved the right to re-use the proposal for future projects; and

WHEREAS, the State has deemed it to be in the State's best interest to use the above referenced proposal as the basis for ASU's request for the acquisition of a Learning Management System, and Licensor has agreed to provide such system to ASU;

NOW THEREFORE, in consideration of the mutual understandings, promises and agreements set forth, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS
1.1 "Active User" means ASU employees, and secondary education faculty and students actively participating on the system in any given month of operation, who shall be bound to the terms and conditions of this Agreement. Licensor does not impose a limit on the number of Active Users accessing or registering to use the system.

1.2 "Available Date" means the date upon which Licensor notifies ASU that the Software may be accessed on the Licensor's ASP server and ASU may begin acceptance testing.

1.3 "Content" means any content provided by or through Active Users for use with the Software.

1.4 "Documentation" means the published user and technical manuals and documentation that Licensor makes generally available for the Software; the help files included within the
Software, and any files containing presentation materials or manuals or other related materials to train and educate Licensee and the Active Users on the use of the Software.

1.5 "Enhancements" means the corrections, updates, upgrades or new versions of the Software or Documentation that Licensor may provide to Licensee under this Agreement.

1.6 "Licensee" means Alcorn State University, its employees, secondary education faculty and students and any third party consultants or outsourcers engaged by ASU who have a need to know and who shall be bound by the terms and conditions of this Agreement.

1.7 "Licensor" means Instructure Inc., and its successors and assigns.

1.8 "Products" means the Software, Documentation, Corrections, Enhancements and any copy of the Software, Documentation, Corrections, or Enhancements provided by the Licensor.

1.9 "Services" means any on-line user access, customizations, interface development, consulting, education, ASP installation, system administration, training, maintenance, support, and Help Desk services provided by Licensor to Licensee.

1.10 "Software" means the machine-readable object code version of the computer programs whether embedded on disc, tape or other media used for the management of the web-based Learning Management System (LMS) and Supported Interfaces (and any Documentation and help files within the Software), including any Enhancements provided pursuant to the maintenance and support terms identified herein.

1.11 "Software Error" means a reproducible defect or combination thereof in the Software that results in a failure of the Software when used in accordance with the Documentation. Software Errors do not include those errors caused by (a) Licensee's negligence, (b) any unauthorized modification or alteration Licensee makes to the Software, (c) data that does not conform to Licensor's specified data format, (d) operator error, or (e) use not conforming to the Licensor's supported technical environment specified in the Documentation.

1.12 "Supported Interfaces" means application-based interfaces (API), network protocols, data formats, database schemas, and file formats used in the Software as described in the Documentation.

ARTICLE 2 PERIOD OF PERFORMANCE
2.1 Unless this Agreement is extended by mutual agreement or terminated as prescribed elsewhere herein, this Agreement shall begin on the date it is signed by all parties and shall continue in effect until the Licensor completes all tasks required herein pursuant to the project work plan, including services during the five (5) year hosting term. The web-based Learning Management System (LMS), as customized for the State of Mississippi, must be implemented; fully functional; accepted by ASU, and all tasks (excluding hosting) required herein, including but not limited to development of required interfaces and training, completed on or before March 30, 2018, unless a change in this date is mutually agreed to in writing by the State and the Licensor. At the end of the five (5) year initial ASP services term, the ASP services may, upon the written agreement of the parties, be renewed under the same terms and conditions for an additional term. One hundred and eighty (180) days prior to the expiration of the initial hosting term or any renewal hosting term of this Agreement, Licensor shall notify ASU and ITS of the impending expiration
and ASU shall have sixty (60) days in which to notify Licensor of its intention to either renew or cancel the ASP services.

2.2 This Agreement will become a binding obligation on the State only upon the issuance of a valid purchase order by ASU following contract execution and the issuance by ITS of the CP-1 Acquisition Approval Document.

ARTICLE 3  SCOPE OF SERVICES
3.1 The Licensor agrees to provide to ASU an ASP based Learning Management System (LMS) and Services and associated deliverables required to provide, host and maintain a web based application for ASU as described in this Agreement. While the scope of work for this project is defined by the contract documents set forth herein in the article titled “Entire Agreement”, a summary of such work is outlined in Article 3.5 below.

3.2 The Licensor acknowledges that ASU intends to be actively involved in the day-to-day progress of the project. The Licensor agrees to (a) obtain ASU’s approval of all tasks and the time schedule for completion of said tasks prior to commencing performance, if not already contained in the approved project work plan; (b) make available to the State project team members all project work papers and work-in-progress for review; (c) ensure that the Licensor Project Manager works closely together with the State Project Manager, (d) provide ASU access to the host website; (e) meet with ASU on a regular basis at a mutually agreeable time, and as otherwise requested by ASU, to discuss the status of the project, and (f) if required by ASU, submit written project status reports.

3.3 The parties understand and agree that the project shall be structured with interim deliverables as set forth in the agreed upon project work plan so as to allow ASU an opportunity to accept or reject the deliverables, including but not limited to, specifications, requirement definitions, process designs, data analyses, web layouts, screen layouts, and report layouts. The actual customizations shall not begin until after ASU has communicated its conceptual approval of the results the Licensor plans to provide. ASU shall have ten (10) business days to review interim materials, which review period can only be reduced by mutual agreement of the Licensor and ASU.

3.4 It is understood by the parties that the project work plan must be in place within fifteen (15) business days of execution of this Agreement and prior to any other work being performed. Once this mutually agreed upon project work plan, which will identify specific time frames and deliverable target dates for this project, has been developed, it will be incorporated into and made a part of this Agreement. The dates in the project work plan will define the agreed upon period of performance. The parties acknowledge that the project work plan will evolve and change from time to time upon the mutual written agreement of both parties. The parties agree that the deliverables and schedule set forth in the latest version of the project work plan will take precedence over any prior plans.

3.5 Licensor shall be responsible for the following:

A. Ensuring that all deliverables are complete and accepted by ASU pursuant to the mutually agreed upon project work plan;
B. Ensuring that the host site complies with PriorityOne of the World Wide Web Consortium’s (W3C’s) Web Accessibility Initiative and guidelines in Section 508 of the Rehabilitation Act that are not covered in W3C Priority;
C. Ensuring that the site, if separately paid for, is accessible through ASU's published universal resource locator ("URL") rather than through Licensor's site address;
D. Reviewing with ASU the Content a minimum of once a quarter to ensure that the Content remains timely and accurate and reaching an agreement with ASU as to reasonable timelines for implementing Content updates delivered to the Licensor that will be posted on the site;
E. Tracking date sensitive items to ensure timely updates;
F. All Content provided by the Licensee and collected by the Software shall remain the sole and exclusive property of the Licensee. Upon the termination or expiration of this Agreement, Licensor shall provide such Content in its possession to the Licensee pursuant to a mutually agreed upon release schedule;
G. Working with ASU to achieve access rates that meet ASU's needs;
H. Providing security for the host site that is agreeable to ASU with Licensor responsible for all necessary equipment and software related to security;
I. Maintaining the accessibility of the site twenty-four (24) hours a day, seven (7) days a week at an uptime rate of 99% or greater, subject to the limitations set forth in this Agreement, including but not limited to, those in Article 4.4;
J. Completing daily backups of the site;
K. Notifying ASU at least three (3) business days prior to any anticipated service interruption, with said notice containing a general description of the reason for the service interruption;
L. Proposing and adhering to a disaster recovery plan and providing access to such plan to the State, all at Licensor's expense;
M. Participating with ASU in disaster recovery planning and testing based on a mutually agreed upon schedule;
N. Maintaining the confidentiality of the data entered;
O. Upon request, providing ASU access to all of the technical information concerning operation of the site, including but not limited to, server specifications, Internet connection information, personnel requirements and software implementations;
P. Identifying any commercially available software, by vendor and version number, integrated into the Products and describing the particular functionality of any software that is proprietary to the Licensor;
Q. Maintaining the host site, with the cost for such support, maintenance, and hosting for years following the initial five (5) year period not increasing annually beyond five percent (5%) or the percent increase in the consumer price Index for all Urban Consumers, US City Average (C.P.I.-U) for the preceding year, whichever is less;
R. Providing 24x7x365 support of the web site, including sub-domain support;
S. Providing redundant internet connections;
T. Providing Dual 1Gb or greater connectivity;
U. Providing FTP and remote configuration access;
V. Providing SSL secure server support;
W. Upon request, providing monthly reports containing access reports and system performance data to ASU;
X. Maintaining sufficient bandwidth and server capacity to meet ASU and Active Users' demand as it may fluctuate and increase during the term of this Agreement, and
Y. Upon termination or expiration of this Agreement, Licensor shall export courses from Canvas and place them in a secure storage location to be provided by ASU. Courses shall be exported in the Canvas Common Cartridge format. The export process would be completed within eight (8) weeks of notification of termination without charge to ASU. Also, during the term of this Agreement and for three (3) months after expiration or termination, ASU may export its content by using the export feature within the Software.
3.6 In the event Licensor creates any revisions to or upgrades of the system, Licensor shall provide Licensee release notes of such revision or upgrade, and shall, upon request of Licensee, furnish such revision or upgrade to Licensee free of charge as part of the ASP fees.

ARTICLE 4 SCOPE OF LICENSE AND HOSTING SERVICES

4.1 Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a non-exclusive and non-transferable license to access the Software over the Internet and to use it for Licensee’s business operations and use it on the Licensor’s host server for the initial term of the Agreement and any subsequent renewal hosting terms in accordance with, and subject to, the terms and conditions set forth in this Agreement. Licensee and Active Users are granted access to the Software with an annual availability percentage of 99.9% over a trailing 365 day period (excluding scheduled outages, force majeure, and outages that result from any ASU or User technology issue). If ASU has been using the Software for less than 365 days, the preceding 365 days will be used and any days prior to ASU’s use of the Software will be deemed to have had 100% availability. Any unavailability occurring prior to a successful credit claim cannot be used for any future claims.

4.2 Licensor will provide Licensee storage space on and access to Licensor’s Software via the Internet and provide Internet access to the Software to the Active Users through Licensor’s site (“ASP Services”).

4.3 In connection with the ASP Services, Licensor will provide and maintain all Software and hardware, including, but not limited to, the server hardware and software, telecommunications hardware and software, security hardware and software and other software that is reasonably necessary to operate and maintain the Software.

4.4 ASU is eligible for a service credit if the annual availability percentage drops below 99.9% for the preceding 365 days from the date of a service credit claim. Maximum amount of the credit/refund is 1/12 of the annual subscription fee for a twelve (12) month period. For example, if a customer pays $12,000 for its annual subscription fee and the availability falls below 99.9% in a certain month, the maximum amount of credit a customer shall receive is $1,000.

To qualify for a service credit, ASU must send an email to Licensor at sla-request@instructure.com within the month ASU becomes eligible for the credit or 30 days after. ASU must also include the following information: (i) Licensor name and contact information, (ii) date and beginning/end time of the outage, (iii) a brief description and characteristics of the outage and (iv) the end user location and Internet service provider used to access the Software. This credit is calculated by taking the number of hours that the Software was unavailable below the warranty, and multiplying it by 3% of 1/12 the annual subscription fee.

4.5 Licensor shall provide the Licensee with its standard managed firewall service, which shall enable secure delivery of Licensor’s application services using fully redundant hardware-based firewalls. Licensor’s managed firewall service will be available twenty-four (24) hours a day, seven (7) days a week.

4.6 The use of the Software by Active Users will be governed solely by the terms and conditions of this Agreement and, to the extent they do not violate Mississippi law, the Terms of Use document on Licensor’s website. The parties agree that in the event of a conflict between
the terms and conditions of this Agreement and the Terms of Use document on Licensor's website, this Agreement shall prevail.

4.7 Licensor acknowledges that the Content is and shall remain the sole and exclusive property of Licensee. ASU grants Licensor the right to use the Content solely for the purpose of performing under this Agreement. Further, Licensor acknowledges that the Content may contain valuable trade secrets of Licensee and Licensor agrees to maintain the confidentiality of the Content and shall not make the Content publicly available except as may be necessary in performing the ASP Services.

4.8 Licensee acknowledges that the Software Products shall remain the exclusive property of Licensor. Licensee agrees that except as noted herein, it will not otherwise copy, translate, modify, adapt, decompile, disassemble or reverse engineer any of the Software without the prior written consent of Licensor.

ARTICLE 5 DELIVERY; RISK OF LOSS, AND ACCEPTANCE

5.1 Licensor shall deliver, install, and make available the Software and Documentation to the Licensor's hosting environment, except as otherwise specified, and pursuant to the delivery schedule mutually agreed to by the parties.

5.2 Licensor shall assume and bear the entire risk of loss and damage to the Products from any cause whatsoever while in transit and at all times throughout Licensor's possession thereof.

5.3 ASU shall have thirty (30) calendar days after the Available Date to evaluate and conduct the final acceptance testing of the Software to confirm that it performs without any defects and performs in accordance with the requirements of this Agreement. ASU shall immediately thereafter notify Licensor of any defects in the Software, which must be corrected. Thereafter, Licensor shall have ten (10) business days in which to either repair or replace the defective Software unless both parties agree to extend this period, all at Licensor's expense. In the event Licensor is unable to repair or replace the Software within this ten (10) day period, ASU may terminate this Agreement pursuant to the Termination Article herein.

ARTICLE 6 CONSIDERATION AND METHOD OF PAYMENT

6.1 The total compensation to be paid to the Licensor by ASU for all development, maintenance and ASP services, customizations, products, travel, performances and expenses under this Agreement shall not exceed the specified sum of $532,005.54, and shall be payable as set forth in the Payment Schedule attached hereto as Exhibit A.

6.2 Licensor shall submit invoices with the appropriate documentation to ASU annually for ASP services and monthly for any month in which other Services are rendered. Licensor shall submit invoices and supporting documentation to ASU electronically during the term of this Agreement using the processes and procedures identified by the State. ASU agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by ASU within forty-five (45) days of receipt of the invoice. Licensor understands and agrees that ASU is exempt from the payment of taxes. All payments shall be in United States currency. Payments by state agencies using Mississippi's Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The
payments by these agencies shall be deposited into the bank account of the Licensor’s choice. No payment, including final payment, shall be construed as acceptance of defective products or incomplete work, and the Contractor shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled “Entire Agreement.”

6.3 Acceptance by the Licensor of the last payment due from ASU under this Agreement shall operate as a release of all claims for money against the State by the Licensor and any subcontractors or other persons supplying labor or materials used in the performance of the work under this Agreement.

ARTICLE 7 WARRANTY
7.1 Licensor represents and warrants that it has the right to license the Products provided under this Agreement.

7.2 Licensor represents and warrants that the Products provided by Licensor shall meet or exceed the minimum specifications set forth in RFP No. 3692 and Licensor’s Proposal, as accepted by the State, in response thereto.

7.3 During the term of this Agreement, the Licensor represents and warrants that all deliverables shall be free from any defect, deficiency, faultiness, imperfection, inadequacy, incompleteness or other condition (collectively referred to herein as “Defect”) which would render any such deliverable inoperable in any way or which would prevent full performance in accordance with this Agreement. This warranty includes, without limitation, correction of errors, design deficiencies, performance deficiencies, and incorrect or defective Documentation, including those found during acceptance testing, implementation, and the warranty period. Acceptance testing shall not in any way relieve the Licensor of its responsibilities to correct any Defect during the warranty period. The Licensor shall repair any Defect at no cost to the State within ten (10) business days of receiving notice of the Defect from the State, unless ASU consents in writing to a longer period of repair time. In the event Licensor is unable to repair or replace the Software within the mutually agreed upon time frame after receipt of notice of the Defect, ASU shall be entitled to a full refund of fees paid and shall have the right to terminate this Agreement in whole or in part as provided for in the Termination Article herein. Licensee’s rights hereunder are in addition to any other rights Licensee may have.

7.4 During the term of this Agreement, the Licensor represents and warrants that its Services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such Services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, Licensor shall perform the Services again, at no cost to the State, or if Licensor is unable to perform the Services as warranted, Licensor shall reimburse the State the fees paid to Licensor for the unsatisfactory Services.

7.5 Licensor represents and warrants that neither the Software, nor Enhancements shall contain a disabling code, lockup program or device. Licensor further agrees that it will not, under any circumstances including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Licensee’s licensed use of the Software, or Enhancements and/or which would restrict Licensee from accessing its data files or in any way interfere with the transaction of Licensee’s business. For any breach of this warranty, Licensor at its expense shall use commercially reasonable means to,
within ten (10) business days after receipt of notification of the breach, deliver Products to Licensee that are free of such disabling code, look-up program or device.

7.6 Licensor represents and warrants that neither the Software, nor Enhancements delivered to Licensee contain a computer virus. For purposes of this provision, a computer virus shall be defined as code intentionally inserted in the Software or Enhancements that will damage or destroy Licensee's applications or data. For any breach of this warranty, Licensor at its expense shall use commercially reasonable means to, within five (5) business days after receipt of notification of the breach, deliver Products to Licensee that are free of any virus, and shall be responsible for repairing, at Licensor's expense, any and all damage done by the virus to Licensee's site.

7.7 The Licensor represents and warrants that, upon completion of the project, the Licensor, and all subcontractors, if any, shall convey to ASU copies of all interim reports, cost records, data collection forms, and any working papers that support the final acceptance.

7.8 Licensor represents and warrants that it has obtained all necessary rights to permit use of the graphics on the site and that the Licensor shall provide ASU with evidentiary proof of graphic licenses and releases. Further, the Licensor represents and warrants that all Licensor-supplied graphics and content contains no scandalous or libelous material.

7.9 The Licensor represents and warrants that the deliverables provided to ASU under this Agreement, and their use by Active Users, will not infringe or constitute an infringement of any copyright, patent, trademark, servicemark, trade secret or other proprietary right of any person or entity. Licensee agrees that it will promptly notify Licensor in writing of any such claim or action of which it has knowledge, and that it will cooperate fully in the defense and investigation of the claim by supplying Licensor all relevant information currently available and in its possession, all at Licensor's expense. Licensor shall, to the extent authorized by Mississippi law, have sole control over the defense or settlement of any such claim or action. Licensor, at its own expense, shall defend or settle any and all infringement actions filed against Licensor or the State which involve the deliverables or other items provided under this Agreement and shall pay all settlements, as well as all costs, attorney fees, damages and judgment finally awarded against the State. If, in any such suit arising from such claim, the continued use of the items for the purpose intended is enjoined or threatened to be enjoined by any court of competent jurisdiction, Licensor shall, at its expense: (a) procure for the State the right to continue using such items, or (b) modify or replace them with non-infringing items with equivalent functionality, or, to the extent (a) or (b) cannot be done despite Licensor's commercially reasonable efforts, (c) refund to the State the fees previously paid by the State for the infringing Products. Said refund shall be paid within ten (10) business days of notice to the State to discontinue said use. In addition to the foregoing, the Licensor shall indemnify the State in accordance with the provisions of Article 18 herein.

7.10 Licensor represents and warrants that the host site provided by the Licensor shall be reasonably expandable and scalable so ASU can add and support additional business functions and users over time. It is understood and agreed that any standard revisions, enhancements, improvements, and upgrades to the licensed Software and host site equipment during the term of this Agreement, including operating system, database management system, and other software, shall be provided by Licensor to ASU at no additional cost to ASU.
7.11 Licensor represents and warrants that it presently has and will continue to maintain, at its own expense, throughout the term of this Agreement, valid licenses for all software, trademarks, service marks, patents and copyrighted material and any other proprietary information of a third party that it will deploy in support of all products Licensor uses in the performance of this Agreement.

7.12 If applicable under the given circumstances, Licensor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq., of the Mississippi Code Annotated (Supp2003), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Licensor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security where required, to provide a copy of each such verification to the State. Licensor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Licensor understands and agrees that any breach of these warranties may subject Licensor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Licensor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Licensor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

7.13 Licensor represents and warrants that the system provided pursuant to this Agreement will pass both internal security audits and independent security audits. For any breach of the preceding warranty at any time during which the system is covered by warranty and/or software support, Licensor shall, at its own expense and at no cost to Licensee, remediate any defect, anomaly or security vulnerability in the system by repairing and/or replacing any and all components of the system necessary in order for the system to be secure.

7.14 Licensor represents and warrants that no official or employee of Licensee or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of said project, voluntarily acquire any personal interest, direct or indirect, in this Agreement. The Licensor warrants that it has removed any material conflict of interest prior to the signing of this Agreement, and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under this Agreement. The Licensor also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

7.15 The Licensor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Licensor, terminate the right of the Licensor to proceed under this Agreement if it is found, after notice and hearing by the
ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Licensor to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Licensor as it would pursue in the event of a breach of contract by the Licensor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

7.16 FERPA Compliance Warranty: Licensor represents and warrants that it will comply with all applicable provisions of the Family Educational Rights and Privacy Act, as amended ("FERPA"), and other laws with respect to its activities under this Agreement, including without limitation, Licensor's obligations under FERPA as a "school official" and FERPA's "legitimate educational interests" limitation on use or disclosure of education records. Licensor will implement reasonable and typical administrative, technical, and physical safeguards to secure its facilities and systems from unauthorized access, and to secure the Licensee confidential information and data. Licensor agrees: to abide by FERPA's limitations on re-disclosure of personally identifiable information in education records; to not use or disclose education records created or received from, by, or on behalf of Licensee or its students for any purpose other than the purpose for which such disclosure is made; and to not use or disclose such education records except as permitted by this Agreement, as required by law, or as authorized by Licensee in writing.

ARTICLE 8 EMPLOYMENT STATUS

8.1 Licensor shall, during the entire term of this Agreement, be construed to be an independent contractor. Nothing in this Agreement is intended to nor shall be construed to create an employer-employee relationship, or a joint venture relationship.

8.2 Licensor represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of Licensee.

8.3 Any person assigned by Licensor to perform the Services hereunder shall be the employee of Licensor, who shall have the sole right to hire and discharge its employee. Licensee may, however, direct Licensor to replace any of its employees under this Agreement.

8.4 Licensor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither Licensor nor employees of Licensor are entitled to state retirement or leave benefits.

ARTICLE 9 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS
Licensor will be responsible for the behavior of all its employees and subcontractors while on the premises of any Licensee location. Any employee or subcontractor acting in a manner determined by the administration of that location to be detrimental, abusive or offensive to any of the staff and/or students will be asked to leave the premises and may be suspended from further work on
the premises. All Licensor employees and subcontractors who will be working at such locations shall be covered by Licensor's comprehensive general liability insurance policy.

ARTICLE 10 MODIFICATION OR RENEGOTIATION
This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 11 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS
11.1 In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Licensor represents all contractors, third parties, and/or subcontractors Licensor has assembled for this project. The Licensee is required to negotiate only with Licensor, as Licensor’s commitments are binding on all proposed contractors, third parties, and subcontractors.

11.2 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties’ respective successors and assigns.

11.3 Licensor must obtain the written approval of ASU before subcontracting any portion of this Agreement. No such approval by ASU of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of ASU in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that ASU may deem necessary.

11.4 Licensor represents and warrants that any subcontract agreement Licensor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Licensee, and that the subcontractor acknowledges that no privity of contract exists between the Licensee and the subcontractor and that the Licensor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Licensor. The Licensor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Licensor's failure to pay any and all amounts due by Licensor to any subcontractor, third party licensor, materialman, laborer or the like.

11.5 All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication or settlement of any dispute between the Licensor and the Licensee, where such dispute affects the subcontract.

ARTICLE 12 AVAILABILITY OF FUNDS
It is expressly understood and agreed that the obligation of ASU to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the fulfillment of this Agreement are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to
appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to ASU for the payments or performance due under this Agreement, ASU shall have the right to immediately terminate this Agreement, in whole or in part, without damage, penalty, cost or expense to ASU of any kind whatsoever, except for payment for work completed by Licensor and accepted by ASU prior to termination. The effective date of termination shall be as specified in the notice of termination. ASU shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement.

ARTICLE 13 TERMINATION
13.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, as follows: (a) upon the mutual, written agreement of the parties; (b) if either party fails to comply with the terms of this Agreement, the non-defaulting party may terminate the Agreement upon the giving of thirty (30) calendar days written notice unless the breach is cured within said thirty (30) day period; (c) ASU may terminate the Agreement in whole or in part without the assessment of any penalties upon ten (10) calendar days written notice to Licensor if Licensor becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary, or (d) ASU may terminate this Agreement in whole or in part without the assessment of any penalties after giving thirty (30) calendar days written notice specifying the effective date thereof to Licensor in the event: (i) Licensor sells its company to another company without the prior written approval of ASU; or (ii) there are excessive instabilities in the Software, which are defined as complete inaccessibility of Software occurring for a consecutive twenty-four (24) hour period for more than two (2) separate times every calendar month or if the uptime annual availability percentage (calculated on a trailing 365 day period) drops below 95%. The provisions of this Article 13 do not limit either party’s right to pursue any other remedy available at law or in equity.

13.2 In the event ASU terminates this Agreement, Licensor shall receive just and equitable compensation for Services rendered by Licensor and accepted by ASU prior to the termination. Further, upon termination of this Agreement, Licensor shall refund any and all applicable unexpended prorated annual ASP fees previously paid by Licensee.

ARTICLE 14 GOVERNING LAW
This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Licensor expressly agrees that under no circumstances shall the State be obligated to pay an attorney’s fee, prejudgment interest or the cost of legal action to Licensor. Further, nothing in this Agreement shall affect any statutory rights the parties may have that cannot be waived or limited by contract.

ARTICLE 15 WAIVER
Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by either party, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of that party.

ARTICLE 16 SEVERABILITY
If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall
be valid and enforceable to the fullest extent permitted by law provided that the State’s purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

ARTICLE 17 CAPTIONS
The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or Article in this Agreement.

ARTICLE 18 HOLD HARMLESS
To the fullest extent allowed by law, Licensor shall indemnify, defend, save and hold harmless, protect and exonerate Licensee, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or caused by the intentional, willful misconduct or gross negligence of Licensor and/or its partners, principals, agents, employees or subcontractors in the performance of or failure to perform this Agreement.

ARTICLE 19 THIRD PARTY ACTION NOTIFICATION
Licensor shall notify ASU in writing within five (5) business days of Licensor filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Licensor or ASU by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Licensor’s performance under this Agreement. Failure of the Licensor to provide such written notice to ASU shall be considered a material breach of this Agreement and ASU may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

ARTICLE 20 AUTHORITY TO CONTRACT
Licensor warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 21 NOTICE
Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS’ address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. ASU’s address for notice is: Ms. Paige Strickland, Director of Technology, Finance & Administration, Mr. John Igwebuike, Vice Provost for Academic Affairs & Student Records, Alcorn State University, 1000 ASU Drive, Lorman, Mississippi 39096. The Licensee’s address for notice is: Ms. Estella Young, Senior Enterprise Director, Instructure Inc., 6330 South 3000 East, Suite 700, Salt Lake City, Utah 84121. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.
ARTICLE 22 RECORD RETENTION AND ACCESS TO RECORDS
Licensor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Licensee, ITS, any state or federal agency authorized to audit Licensee, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this Agreement and to any of the Licensor’s proposals, books, documents, papers and/or records that are pertinent to this Agreement to make audits, copies, examinations, excerpts and transcriptions at the State’s or Licensee’s office as applicable where such records are kept during normal business hours. All records relating to this Agreement shall be retained by the Licensor for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 23 INSURANCE
Licensor represents that it will maintain workers’ compensation insurance as prescribed by law which shall inure to the benefit of Licensor’s personnel, as well as comprehensive general liability and employee fidelity bond insurance. Licensor will, upon request, furnish ASU with a certificate of conformity providing the aforesaid coverage.

ARTICLE 24 DISPUTES
Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Licensor and Licensee, shall be decided by the Executive Director of ITS or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

ARTICLE 25 COMPLIANCE WITH LAWS
25.1 Licensor shall comply with, and all activities under this Agreement shall be subject to, all Licensor policies and procedures which Licensor has received copies of, and all applicable federal, state, and local laws, regulations, policies and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Licensor shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin or disability. Further, if applicable, Licensor shall comply with the provisions of the Davis-Bacon Act including, but not limited to, the wages, recordkeeping, reporting and notice requirements set forth therein.

25.2 Licensor represents and warrants that it will comply with the state’s data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Licensor represents and warrants that it will comply with the applicable provisions of the HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) (“Privacy Rule” and “Security Regulations”, individually; or “Privacy and Security Regulations”, collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (the “HITECH Act”).

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ARTICLE 26 CONFLICT OF INTEREST
Licensor shall notify ASU of any potential conflict of interest resulting from the provision of services to other customers. If such conflict cannot be resolved to ASU’s satisfaction, ASU reserves the right to terminate this Agreement.

ARTICLE 27 SOVEREIGN IMMUNITY
By entering into this Agreement with Licensor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 28 CONFIDENTIAL INFORMATION
28.1 Licensor shall treat all Licensee data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Licensee. In the event that Licensor receives notice that a third party requests divulsion of confidential or otherwise protected information and/or has served upon it a validly issued judicial order requiring divulsion of such information, Licensor shall promptly inform Licensee and thereafter respond in conformity with such court order to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement and shall continue in full force and effect and shall be binding upon the Licensor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in this Agreement on behalf of, or under the rights of the Licensor following any termination or completion of this Agreement.

28.2 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Licensor. ITS will provide third party notice to Licensor of any requests received by ITS for any such confidential exhibits so as to allow Licensor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

28.3 Confidential information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the confidential information. The Recipient may disclose confidential information to the extent required by law or court order, but will provide Discloser with advance notice to seek a protective order.

28.4 The parties understand and agree that effective July 1, 2015, pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed confidential information.

ARTICLE 29 EFFECT OF SIGNATURE
Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Licensor on the basis of draftsmanship or preparation hereof.
ARTICLE 30 OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS
All Content collected by the Software shall be the property of Licensee. Licensor may use the Content only in the performance of this Agreement, unless otherwise agreed upon between the parties. Licensee acknowledges that the Products shall remain the exclusive property of Licensor and are excluded from this Article.

ARTICLE 31 NON-SOLICITATION OF EMPLOYEES
Licensor agrees not to employ or to solicit for employment, directly or indirectly, any of ASU's employees until at least one (1) year after the expiration/termination of this Agreement unless mutually agreed to the contrary in writing by ASU and the Licensor and provided that such an agreement between these two entities is not a violation of the laws of the State of Mississippi or the federal government.

ARTICLE 32 ENTIRE AGREEMENT
32.1 This contract constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating thereto, including all terms of any "shrink-wrap", "click-wrap" or "browse-wrap" license of the Software. The RFP No. 3692, and Licensor's Proposal, as accepted by the State, in response thereto are hereby incorporated into and made a part of this Agreement.

32.2 The contract made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

A. This Agreement signed by the parties hereto;
B. Any exhibits attached to this Agreement;
C. RFP No. 3692 and written addenda, and
D. Licensor's Proposal, as accepted by the State, in response to RFP No.3692.

32.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Licensor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("D. Licensor's Proposal").

ARTICLE 33 STATE PROPERTY
Licensor shall be responsible for the proper custody of any Licensee-owned property furnished for Licensor's use in connection with Services performed pursuant to this Agreement. Licensor shall reimburse the Licensee for any loss or damage, normal wear and tear excepted.

ARTICLE 34 SURVIVAL
Articles 7, 14, 18, 22, 27, 28, 30, 31, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.
ARTICLE 35 DEBARMENT AND SUSPENSION CERTIFICATION
Licensor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

ARTICLE 36 SPECIAL TERMS AND CONDITIONS
It is understood and agreed by the parties to this Agreement that there are no special terms and conditions except as specifically provided in this Agreement.

ARTICLE 37 STATUTORY AUTHORITY
By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the executive director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of the Licensee’s or Licensors contractual obligations, financial or otherwise, contained within this Agreement. The parties further acknowledge that ITS is not responsible for ensuring compliance with any guidelines, conditions, or requirements mandated by Licensee’s funding source.

ARTICLE 38 COMPLIANCE WITH ENTERPRISE SECURITY POLICY
Licensor and Licensee understand and agree that all products and services provided by Licensor under this Agreement must be and remain in compliance with the State of Mississippi’s Enterprise Security Policy. The parties understand and agree that the State’s Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Agreement and require the Licensors to comply with same in the event the Industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

ARTICLE 39 SOFTWARE SUPPORT AND MAINTENANCE
As part of the Software support and maintenance services, Licensor will maintain the Products in an operable condition according to the specifications contained in the technical manuals and as outlined in RFP No. 3692 and the Licensee’s Proposal in the event thereto. Licensor shall provide Licensee with Enhancements to the Software as they are made generally available from time to time. Notwithstanding any other provisions of this Agreement, Licensor shall provide support only with respect to the then-current generally available version of the Software. Licensor shall provide Premium support for the Service as set forth in the attached Exhibit B.
ARTICLE 40  FORCE MAJEURE
Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war or terrorism, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events"). When such a cause arises, the Licensor shall notify the Licensee immediately in writing of the cause of its inability to perform; how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate this Agreement.

ARTICLE 41  LICENSEE RESPONSIBILITIES
ASU (a) is responsible for ASU Content and Active User activity in its account in the Service; (b) will use reasonable efforts to keep its passwords secure and confidential, and notify Licensor of any known unauthorized access; and (c) may use the Services only in accordance with applicable law and this Agreement.

ARTICLE 42  LICENSEE RESTRICTIONS
Licensee may not, and will take reasonable steps to see that each Active User does not:
(a) sell, resell, rent or lease the Service;
(b) use the Services, for non-Licensee educational purposes, to store or transmit infringing, unsolicited marketing emails, libelous, obscene, deceptive, defamatory, pornographic, racist, sexual, hateful, or otherwise objectionable, unlawful or tortious material, or any other material in violation of a third-party right;
(c) use the Services to harm or impersonate any person, or for any commercial purpose;
(d) interfere with or disrupt the integrity or performance of the Service; or
(e) attempt to gain unauthorized access to the Service or their related systems or networks.

ARTICLE 43  THIRD PARTY LINKS/SERVICE DISCLAIMER
The Service may contain links to third party web sites (including without limitation, links provided by instructors) or access third-party services (including without limitation, turnitin.com and Google docs). Such sites and services are not under the control of Licensor, and Licensor is not responsible for the content or any link on such sites or for the temporary or permanent unavailability of such third party sites or services.

ARTICLE 44  PUBLICITY
ASU agrees to act as a reference account that will, upon Licensor's reasonable request, provide Service-related comments to the press, potential investors, and current or prospective customers and participate in Service-related case studies. ASU agrees to issue joint press releases with Licensor regarding the Service, as mutually agreed upon by Licensor and ASU. ASU agrees to allow Licensor to use its name, logo and non-competitive use details in both text and pictures in its various marketing communications and materials, in accordance with ASU's trademark guidelines and policies.

ARTICLE 45  LIABILITY
Unless jointly agreed otherwise in writing, Licensor's liability shall not exceed the total amount paid by Licensee to Licensor under this Agreement, including any amounts paid pursuant to amendments and change orders. In no event will Licensor be liable to Licensee for special,
indirect, consequential or incidental damages including lost profits, lost savings or lost revenues of any kind unless Licensor was advised of the possibility of such loss or damage or unless such loss or damage could have been reasonably foreseen. Excluded from this or any liability limitation are claims related to fraud, bad faith, infringement issues, bodily injury, death, physical damage to tangible personal property and real property, and the intentional and willful misconduct or gross negligent acts of Licensor. The language contained herein tending to limit the liability of the Licensor will apply to Licensee to the extent it is permitted and not prohibited by the laws or constitution of Mississippi. Further, the parties understand and agree that the Licensor is precluded from relying on any contractual damages limitation language within this Agreement where the Licensor acts fraudulently or in bad faith.

ARTICLE 46 TRANSPARENCY
In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Agreement and any subsequent amendments and change orders shall be posted to the State of Mississippi’s accountability website at: https://www.transparency.mississippi.gov. Prior to ITS posting the Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as “confidential” will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.

For the faithful performance of the terms of this Agreement, the parties hereto have caused this Agreement to be executed by their undersigned authorized representatives.

State of Mississippi, Department of Information Technology Services, on behalf of Alcorn State University

Instructure Inc.

By:_________________________ By:_________________________

Authorized Signature Authorized Signature

Printed Name: Craig P. Orgeron, Ph.D.

Printed Name:_________________________

Title: Executive Director

Title:_________________________

Date:_________________________

Date:_________________________
### Exhibit A

<table>
<thead>
<tr>
<th>Item</th>
<th>Metric</th>
<th>Quantity</th>
<th>Price</th>
<th>Extended Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Canvas Cloud Software License</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 1 (2/15/2018- 2/14/2019)</td>
<td>FTE</td>
<td>3.882</td>
<td>$20.70</td>
<td>$70,007.40</td>
</tr>
<tr>
<td>Year 2 (2/15/2019- 2/14/2020)</td>
<td>FTE</td>
<td>3.882</td>
<td>$21.74</td>
<td>$73,524.68</td>
</tr>
<tr>
<td>Year 3 (2/15/2020- 2/14/2021)</td>
<td>FTE</td>
<td>3.882</td>
<td>$22.83</td>
<td>$77,211.06</td>
</tr>
<tr>
<td>Year 4 (2/15/2021- 2/14/2022)</td>
<td>FTE</td>
<td>3.882</td>
<td>$23.97</td>
<td>$81,066.54</td>
</tr>
<tr>
<td>Year 5 (2/15/2022- 2/14/2023)</td>
<td>FTE</td>
<td>3.882</td>
<td>$25.17</td>
<td>$85,124.94</td>
</tr>
</tbody>
</table>

**Software License Subtotal:** $386,934.62

| Annual 24x7                                |        |          |        |               |
| Year 1 (2/15/2018- 2/14/2019)              | 20% of subscription fee | 3.882 | $14,001.48 |
| Year 2 (2/15/2019- 2/14/2020)              | 20% of subscription fee | 3.882 | $14,704.94 |
| Year 3 (2/15/2020- 2/14/2021)              | 20% of subscription fee | 3.882 | $15,442.21 |
| Year 4 (2/15/2021- 2/14/2022)              | 20% of subscription fee | 3.882 | $16,213.31 |
| Year 5 (2/15/2022- 2/14/2023)              | 20% of subscription fee | 3.882 | $17,024.99 |

**Hosting & Support Subtotal:** $77,386.92

| Tier 1 Support                             |        |          |        |               |
| Year 1 (2/15/2018- 2/14/2019)              | 3.882  | $3.50    | $11,837.00 |
| Year 2 (2/15/2019- 2/14/2020)              | 3.882  | $3.50    | $11,837.00 |
| Year 3 (2/15/2020- 2/14/2021)              | 3.882  | $3.50    | $11,837.00 |
| Year 4 (2/15/2021- 2/14/2022)              | 3.882  | $3.50    | $11,837.00 |
| Year 5 (2/15/2022- 2/14/2023)              | 3.882  | $3.50    | $11,837.00 |

**Tier 1 Support Subtotal:** $59,185.00

| Total | $523,506.54 |

| Canvas Cloud Software License             |        |          |        |               |
| Implementation                            | 8,000.00 | 1      | $8,000.00 |
| Tier 1 Support Setup                      | 500.00  | 1      | $500.00  |

**Total:** $8,500.00

| Other:                                    |        |          |        |               |
| Warranty                                  | $0.00  | included |        |               |

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Instructure Inc.-ASU-43998-3692-Dec2017-Software License & ASP Agreement
<table>
<thead>
<tr>
<th>Item</th>
<th>Metric</th>
<th>Quantity</th>
<th>Price</th>
<th>Extended Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance</td>
<td></td>
<td></td>
<td>$0.00</td>
<td>included</td>
</tr>
<tr>
<td>Training - online</td>
<td></td>
<td></td>
<td>$0.00</td>
<td>included</td>
</tr>
<tr>
<td>Hosting and Technical Support</td>
<td></td>
<td></td>
<td>$0.00</td>
<td>included</td>
</tr>
<tr>
<td>Total 5 Year Lifecycle Cost:</td>
<td></td>
<td></td>
<td></td>
<td>$532,005.54</td>
</tr>
</tbody>
</table>
# EXHIBIT B

## SUPPORT PACKAGES

The Basic Support Package is included in the Canvas Cloud subscription fee. Advanced and Premium support packages are offered at additional cost. Table 1 describes and provides the pricing for Instructure's support packages. Note that Support Services may change, but the Support Services will not materially degrade during the term of the Agreement.

<table>
<thead>
<tr>
<th>Tier 1 Support</th>
<th>BASIC</th>
<th>PREMIUM</th>
<th>PREMIUM + Tier 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institution provides Tier 1 help desk for all users</td>
<td>Institution provides Tier 1 help desk for all users</td>
<td>Canvas provides Tier 1 help desk for all users.</td>
<td></td>
</tr>
<tr>
<td>Phone Support for LMS Admins</td>
<td>Admins can call Canvas Support from 6:00 a.m. - 6:00 p.m., local M-F. Admins can escalate Canvas Support tickets in Zendesk.</td>
<td>Admins can call Canvas Support 24/7/365. Admins can escalate Canvas Support tickets in Zendesk.</td>
<td>Admins can call Canvas Support 24/7/365. Tier 1 Support by Instructure's Support team provides first-line help desk support to address and resolve end user issues such as logging into Canvas, questions about Canvas features and functions, and resolving operational problems. All users can contact Instructure's Tier 1 Support staff 24/7 through online ticket submission, chat, e-mail, or phone. The institution's LMS administrator(s) have access to all end-user submitted tickets and monthly usage reports. Instructure's Tier 1 Support can be made accessible through the institution's own branded support portal. Customers are not charged on a per-ticket or per-incident basis. There are also no charges for overages.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Web Form/Email support - SLAS (80% within Time Show)</th>
<th>Two business days response time</th>
<th>Eight hours response time</th>
<th>One for webform/email tickets; 60 seconds for phone calls; 120 seconds for live chat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Admins</td>
<td>One*</td>
<td>Three*</td>
<td>Three*</td>
</tr>
<tr>
<td>Online Canvas Help Center</td>
<td>24/7/365</td>
<td>24/7/365</td>
<td>24/7/365</td>
</tr>
<tr>
<td>Canvas Community Access</td>
<td>24/7/365</td>
<td>24/7/365</td>
<td>24/7/365</td>
</tr>
<tr>
<td>Cost</td>
<td>Included</td>
<td>20% of annual subscription fee or $2,500 minimum</td>
<td>$3.50 per FTE or Enrollment (or a minimum of $2,500) $500 one time setup fee</td>
</tr>
</tbody>
</table>

*More available at $500/license/year

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500 MB/subscription metric (FTE/User/Enrollment) of storage is included in the annual subscription fee. Additional storage can be purchased for $0.50 per 500 MB per total subscription metric count.
18. **MSU – MISSISSIPPI INFORMATION TECHNOLOGY SERVICES SOFTWARE LICENSE AND APPLICATION SERVICE PROVIDER AGREEMENT WITH INSTRUCTURE, INC.**

The following document represents the approval of MS-ITS for the acquisition of a Learning Management System for Mississippi State University (MSU). The Attorney General’s staff assigned to the MS-ITS reviewed the agreement prior to execution. The Software License and Application Service Provider Agreement is between Instructure and MS-ITS behalf of MSU.

See Exhibit 2.
This Software License and Application Service Provider Agreement (hereinafter referred to as “Agreement”) is entered into by and between, Instructure Inc., a Delaware corporation having its principal place of business at 6330 South 3000 East, Suite 700, Salt Lake City, Utah 84121 (hereinafter referred to as “Licensor”), and Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as “ITS”), as contracting agent for the Mississippi State University, located at 75 BS Hood Drive, Starkville, Mississippi 39762 (hereinafter referred to as “Licensee” and/or “MSU”). ITS and MSU are sometimes collectively referred to herein as “State.”

WHEREAS, ITS on behalf of the Mississippi Community College Board (MCCB), pursuant to Request for Proposals (“RFP”) No. 3692 requested proposals for the services of a contractor to host and maintain an Application Service Provider (“ASP”) solution for a Learning Management System (LMS); and

WHEREAS, Licensor was the successful proposer in an open, fair and competitive procurement process to provide the software and services described herein; and

WHEREAS, RFP No. 3692 contained a provision stating that the State reserved the right to re-use the proposal for future projects; and

WHEREAS, the State has deemed it to be in the State’s best interest to use the above referenced proposal as the basis for MSU’s request for the acquisition of a Learning Management System, and Licensor has agreed to provide such system to MSU;

NOW THEREFORE, in consideration of the mutual understandings, promises and agreements set forth, the parties hereto agree as follows:

ARTICLE 1   DEFINITIONS
1.1 “Active User” means MSU employees, and secondary education faculty and students actively participating on the system in any given month of operation, who shall be bound to the terms and conditions of this Agreement. Licensor does not impose a limit on the number of Active Users accessing or registering to use the system.

1.2 “Available Date” means the date upon which Licensor notifies MSU that the Software may be accessed on the Licensor’s ASP server and MSU may begin acceptance testing.

1.3 “Content” means any content provided by or through Active Users for use with the Software.

1.4 “Documentation” means the published user and technical manuals and documentation that Licensor makes generally available for the Software; the help files included within the
Software, and any files containing presentation materials or manuals or other related materials to train and educate Licensee and the Active Users on the use of the Software.

1.5 “Enhancements” means the corrections, updates, upgrades or new versions of the Software or Documentation that Licensor may provide to Licensee under this Agreement.

1.6 “Licensee” means Mississippi State University, its employees, secondary education faculty and students and any third party consultants or outsourcers engaged by MSU who have a need to know and who shall be bound by the terms and conditions of this Agreement.

1.7 “Licensor” means Instructure Inc., and its successors and assigns.

1.8 “Products” means the Software, Documentation, Corrections, Enhancements and any copy of the Software, Documentation, Corrections, or Enhancements provided by the Licensor.

1.9 “Services” means any on-line user access, customizations, interface development, consulting, education, ASP installation, system administration, training, maintenance, support, and Help Desk services provided by Licensor to Licensee.

1.10 “Software” means the machine-readable object code version of the computer programs whether embedded on disc, tape or other media used for the management of the web-based Learning Management System (LMS) and Supported Interfaces (and any Documentation and help files within the Software), including any Enhancements provided pursuant to the maintenance and support terms identified herein.

1.11 “Software Error” means a reproducible defect or combination thereof in the Software that results in a failure of the Software when used in accordance with the Documentation. Software Errors do not include those errors caused by (a) Licensee’s negligence, (b) any unauthorized modification or alteration Licensee makes to the Software, (c) data that does not conform to Licensor’s specified data format, (d) operator error, or (e) use not conforming to the Licensor’s supported technical environment specified in the Documentation.

1.12 “Supported Interfaces” means application-based interfaces (API), network protocols, data formats, database schemas, and file formats used in the Software as described in the Documentation.

ARTICLE 2 PERIOD OF PERFORMANCE
2.1 Unless this Agreement is extended by mutual agreement or terminated as prescribed elsewhere herein, this Agreement shall begin on the date it is signed by all parties and shall continue in effect until the Licensor completes all tasks required herein pursuant to the project work plan, including services during the five (5) year hosting term. The web-based Learning Management System (LMS), as customized for the State of Mississippi, must be implemented; fully functional; accepted by MSU, and all tasks (excluding hosting) required herein, including but not limited to development of required interfaces and training, completed on or before July 1, 2018, unless a change in this date is mutually agreed to in writing by the State and the Licensor. At the end of the five (5) year initial ASP services term, the ASP services may, upon the written agreement of the parties, be renewed under the same terms and conditions for an additional term. One hundred and eighty (180) days prior to the expiration of the initial hosting term or any renewal hosting term of this Agreement, Licensor shall notify MSU and ITS of the impending expiration.
and MSU shall have sixty (60) days in which to notify Licensor of its intention to either renew or cancel the ASP services.

2.2 This Agreement will become a binding obligation on the State only upon the issuance of a valid purchase order by MSU following contract execution and the issuance by ITS of the CP-1 Acquisition Approval Document.

ARTICLE 3 SCOPE OF SERVICES

3.1 The Licensor agrees to provide to MSU an ASP based Learning Management System (LMS) and Services and associated deliverables required to provide, host and maintain a web based application for MSU as described in this Agreement. While the scope of work for this project is defined by the contract documents set forth herein in the article titled “Entire Agreement”, a summary of such work is outlined in Article 3.5 below.

3.2 The Licensor acknowledges that MSU intends to be actively involved in the day-to-day progress of the project. The Licensor agrees to (a) obtain MSU’s approval of all tasks and the time schedule for completion of said tasks prior to commencing performance, if not already contained in the approved project work plan; (b) make available to the State project team members all project work papers and work-in-progress for review; (c) ensure that the Licensor Project Manager works closely together with the State Project Manager; (d) provide MSU access to the host website; (e) meet with MSU on a regular basis at a mutually agreeable time, and as otherwise requested by MSU, to discuss the status of the project, and (f) if required by MSU, submit written project status reports.

3.3 The parties understand and agree that the project shall be structured with interim deliverables as set forth in the agreed upon project work plan so as to allow MSU an opportunity to accept or reject the deliverables, including but not limited to, specifications, requirement definitions, process designs, data analyses, web layouts, screen layouts, and report layouts. The actual customizations shall not begin until after MSU has communicated its conceptual approval of the results the Licensor plans to provide. MSU shall have ten (10) business days to review interim materials, which review period can only be reduced by mutual agreement of the Licensor and MSU.

3.4 It is understood by the parties that the project work plan must be in place within fifteen (15) business days of execution of this Agreement and prior to any other work being performed. Once this mutually agreed upon project work plan, which will identify specific time frames and deliverable target dates for this project, has been developed, it will be incorporated into and made a part of this Agreement. The dates in the project work plan will define the agreed upon period of performance. The parties acknowledge that the project work plan will evolve and change from time to time upon the mutual written agreement of both parties. The parties agree that the deliverables and schedule set forth in the latest version of the project work plan will take precedence over any prior plans.

3.5 Licensor shall be responsible for the following:

A. Ensuring that all deliverables are complete and accepted by MSU pursuant to the mutually agreed upon project work plan;
B. Ensuring that the host site complies with PriorityOne of the World Wide Web Consortium’s (W3C’s) Web Accessibility Initiative and guidelines in Section 508 of the Rehabilitation Act that are not covered in W3C Priority;
C. Ensuring that the site, if separately paid for, is accessible through MSU’s published universal resource locator ("URL") rather than through Licensor’s site address;

D. Reviewing with MSU the Content a minimum of once a quarter to ensure that the Content remains timely and accurate and reaching an agreement with MSU as to reasonable timelines for implementing Content updates delivered to the Licensor that will be posted on the site;

E. Tracking date sensitive items to ensure timely updates;

F. All Content provided by the Licensee and collected by the Software shall remain the sole and exclusive property of the Licensee. Upon the termination or expiration of this Agreement, Licensor shall provide such Content in its possession to the Licensee pursuant to a mutually agreed upon release schedule;

G. Working with MSU to achieve access rates that meet MSU’s needs;

H. Providing security for the host site that is agreeable to MSU with Licensor responsible for all necessary equipment and software related to security;

I. Maintaining the accessibility of the site twenty-four (24) hours a day, seven (7) days a week at an uptime rate of 99% or greater, subject to the limitations set forth in this Agreement, including but not limited to, those in Article 4.4;

J. Completing daily backups of the site;

K. Notifying MSU at least three (3) business days prior to any anticipated service interruption, with said notice containing a general description of the reason for the service interruption;

L. Proposing and adhering to a disaster recovery plan and providing access to such plan to the State, all at Licensor’s expense;

M. Participating with MSU in disaster recovery planning and testing based on a mutually agreed upon schedule;

N. Maintaining the confidentiality of the data entered;

O. Upon request, providing MSU access to all of the technical information concerning operation of the site, including but not limited to, server specifications, Internet connection information, personnel requirements and software implementations;

P. Identifying any commercially available software, by vendor and version number, integrated into the Products and describing the particular functionality of any software that is proprietary to the Licensor;

Q. Maintaining the host site, with the cost for such support, maintenance, and hosting for years following the initial five (5) year period not increasing annually beyond five percent (5%) or the percent increase in the consumer price index for all Urban Consumers, US City Average (C.P.I.-U) for the preceding year, whichever is less;

R. Providing 24x7x365 support of the web site, including sub-domain support;

S. Providing redundant internet connections;

T. Providing Dual 1Gb or greater connectivity;

U. Providing FTP and remote configuration access;

V. Providing SSL secure server support;

W. Upon request, providing monthly reports containing access reports and system performance data to MSU;

X. Maintaining sufficient bandwidth and server capacity to meet MSU and Active Users’ demand as it may fluctuate and increase during the term of this Agreement, and

Y. Upon termination or expiration of this Agreement, Licensor shall export courses from Canvas and place them in a secure storage location to be provided by MSU. Courses shall be exported in the Canvas Common Cartridge format. The export process would be completed within eight (8) weeks of notification of termination without charge to MSU. Also, during the term of this Agreement and for three (3) months after expiration or termination, MSU may export its content by using the export feature within the Software.
3.6 In the event Licensor creates any revisions to or upgrades of the system, Licensor shall provide Licensee release notes of such revision or upgrade, and shall, upon request of Licensee, furnish such revision or upgrade to Licensee free of charge as part of the ASP fees.

ARTICLE 4 SCOPE OF LICENSE AND HOSTING SERVICES

4.1 Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a non-exclusive and non-transferable license to access the Software over the Internet and to use it for Licensee’s business operations and use it on the Licensor’s host server for the initial term of the Agreement and any subsequent renewal hosting terms in accordance with, and subject to, the terms and conditions set forth in this Agreement. Licensee and Active Users are granted access to the Software with an annual availability percentage of 99.9% over a trailing 365 day period (excluding scheduled outages, force majeure, and outages that result from any MSU or User technology issue). If MSU has been using the Software for less than 365 days, the preceding 365 days will be used and any days prior to MSU’s use of the Software will be deemed to have had 100% availability. Any unavailability occurring prior to a successful credit claim cannot be used for any future claims.

4.2 Licensor will provide Licensee storage space on and access to Licensor’s Software via the Internet and provide Internet access to the Software to the Active Users through Licensor’s site (“ASP Services”).

4.3 In connection with the ASP Services, Licensor will provide and maintain all Software and hardware, including, but not limited to, the server hardware and software, telecommunications hardware and software, security hardware and software and other software that is reasonably necessary to operate and maintain the Software.

4.4 MSU is eligible for a service credit if the annual availability percentage drops below 99.9% for the preceding 365 days from the date of a service credit claim. Maximum amount of the credit/refund is 1/12 of the annual subscription fee for a twelve (12) month period. For example, if a customer pays $12,000 for its annual subscription fee and the availability falls below 99.9% in a certain month, the maximum amount of credit a customer shall receive is $1,000.

To qualify for a service credit, MSU must send an email to Licensor at sla-request@instructure.com within the month MSU becomes eligible for the credit or 30 days after. MSU must also include the following information: (i) Licensor name and contact information, (ii) date and beginning/end time of the outage, (iii) a brief description and characteristics of the outage and (iv) the end user location and internet service provider used to access the Software. This credit is calculated by taking the number of hours that the Software was unavailable below the warranty, and multiplying it by 3% of 1/12 the annual subscription fee.

4.5 Licensor shall provide the Licensee with its standard managed firewall service, which shall enable secure delivery of Licensor’s application services using fully redundant hardware-based firewalls. Licensor’s managed firewall service will be available twenty-four (24) hours a day, seven (7) days a week.

4.6 The use of the Software by Active Users will be governed solely by the terms and conditions of this Agreement and, to the extent they do not violate Mississippi law, the Terms of Use document on Licensor’s website. The parties agree that in the event of a conflict between
the terms and conditions of this Agreement and the Terms of Use document on Licensor's website, this Agreement shall prevail.

4.7 Licensor acknowledges that the Content is and shall remain the sole and exclusive property of Licensee. MSU grants Licensor the right to use the Content solely for the purpose of performing under this Agreement. Further, Licensor acknowledges that the Content may contain valuable trade secrets of Licensee and Licensor agrees to maintain the confidentiality of the Content and shall not make the Content publicly available except as may be necessary in performing the ASP Services.

4.8 Licensee acknowledges that the Software Products shall remain the exclusive property of Licensor. Licensee agrees that except as noted herein, it will not otherwise copy, translate, modify, adapt, decompile, disassemble or reverse engineer any of the Software without the prior written consent of Licensor.

ARTICLE 5 DELIVERY; RISK OF LOSS, AND ACCEPTANCE

5.1 Licensor shall deliver, install, and make available the Software and Documentation to the Licensor’s hosting environment, except as otherwise specified, and pursuant to the delivery schedule mutually agreed to by the parties.

5.2 Licensor shall assume and bear the entire risk of loss and damage to the Products from any cause whatsoever while in transit and at all times throughout Licensor’s possession thereof.

5.3 MSU shall have thirty (30) calendar days after the Available Date to evaluate and conduct the final acceptance testing of the Software to confirm that it performs without any defects and performs in accordance with the requirements of this Agreement. MSU shall immediately thereafter notify Licensor of any defects in the Software, which must be corrected. Thereafter, Licensor shall have ten (10) business days in which to either repair or replace the defective Software unless both parties agree to extend this period, all at Licensor’s expense. In the event Licensor is unable to repair or replace the Software within this ten (10) day period, MSU may terminate this Agreement pursuant to the Termination Article herein.

ARTICLE 6 CONSIDERATION AND METHOD OF PAYMENT

6.1 The total compensation to be paid to the Licensor by MSU for all development, maintenance and ASP services, customizations, products, travel, performances and expenses under this Agreement shall not exceed the specified sum of $963,489.00, and shall be payable as set forth in the Payment Schedule attached hereto as Exhibit A.

6.2 Licensor shall submit invoices with the appropriate documentation to MSU annually for ASP services and monthly for any month in which other Services are rendered. Licensor shall submit invoices and supporting documentation to MSU electronically during the term of this Agreement using the processes and procedures identified by the State. MSU agrees to make payment in accordance with Mississippi law on “Timely Payments for Purchases by Public Bodies”, Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by MSU within forty-five (45) days of receipt of the invoice. Licensor understands and agrees that MSU is exempt from the payment of taxes. All payments shall be in United States currency. Payments by state agencies using Mississippi’s Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The payments by these agencies shall be deposited into the bank account of the Licensor’s choice.
No payment, including final payment, shall be construed as acceptance of defective products or incomplete work, and the Contractor shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled “Entire Agreement.”

6.3 Acceptance by the Licensor of the last payment due from MSU under this Agreement shall operate as a release of all claims for money against the State by the Licensor and any subcontractors or other persons supplying labor or materials used in the performance of the work under this Agreement.

ARTICLE 7 WARRANTY

7.1 Licensor represents and warrants that it has the right to license the Products provided under this Agreement.

7.2 Licensor represents and warrants that the Products provided by Licensor shall meet or exceed the minimum specifications set forth in RFP No. 3692 and Licensor’s Proposal, as accepted by the State, in response thereto.

7.3 During the term of this Agreement, the Licensor represents and warrants that all deliverables shall be free from any defect, deficiency, faultiness, imperfection, inadequacy, incompleteness or other condition (collectively referred to herein as “Defect”) which would render any such deliverable inoperable in any way or which would prevent full performance in accordance with this Agreement. This warranty includes, without limitation, correction of errors, design deficiencies, performance deficiencies, and incorrect or defective Documentation, including those found during acceptance testing, implementation, and the warranty period. Acceptance testing shall not in any way relieve the Licensor of its responsibilities to correct any Defect during the warranty period. The Licensor shall repair any Defect at no cost to the State within ten (10) business days of receiving notice of the Defect from the State, unless MSU consents in writing to a longer period of repair time. In the event Licensor is unable to repair or replace the Software within the mutually agreed upon time frame after receipt of notice of the Defect, MSU shall be entitled to a full refund of fees paid and shall have the right to terminate this Agreement in whole or in part as provided for in the Termination Article herein. Licensee’s rights hereunder are in addition to any other rights Licensee may have.

7.4 During the term of this Agreement, the Licensor represents and warrants that its Services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such Services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, Licensor shall perform the Services again, at no cost to the State, or if Licensor is unable to perform the Services as warranted, Licensor shall reimburse the State the fees paid to Licensor for the unsatisfactory Services.

7.5 Licensor represents and warrants that neither the Software, nor Enhancements shall contain a disabling code, lockup program or device. Licensor further agrees that it will not, under any circumstances including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Licensee’s licensed use of the Software, or Enhancements and/or which would restrict Licensee from accessing its data files or in any way interfere with the transaction of Licensee’s business. For any breach of this warranty, Licensor at its expense shall use commercially reasonable means to,
within ten (10) business days after receipt of notification of the breach, deliver Products to Licensee that are free of such disabling code, lockup program or device.

7.6 Licensor represents and warrants that neither the Software, nor Enhancements delivered to Licensee contain a computer virus. For purposes of this provision, a computer virus shall be defined as code intentionally inserted in the Software or Enhancements that will damage or destroy Licensee’s applications or data. For any breach of this warranty, Licensor at its expense shall use commercially reasonable means to, within five (5) business days after receipt of notification of the breach, deliver Products to Licensee that are free of any virus, and shall be responsible for repairing, at Licensor’s expense, any and all damage done by the virus to Licensee’s site.

7.7 The Licensor represents and warrants that, upon completion of the project, the Licensor, and all subcontractors, if any, shall convey to MSU copies of all interim reports, cost records, data collection forms, and any working papers that support the final acceptance.

7.8 Licensor represents and warrants that it has obtained all necessary rights to permit use of the graphics on the site and that the Licensor shall provide MSU with evidentiary proof of graphic licenses and releases. Further, the Licensor represents and warrants that all Licensor-supplied graphics and content contains no scandalous or libelous material.

7.9 The Licensor represents and warrants that the deliverables provided to MSU under this Agreement, and their use by Active Users, will not infringe or constitute an infringement of any copyright, patent, trademark, servicemark, trade secret or other proprietary right of any person or entity. Licensee agrees that it will promptly notify Licensor in writing of any such claim or action of which it has knowledge, and that it will cooperate fully in the defense and investigation of the claim by supplying Licensor all relevant information currently available and in its possession, all at Licensor’s expense. Licensor shall, to the extent authorized by Mississippi law, have sole control over the defense or settlement of any such claim or action. Licensor, at its own expense, shall defend or settle any and all infringement actions filed against Licensor or the State which involve the deliverables or other items provided under this Agreement and shall pay all settlements, as well as all costs, attorney fees, damages and judgment finally awarded against the State. If, in any such suit arising from such claim, the continued use of the items for the purpose intended is enjoined or threatened to be enjoined by any court of competent jurisdiction, Licensor shall, at its expense: (a) procure for the State the right to continue using such items, or (b) modify or replace them with non-infringing items with equivalent functionality, or, to the extent (a) or (b) cannot be done despite Licensor’s commercially reasonable efforts, (c) refund to the State the fees previously paid by the State for the infringing Products. Said refund shall be paid within ten (10) business days of notice to the State to discontinue said use. In addition to the foregoing, the Licensor shall indemnify the State in accordance with the provisions of Article 18 herein.

7.10 Licensor represents and warrants that the host site provided by the Licensor shall be reasonably expandable and scalable so MSU can add and support additional business functions and users over time. It is understood and agreed that any standard revisions, enhancements, improvements, and upgrades to the licensed Software and host site equipment during the term of this Agreement, including operating system, database management system, and other software, shall be provided by Licensor to MSU at no additional cost to MSU.
7.11 Licensor represents and warrants that it presently has and will continue to maintain, at its own expense, throughout the term of this Agreement, valid licenses for all software, trademarks, service marks, patents and copyrighted material and any other proprietary information of a third party that it will deploy in support of all products Licensor uses in the performance of this Agreement.

7.12 If applicable under the given circumstances, Licensor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Licensor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security where required, to provide a copy of each such verification to the State. Licensor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Licensor understands and agrees that any breach of these warranties may subject Licensor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Licensor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Licensor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

7.13 Licensor represents and warrants that the system provided pursuant to this Agreement will pass both internal security audits and independent security audits. For any breach of the preceding warranty at any time during which the system is covered by warranty and/or software support, Licensor shall, at its own expense and at no cost to Licensee, remediate any defect, anomaly or security vulnerability in the system by repairing and/or replacing any and all components of the system necessary in order for the system to be secure.

7.14 Licensor represents and warrants that no official or employee of Licensee or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of said project, voluntarily acquire any personal interest, direct or indirect, in this Agreement. The Licensor warrants that it has removed any material conflict of interest prior to the signing of this Agreement, and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under this Agreement. The Licensor also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

7.15 The Licensor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Licensor, terminate the right of the Licensor to proceed under this Agreement if it is found, after notice and hearing by the
ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Licensor to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Licensor as it would pursue in the event of a breach of contract by the Licensor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

7.16 FERPA Compliance Warranty: Licensor represents and warrants that it will comply with all applicable provisions of the Family Educational Rights and Privacy Act, as amended (“FERPA”), and other laws with respect to its activities under this Agreement, including without limitation, Licensor’s obligations under FERPA as a “school official” and FERPA’s “legitimate educational interests” limitation on use or disclosure of education records. Licensor will implement reasonable and typical administrative, technical, and physical safeguards to secure its facilities and systems from unauthorized access, and to secure the Licensee confidential information and data. Licensor agrees: to abide by FERPA’s limitations on re-disclosure of personally identifiable information in education records; to not use or disclose education records created or received from, by, or on behalf of Licensee or its students for any purpose other than the purpose for which such disclosure is made; and to not use or disclose such education records except as permitted by this Agreement, as required by law, or as authorized by Licensee in writing.

ARTICLE 8 EMPLOYMENT STATUS

8.1 Licensor shall, during the entire term of this Agreement, be construed to be an independent contractor. Nothing in this Agreement is intended to nor shall be construed to create an employer-employee relationship, or a joint venture relationship.

8.2 Licensor represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of Licensee.

8.3 Any person assigned by Licensor to perform the Services hereunder shall be the employee of Licensor, who shall have the sole right to hire and discharge its employee. Licensee may, however, direct Licensor to replace any of its employees under this Agreement.

8.4 Licensor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither Licensor nor employees of Licensor are entitled to state retirement or leave benefits.

ARTICLE 9 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS

Licensor will be responsible for the behavior of all its employees and subcontractors while on the premises of any Licensee location. Any employee or subcontractor acting in a manner determined by the administration of that location to be detrimental, abusive or offensive to any of the staff and/or students will be asked to leave the premises and may be suspended from further work on
the premises. All Licensor employees and subcontractors who will be working at such locations shall be covered by Licensor’s comprehensive general liability insurance policy.

ARTICLE 10 MODIFICATION OR RENEGOTIATION
This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 11 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS
11.1 In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Licensor represents all contractors, third parties, and/or subcontractors Licensor has assembled for this project. The Licensee is required to negotiate only with Licensor, as Licensor’s commitments are binding on all proposed contractors, third parties, and subcontractors.

11.2 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties’ respective successors and assigns.

11.3 Licensor must obtain the written approval of MSU before subcontracting any portion of this Agreement. No such approval by MSU of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of MSU in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that MSU may deem necessary.

11.4 Licensor represents and warrants that any subcontract agreement Licensor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Licensee, and that the subcontractor acknowledges that no privity of contract exists between the Licensee and the subcontractor and that the Licensor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Licensor. The Licensor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Licensor’s failure to pay any and all amounts due by Licensor to any subcontractor, third party licensor, materialman, laborer or the like.

11.5 All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication or settlement of any dispute between the Licensor and the Licensee, where such dispute affects the subcontract.

ARTICLE 12 AVAILABILITY OF FUNDS
It is expressly understood and agreed that the obligation of MSU to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the fulfillment of this Agreement are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to
appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to MSU for the payments or performance due under this Agreement, MSU shall have the right to immediately terminate this Agreement, in whole or in part, without damage, penalty, cost or expense to MSU of any kind whatsoever, except for payment for work completed by Licensor and accepted by MSU prior to termination. The effective date of termination shall be as specified in the notice of termination. MSU shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement.

ARTICLE 13 TERMINATION

13.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, as follows: (a) upon the mutual, written agreement of the parties; (b) if either party fails to comply with the terms of this Agreement, the non-defaulting party may terminate the Agreement upon the giving of thirty (30) calendar days written notice unless the breach is cured within said thirty (30) day period; (c) MSU may terminate the Agreement in whole or in part without the assessment of any penalties upon ten (10) calendar days written notice to Licensor if Licensor becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary, or (d) MSU may terminate this Agreement in whole or in part without the assessment of any penalties after giving thirty (30) calendar days written notice specifying the effective date thereof to Licensor in the event: (i) Licensor sells its company to another company without the prior written approval of MSU; or (ii) there are excessive instabilities in the Software, which are defined as complete inaccessibility of Software occurring for a consecutive twenty-four (24) hour period for more than two (2) separate times every calendar month or if the uptime annual availability percentage (calculated on a trailing 365 day period) drops below 95%. The provisions of this Article 13 do not limit either party’s right to pursue any other remedy available at law or in equity.

13.2 In the event MSU terminates this Agreement, Licensor shall receive just and equitable compensation for Services rendered by Licensor and accepted by MSU prior to the termination. Further, upon termination of this Agreement, Licensor shall refund any and all applicable unexpended prorated annual ASP fees previously paid by Licensee.

ARTICLE 14 GOVERNING LAW

This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Licensor expressly agrees that under no circumstances shall the State be obligated to pay an attorney’s fee, prejudgment interest or the cost of legal action to Licensor. Further, nothing in this Agreement shall affect any statutory rights the parties may have that cannot be waived or limited by contract.

ARTICLE 15 WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by either party, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of that party.

ARTICLE 16 SEVERABILITY

If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall
be valid and enforceable to the fullest extent permitted by law provided that the State’s purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

**ARTICLE 17  CAPTIONS**
The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or Article in this Agreement.

**ARTICLE 18  HOLD HARMLESS**
To the fullest extent allowed by law, Licensor shall indemnify, defend, save and hold harmless, protect and exonerate Licensee, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or caused by the intentional, willful misconduct or gross negligence of Licensor and/or its partners, principals, agents, employees or subcontractors in the performance of or failure to perform this Agreement.

**ARTICLE 19  THIRD PARTY ACTION NOTIFICATION**
Licensor shall notify MSU in writing within five (5) business days of Licensor filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Licensor or MSU by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Licensor’s performance under this Agreement. Failure of the Licensor to provide such written notice to MSU shall be considered a material breach of this Agreement and MSU may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

**ARTICLE 20  AUTHORITY TO CONTRACT**
Licensor warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

**ARTICLE 21  NOTICE**
Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS’ address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. MSU’s address for notice is: Mr. Steve L. Parrott, Chief Information Officer, Mississippi State University, 75 BS Hood Drive, Starkville, Mississippi 39762. The Licensor’s address for notice is: Ms. Estelita Young, Senior Enterprise Director, Instructure Inc., 6330 South 3000 East, Suite 700, Salt Lake City, Utah 84121. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.
ARTICLE 22  RECORD RETENTION AND ACCESS TO RECORDS
Licensor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Licensee, ITS, any state or federal agency authorized to audit Licensee, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this Agreement and to any of the Licensor’s proposals, books, documents, papers and/or records that are pertinent to this Agreement to make audits, copies, examinations, excerpts and transcriptions at the State’s or Licensor’s office as applicable where such records are kept during normal business hours. All records relating to this Agreement shall be retained by the Licensor for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 23  INSURANCE
Licensor represents that it will maintain workers’ compensation insurance as prescribed by law which shall inure to the benefit of Licensor’s personnel, as well as comprehensive general liability and employee fidelity bond insurance. Licensor will, upon request, furnish MSU with a certificate of conformity providing the aforesaid coverage.

ARTICLE 24  DISPUTES
Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Licensor and Licensee, shall be decided by the Executive Director of ITS or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

ARTICLE 25  COMPLIANCE WITH LAWS
25.1 Licensor shall comply with, and all activities under this Agreement shall be subject to, all Licensee policies and procedures which Licensor has received copies of, and all applicable federal, state, and local laws, regulations, policies and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Licensor shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin or disability. Further, if applicable, Licensor shall comply with the provisions of the Davis-Bacon Act including, but not limited to, the wages, recordkeeping, reporting and notice requirements set forth therein.

25.2 Licensor represents and warrants that it will comply with the state’s data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Licensor represents and warrants that it will comply with the applicable provisions of the HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) (“Privacy Rule” and “Security Regulations”, individually; or “Privacy and Security Regulations”, collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (the “HITECH Act”).
ARTICLE 26  CONFLICT OF INTEREST
Licensor shall notify MSU of any potential conflict of interest resulting from the provision of services to other customers. If such conflict cannot be resolved to MSU’s satisfaction, MSU reserves the right to terminate this Agreement.

ARTICLE 27  SOVEREIGN IMMUNITY
By entering into this Agreement with Licensor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 28  CONFIDENTIAL INFORMATION
28.1 Licensor shall treat all Licensee data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Licensee. In the event that Licensor receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a validly issued judicial order requiring divulgence of such information, Licensor shall promptly inform Licensee and thereafter respond in conformity with such court order to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement and shall continue in full force and effect and shall be binding upon the Licensor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in this Agreement on behalf of, or under the rights of the Licensor following any termination or completion of this Agreement.

28.2 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Licensor. ITS will provide third party notice to Licensor of any requests received by ITS for any such confidential exhibits so as to allow Licensor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

28.3 Confidential information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the confidential information. The Recipient may disclose confidential information to the extent required by law or court order, but will provide Discloser with advance notice to seek a protective order.

28.4 The parties understand and agree that effective July 1, 2015, pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the Commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed confidential information.

ARTICLE 29  EFFECT OF SIGNATURE
Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Licensor on the basis of draftsmanship or preparation hereof.
ARTICLE 30 OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS
All Content collected by the Software shall be the property of Licensee. Licensor may use the Content only in the performance of this Agreement, unless otherwise agreed upon between the parties. Licensee acknowledges that the Products shall remain the exclusive property of Licensor and are excluded from this Article.

ARTICLE 31 NON-SOLICITATION OF EMPLOYEES
Licensor agrees not to employ or to solicit for employment, directly or indirectly, any of MSU’s employees until at least one (1) year after the expiration/termination of this Agreement unless mutually agreed to the contrary in writing by MSU and the Licensor and provided that such an agreement between these two entities is not a violation of the laws of the State of Mississippi or the federal government.

ARTICLE 32 ENTIRE AGREEMENT
32.1 This contract constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating thereto, including all terms of any “shrink-wrap”, “click-wrap” or “browse-wrap” license of the Software. The RFP No. 3692, and Licensor’s Proposal, as accepted by the State, in response thereto are hereby incorporated into and made a part of this Agreement.

32.2 The contract made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

A. This Agreement signed by the parties hereto;
B. Any exhibits attached to this Agreement;
C. RFP No. 3692 and written addenda, and
D. Licensor’s Proposal, as accepted by the State, in response to RFP No. 3692.

32.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Licensor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document (“A. This Agreement”) and the lowest document is listed last (“D. Licensor’s Proposal”).

ARTICLE 33 STATE PROPERTY
Licensor shall be responsible for the proper custody of any Licensee-owned property furnished for Licensor’s use in connection with Services performed pursuant to this Agreement. Licensor shall reimburse the Licensee for any loss or damage, normal wear and tear excepted.

ARTICLE 34 SURVIVAL
Articles 7, 14, 18, 22, 27, 28, 30, 31, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.
ARTICLE 35  DEBARMENT AND SUSPENSION CERTIFICATION
Licensor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and (d) have, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

ARTICLE 36  SPECIAL TERMS AND CONDITIONS
It is understood and agreed by the parties to this Agreement that there are no special terms and conditions except as specifically provided in this Agreement.

ARTICLE 37  STATUTORY AUTHORITY
By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the executive director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of the Licensee’s or Licensor’s contractual obligations, financial or otherwise, contained within this Agreement. The parties further acknowledge that ITS is not responsible for ensuring compliance with any guidelines, conditions, or requirements mandated by Licensee’s funding source.

ARTICLE 38  COMPLIANCE WITH ENTERPRISE SECURITY POLICY
Licensor and Licensee understand and agree that all products and services provided by Licensor under this Agreement must be and remain in compliance with the State of Mississippi’s Enterprise Security Policy. The parties understand and agree that the State’s Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Agreement and require the Licensor to comply with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

ARTICLE 39  SOFTWARE SUPPORT AND MAINTENANCE
As part of the Software support and maintenance services, Licensor will maintain the Products in an operable condition according to the specifications contained in the technical manuals and as outlined in RFP No. 3692 and the Licensor’s Proposal in response thereto. Licensor shall provide Licensee with Enhancements to the Software as they are made generally available from time to time. Notwithstanding any other provisions of this Agreement, Licensor shall provide support only with respect to the then-current generally available version of the Software.
ARTICLE 40  FORCE MAJEURE
Each party shall be excused from performance for any period and to the extent that it is prevented
from performing any obligation or service, in whole or in part, as a result of causes beyond the
reasonable control and without the fault or negligence of such party and/or its subcontractors.
Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war or
terrorism, epidemics, governmental regulations superimposed after the fact, fire, earthquakes,
floods, or other natural disasters (the “Force Majeure Events”). When such a cause arises, the
Licensor shall notify the Licensee immediately in writing of the cause of its inability to perform;
how it affects its performance, and the anticipated duration of the inability to perform. Delays in
delivery or in meeting completion dates due to Force Majeure Events shall automatically extend
such dates for a period equal to the duration of the delay caused by such events, unless the State
determines it to be in its best interest to terminate this Agreement.

ARTICLE 41  LICENSEE RESPONSIBILITIES
MSU (a) is responsible for MSU Content and Active User activity in its account in the Service; (b)
will use reasonable efforts to keep its passwords secure and confidential, and notify Licensor of
any known unauthorized access; and (c) may use the Services only in accordance with applicable
law and this Agreement.

ARTICLE 42  LICENSEE RESTRICTIONS
Licensee may not, and will take reasonable steps to see that each Active User does not:
(a) sell, resell, rent or lease the Service;
(b) use the Services, for non-Licensee educational purposes, to store or transmit infringing,
unsolicited marketing emails, libelous, obscene, deceptive, defamatory, pornographic, racist,
sexual, hateful, or otherwise objectionable, unlawful or tortious material, or any other material in
violation of a third-party right;
(c) use the Services to harm or impersonate any person, or for any commercial purpose;
(d) interfere with or disrupt the integrity or performance of the Service; or
(e) attempt to gain unauthorized access to the Service or their related systems or networks.

ARTICLE 43  THIRD PARTY LINKS/SERVICE DISCLAIMER
The Service may contain links to third party web sites (including without limitation, links provided
by instructors) or access third-party services (including without limitation, turnitin.com and Google
docs). Such sites and services are not under the control of Licensor, and Licensor is not
responsible for the content or any link on such sites or for the temporary or permanent
unavailability of such third party sites or services.

ARTICLE 44  PUBLICITY
MSU agrees to act as a reference account that will, upon Licensor’s reasonable request, provide
Service-related comments to the press, potential investors, and current or prospective customers
and participate in Service-related case studies. MSU agrees to issue joint press releases with
Licensor regarding the Service, as mutually agreed upon by Licensor and MSU. MSU agrees to
allow Licensor to use its name, logo and non-competitive use details in both text and pictures in
its various marketing communications and materials, in accordance with MSU’s trademark
guidelines and policies.

ARTICLE 45  LIABILITY
Unless jointly agreed otherwise in writing, Licensor’s liability shall not exceed the total amount
paid by Licensee to Licensor under this Agreement, including any amounts paid pursuant to
amendments and change orders. In no event will Licensor be liable to Licensee for special,
indirect, consequential or incidental damages including lost profits, lost savings or lost revenues of any kind unless Licensor was advised of the possibility of such loss or damage or unless such loss or damage could have been reasonably foreseen. Excluded from this or any liability limitation are claims related to fraud, bad faith, infringement issues, bodily injury, death, physical damage to tangible personal property and real property, and the intentional and willful misconduct or gross negligent acts of Licensor. The language contained herein tending to limit the liability of the Licensor will apply to Licensee to the extent it is permitted and not prohibited by the laws or constitution of Mississippi. Further, the parties understand and agree that the Licensor is precluded from relying on any contractual damages limitation language within this Agreement where the Licensor acts fraudulently or in bad faith.

ARTICLE 46 TRANSPARENCY
In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Agreement and any subsequent amendments and change orders shall be posted to the State of Mississippi’s accountability website at: https://www.transparency.mississippi.gov. Prior to ITS posting the Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as “confidential” will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.

For the faithful performance of the terms of this Agreement, the parties hereto have caused this Agreement to be executed by their undersigned authorized representatives.

State of Mississippi, Department of Information Technology Services, on behalf of Mississippi State University

Instructure Inc.

By:_______________________________
Authorized Signature

Printed Name: Craig P. Orgeron, Ph.D.
Title: Executive Director
Date:______________________________

Printed Name:______________________
Authorized Signature

Printed Name:______________________
Authorized Signature

Title:______________________________

Date:______________________________
# Exhibit A

## Services

<table>
<thead>
<tr>
<th>Item</th>
<th>Metric</th>
<th>Quantity</th>
<th>Price</th>
<th>Extended Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enhanced Implementation* (March 1, 2018 – June 30, 2018)</td>
<td></td>
<td>1</td>
<td>$19,000.00</td>
<td>$19,000.00</td>
</tr>
</tbody>
</table>

**Implementation Sub-Total**: $19,000.00

## Annual Canvas Cloud Software License

<table>
<thead>
<tr>
<th>Year</th>
<th>FTE</th>
<th>Price</th>
<th>Extended Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1 (7/1/2018 - 6/30/2019)</td>
<td>18,725</td>
<td>$11.70</td>
<td>$219,082.50</td>
</tr>
<tr>
<td>Year 2 (7/1/2019 - 6/30/2020)</td>
<td>18,725</td>
<td>$12.29</td>
<td>$230,130.25</td>
</tr>
<tr>
<td>Year 3 (7/1/2020 - 6/30/2021)</td>
<td>18,725</td>
<td>$12.90</td>
<td>$241,552.50</td>
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<tr>
<td>Year 4 (7/1/2021 - 6/30/2022)</td>
<td>18,725</td>
<td>$13.55</td>
<td>$253,723.75</td>
</tr>
</tbody>
</table>

**Software License Subtotal**: $944,489.00

**Total 4 Year Lifecycle Cost**: $963,489.00

*ENHANCED IMPLEMENTATION PACKAGE:

<table>
<thead>
<tr>
<th>Implementation Consultant</th>
<th>Includes remote Project Manager, 1 orientation call, and weekly calls until implementation is complete.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expected Timeline</td>
<td>17 weeks</td>
</tr>
<tr>
<td>Training</td>
<td>One day of on-site, customized training sessions</td>
</tr>
<tr>
<td>Resources</td>
<td>Customized project plan managed by Instructure. Access to guides, public courses, and best practices documentation.</td>
</tr>
<tr>
<td>Course Imports</td>
<td>Instructure will migrate up to 500 courses in supported formats with client Q&amp;A.</td>
</tr>
<tr>
<td>Branding</td>
<td>Instructure will provide color scheme and logo branding and host custom files.</td>
</tr>
<tr>
<td>Authentication</td>
<td>Instructure will configure and validate LDAP, SAML, or CAS integration on behalf of client. Requires access to client resources.</td>
</tr>
<tr>
<td>SIS Integration</td>
<td>Guidance, assistance, and troubleshooting of client-initiated SIS integration.</td>
</tr>
<tr>
<td>Marketing Support</td>
<td>Instructure will share documented best practices and consult on evangelizing efforts</td>
</tr>
</tbody>
</table>
Deliverables

- Assistance in configuring and testing authentication integration for currently supported technologies including LDAP, SAML, and CAS. Instructure will take a consultant role on the effort and guide client resources to complete the integration.
- Migration of up to 1,000 courses from currently supported formats*. For content that is not supported, Instructure will provide best practices on how to migrate into Canvas, if available. The following content packages are supported for bulk import into Canvas: Angel, Blackboard 6/7/8/9.
- Blackboard Vista/CE, WebCT 6+ Course, Common Cartridge 1.0/1.1/1.2/1.3 Package, D2L, Moodle 1.9/2.x .zip file
- Branding for Canvas including application of a color scheme and logos for the top navigation and login page.
- Expertise and best practices on any SIS import and automation work with Canvas. This includes access to documentation and consulting with client resources on the client initiated strategy.
- One onsite day with a Canvas trainer for customized training. Includes travel expenses.
- For LMS Administrators. Two-hour remote webinar on administrating Canvas.
- For teachers and instructional designers. Two-hour remote webinar on teaching in Canvas.
- For local support staff. One-hour remote webinar on support functions in Canvas.
- Customized project plan to complete all tasks in ten to twelve weeks. May extend to a total of 24 weeks as necessary to accommodate institutional needs and resource availability. Internal marketing to drive adoption.
Note: Project numbers beginning with the prefix "GS" designate projects that the Bureau of Building provides management oversight for and are funded partially or wholly with state Bureau of Building bond revenues. Project numbers beginning with the prefix "IHL" designate projects that are funded from university self-generated sources including but not limited to donations, fees, and grants.

**Board Policy §902, Initiation of Construction Projects**

The Board must approve the initiation of a project for the construction of new facilities, repairs and renovations to existing facilities and requests for a capital outlay with a total project budget exceeding $1,000,000 regardless of how the projects are financed. It is the intent of the Board that its appropriate staff under the direction of the Commissioner shall be involved in all phases of building projects requiring approval by the Board. All construction, repairs, and renovation projects with a total budget of $1,000,000 or less may be approved by the Institutional Executive Officer. However, all projects utilizing any state bond funds, including Ayers funds, must be initiated with STAFF approval from the Office of Real Estate and Facilities. No further approvals are required by IHL staff for projects of $1,000,000 or less unless the budget changes. All budget changes for these projects must be reported to the Office of Real Estate and Facilities.

**Board Policy §904(A), Board Approval**

When funding has been secured from whatever source, each institution shall bring all new projects to the Board for the approval of the project initiation and the appointment of a design professional, as required in Board Policy §902, Initiation of Construction Projects. This request shall include a detailed description of the work to be accomplished, the total budget, the funding source and the design professional recommended to the Board for approval.

After the Board has granted approval of both the initiation of a project and the appointment of a design professional, no further Board action or approval is required for the completion of the project if the following conditions are met:

1. The detailed description of the work to be accomplished, as specifically approved by the Board within the project initiation, has not changed.
2. The total project budget has not increased beyond the amount specifically approved by the Board as part of the project initiation;
3. The funding source has not changed from that specifically approved by the Board as part of the project initiation; and
4. The design professional previously approved by the Board has not changed.
If the above four conditions have been met, the Board’s Real Estate and Facilities staff, through the Commissioner, shall have the authority to approve any and all necessary documents related to the completion of the subject construction project, including the approval of construction documents, the advertisement and receipt of bids, the approval of a bid, the award of a contract and any change orders.

Prior to the commencement of construction, the Board must approve the exterior design of the major buildings that have aesthetic impact on the overall campus, regardless of the cost of the project. This requirement applies to all buildings and facilities on an institution’s property even if the land is leased to an institution’s affiliated entity or a private developer.

**Board Policy §905(A), Real Estate Management**

Prior Board approval is required for the execution of all leases, easements, oil and mineral leases, and timber sales. Board approval prior to the execution of a contract for the sale of real property is required for all land sales, regardless of the sale price. Prior Board approval is required for the execution of all leases, easements, oil and mineral leases, and timber sales. Request for approval of land contracts shall include property descriptions, terms of purchase, lease, or sale and intended use of the property. An institution acquiring or disposing of real property shall receive two independent appraisals. The purchase price of property to be acquired shall not exceed the average of the two appraisals. The sale price of real property shall be no less than the average of the two appraisals.

**Board Policy §905(B), Real Estate Management**

Prior to Board consideration of the purchase or acceptance of real estate from any source, a Phase I or more detail Environmental Report shall be completed by qualified personnel and submitted to the Board’s Real Estate and Facilities Office. In the event hazardous substances are confirmed as having existed in the past or as presently existing, the Board reserves the right to cancel the transaction without liability, or to permit the other party or parties to remove the hazardous substances at its or their expense in a manner sufficient to receive a “no further action” letter from the State’s Department of Environmental Quality.
APPROVAL OF INITIATIONS OF PROJECTS/APPOINTMENTS OF PROFESSIONALS

IHL PROJECTS .........................................................

1. MSU – IHL 205-289 – Bulldog Way

Project Request: Mississippi State University requests approval to initiate a project, Bulldog Way, and to appoint Pickering Firm, Inc as the project professional.

Proposed Project Professional: Pickering Firm, Inc.

Selection Method: This project will be administered through MDOT using “The Local Public Agency Process” (LPA). The LPA process for professional selection was used to select the proposed project professional. Pickering Firm, Inc. has been approved by MDOT.

Purpose: Mississippi State University is seeking to construct a new road around the east side of the MSU main campus. Current funding only allows for the design of the road. The construction funding will be forthcoming. MSU would like to move forward with the design phase of the project to expedite the completion of the project. The current budget reflects design fees only.

Project Scope: This project will construct a new road on the east side of campus. The project will consist of a roadway, sidewalks, lighting, and any other amenities for a complete and functional road.

Mississippi State University is seeking to initiate the project and appoint the design professional in accordance with Board Policy §904(A), Board Approval, that requires each institution to bring all new projects to the Board for the approval of the project initiation and the appointment of a design professional, as required in Board Policy §902, Initiation of Construction Projects.

Project Initiation Date: February 15, 2018

Date of Original Construction: N/A

Date of Last Renovation: N/A
Proposed Project Budget: *(Design Fees Only)*

<table>
<thead>
<tr>
<th>Description</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Cost</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>Architectural and Engineering Fees</td>
<td>$1,400,000.00</td>
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<tr>
<td>Misc. Project Costs</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>Furniture &amp; Equipment Costs</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>Contingency</td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>

**Total Project Budget**  
$1,400,000.00

Proposed Funding Source(s): Federal Highway Administration funds ($1,400,000)

**Staff Recommendation:** Board staff recommends approval of this item.

2. **UM – IHL 207-442 – Manning Center – Training/Hydrotherapy Room Renovation**

**Project Request:** The University of Mississippi requests approval to initiate a project, Manning Center – Training/Hydrotherapy Room Renovation, and to appoint A2H, LLC as the design professional.

**Proposed Design Professional:** A2H, LLC

**Selection Method:** The project budget is not anticipated to exceed $3M therefore the university is not required to use the RFQ method for the selection of the design professional.

**Purpose:** The university is seeking to renovate the taping room and the hydrotherapy tub area in a portion of the Manning Center, a building used for indoor sports practice and athletics support space on the campus of the University of Mississippi. The two rooms are adjacent to each other on the west side of the building. There have been other recent upgrades to parts of this building, but the taping room and hydrotherapy area are in their original condition dating back to when the building was opened in 2003. The taping room consists of exam tables, medical equipment storage cabinets, and therapy staff offices.

**Project Scope:** The renovation will include interior re-planning, finishes upgrades, and new furniture. The hydrotherapy space is not fully visible by staff working in the tape room. A new glass partition will be added to increase safety by allowing staff to see athletes undergoing hydrotherapy in the tubs while they are attending to others in
the taping room. Two new hydrotherapy tubs will be added, and the space will be increased in size by moving an interior partition.

The University of Mississippi is seeking to initiate the project and appoint the design professional in accordance with Board Policy §904(A), Board Approval, that requires each institution to bring all new projects to the Board for the approval of the project initiation and the appointment of a design professional, as required in Board Policy §902, Initiation of Construction Projects.

**Project Initiation Date:** February 15, 2018

**Date of Original Construction:** Manning Center 2003

**Date of Last Renovation:** 2012 (Indoor Practice Facility Food Service)

**Proposed Project Budget:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Cost</td>
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<tr>
<td>Architectural and Engineering Fees</td>
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<td>Misc. Project Costs</td>
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<td>Furniture &amp; Equipment Costs</td>
<td>$ 65,000</td>
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<tr>
<td>Contingency</td>
<td>$ 218,450</td>
</tr>
</tbody>
</table>

**Total Project Budget** $ 1,300,000

**Proposed Funding Source(s):** Self-generating Athletic Revenues ($1,300,000)

**Staff Recommendation:** Board staff recommends approval of this item.
3. UM – IHL 207-436 – Kinard Water Treatment Plant Replacement

**Project Request:** The University of Mississippi requests approval to increase the budget for the Kinard Water Treatment Plant Replacement project. The budget will increase from $1,100,000.00 to $1,600,000.00, for an increase of $500,000.00.

**Current Project Phase:** Design Phase

**Design Professional:** Engineering Solutions, Inc.

**General Contractor:** TBD

**Prior Budget Increases:** The project was initiated with the Board in June of 2017 with a project budget of $1,100,000.00. This is the first budget escalation request made for this project by the university.

**Purpose/Justification:** The University of Mississippi is requesting to increase the project budget due to bids coming in higher than originally anticipated as result of constant rising construction costs.

**Project Scope:** The project consists of removing the existing treatment plant equipment and replacing it with new 1000 gpm capacity treatment equipment consisting of a new cast-in-place concrete clearwell, a new aerator, a new chemical feed system for chlorine, pH adjustment and fluoride. The project will also install new high service pumps and will tie the new equipment into the existing SCADA control system.

**History:** The water treatment plant equipment has been modified and/or repaired several times but currently has significant leaking in the clearwell, aging high service pumps, and aging chemical feed systems and controls. Additionally, the aerator is badly worn and the chemical feed lines are a constant maintenance problem. Finally, because the equipment is a constant maintenance problem, the University of Mississippi has chosen to stop operating the plant until replacement equipment can be installed.
The University of Mississippi is acting in accordance with Board Policy §904(A), Board Approval, that requires each institution to submit all project budget increases and changes in funding sources to the Board for approval.

**Project Initiation Date:** June 15, 2017

**Proposed Project Budget:**

<table>
<thead>
<tr>
<th></th>
<th>Current Budget</th>
<th>Proposed Budget</th>
<th>Amount (+/-)</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>Architectural and Engineering Fees</td>
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<tr>
<td>Miscellaneous Project Costs</td>
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<td>Furniture &amp; Equipment Costs</td>
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<tr>
<td>Contingency</td>
<td>$ 137,627.97</td>
<td>$ 143,300.00</td>
<td>$ 5,672.03</td>
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</tbody>
</table>

**Proposed Funding Source(s):** Internal R&R ($1,600,000.00)

**Staff Recommendation:** Board staff recommends approval of this item.

**APPROVAL OF OTHER REAL ESTATE REQUESTS**

4. **MSU – Granting of a Perpetual Utility Right-of-Way Easement to 4-County Electric Power Association**

**Project Request:** Mississippi State University requests permission to grant a perpetual utility right-of-way easement to 4-County Electric Power Association.

**Purpose:** The twenty (20) foot-wide utility easement is needed to allow 4-County Electric Power Association access for the location of an underground utility line that services the new nSPARC Data Center in the Thad Cochran Research, Technology and Economic Development Park.
Property Description: A parcel of land 20’ wide, more particularly described as being 10’ right and 10’ left of the center line of the proposed underground electric distribution line. This easement is located on the property more particularly described below:

Section 16, Township 19 North, Range 14 East, Quarter-Quarter Section NE ¼ of NW ¼ or SE ¼ of NW ¼ in Oktibbeha County, Mississippi.

Terms of Easement: 4-County Electric Power Association shall have the right to locate, relocate, construct, reconstruct, re-phase, repair, inspect, operate, and maintain under the above described lands and/or in, upon, or under all streets, roads or highways abutting said lands, an electric underground distribution line(s) or system, including subsequent extensions and tap extensions from the original line(s) or system and to cut, trim and control the growth by chemical means, machinery or otherwise, of trees and shrubbery that may interfere with or threaten to endanger the operation and maintenance of said line(s) or system, whether in or outside the specific right-of-way easement, including any control of the growth of the vegetation in the right-of-way which may incidentally and necessarily result from the means of control employed along with the further right to license, permit or otherwise agree to joint use of the underground line(s) or system by any other person, association or corporation for utility purposes, cable TV, telephone, fiber optics, communication equipment and lines, or any such similar activity. Also, 4-County Electric Power Association, under this easement shall have the right to place above-ground padmounts, switches, and other ancillary and necessary equipment associated with the underground conduit.

Grantor (MSU) expressly reserves for itself, its successors and assigns, the right to use the easement area, so long as such use does not unreasonably interfere with the rights herein granted. Cooperative (4-County Electric Power Association) shall be responsible for any damage to Grantor’s property or that of third parties resulting from exercise of their rights herein granted, including but not limited to soil erosion, subsidence, or damage resulting therefrom. Cooperative shall promptly repair and restore to its original condition any of Grantor’s property that may be altered, damaged, or destroyed in connection with the exercise of the Easement or use of the easement area.

Termination Options: The Grantor may terminate the easement and all rights revert the Grantor if at any point the Grantee fails to use the easement are for a continuous six (6) month period.
Mississippi State University is acting in accordance with Board Policy §905(A), Real Estate Management, which requires prior Board approval for the execution of all leases, easements, oil and mineral leases, and timber sales. A copy of the legal description of the access easement is on file with the Office of Real Estate and Facilities.

**Staff Recommendation:** The Attorney General’s Office has reviewed and approved this item. Board staff recommends approval of this item.

5. **USM – Alumni Event Venue – Approval of Exterior Design**

**Project Request:** The University of Southern Mississippi requests approval of the exterior design for the Alumni Event Venue project. *(See Renderings on page 10)*

**Project Phase:** Design

**Design Professional:** Albert & Robinson Architects

**General Contractor:** TBD

**Purpose:** The University of Southern Mississippi is seeking approval of the exterior rendering for the Alumni Event Venue project as required by board policy. This is a project privately funded through the Southern Miss Alumni Foundation.

**Project Scope:** The Southern Miss Alumni Foundation will construct a new pavilion in Spirit Park on the Hattiesburg campus. The anticipated budget for the project is $500,000.

The University of Southern Mississippi is acting in accordance with Board Policy §904(A), Board Approval, that requires the Board to approve the exterior design of the major buildings that have aesthetic impact on the overall campus, regardless of the cost of the project.

**Staff Recommendation:** Board staff recommends approval of this item.
Front of Pavilion:

![Front of Pavilion Image]

Rear of Pavilion:

![Rear of Pavilion Image]
6. **USM – Southern Miss Athletic Wellness Center – Approval of Exterior Design**

**Project Request:** The University of Southern Mississippi requests approval of the exterior design for the Southern Miss Athletic Wellness Center project. (*See Renderings on page 12*)

**Project Phase:** Design

**Design Professional:** Wier Boerner Allin Architecture

**General Contractor:** TBD

**Purpose:** The University of Southern Mississippi is seeking approval of the exterior rendering for the Southern Miss Athletic Wellness Center project as required by board policy. This is a project privately funded through the Southern Miss Athletic Foundation.

**Project Scope:** The Southern Miss Athletic Foundation will construct a new Athletic Wellness Center on the Hattiesburg campus.

**Proposed Project Budget:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Estimated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Cost</td>
<td>$5,287,520.00</td>
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<tr>
<td>Architectural and Engineering Fees</td>
<td>336,003.00</td>
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<tr>
<td>Misc. Project Costs</td>
<td>293,851.00</td>
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<tr>
<td>Furniture &amp; Equipment Costs</td>
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</tr>
<tr>
<td>Contingency</td>
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</tbody>
</table>

**Total Project Budget** $6,228,015.00

**Proposed Funding Source(s):** Southern Miss Athletic Foundation Revenues ($6,228,015)

The University of Southern Mississippi is acting in accordance with Board Policy §904(A), Board Approval, that requires the Board to approve the exterior design of the major buildings that have aesthetic impact on the overall campus, regardless of the cost of the project.

**Staff Recommendation:** Board staff recommends approval of this item.
West Side of Athletic Wellness Center:

East Side Athletic Wellness Center:
1. **MSU – APPROVAL TO MODIFY CONTRACT WITH WARE | IMMIGRATION AS OUTSIDE COUNSEL**

Mississippi State University requests approval to modify a contract with Ware Immigration, to provide services necessary in preparing labor certification documents on behalf of MSU for its employees who seek permanent residence status and related immigration matters. This Modification #5 will extend the term of the contract for one (1) year or through March 20, 2019. The Payment Terms section is modified as reflected by the Schedule of Legal Fees below. The total amount payable during the extension period shall not exceed $50,000.00. All other provisions of the Agreement for Legal Services dated March 21, 2013 shall remain in effect.

**Schedule of Legal Fees for Academia**

**Nonimmigrant Petitions and Processes**

- H-1B petition: $1500.00
- H-1B extension or amendment petitions (we handled original petition): $1000.00
- TN petition or border/consulate processing: $1500.00
- TN extension petition (we handled original): $1000.00
- E-3 petition or consular processing: $1500.00
- E-3 extension petition (we handled original): $1000.00
- O-1 petition: $4000.00
- O-1 extension or amendment petition (we handled original): $1500.00

**Change of status or extension of status for dependents (I-539) no additional charge**

- J-1 waiver (IGA or hardship): $6,000.00
- J-1 waiver (Conrad): $6,000.00

**Permanent Residence Process with Labor Certification: Faculty**

- $2000.00: Special Handling labor certification
- $2500.00 if position must be readvertised
- $500-1500.00: Additional fee if audited
- $2500.00: Immigrant petition

**Permanent Residence Process with Labor Certification: Non-Faculty**
$4000.00 Labor certification
$500-$1500.00 Additional fee if audited
$2500.00 Additional fee if subject to supervised recruitment
$2500.00 Immigrant petition

**Permanent Residence Process: Outstanding Professors and Researchers**

$6000.00 Immigrant petition

**Permanent Residence Process: National Interest Waiver**

$6000.00 Immigrant petition

**Adjustment of Status, any Employment-Based Permanent Residence Matter**

$2000.00 Adjustment of status and related applications (I-765, I-131, etc.) for employee
$2500.00 Standalone AOS and related applications, principal.
$1000.00 Adjustment of status and related applications, spouse, if together with principal application and I 140.
$750.00 Adjustment of status of each child, concurrent with I 140.
$1500.00 “Standalone” adjustment of status, spouse (not concurrent with I 140).
$1000.00 “Standalone” adjustment of status, child.

**Employment Authorization and Advance Parole Renewal**

$500 Employment Authorization Renewal per individual
$500 Advance Parole Renewal per individual

**General Legal Advice and Unusual Matters Which Fall Outside This Fee Schedule**

Such matters will be billed at our hourly rates:

David Ware $300 per hour billed.
WI Partners $250 per hour billed.
Associate Attorneys: $175 per hour billed.
Paralegals: $100 per hour billed.

This Modification has been approved by the Office of the Attorney General.

**STAFF RECOMMENDATION:** Board staff recommends approval of this item.
2. **MVSU – APPROVAL OF DR. JERRYL BRIGGS AS LEGISLATIVE LIAISON**

Mississippi Valley State University requests approval of Dr. Jerryl Briggs as one of its legislative liaisons, in compliance with Board Policy 201.0506 Political Activity.
APPROVAL OF PERSONNEL ACTION REQUESTS

1. Employment

Jackson State University
Lynda Brown-Wright; hired with tenure; Provost and Vice President for Academic Affairs and Professor Psychology, salary $200,000 per annum, pro rata; E&G Funds; 9 month contract; effective March 5, 2018

Mississippi Valley State University
Johnny D. Jones; hired with tenure; Associate Professor and Assistant Vice President/Dean of University College; salary $95,000 per annum, pro rata; E&G Funds; 12 month contract; effective February 1, 2018

University of Mississippi
Vishakha Rawool; hired with tenure; Chair of Communication Sciences and Disorders and Professor; $150,000 per annum, pro rata; E&G Funds; 12 month contract; effective June 1, 2018

2. Change of Status

Jackson State University
Wheeler Brown; Athletics Director; salary $175,000 per annum, pro rata; E&G Funds; 12 month contract; termination effective February 15, 2018

3. Sabbatical

University of Mississippi
Mikaela Adams; Assistant Professor of Native American History; from salary $64,551 per annum, pro rata; E&G Funds; 9 month contract to salary $32,276 for sabbatical period; E&G Funds; effective August 17, 2018 to May 11, 2019; professional development (Contingent on being awarded tenure before July 1.)

Joel Amidon; Associate Professor of Secondary Education, from salary $68,935 per annum, pro rata; E&G Funds; 9 month contract to salary $34,468 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Joseph B. Atkins; Professor of Journalism; from salary $91,050 per annum, pro rata; E&G Funds; 9 month contract to salary $45,525 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development
Stephen Brewer; Professor of Biology, *from* salary $94,358 per annum, pro rata; E&G Funds; 9 month contract *to* $47,179 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Mercer Bullard; Professor of Law and Butler, Snow, Omara Distinguished Lecturer; $146,234 per annum, pro rata; E&G Funds; 9 month contract *to* salary $73,117 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Jeff Carter; Associate Professor of Political Science; *from* salary $68,390 per annum, pro rata; E&G Funds; 9 month contract *to* salary $34,195 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development

Wei-Yin Chen; Professor of Chemical Engineering; *from* salary $144,415 per annum, pro rata; E&G Funds; 9 month contract *to* salary $72,208 for sabbatical period; E&G Funds; effective August 17, 2018, to December 31, 2018; professional development

Jesse Cromwell; Assistant Professor of Colonial Latin American History; *from* salary $58,048 per annum, pro rata; E&G Funds; 9 month contract *to* salary $29,024 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development

Conor Dowling; Associate Professor of Political Science; *from* salary $74,725 per annum, pro rata; E&G Funds; 9 month contract *to* salary $37,363 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Robbie Ethridge; Professor of Anthropology; *from* salary $95,104 per annum, pro rata; E&G Funds; 9 month contract *to* salary $47,552 for sabbatical period; E&G Funds; effective August 17, 2018 to May 11, 2019; professional development

Jonathan Fenno; Associate Professor of Classics; *from* salary $67,041 per annum, pro rata; E&G Funds; 9 month contract *to* salary $33,521 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development

Ellen Foster; Associate Professor of Curriculum and Instruction; *from* salary $68,140 per annum, pro rata; E&G Funds; 9 month contract *to* salary $34,070 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Ryan Garrick; Assistant Professor of Biology; *from* salary $66,734 per annum, pro rata; E&G Funds; 9 month contract *to* salary $33,367 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development (Contingent on being awarded tenure before July 1.)
Darren Grem; Assistant Professor of United States South History; from salary $65,227 per annum, pro rata; E&G Funds; 9 month contract to salary $32,614 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development (Contingent on being awarded tenure before July 1.)

April Holm; Assistant Professor of History; from salary $57,304 per annum, pro rata; E&G Funds; 9 month contract to salary $28,652 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019, and August 17, 2019 (or beginning of contract date) to December 31, 2019; professional development (Contingent on being awarded tenure before July 1.)

Rhona Justice-Malloy; Professor of Theatre Arts; from salary $88,975 per annum, pro rata; E&G Funds; 9 month contract to salary $44,488 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Ivo Kamps; Chair and Professor of English; from salary $134,153 per annum, pro rata; E&G Funds; 12 month contract to salary $50,307 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development

Sasa Kocic; Assistant Professor of Mathematics; from salary $67,200 per annum, pro rata; E&G Funds; 9 month contract to salary $33,600 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development (Contingent on being awarded tenure before July 1.)

Elise Lake; Associate Professor of Sociology and Research Associate Professor of Population Studies; from salary $75,188 per annum, pro rata; E&G Funds; 9 month contract to salary $37,594 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Marc Lerner; Associate Professor of History; from salary $72,401 per annum, pro rata; E&G Funds; 9 month contract to salary $36,201 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019, and August 17, 2019 (or beginning of contract date) to December 31, 2019; professional development

Thomas Marshall; Professor of Physics and Astronomy; from salary $114,710 per annum, pro rata; E&G Funds; 9 month contract to salary $57,355 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development

Diane Marting; Associate Professor of Modern Languages; from salary $76,534 per annum, pro rata; E&G Funds; 9 month contract to salary $38,267 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional
John O'Haver; Chair and Professor of Chemical Engineering and Director of the Center for Mathematics and Science Education; *from* salary $200,765 per annum, pro rata; E&G Funds; 12 month contract *to* salary $75,287 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Glenn Parsons; Professor of Biology; *from* salary $106,194 per annum, pro rata; E&G Funds; 9 month contract *to* salary $53,097 for sabbatical period; E&G Funds; effective August 17, 2018, to December 31, 2018; professional development

Tanya Ruetzler; Associate Professor of Nutrition and Hospitality Management; *from* salary $72,724 per annum, pro rata; E&G Funds; 9 month contract *to* salary $36,362 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development

Hailin Sang; Assistant Professor of Mathematics; *from* salary $66,255 per annum, pro rata; E&G Funds; 9 month contract *to* salary $33,128 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development (Contingent on being awarded tenure before July 1.)

Kathleen Wickham; Professor of Journalism; *from* salary $83,025 per annum, pro rata; E&G Funds; 9 month contract *to* salary $41,513 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development

Donovan Wishon; Assistant Professor of Philosophy; *from* salary $59,507 per annum, pro rata; E&G Funds; 9 month contract *to* salary $29,754 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development (Contingent on being awarded tenure before July 1.)

Timothy Yenter; Assistant Professor of Philosophy; *from* salary $59,507 per annum, pro rata; E&G Funds; 9 month contract *to* salary $29,754 for sabbatical period; E&G Funds; effective August 17, 2018 to December 31, 2018; professional development (Contingent on being awarded tenure before July 1.)

Louis Zachos; Associate Professor of Geology and Geological Engineering; *from* salary $86,620 per annum, pro rata; E&G Funds; 9 month contract *to* salary $43,310 for sabbatical period; E&G Funds; effective January 22, 2019 to May 11, 2019; professional development
1. **SYSTEM – APPOINTMENT OF DR. JERRYL BRIGGS TO THE EDUCATION ACHIEVEMENT COUNCIL**

The Education Achievement Council was established by the Mississippi Legislature for the purpose of sustaining attention to the goal of increasing the educational attainment and skill level of the state’s working population to the national average by 2025. The EAC includes twenty-three members who represent education stakeholders from K-12, community colleges, universities, Legislators, state agencies and the business community. The statute (37-163-1) calls for the Board of Trustees to appoint three University Presidents, one of whom must be from an Historically Black University, to serve on the Council. Currently Dr. Jim Borsig, President of the Mississippi University for Women; Dr. William Bynum, President of Jackson State University; and Mr. Bill LaForge, President of the Delta State University, serve on the Council.

Board approval is requested to appoint Dr. Jerryl Briggs, President of Mississippi Valley State University, to serve on the Council. There is no length of term in the statute.

**Staff Recommendation:** Board staff recommends approval of this item.
Regular Agendas
1. **SYSTEM – APPROVAL FOR FINAL READING PROPOSED AMENDMENTS TO BOARD POLICY 500, SECTION 517 - TEACHER AND ADMINISTRATOR PREPARATION PROGRAMS**

Board approval for final reading is requested for a proposed amendment to Board Policy §500, Section 517 - TEACHER AND ADMINISTRATOR PREPARATION PROGRAMS to clarify the name of educator preparation programs and change the name of the organization providing program-specific accreditation. Revisions to board policy are based on changes made by the Mississippi Department of Education (MDE) to the name of the teacher and administrator preparation program and the educator program-specific accreditation organization and the change in nomenclature for these programs. Chief Academic Officers have reviewed and approved the recommendations to amend Board Policy §500, Section 517 to read as follows:

**517 TEACHER AND ADMINISTRATOR EDUCATOR PREPARATION PROGRAMS**

All teacher and administrator educator preparation programs shall be appropriately accredited by the National Council for Accreditation of Teacher Education (NCATE) or the Teacher Education Accreditation Council (TEAC) national accrediting body approved by the Mississippi Department of Education and meet all Mississippi Department of Education standards so program graduates may receive appropriate licensure from the Mississippi Department of Education.

(BT Minutes, 3/2008, 2/2018)

**STAFF RECOMMENDATION:** Board staff recommends approval of this item for final approval.
2. SYSTEM – APPROVAL FOR FINAL READING OF PROPOSED REVISION TO BOARD POLICY 600, SECTION 608 - INTERMEDIATE COURSES

Board approval for final reading is requested for a proposed amendment to Board Policy §600, Section 608 - INTERMEDIATE COURSES to clarify the name of high school courses offered and define ACT requirements for accepting course credit to bypass intermediate courses. Revisions to Board Policy §600, Section 608 are based on changes to State Board of Education policy approved in April 2017. SREB Math and Literacy Ready courses are now available to students who earn less than a 15 on the corresponding ACT sub-score. The State Board of Education has changed the name of the SREB courses for students with a minimum ACT sub-score of 15 to Essentials for College Math and Essentials for College Literacy. Additional revisions align board policy with current strategies to reduce time-to-degree and promote student success. Chief Academic Officers have reviewed and approved recommendations to amend Board Policy §600, Section 608 to read as follows:

608 INTERMEDIATE COURSES

A. All entering freshmen students admitted under Board Policy 602 enrolled at an IHL university with an ACT Mathematics subtest score of 16 or less will be required to take Intermediate Algebra Mathematics during their first semester of enrollment. At the discretion of the admitting IHL institution, students whose Mathematics subtest score is 17, 18 or 19 may be required to take Intermediate Algebra Mathematics. Students with a minimum ACT Mathematics subtest score of 15 who have completed the SREB Math Ready Mississippi Department of Education approved mathematics transitional course with a grade of “80” or higher regardless of ACT Mathematics subtest score will not be required to take Intermediate Algebra Mathematics and should be enrolled in a college-level mathematics course during their first semester of enrollment.

B. All entering freshmen students admitted under Board Policy 602 enrolled at an IHL university with an ACT English subtest score of 16 or less will be required to take Intermediate English during their first semester of enrollment. At the discretion of the admitting IHL institution, students whose English subtest score is 17, 18 or 19 may be required to take Intermediate English. Students with a minimum ACT English subtest score of 15 who have completed the SREB Literacy Ready Mississippi Department of Education approved literacy transitional course with a grade of “80” or higher regardless of ACT English subtest score will not be required to take Intermediate English and should be enrolled in a college-level English course during their first semester of enrollment.
C. All entering freshmen students admitted under Board Policy 602 enrolled at an IHL university with an ACT Reading subtest score of 16 or less will be required to take Intermediate Reading during their first semester of enrollment. At the discretion of the admitting IHL institution, students whose Reading subtest score is 17, 18 or 19 may be required to take Intermediate Reading. Students taking Intermediate Reading should not be permitted to take reading-intensive courses, such as History. Students with a minimum ACT Reading subtest score of 15 who have completed the SREB Literacy Ready Mississippi Department of Education approved literacy transitional course with a grade of “80” or higher regardless of ACT Reading subtest score will not be required to take Intermediate Reading.

D. Students taking two or more intermediate courses must enroll in the yearlong Academic Support Program or some other IHL-recognized intervention strategy to promote success in the courses in which they are not fully prepared, according to ACT subtest scores, and will not be permitted to take more than 17 semester hours.

E. Intermediate courses may be delivered through a corequisite model coupled with a credit bearing gateway course.

F. Regarding course placement using an ACT subtest score, exemptions to this policy based on prior high school course performance, postsecondary course performance, or other academic experiences must be approved by the institution’s Chief Academic Officer or designee.


STAFF RECOMMENDATION: Board staff recommends approval of this item for final approval.
1. **SYSTEM - APPROVAL FOR FIRST READING OF NEW BOARD POLICY 714 – ORIGINATION, EXPANSION, OR ACQUISITION OF BUSINESS OR HEALTHCARE ENTERPRISE**

**Agenda Item Request:** The following is submitted for consideration for first reading to be added to the Board’s Policy.

**Board Policy 714 - Origination, Expansion, or Acquisition of Business or Healthcare Enterprise.**

Prior to Board consideration of an institution’s request to acquire or engage in new or substantially expanded operations of a business or a healthcare facility, the institution shall promptly notify the Commissioner of such intent with sufficient time for the Commissioner to engage a Subject Matter Expert in the field of the project. Such operations may include, but are not limited to, any creation, expansion, or acquisition of a business or healthcare enterprise, business-type functions of institutional auxiliaries or proprietary operations, significant strategic financial initiatives of an institution, or material financial initiatives entered into by an institution. The institution will provide the Commissioner with sufficient information to allow a determination by the Commissioner as to the projected scope of the project and its projected impact on the revenues, expenses, and indebtedness of the institution. The Commissioner shall make a determination, upon consultation with the Board, whether the potential financial characteristics of the proposed project and the financial condition of the institution requires the appointment of a Subject Matter Expert to assist the Board. If the Commissioner determines that it is appropriate to retain a Subject Matter Expert, the Expert shall be engaged by the Board through the Commissioner and shall represent solely the interests of the Board in its capacity as the fiduciary of the state university system. The Subject Matter Expert shall meet such qualifications and perform other such services as may be prescribed by the Board or the Commissioner. The requesting institution shall reimburse the Board office for all expenses incurred related to the selection and engagement of the Subject Matter Expert. Payment of the Subject Matter Expert shall not be contingent on any outcome other than contractual performance as an impartial advisor. The Subject Matter Expert shall review the underlying business and market assumptions of the proposed project, evaluate historical financial information, consider current and future market conditions in the field of the project, evaluate pro forma financial information used in the decision-making process, and prepare a written analysis of these and other matters relevant for the Board’s consideration. The written analysis shall provide advice to the Board – which is independent of any advice provided by or to the institution -- as to the anticipated effect(s) of the proposed transaction and operations on the institution and the entire IHL system. The Subject Matter Expert shall make a determination, based on the analysis contained in the report, as to whether the proposed project justifies approval by the Board and explain the likely impacts and prudency of the proposed transaction.

**Staff Recommendation:** Board staff recommends approval of this item for first reading.
2. SYSTEM – APPROVAL FOR FIRST READING OF REVISION OF BOARD POLICY

906 – EDUCATIONAL BUILDING CORPORATIONS

Agenda Item Request: The following is submitted for consideration for first reading to be added to the Board’s Policy.

906 EDUCATIONAL BUILDING CORPORATIONS

Authority, Miss. Code Ann. Sections 37-101-61 and 37-101-63 (1972), as amended, grants the state institutions of higher learning the authority to form nonprofit corporations for the purpose of acquiring, or maintaining, equipping, improving or constructing facilities for use by the institution. These educational building corporations are granted the authority to issue bonds or other forms of debt obligations (if required for the type of debt to be issued) for the construction and renovation of facilities.

Financial Advisor. Prior to Board consideration of an institution’s request to issue debt of the educational building corporation for the construction, maintenance, equipping, acquisition, and renovation of facilities or to refinance outstanding debt, Board staff, in conjunction with institutional staff, must select a financial advisor(s) to represent the interests of the Board, the educational building corporation and the institution. The financial advisor(s) shall meet such qualifications and perform such services as may be prescribed by the institution, the Board or its staff. The Commissioner shall designate a financial advisor(s) to advise the Board with respect to the likely impacts and the prudency of the proposed transaction. The Financial Adviser will provide advice to the Board -- which is independent of the advice provided by the institution or the educational building corporation - as to the anticipated effect of the proposed transaction on the institution and the entire IHL system. The Commissioner will not approve use of a financial adviser with respect to a transaction if the proposed advisor has or has had substantial other relationships with the institution to the extent that would cause its judgment or independence to be questioned by a disinterested observer. The financial advisor(s) shall meet such qualifications and perform such services as may be prescribed by the Board, and the Board will periodically approve a list of possible firms to provide those services from which the Commissioner may select when the necessity arises.

Payment to the financial advisor(s) shall be made by the institution, or the institution’s educational building corporation, without regard for whether the Board approves the construction or renovation or whether the institution or
educational building corporation constructs the project, or in the case of refinancing, whether the debt is refinanced.

Financing Projects. Prior to Board consideration of an institution’s request to issue debt of the educational building corporation for the construction, maintenance, equipping, acquisition or renovation of facilities, the financial advisor must provide the Board with an independent analysis of the institution’s financial condition, to verify that proposed revenue stream(s) are sufficient to repay the debt service and to recommend the project’s viability. If the educational building corporation will issue commercial paper, the financial advisor shall also calculate an opinion of the breakeven interest rate to long term bonds to justify the use of commercial paper. The institution shall submit the report of the financial advisor(s) and the request for a project initiation to the Board for approval. The request must state the institution’s intent, justify the need for the project and give an estimate of the total construction budget. The request must also include naming the design professionals, bond counsel and senior underwriter(s) selected by the board of the educational building corporation.

Following the Board’s approval of the project initiation, the institution shall return to the Board at a subsequent meeting and present a resolution for Board approval granting permission for issuing bonds or other forms of debt obligations for the specific project. In no case shall the educational building corporation issue bonds or other forms of debt obligations without specific approval of the debt obligations from the Board for specific projects.

Refinancing or Defeasing of Outstanding Debt. Outstanding debt of the educational building corporation may be refinanced in accordance with the provisions of this policy. Prior to Board consideration of an institution’s request to issue debt of the educational building corporation to refinance outstanding debt of the institution or the educational building corporation, the financial advisor must provide the Board with an independent analysis showing potential net present value (NPV) savings based on current market conditions. The institution’s request must include naming the bond counsel and senior underwriter(s) selected by the board of the educational building corporation. After consideration of the financial advisor’s analysis and other factors that the Board deems material, the Board may approve the issuance of debt by the educational building corporation, in the discretion of the authorized representatives of the educational building corporation to refinance outstanding debt of the institution or the educational building corporation, which authorization may be conditioned on the specific level of NPV savings being achieved. Refinancing or defeasing of debt does not require a
subsequent meeting of the Board of Trustees provided the financial advisor has provided a report demonstrating adequate net present value savings and the bond resolution and form of bond documents have been presented to and approved by the Board.

Review and Approval of Documents. In connection with the issuance of debt for any purpose, the institution shall present a resolution for Board approval granting permission for issuing bonds or other forms of debt obligations and for approval of the following documents to which the Board will be a party: the lease, the ground lease, the preliminary official statement (if required for the type of debt to be issued), and the continuing disclosure agreement (if required for the type of debt to be issued). The resolution shall also authorize representatives of the Board to execute such documents. Prior to the approval of the resolution by the Board, the educational building corporation shall submit to the Board staff, for informational purposes only, the form of any documents that are to be entered into by the educational building corporation in connection with the issuance of bonds or other debt, but to which the Board is not a party.

Method of Sale. Unless the Board approves otherwise, obligations shall be offered and sold through a competitive sale process or, alternatively, on a negotiated basis to an underwriter, in the case of bonds, or a dealer, in the case of commercial paper.

Selection of Financial Institution Participants. Any selection of a financial institution to serve as trustee under a trust indenture, as escrow agent under an escrow agreement, or as a lender to an educational building corporation, either directly or through the purchase of obligations of the educational building corporation, shall be made by the educational building corporation in its sole discretion and shall not be subject to approval by the Board.

Continuing Disclosure Obligations. Securities and Exchange Commission Rule 15c2-12 generally provides that an underwriter cannot sell governmental bonds unless an “obligated person” with respect to the bonds enters into a “Continuing Disclosure Agreement” (CDA) agrees to submit annually audited financial statements of the obligated person and other information as set forth in the CDA and notices of specified material events. With respect to the issuance of bonds by educational building corporations, the Board is an “obligated person” and the CDA will typically require audited financial statements and operating data for the entire IHL system to be submitted annually, rather than information on individual institutions. The material events specified in the CDA also typically relate to the entire IHL system.
To facilitate uniformity, efficiency and timeliness in complying with the requirements of Rule 15c2-12 relating to bonds issued by an educational building corporation, the Board, rather than the educational building corporation, will enter into the CDA and undertake to provide the annual disclosures and material event notices. The Board will hire an independent agent to assist with compliance with its obligations under CDA(s), as well as, compliance by educational building corporations under CDA(s) entered into by educational building corporations prior to the adoption of this policy upon approval by the Board. The Board, and/or its dissemination agent, will also sign up for the EMMA tickler system reminders.


Staff Recommendation: Board staff recommends approval of this item for first reading.

3. **MSU – REQUEST TO APPROVE A LEASE AGREEMENT TO DEVELOP STUDENT HOUSING AT THE FORMER AIKEN VILLAGE SITE**

   **Agenda Item Request:** Mississippi State University requests Board authorization to enter into a long-term lease agreement with EDR College View MS, LLC. MSU also requests Board approval to modify the legal descriptions attached as Exhibits A and B following the completion of an updated survey.

   **Contractor’s Legal Name:** EDR College View MS, LLC

   **History of Contract:** Following Board approval in August of 2017, MSU entered into a predevelopment agreement with EDR. Since that time, EDR and MSU have worked together to refine the plans for the site, have developed construction documents, have negotiated the Lease and Sublease, and have finalized the budget and pro-forma.

   **Specific Type of Contract:** Lease

   **Purpose:** MSU and EDR plan to redevelop the former Aiken Village site into a mixed-use student housing project which will include over 1,600 beds of new student housing for upperclassmen and approximately 46,000 square feet of retail and commercial space. This development will be phased. Only Phase 1 is being presented for approval at this time. Phase 1 will include approximately 665 beds, the entire 46,000 square feet of retail and commercial space, and a 7,000 square foot addition to the existing childcare center (“The Project”). The University will lease the land to EDR for 40 years with a ten year option to renew as authorized by 2016 House Bill 884.

   **Scope of Work:**
Pursuant to this contract, EDR shall:

a. Demolish all existing structures on the property and assume responsibility for any hazardous material present;

b. Construct The Project to be completed by August of 2019 which includes obtaining all approvals, complying with all applicable laws, assuming responsibility for the jobsite, and paying all associated costs;

c. Seek LEED Silver certification of the Project upon substantial completion;

d. Assume all cost, expenses, and obligations of every kind relating to The Project;

e. Operate and maintain The Project in a first class manner consistent with industry standards;

f. Maintain a Replacement Reserve of $200 per bed escalating 3% annually to be used for improvements and repairs, however, any work needed in excess of this reserve shall be the responsibility of EDR;

g. Indemnify MSU from and against any claim arising from the construction or operation of The Project and keep The Project insured at all times with minimum limits as set forth in the Lease;

h. Pay all taxes when due;

i. Not assign or sublet the Lease for 5 years following Substantial Completion. If EDR desires to assign or sublease the Lease, it must be done to a Qualified Assignee in accordance with the Lease provisions.

j. Restore The Project if damaged by fire or otherwise. If the Lease is in its last 2 years, however, EDR may choose to either restore or remit to MSU the remaining reserve funds and any insurance proceeds.

MSU shall:

a. Lease the land while retaining any mineral or other subsurface rights;

b. Cooperate with EDR to grant any necessary easements or licenses required for The Project on adjacent property;

c. Promptly respond to requests for modification to the approved plans;
d. Not increase the number of beds on campus without engaging a third party to conduct an analysis of the need for additional University-owned student housing;

e. Reduce base rent and percentage rent should the tax exemption for the housing portion be repealed by the Legislature at some point in the future; and

f. Be responsible for up to $500,000 for roadway improvements if state or local grants or funding is not available to cover such costs.

Rent:

a. Base Rent – 5% of the Gross Revenue for each fiscal year payable on the 20th day of each month. This shall include all revenue and income generated of any kind less bad debt expense accounted for on a GAAP basis. Gross Revenue, however, shall not include revenue from percentage rent income paid by Commercial Tenants for food and alcohol sales. In order to enter into such a sublease with a Commercial Tenant, MSU must give prior approval.

b. Additional Percentage Rent – In addition to the Base Rent, for each fiscal year in which EDR’s internal rate of return is equal to or above 10%, MSU shall receive 25% of the net income that exceeds the 10% internal rate of return.

First Right of Refusal: Should EDR get an offer from a Qualified Assignee to purchase The Project, MSU shall have the first right of refusal.

Term of Contract: To begin upon execution and expire on the 40th anniversary if not extended. If extended, the term shall last for an additional 10 years. To extend, EDR shall give notice to MSU of their intent to extend during the 38th year of the Lease.

Termination Options:

Default – There are a number of events of default in the contract including, but not limited to, EDR not completing The Project by July 31, 2020, EDR’s failure to pay rent, and EDR’s failure to comply with any term of the Lease after a 30 day cure period. MSU’s events of default include, among others, ceasing to operate as a four-year degree educational institution, losing accreditation, filing bankruptcy, etc.

If an event of default should occur, the parties shall first attempt to resolve the default by negotiating with one another, second engage in mediation, and third pursue any action at law. In addition, should EDR be in default, MSU may terminate the Lease upon payment to EDR of the appraised value of The Project. Should MSU be in default for specific events, EDR may treat the default as an early termination which
would entitle EDR to the Early Termination Fee. The calculation of this fee is included in the Lease.

**Early Termination** - MSU shall have the option to terminate on the 20th anniversary and every 5 years thereafter by paying the Early Termination Fee.

**Contract Amount:** The attached pro forma demonstrates the estimated financial implications of The Project.

**Funding Source for Contract:** Internal

**Contractor Selection Process:** MSU issued a request for proposals in December of 2016 seeking a partner to redevelop the former Aiken Village site into a mixed-use development with a focus on student housing, retail, restaurants, and other associated amenities. After interviewing 3 respondents, conducting due diligence on all of the respondents, and engaging in extensive negotiations, MSU selected EDR.

**Staff Recommendation:** Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of leases in an amount greater than $100,000. The agreement has been reviewed and approval by the Attorney General’s Office. Board staff recommends approval of this item.

4. **MSU – REQUEST TO APPROVE A SUBLEASE AGREEMENT FOR A CHILDCARE FACILITY AT THE FORMER AIKEN VILLAGE SITE**

**Agenda Item Request:** Mississippi State University requests Board authorization to enter into a long-term sublease agreement with **EDR College View MS, LLC**. MSU also requests approval to modify the legal descriptions attached as Exhibits A and B following the completion of an updated survey.

**Contractor’s Legal Name:** EDR College View MS, LLC

**History of Contract:** Following Board approval in August of 2017, MSU entered into a predevelopment agreement with EDR. Since that time, EDR and MSU have worked together to refine the plans for the site, have developed construction documents, have negotiated the Lease and Sublease, and have finalized the budget and pro-forma.

**Specific Type of Contract:** Sublease

**Purpose:** MSU and EDR plan to redevelop the former Aiken Village site into a mixed-use student housing project which will include over 1,600 beds of new student housing for upperclassmen and approximately 46,000 square feet of retail and commercial space. This development will be phased. Only Phase 1 is being presented for approval at this time. Phase 1 will include approximately 665 beds, the entire 46,000 square feet of retail and
commercial space, and a 7,000 square foot addition to the existing childcare center (“The Project”). The University will lease the land to EDR for 40 years with a ten year option to renew as authorized by 2016 House Bill 884. The University will then sublease the approximately 7,000 square foot addition to the existing childcare center back from EDR.

**Scope of Work:**

Pursuant to this contract, EDR shall:

- k. Deliver the childcare facility on or before July 31, 2019;
- l. Provide MSU with an allowance of up to $350,000 to be used at MSU’s discretion for furniture, fixtures, and equipment for the facility;
- m. Maintain the exterior of the facility in a first class condition as required in the Lease and promptly make any necessary repairs;
- n. Keep the facility insured as required in the Lease; and
- o. Rebuild or repair the facility in the event of fire or other casualty.

MSU shall:

- g. Pay rent in the amount of $18.00 per square foot which shall increase by 10% each fifth anniversary of the Commencement Date;
- h. Pay all utilities;
- i. Use the facility solely for permitted purposes;
- j. Maintain the interior of the facility in good condition;
- k. Not make alterations to the facility without prior approval from EDR unless such alterations are minor in nature; and
- l. Maintain IHL’s current insurance coverage limits on the facility.

**Term of Contract:** To begin upon delivery of the childcare facility and extend for the duration of the Ground Lease.
Termination Options:

Default – If either party fails to perform any obligation after a 30-day cure period, that party shall be in default. If an event of default should occur, the parties shall first attempt to resolve the default by negotiating with one another, second engage in mediation, and third pursue any action at law.

Contract Amount: The attached pro forma demonstrates the estimated financial implications of The Project.

Funding Source for Contract: Internal

Contractor Selection Process: MSU issued a request for proposals in December of 2016 seeking a partner to redevelop the former Aiken Village site into a mixed-use development with a focus on student housing, retail, restaurants, and other associated amenities. After interviewing 3 respondents, conducting due diligence on all of the respondents, and engaging in extensive negotiations, MSU selected EDR.

Staff Recommendation: Based on Board Policy 707.01, Land, Property and Service Contracts, Board approval is required prior to execution of leases in an amount greater than $100,000. The agreement has been reviewed and approval by the Attorney General’s Office. Board staff recommends approval of this item.

5. MSU – REQUEST FOR APPROVAL OF A RESOLUTION REGARDING ACCESS TO CLASSIFIED CONTRACT INFORMATION UNDER THE REQUIREMENTS OF THE NATIONAL INDUSTRIAL SECURITY PROGRAM

Agenda Item Request: Pursuant of the Department of Defense Regulations, Mississippi State University (MSU) is requesting approval of a Resolution that 1) requires certain present and future MSU officers both meet the requirements for eligibility for access to classified information and be processed for Personnel Security Clearance; and 2) permits formal exclusion of members of the IHL Board and Commissioner from both access to classified information disclosed to MSU and from processing for Personnel Security Clearance.

Upon approval of the proposed Resolution, MSU will be in adherence to the Department of Defense National Industrial Security Program (NISP) for having a Facility Security Clearance (FCL). Having the FCL designation makes MSU eligible for contracts from the Department of Defense, Department of Homeland Security, Nuclear Regulatory Commission, NASA and other agencies under the National Industrial Security Program (NISP). NISP was established by Executive Order in 1993 for the protection of classified information, and is applicable to all cleared contractor facilities, including MSU. With the FCL status, MSU’s classified activities will be governed by the provisions of the National Industrial Security Program Operating Manual (NISPOM), which prescribes the
requirements, restrictions and other safeguards to prevent unauthorized disclosure of classified information.

The resolution follows below.

**Mississippi Institutions of Higher Learning**

*Exclusion Resolution for Certain Trustees and Officers*

I, Dr. Glenn F. Boyce, do hereby certify that I am the Commissioner of the Mississippi Institutions of Higher Learning (IHL), a State agency, organized and existing under the laws of the State of Mississippi, and that the following is a true and correct copy of a resolution adopted by the Board of Trustees, at a meeting held in Jackson, Mississippi, on February 15, 2018, at which time a quorum was present.

WHEREAS, Mississippi State University possesses a Facility Security Clearance through the National Industrial Security Program; and

WHEREAS, the Commissioner of the State Institutions of Higher Learning and the members of the Board of Trustees of the State Institutions of Higher Learning may be excluded from the Personnel Security Clearance requirements of the National Industrial Security Program; and

WHEREAS, current Department of Defense Regulations contain a provision making it mandatory that the Chairman of Board, Senior Management Official and Facility Security Officer meet the requirements for eligibility for access to classified information established for a contractor facility security clearance; and

WHEREAS, said Department of Defense Regulations permit the exclusion from the personnel of the requirements for access to classified information of certain members of the Board of Trustees and other officers, provided this action in recorded in the Board minutes.

NOW THEREFORE BE IT RESOLVED that the President, Vice President for Research and Economic Development, Associate Vice President; designated Senior Management Official(s); and the Facility Security Officer at Mississippi State University at the present time do possess, or will be processed for, the required eligibility for access to classified information; and

BE IT RESOLVED that in the future, when any individual enters upon any duties as the President, Vice President for Research and Economic Development, Associate Vice President for Research; designated Senior Management Official(s) and the Facility Security
Officer, such individual(s) shall immediately make application for the required eligibility for access to classified information; and

**BE IT RESOLVED AND DIRECTED** that the following members of the Board of Trustees and other officers or members shall not require, shall not have, and can be effectively and formally excluded from access to all CLASSIFIED information disclosed to the university and shall not affect adversely university policies or practices in the performance of classified contacts for the Department of Defense or User Agencies of the National Industrial Security Program, awarded to Mississippi State University and need not be processed for Personnel Security Clearance.

<table>
<thead>
<tr>
<th>NAME</th>
<th>TITLE</th>
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</thead>
<tbody>
<tr>
<td>1. Glenn F. Boyce</td>
<td>Commissioner, Mississippi IHL</td>
</tr>
<tr>
<td>2. C. D. Smith, Jr.</td>
<td>President/ Board Member, Mississippi IHL</td>
</tr>
<tr>
<td>3. Shane Hooper</td>
<td>Vice President &amp; Board Member, Mississippi IHL</td>
</tr>
<tr>
<td>4. Tom Duff</td>
<td>Board Member/Trustee, Mississippi IHL</td>
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<td>5. Ford Dye</td>
<td>Board Member/Trustee, Mississippi IHL</td>
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<td>6. Ann H. Lamar</td>
<td>Board Member/Trustee, Mississippi IHL</td>
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<td>7. Alfred E. McNair, Jr.</td>
<td>Board Member/Trustee, Mississippi IHL</td>
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<td>8. Chip Morgan</td>
<td>Board Member/Trustee, Mississippi IHL</td>
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<td>9. Hal Parker</td>
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<td>10. Alan W. Perry</td>
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<td>11. Christy Pickering</td>
<td>Board Member/Trustee, Mississippi IHL</td>
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<td>12. Doug W. Rouse</td>
<td>Board Member/Trustee, Mississippi IHL</td>
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<tr>
<td>13. J. Walt Starr</td>
<td>Board Member/Trustee, Mississippi IHL</td>
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**IN WITNESS WHEREOF,** I have hereunto set my hand and affixed the seal of the Mississippi Institutions of Higher Learning, _______ 2018.

________________________________________
Dr. Glenn F. Boyce, Commissioner
Mississippi IHL College Board of Trustees
Signature

**Staff Recommendation:** The Resolution has been reviewed by the Attorney General’s Office and is recommended for consideration by the Board. Board staff recommends Board consideration.
Note: Project numbers beginning with the prefix "GS" designate projects that the Bureau of Building provides management oversight for and are funded partially or wholly with state Bureau of Building bond revenues. Project numbers beginning with the prefix "IHL" designate projects that are funded from university self-generated sources including but not limited to donations, fees, and grants.

Board Policy §904(A), Board Approval

When funding has been secured from whatever source, each institution shall bring all new projects to the Board for the approval of the project initiation and the appointment of a design professional, as required in Board Policy §902, Initiation of Construction Projects. This request shall include a detailed description of the work to be accomplished, the total budget, the funding source and the design professional recommended to the Board for approval.

After the Board has granted approval of both the initiation of a project and the appointment of a design professional, no further Board action or approval is required for the completion of the project if the following conditions are met:

1. The detailed description of the work to be accomplished, as specifically approved by the Board within the project initiation, has not changed.
2. The total project budget has not increased beyond the amount specifically approved by the Board as part of the project initiation;
3. The funding source has not changed from that specifically approved by the Board as part of the project initiation; and
4. The design professional previously approved by the Board has not changed.

If the above four conditions have been met, the Board’s Real Estate and Facilities staff, through the Commissioner, shall have the authority to approve any and all necessary documents related to the completion of the subject construction project, including the approval of construction documents, the advertisement and receipt of bids, the approval of a bid, the award of a contract and any change orders.

Prior to the commencement of construction, the Board must approve the exterior design of the major buildings that have aesthetic impact on the overall campus, regardless of the cost of the project. This requirement applies to all buildings and facilities on an institution’s property even if the land is leased to an institution’s affiliated entity or a private developer.
APPROVAL OF BUDGET MODIFICATIONS AND/OR CHANGES OF SCOPE/FUNDING SOURCE(S) / APPROVAL OF EXTERIOR DESIGN

IHL PROJECTS .................................................................

1. MSU – 305-386 – P3 College View Project – Approval of Exterior Design

**Project Request:** Mississippi State University requests approval of the exterior design for the P3 College View project. *(See Rendering on Pages 3-4)*

**Project Phase:** Design

**Design Professional:** McCarty Architects

**General Contractor:** TBD

**Purpose:** Mississippi State University is seeking approval of the exterior rendering for the P3 College View project as required by board policy. This is a Public-Private Partnership project (P3).

**Project Scope:** The project is composed of a mixed-use collegiate housing project to be known as College View that will include approximately 665 beds and 50,000 GSF of retail and commercial space, plus preschool/daycare with associated amenities to be agreed upon by the parties located on certain real property owned by the University with an anticipated completion date of August 2019.

Mississippi State University is acting in accordance with Board Policy §904(A), Board Approval, that requires the Board to approve the exterior design of the major buildings that have aesthetic impact on the overall campus, regardless of the cost of the project.

**Staff Recommendation:** Board staff recommends approval of this item.
Rendering 1 (Residential):

Rendering 2 (Residential and Commercial):
Rendering 3 (Preschool/Daycare):
1. **UM – APPROVAL TO SETTLE IHL SELF-INSURED WORKERS’ COMPENSATION CLAIM**

The IHL Self-Insured Workers’ Compensation Program is seeking Board approval for settlement of Claim No. 55-14019-1 at the University of Mississippi.
1. **SYSTEM – DISCUSSION OF THE ELECTION OF VICE PRESIDENT OF THE BOARD OF TRUSTEES FOR THE TERM BEGINNING MAY 8, 2018**

At its January 22, 2015 meeting, the Board voted unanimously to temporarily suspend the presidential term length requirements set forth in Board Bylaw 301.01 Officers of the Board pursuant to Bylaw 301.0510 Meeting Rules of Order subsection (d) Motion to Suspend Policies, Bylaws or Rules and to approve the presidential term lengths of one year each for the trustees elected to serve as president of the Board for the two terms following that of Trustee Alan Perry.

Trustee Doug Rouse served as president for a one-year term ending May 7, 2017. Trustee C.D. Smith’s one-year term as president ends May 7, 2018. Vice President Shane Hooper automatically succeeds to the office of Board President on May 8, 2018 for a term of nine months in accordance with Bylaw 301.01 Officers of the Board unless the Board chooses otherwise.

Pursuant to Board Policy 301.02 Election of Officers, a new Vice President of the Board shall be elected to take office on May 8, 2018 unless the Board chooses to postpone the election. Applicable Board policies regarding the terms of officers and the election of officers are shown below:

### 301.01 OFFICERS OF THE BOARD

A. **PRESIDENT:**

There shall be a president elected by the Board from its membership. It is expected that each member of a class of Trustees shall be elected to serve as President, unless a Trustee elects not to serve. A class of Trustees shall consist of those Trustees who take office on the same date, or those whose terms as trustees end on the same date. Each member of the class of Trustees that took office as of May 2004 shall serve eleven months as president, unless he/she elects not to serve. The first Trustee elected as President from the class of Trustees that took office in 2004 shall begin his/her presidential term on May 1, 2011. Each member of the class of Trustees that took office as of May 2008 shall serve ten months as president, unless he/she elects not to serve. Each member of the class of Trustees that shall take office as of May 2012, as well as the members of all subsequent classes, shall serve nine months as president, unless he/she elects not to serve. If a member of a class of Trustees elects not to serve, another member of the class may serve more than one term, if elected. The president of the Board shall preside at all meetings of the Board; he or she shall be an ex officio member of all standing and special committees; he or she shall, with the Commissioner, execute such instruments and contracts as may be ordered by the Board; he or she shall perform such duties as usually pertain to this office and such
other duties as may be assigned by the Board; and he or she shall be governed in his action by the usual parliamentary procedure. When the presiding officer has voted and the result is a tie, he cannot vote again to break the tie. The president of the Board may not immediately succeed himself/herself as president after having served a full term.

B. VICE PRESIDENT:
There shall be a vice president elected by the Board from its membership. A vice president shall serve until completion of the term of the president that the vice president will succeed. The vice president shall preside at meetings of the Board in the absence or disability of the president.

The vice president of the Board shall automatically succeed to the office of president after having served a term as vice president.

The vice president shall become president upon the resignation, removal, death or incapacity of the president.

301.02 ELECTION OF OFFICERS
The Board of Trustees shall elect its officers at the meeting of the Board held three months before new officers are to take office, unless no meeting is held during that month. However, the Board may vote, if it so chooses, to hold the election of officers at another meeting of the Board.
Information

Agendas
1. SYSTEM – 2018 HEADWAE HONOREES
The Higher Education Appreciation Day, Working for Academic Excellence (HEADWAE) was established by the Mississippi Legislature to honor academically talented students and faculty members of Mississippi's higher education institutions who have made outstanding contributions in promoting academic excellence. The HEADWAE recipients will be honored on February 20, 2018 at the Jackson Marriott, where Governor Phil Bryant will be the guest speaker. System honorees for 2018 are listed below.

<table>
<thead>
<tr>
<th>INSTITUTION</th>
<th>STUDENT HONOREE</th>
<th>FACULTY HONOREE</th>
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<tbody>
<tr>
<td>ASU</td>
<td>Kevin Westley Washington</td>
<td>Benedict Udemgba</td>
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<tr>
<td>DSU</td>
<td>Ashley Dominique Griffin</td>
<td>Emily Annette Newman</td>
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<tr>
<td>JSU</td>
<td>Harrison Rhodes Watson</td>
<td>Lin Li</td>
</tr>
<tr>
<td>MSU</td>
<td>Tyler McMurray</td>
<td>Brent Jonathan Fountain</td>
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<tr>
<td>MUW</td>
<td>Lisa Shrestha</td>
<td>Erin M. Kempker</td>
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<tr>
<td>MVSU</td>
<td>Henry Tobechukwu Akaeze</td>
<td>Candace Carter Stevens</td>
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<tr>
<td>UM</td>
<td>Dion Armstrong Kevin III</td>
<td>John M. Rimoldi</td>
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<tr>
<td>UMMC</td>
<td>James Robert Ware II</td>
<td>Mary (Molly) McCaffery Moore</td>
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<tr>
<td>USM</td>
<td>Caroline Bradley</td>
<td>Kelly Ferris Lester</td>
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2. SYSTEM – 2017 ANNUAL PERFORMANCE REPORT FOR MISSISSIPPI EDUCATOR PREPARATION PROGRAMS

<table>
<thead>
<tr>
<th>TEACHER EDUCATION PROGRAM</th>
<th>ASU</th>
<th>DSU</th>
<th>JSU</th>
<th>MSU</th>
<th>MUW</th>
<th>MVSU</th>
<th>UM</th>
<th>USM</th>
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<tbody>
<tr>
<td>2016-17 Program Completers Traditional/Alternate Route</td>
<td>12/11</td>
<td>70/9</td>
<td>20/29</td>
<td>231/66</td>
<td>24</td>
<td>3/17</td>
<td>248/28</td>
<td>250/14</td>
</tr>
</tbody>
</table>

Total Program Completers 2016-2017: 999
Traditional: 865
Alternate Route: 134
3. SYSTEM – NEW CERTIFICATE PROGRAMS

a. Alcorn State University – Global Perspectives Certificate
   The Global Perspectives Certificate is a non-degree multidisciplinary Global Studies program to add value to the student’s undergraduate major of study. The program is expected to integrate global competence into the students’ disciplinary training. Program completers are expected to enhance their competitiveness in the job market, especially positions in the foreign service or other positions requiring global competency skills. The program targets all majors, but specifically students majoring in Agriculture, Business, Political Science, History, and the STEM disciplines.

b. Mississippi State University – Graduate Certificate in Clinical Health Promotion
   This program is designed to train wellness coaches to perform clinical health promotion and fill jobs in medical offices in the state through an initiative to improve health outcomes in the states. Students can also continue in completion of the Master of Science in Health Promotion.

c. University of Southern Mississippi – Apparel Construction and Design Certificate
   This certificate provides students with the education needed to begin a career in a field related to apparel design. The Apparel Construction and Design Certificate is open to all majors and members of the community that have an interest in developing their apparel construction and design skills.

d. University of Southern Mississippi – The Leadership Experience Certificate
   Students who successfully complete The Leadership Experience Certificate program will be able to (1) demonstrate knowledge and understanding of leadership foundational theories and their day-to-day application; (2) develop a sense of self-awareness by creating a personal leadership philosophy and vision for their continued development as a leader; (3) show an increased awareness and commitment towards effective citizenship and social responsibility.

e. University of Southern Mississippi – Unmanned Marine Systems Certificate
   This course will provide students with a working knowledge on the operation of a variety of autonomous marine survey vehicles and to help them to understand the environment in which vehicles operate and how that environment factors into decisions and mission planning. Students will learn foundational material upon which to build more detailed training on specific platforms, including UUVs (Unmanned Undersea Vehicles including powered vehicles as well as gliders) and USVs (Unmanned Surface Vehicles).
1. **UMMC- NOTICE OF AMENDMENT TO EXHIBIT H OF TO THE MASTER LEASE AGREEMENT WITH JACKSON MEDICAL MALL FOUNDATION**

On November 18, 2010, the Board approved the Master Lease between UMMC and the Jackson Medical Mall Foundation (JMMF). On October 20, 2016, the Board approved UMMC’s request to amend Exhibit H to the Master Lease as needed for construction allowances, rent rate adjustments, or the addition of space without prior Board approval up to the previously approved total lease cost. In January 2018, UMMC and JMMF amended Exhibit H to the Master Lease to for construction allowances to existing leased space. No other term and conditions of the Master Lease were changed.
SYSTEM: REAL ESTATE ITEMS APPROVED SUBSEQUENT TO THE January 18, 2018 BOARD MEETING SUBMISSION DEADLINE

NOTE: THE FOLLOWING ITEMS WERE APPROVED BY THE BOARD'S REAL ESTATE AND FACILITIES STAFF ACCORDING TO BOARD POLICY §904 (A) BOARD APPROVAL WHICH STATES:

Board Policy §904(A), Board Approval

When funding has been secured from whatever source, each institution shall bring all new projects to the Board for the approval of the project initiation and the appointment of a design professional, as required in Board Policy §902, Initiation of Construction Projects. This request shall include a detailed description of the work to be accomplished, the total budget, the funding source and the design professional recommended to the Board for approval.

After the Board has granted approval of both the initiation of a project and the appointment of a design professional, no further Board action or approval is required for the completion of the project if the following conditions are met:

1. The detailed description of the work to be accomplished, as specifically approved by the Board within the project initiation, has not changed.
2. The total project budget has not increased beyond the amount specifically approved by the Board as part of the project initiation;
3. The funding source has not changed from that specifically approved by the Board as part of the project initiation; and
4. The design professional previously approved by the Board has not changed.

If the above four conditions have been met, the Board’s Real Estate and Facilities staff, through the Commissioner, shall have the authority to approve any and all necessary documents related to the completion of the subject construction project, including the approval of construction documents, the advertisement and receipt of bids, the approval of a bid, the award of a contract and any change orders.

Change Order Approval Note: No change orders approved by Board staff, as reflected within any of the following informational agenda items, increase the Board approved total project budget. The total project budget as approved by the Board provides for a contingency fund, which allows for an increase in the construction budget of between five and ten percent. Any increase in the total project budget caused by a change order, would require Board approval and could not be approved by Board staff until the budget increase is approved by the Board.
DELA STATE UNIVERSITY

1. DSU– GS 102-260 – Zeigel Hall Renovation

NOTE: This is a Bureau of Building project

Approval Request #1 (INTERIM): In accordance with Board Policy §904 (B) Board Approval, Interim Chair Approval was granted by Mr. Hal Parker, Chair of the Real Estate and Facilities Committee on January 12, 2018 to approve the budget increase from $6,292,500.00 to $6,365,377.11, for an increase of $72,877.11.

Interim Approval Status & Date: APPROVED, January 12, 2018

Project Initiation Date: October 16, 2014
Design Professional: Architecture South, P.A.
General Contractor: Roy Collins Construction Co., Inc.
Total Project Budget: $6,365,377.11

JACKSON STATE UNIVERSITY

2. JSU– GS 103-281 – Alexander Center Renovations PH II (Elevator Replacement)

NOTE: This is a Bureau of Building project

Approval Request #1: Change Order #1

Board staff approved Change Order #1 in the amount of $40,800.00 and zero (0) additional days to the contract of Fountain Construction Company, Inc. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.

Approval Status & Date: APPROVED, December 11, 2017

Change Order Description: Change Order #1 includes the following items: replace the deteriorated elevator bottom platforms on cars #3 and #4.

Change Order Justification: This change was necessary due to the deterioration of the bottom platforms of cars #3 and #4.

Project Initiation Date: February 18, 2016
3. **JSU– GS 103-281 – Alexander Center Renovation-Phase III**

   **NOTE:** This is a Bureau of Building project

   **Approval Request #1: Change Order #4**

   Board staff approved Change Order #4 in the amount of $4,500.00 and zero (0) additional days to the contract of Sullivan Enterprises, Inc. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.

   **Approval Status & Date:** APPROVED, December 11, 2017

   **Change Order Description:** Change Order #4 includes the following items: add asphalt in-fill along the curb on the north side of the parking lot.

   **Change Order Justification:** This change was necessary so vehicle tires would not drop into the gap when parallel parking.

   **Total Project Change Orders and Amount:** Four (4) change orders for a total amount of $136,145.75.

   **Project Initiation Date:** February 18, 2016
   **Design Professional:** Foil Wyatt Architects & Planners, PLLC
   **General Contractor:** Sullivan Enterprises, Inc.
   **Total Project Budget:** $2,018,827.06
MISSISSIPPI STATE UNIVERSITY

4. MSU – GS 113-141 – ADS & Poultry Complex Phase I

NOTE: This is a Bureau of Building project

Approval Request #1: Change Order #1

Board staff approved Change Order #1 in the amount of $22,245.60 and twenty-nine (29) additional days to the contract of Century Construction & Realty, Inc. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.

Approval Status & Date: APPROVED, January 10, 2018

Change Order Description: Change Order #1 includes the following items: the trench was revised for the new communication line along Blackjack Road that was bored; provided a battery backup for the elevator; and twenty-nine (29) days to the contract.

Change Order Justification: This change was necessary to avoid congestions of the other existing underground utilities; user/owner requested modifications; and days for work as indicated herein.

Total Project Change Orders and Amount: One (1) change order for a total amount of $22,245.60

Project Initiation Date: February 18, 2016
Design Professional: McCarty Architects, P.A.
General Contractor: Century Construction & Realty, Inc.
Phased Project Budget: $14,500,000.00
Total Project Budget: $27,500,000.00

5. MSU – IHL 205-278 – MSU nSPARC Data Center

Approval Request #1: Change Order #5

Board staff approved Change Order #5 in the amount of $2,070.43 and nine (9) additional days to the contract of Burks_Mordecai Builders, Inc.

Approval Status & Date: APPROVED, December 13, 2017
Change Order Description: Change Order #5 includes the following items: installation of two (2) circuit breakers & a migrate panel; credit for a hydrant not relocated; and nine (9) days to the contract.

Change Order Justification: These changes were necessary to replace two (2) circuit breakers incorrectly sized; user/owner requested the electrical panel be serviced by the generator during a power outage; and weather delays for work as indicated herein.

Approval Request #2: Change Order #6

Board staff approved Change Order #6 in the amount of $0 and six (6) additional days to the contract of Burks_Mordecai Builders, Inc.

Approval Status & Date: APPROVED, December 18, 2017

Change Order Description: Change Order #6 includes the following item: reconciliation for six (6) weather related days.

Change Order Justification: This change was due to the contractor not receiving full credit for delays due to inclement weather as indicated herein.

Total Project Change Orders and Amount: Six (6) change orders for a total amount of $336,623.72.

Project Initiation Date: November 20, 2014
Design Professional: Dale Partners Architects, P.A.
General Contractor: Burks_Mordecai Builders, Inc.
Total Project Budget: $4,650,000.00

6. MSU–IHL 205-279 – Addition & Renovation to Dudy Noble Field

Approval Request #1: Change Order #3

Board staff approved Change Order #3 in the amount of $869,249.16 and zero (0) additional days to the contract of Jesco, Inc.

Approval Status & Date: APPROVED, December 11, 2017

Change Order Description: Change Order #3 includes the following items: revision of steel connections at the plaza trusses; SPC stair installed in lieu of a steel stair; post-installed plates & anchors for precast support were added and an additional expansion
joint; earthwork for future left field lofts; revised seating well behind home plate; underground plumbing for future field level clubhouse; communications revisions; revised duct bank routing to hump; additional conduit to hump for AT&T; fiber optic cable run to Templeton Fieldhouse; conduit run from MDF to ex’g outfield hand hole; fiber optic cable to Hump & equipment for truck connection; irrigation feed for field; revised grades, gates & drainage at home plate seating well; structural steel roof detail changes; structural detail changes at the view level stair; site utility revisions; add a fire hydrant; omit two (2) insertion valves at Lakeview Drive; omit a sanitary sewer pipe from ss-5 for future left field building; revisions to center field building; elevation changes & an additional gate; pedestrian friendly grating for storm drain inlet; relocate right field foul pole to Bulldog Plaza; sheet metal dam for outfield fence erosion control; lower the front boardwalk; installation of higher fence pads & a hose bib at CF building; field modifications; training room revisions; concrete walls & fill for void at ramp; storm drain revisions; concrete headwall added; additional drains & scuppers at the existing seating wall; wall demo to accommodate right field berm re-design; decorative paver blockout at right field plaza; turn down at right field plaza ramp; cast-in-place concrete header at the field tunnels; incised lettering in home plate entry architectural precast concrete; black anodized finish for the flag pole in lieu of bronze; omit S2 lights at the two (2) deleted flag poles; saw cut pile cap at the right field plaza; high performance paint applied on the tension poles; composite wood decking to cover the face of the concrete wall that is visible above the boardwalk; floor sinks for soda fountains in the field clubhouse; revisions to the storm drain to accommodate a modular block wall design for the future left field lofts pad to include lowering 25’ of installed water lines & replacing the installed storm drain; relocated the precast aisle stair to create a section of two (2) seats between the aisle and the concrete end wall.

Change Order Justification: These changes were due to changes in requirements or recommendations by governmental agencies; errors and omissions in the plans and specifications; latent job site conditions; and user/owner requested modifications.

Approval Request #2: Change Order #4

Board staff approved Change Order #4 in the amount of $280,325.47 and zero (0) additional days to the contract of Jesco, Inc.

Approval Status & Date: APPROVED, January 10, 2018

Change Order Description: Change Order #4 includes the following items: dimensional revision to the foundation walls in an area; revisions to the tarp enclosure; installation of motorized doors in lieu of manual doors; shop paint finish at center field batter’s eye building; increased the size of the field wall cast stone cap; additional concrete added to
fill voids at the field tunnel walls that were cut through existing stadium walls; re-detailling of area B&D columns; revisions to sub roof system; revisions to right field berm; provide a permanent roof over the MDF room in lieu of a sub-roof; revisions to inlet A19; added studio baling & junction boxes at the field walls and concourse entrance; added stainless steel covers for the high traffic area expansion joints at the main concourse; revisions made to the gravity retaining wall beyond the outfield to accommodate the revised storm drainage; to provide sod and trees; revised A1&B1 sports lighting circuits from the west main concourse electrical room to the main electrical room; to apply a darker stain for the wood team lockers and a simpler design for the pro-umpire lockers; extending the outfield piers & revising the grading in the right-center field.

Change Order Justification: These changes are due to errors & omissions in the plans and specifications; latent job site conditions and user/owner requested modifications.

Total Project Change Orders and Amount: Four (4) change orders for a total amount of $727,048.19.

Project Initiation Date: May 21, 2015
Design Professional: Wier Boerner Allin Architects, PLLC
General Contractor: Jesco, Inc.
Total Project Budget: $55,000,000.00


Approval Request #1: Approval of Schematic Design Documents

Board staff approved the Schematic Design Documents as submitted by Garver, LLC.

Approval Status & Date: APPROVED, January 10, 2018

Approval Request #2: Waiver of Design Development Documents

Board staff approved the Waiver of Design Development Documents as submitted by Garver, LLC.

Approval Status & Date: APPROVED, January 10, 2018

Project Initiation Date: August 17, 2017
Design Professional: Garver, LLC
MISSISSIPPI VALLEY STATE UNIVERSITY

8. MVSU – GS 106-253 – College Hall I Renovation

NOTE: This is a Bureau of Building project

Approval Request #1 (INTERIM): In accordance with Board Policy §904 (B) Board Approval, Interim Chair Approval was granted by Mr. Hal Parker, Chair of the Real Estate and Facilities Committee on December 6, 2017 to approve the budget increase from $7,250,000.00 to $9,250,000.00, an increase of $2,000,000.00.

Interim Approval Status & Date: APPROVED, December 6, 2017

Project Initiation Date: May 15, 2014
Design Professional: Pryor & Morrow Architects & Engineers
General Contractor: TBD
Total Project Budget: $9,250,000.00

UNIVERSITY OF MISSISSIPPI

9. UM– GS 107-308 – Union Addition & Renovation

NOTE: This is a Bureau of Building project

Approval Request #1: Change Order #11

Board staff approved Change Order #11 in the amount of $148,110.00 and zero (0) additional days to the contract of Roy Anderson Corporation. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.

Approval Status & Date: APPROVED, December 15, 2017

Change Order Description: Change Order #11 includes the following items: added wind load clips at phase 3 level 3 curtain wall units at the south elevation; added sill trim with
mineral wool stuffing and firecaulk at the slab edge; demolished the existing concrete wall on level 3 between phase 3 columns and installed a channel; revisions made to the fire water service including reconfiguring the piping, adding a double back check valve and Siamese connection; adding PIV at the building and eliminating the Siamese connection at the road; providing a fire alarm monitoring system including a Bosch dialer; demolished and re-installed a concrete masonry unit and slab at the bathroom in the phase 3 basement; furnished power and data outlets for added Kronos time clocks; added cast-in-place stairs and installed handrails; installed a curtainwall steel support at line K; added three (3) type OH site lighting fixtures west of the service drive; asbestos abatement under the coolers on level 2 phase 3; deducted excess mark-up to reconcile an error in a change order; and adjusted the contract.

Change Order Justification: These changes are due to errors & omissions in the plans and specifications; and latent job site conditions.

Total Project Change Orders and Amount: Eleven (11) change orders for a total amount of $2,228,172.00.

Project Initiation Date: August 18, 2011
Design Professional: Eley Guild Hardy Architects – Jackson, P.A.
General Contractor: Roy Anderson Corporation
Phased Project Budget: $58,786,973.17.
Total Project Budget: $58,900,000.00

10. UM– IHL 207-372 South Campus Recreation Facility & Transportation Hub

Approval Request #1: Change Order #5

Board staff approved Change Order #5 in the amount of $276,066.81 and one hundred eight (108) additional days to the contract of Zellner Construction Services, LLC.

Approval Status & Date: APPROVED, January 10, 2018

Change Order Description: Change Order #5 includes the following items: to re-feed the electrical to the pump house and the existing lot lights; added a floor sink at the Aramark pod; modified the slope of the plaza for drainage; added new storm drainage piping under Chucky Mullins Drive and reworking of grades to provide positive drainage for the site; areas of soft soil were undercut; and one hundred eight (108) days to the contract.

Change Order Justification: These changes are due to errors and omissions in the plans and specifications; latent job site conditions; user/owner requested modifications; four (4)
weather related days and one hundred four (104) days due to demobilizing the site 
drainage subcontractor while demolition project (separate contract) finished their work.

Total Project Change Orders and Amount: Five (5) change orders for a total amount of 
$693,095.24.

Project Initiation Date: June 20, 2013 
Design Professional: JBHM Architects, P.A. 
General Contractor: Zellner Construction Services, LLC 
Phased Project Budget: $28,740,890.13 
Total Project Budget: $32,000,000.00

11. UM– IHL 207-372.1 – South Campus Recreation Facility & Transportation Hub
DEMO

Approval Request #1: Change Order #6

Board staff approved Change Order #6 in the amount of $79,358.39 and zero (0) 
additional days to the contract of Century Construction & Realty, Inc.

Approval Status & Date: APPROVED, December 13, 2017

Change Order Description: Change Order #6 includes the following items: removal of 
sub-grade building components uncovered during demolition; installation of satisfactory 
fill material where the sub-grade building components were removed.

Change Order Justification: These changes are due to discovery of excessive amount of 
unknown concrete pits and slabs found under the existing floor of the Whirlpool facility 
at the time of demolition. UM elected to pay half of the cost of removal of the concrete 
pits and slabs above the point at which the unit price comes into effect.

Total Project Change Orders and Amount: Six (6) change orders for a total amount of 
$287,594.36.

Project Initiation Date: June 19, 2014 
Design Professional: JBHM Architects, P.A. 
General Contractor: Century Construction & Realty, Inc. 
Phased Project Budget: $1,583,381.33 
Total Project Budget: $32,000,000.00
12. UM – IHL 207-376.2R STEM Building – Site Utilities Relocation REBID

Approval Request #1: Change Order #2

Board staff approved Change Order #2 in the amount of $187,798.08 and one hundred fifty-nine (159) additional days to the contract of Eubank Construction Co., Inc.

Approval Status & Date: APPROVED, December 13, 2017

Change Order Description: Change Order #2 includes the following items: additional construction fencing and road paving work; the electrical service is relocated for Anderson Hall to be routed through the building to route around the existing utilities on the site between Anderson Hall and Carrier Hall; a ceiling light was removed in one room and a new light installed after the ceiling was removed; high voltage work performed at All American to allow the existing electrical poles to be removed; temporary generator power for shutdowns at Shoemaker Hall & Faser Hall; additional electrical work with the relocation of a cathodic protection system; replacing the existing communication box with a traffic-rated communication box; removal of an existing, abandoned electrical duct bank; demolition of the existing underground utilities; additional general conditions for unforeseen conditions and delays; and one hundred fifty-nine (159) days to the contract.

Change Order Justification: These changes are due to latent job site conditions; user/owner requested modifications; and days for work as indicated herein.

Total Project Change Orders and Amount: Two (2) change orders for a total amount of $672,946.15.

Project Initiation Date: January 16, 2014
Design Professional: McCarty Architects, P.A.
General Contractor: Eubank Construction Co., Inc.
Phased Project Budget: $6,689,259.40
Total Project Budget: $14,000,000.00
13. UM – IHL 207-411.1 – O-U Stadium (Swayze Field) Addition & Renovation – PH II

Approval Request #1: Change Order #3

Board staff approved Change Order #3 in the amount of $29,640.87 and zero (0) additional days to the contract of Century Construction & Realty, Inc.

Approval Status & Date: APPROVED, December 18, 2017

Change Order Description: Change Order #3 includes the following items: provided a new automatic transfer switch to replace the existing out of date switch; modified the new ductwork routing; modified the existing chilled water piping to accommodate relocation of the makeup water line and expansion tank; modified the door hardware schedule to accommodate the access control function on additional doors; to use rotary cut white birch veneer in lieu of plain sliced cherry veneer on the interior doors; and modification of the design of column caps at the 3rd floor roof penetration.

Change Order Justification: These changes are due to errors and omissions in the plans and specifications; latent job site conditions; and user/owner requested modifications.

Total Project Change Orders and Amount: Three (3) change orders for a total amount of $177,338.98.

Project Initiation Date: October 15, 2015
Design Professional: Cooke Douglass Farr Lemons Architects + Engineers, P.A.
General Contractor: Century Construction & Realty, Inc.
Phased Project Budget: $18,692,538.82
Total Project Budget: $19,844,146.00

14. UM – IHL 207-424 – Faser Hall First Floor Modifications

Approval Request #1: Contract Documents

Board staff approved Contract Documents as submitted by Cook Douglass Farr Lemons, Architects & Engineers, P.A.

Approval Status & Date: APPROVED, December 14, 2017

Approval Request #2: Advertise

Board staff approved request to advertise for receipt of bids.
Approval Status & Date: APPROVED, December 14, 2017

Approval Status & Date:  APPROVED, December 14, 2017

Approval Request #1: Contract Documents
Board staff approved Contract Documents as submitted by Corbett Legge & Associates, PLLC.

Approval Status & Date: APPROVED, December 14, 2017

Approval Request #2: Advertise
Board staff approved request to advertise for receipt of bids.

Approval Status & Date: APPROVED, December 14, 2017

Project Initiation Date: November 17, 2016
Design Professional: Corbett Legge & Associates, PLLC
General Contractor: TBD
Total Project Budget: $1,900,000.00

16. UM – IHL 207-435 Guyton Drive Modifications

Approval Request #1: Contract Documents
Board staff approved Contract Documents as submitted by A2H, PLLC

Approval Status & Date: APPROVED, December 14, 2017

Approval Request #2: Advertise
Board staff approved request to advertise for receipt of bids.
Approval Status & Date: APPROVED, December 14, 2017

Project Initiation Date: May 18, 2017
Design Professional: A2H, PLLC
General Contractor: TBD
Total Project Budget: $1,257,400.00

17. UM–IHL 207-438 Deaton and Hefley Hall Elevator Refurbishment

Approval Request #1: Contract Documents

Board staff approved Contract Documents as submitted by Corbett Legge & associates, PLLC.

Approval Status & Date: APPROVED, December 15, 2017

Approval Request #2: Advertise

Board staff approved request to advertise for receipt of bids.

Approval Status & Date: APPROVED, December 15, 2017

Project Initiation Date: November 16, 2017
Design Professional: Corbett Legge & Associates, PLLC
General Contractor: TBD
Total Project Budget: $1,150,000.00

18. UM – IHL 207-439 – Crosby Hall HVAC Upgrades

Approval Request #1: Approval of Schematic Design Documents

Board staff approved the Schematic Design Documents as submitted by Corbett Legge & Associates, PLLC.

Approval Status & Date: APPROVED, December 14, 2017

Approval Request #2: Waiver of Design Development Documents
Board staff approved the Waiver of Design Development Documents as submitted by Corbett Legge & Associates, PLLC.

Approval Status & Date: APPROVED, December 14, 2017

Approval Request #3: Contract Documents

Board staff approved Contract Documents as submitted by Corbett Legge & Associates, PLLC

Approval Status & Date: APPROVED, January 4, 2018

Approval Request #4: Advertise

Board staff approved request to advertise for receipt of bids.

Approval Status & Date: APPROVED, January 4, 2018

Project Initiation Date: November 16, 2017
Design Professional: Corbett Legge & Associates, PLLC
General Contractor: TBD
Total Project Budget: $2,800,000.00

UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

19. UMMC– GS 109-210 (GC-001) – School of Medicine

NOTE: This is a Bureau of Building project

Approval Request #1: Change Order #18
Board staff approved Change Order #18 in the amount of $107,137.00 and zero (0) additional days to the contract of Roy Anderson Corporation. Approval is requested from the Bureau of Building, Grounds, and Real Property Management.

Approval Status & Date: APPROVED, January 4, 2018

Change Order Description: Change Order #18 includes the following items: Vinyl film applied to conference room glass windows; added four (4) stainless steel bolt down
bollards at the west gate entry to the north parking lot; added blocking in the exam room walls for mounting ophthalmoscopes at the revised height; provided credit for twelve (12) hours labor for removal & replacement of Hunter Douglas Specialty ceiling tiles not required; provided six hundred ten (610) crushed limestone subgrade in lieu of select fill at the Dental School entry drive; added ten (10) monitor modules for the fire curtains; removed the existing elevator phones and installed Tronics phones; lowered the west manhole to be flush with the sidewalk pavement; revised the interior signage; installed additional alarms on the fume hoods and biological safety cabinets; and re-programmed the ATS-S so the delay to the emergency power is achieved within 10 seconds.

Change Order Justification: These changes are due to errors & omissions in the plans & specifications; latent job site conditions; and user/owner requested modifications.

Total Project Change Orders and Amount: Eighteen (18) change orders for a total amount of $2,067,279.00.

Project Initiation Date: June 16, 2011
Design Professional: Cooke Douglas Farr Lemons + Eley Guild Hardy – A Joint Venture
General Contractor: Roy Anderson Corporation
Phased Project Budget: $65,742,205.00
Total Project Budget: $66,000,000.00

20. UMMC – IHL 209-555 – Children’s of Mississippi Expansion

Approval Request #1 (INTERIM): In accordance with Board Policy §904 (B) Board Approval, Interim Chair Approval was granted by Mr. Hal Parker, Chair of the Real Estate and Facilities Committee on December 12, 2017 to approve an easement agreement with the City of Jackson, Mississippi to perform road work and construction at the intersection of Peachtree Street and the frontage road along Woodrow Wilson Boulevard.

Interim Approval Status & Date: APPROVED, December 12, 2017

Project Initiation Date: April 21, 2016
Design Professional: HDR Architecture
General Contractor: Brasfield & Gorrie
Total Project Budget: $180,000,000.00
21. UMMC – IHL 209-560 – Pediatric Pharmacy Renovation

**Approval Request #1: Award of Construction Contract**

Board staff approved the Award of Contract in the amount of $869,000.00 to the apparent low bidder, Fountain Construction Co., Inc.

Approval Status & Date: APPROVED, December 13, 2017

Project Initiation Date: March 16, 2017
Design Professional: Foil Wyatt Architects & Planners, PLLC
General Contractor: Fountain Construction Co., Inc.
Total Project Budget: $1,105,000.00

22. UMMC – IHL 209-562 – Reroof Pavilion

**Approval Request #1: Approval of Schematic Design Documents**

Board staff approved the Schematic Design Documents as submitted by Dean & Dean Architects.

Approval Status & Date: APPROVED, December 11, 2017

**Approval Request #2: Waiver of Design Development Documents**

Board staff approved the Waiver of Design Development Documents as submitted by Dean & Dean Architects.

Approval Status & Date: APPROVED, December 11, 2017

**Approval Request #3: Contract Documents**

Board staff approved Contract Documents as submitted by Dean & Dean Architects.

Approval Status & Date: APPROVED, January 4, 2018

**Approval Request #4: Advertise**

Board staff approved request to advertise for receipt of bids.
UNIVERSITY OF SOUTHERN MISSISSIPPI

23. USM– GS 114-022 – Business and Health Building

UNAPPROVAL Request #1: Change Order #2

Board staff did NOT approve Change Order #2 in the amount of $127,703.29 and fifty-eight (58) additional days to the contract of J. W. Puckett & Company, Inc.

Approval Status & Date: NOT APPROVED, January 11, 2018

Change Order Description: Change Order #2 includes the following items: chilled water piping was relocated; revision of light fixture types at ten (10) exterior locations; added a metal drip edge to the bottom of stucco; and fifty-eight (58) days to the contract.

Change Order Justification: These changes were due to errors and omissions in the plans and specifications; latent job site conditions, user/owner requested modifications; and weather delays for work as indicated herein.

Approval Request #2: Change Order #3

Board staff did NOT approve Change Order #3 in the amount of $36,251.12 and seven (7) additional days to the contract of J.W. Puckett & Company, Inc.

Approval Status & Date: NOT APPROVED, December 11, 2017

Change Order Description: Change Order #3 includes the following items: additional wire mold; added a floor box; and seven (7) days to the contract.

Change Order Justification: This change was due to errors and omissions in the plans & specifications; latent job site conditions; user/owner requested modifications; and weather delays for work as indicated herein.
Approval Request #3: Change Order #4

Board staff approved Change Order #4 in the amount of $13,006.50 and nine (9) additional days to the contract of J.W. Puckett & Company, Inc.

Approval Status & Date: APPROVED, December 10, 2017

Change Order Description: Change Order #4 includes the following items: installed approximately 2,122 square yards of centipede sod on the existing topsoil located on the south side of the building; installed approximately 70 square feet of 4” concrete sidewalk; relocated each sprinkler head approximately 8” to the north; installed a switch box and 1” conduit raceway at the second floor elevator lobby; and nine (9) days to the contract.

Change Order Justification: This change was due to latent job site conditions; user/owner requested modifications; and days for work as indicated herein.

Total Project Change Orders and Amount: Four (4) change orders for a total amount of $333,655.67.

Project Initiation Date: March 19, 2015
Design Professional: McCarty Architects Professional Association
General Contractor: J.W. Puckett & Company
Total Project Budget: $7,000,000.00

EDUCATION AND RESEARCH CENTER

24. ERC–GS 111-052 – Structural & Subsurface Repair

NOTE: This is a Bureau of Building project

Approval Request #1: Change Order #5

Board staff approved Change Order #5 in the amount of $25,693.00 and one hundred thirteen (113) additional days to the contract of Gregory Construction Services.

Approval Status & Date: APPROVED, December 13, 2017

Change Order Description: Change Order #5 includes the following items: south lift station discharge improvements were made; added a catch basin and piping at the south
discharge location; pipe added and connected to the existing storm drainage system; installed a berm to direct the water away from the ETV intakes; provided additional framing for the north plaza tre wells; and one hundred thirteen (113) days to the contract.

Change Order Justification: These changes are due to errors and omissions in the plans and specifications; and days for work as indicated herein.

Total Project Change Orders and Amount: Five (5) change orders for a total amount of $757,651.50.

Project Initiation Date: November 21, 2013
Design Professional: JBHM
General Contractor: Gregory Construction Services
Total Project Budget: $4,178,570.87
SYSTEM - REPORT OF PAYMENTS TO OUTSIDE COUNSEL

Legal fees approved for payment to outside counsel in relation to litigation and other matters:

Payment of legal fees for professional services rendered by Gian Franco Borio (statement dated 1/17/18) from the funds of Mississippi State University. (This statement, in the amount of $5,492.00, represents services and expenses in connection with legal advice.)

TOTAL DUE...............................................................$ 5,492.00

Payment of legal fees for professional services rendered by Brunini, PLLC (statement dated 12/13/17) from the funds of Mississippi State University. (This statement, in the amount of $950.00, represents services and expenses in connection with legal advice.)

TOTAL DUE...............................................................$ 950.00

Payment of expenses incurred by the Mississippi Attorney General’s Office (statement dated 1/5/18) from the funds of Mississippi State University. (This statement, in the amount of $325.00, represents filing fee expenses in connection with “University Seal Filing Fee”.)

TOTAL DUE...............................................................$ 325.00

Payment of legal fees for professional services rendered by Ware Immigration (statements dated 11/1/17 and 1/1/18) from the funds of Mississippi State University. (These statements, in the amounts of $470.00 and $1,608.48, respectively, represent services and expenses in connection with immigration/labor certification.)

TOTAL DUE...............................................................$ 2,078.48

Payment of legal fees for professional services rendered by Mayo|Mallette (statements dated 1/8/18) from the funds of the University of Mississippi. (These statements, in the amounts of $4,813.50 and $1,873.40, represent services and expenses in connection with legal advice.)

TOTAL DUE...............................................................$ 6,686.90

Payment of legal fees for professional services rendered by Ware Immigration (statements dated 1/1/18) from the funds of the University of Mississippi. (These statements, in the amounts of $38.44 and $17.69, represent services and expenses in connection with immigration/labor certification.)

TOTAL DUE...............................................................$ 56.13
Payment of legal fees for professional services rendered by the Baker|Donelson (statement dated 12/11/17) from the funds of the University of Mississippi Medical Center. (This statement, in the amount of $41,440.15, represents services and expenses in connection with legal advice.)

TOTAL DUE...........................................................................$ 41,440.15

Payment of legal fees for professional services rendered by Hogan Lovells (statements dated 11/27/17 and 12/18/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $9,870.30 and $445.50, respectively, represent services and expenses in connection with legal advice.)

TOTAL DUE...........................................................................$ 10,315.80

Payment of legal fees for professional services rendered by Jones|Walker (statement dated 11/30/17) from the funds of the University of Mississippi Medical Center. (This statement, in the amount of $90.00, represents services and expenses in connection with legal advice.)

TOTAL DUE...........................................................................$ 90.00

Payment of legal fees for professional services rendered by Watkins & Eager (statements dated 11/30/17, 11/30/17, 11/30/17, 11/30/17, 11/30/17, 11/30/17, 11/30/17, 11/30/17, 12/12/17, 12/12/17, 12/12/17, 12/12/17, 12/12/17, 12/12/17, 12/12/17, 12/12/17 and 12/12/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $1,023.00, $643.50, $1,468.50, $495.00, $4,554.00, $3,283.50, $2,640.00, $23,372.89, $1,452.00, $123.75, $412.50, $247.50, $660.00, $346.50, $635.25, $7,425.00, $2,556.14 and $561.00, respectively, represent services and expenses in connection with legal advice.)

TOTAL DUE...........................................................................$ 51,900.03

Payment of legal fees for professional services rendered by Whitfield Law Group (statements dated 11/1/17 and 11/9/17) from the funds of the University of Mississippi Medical Center. (These statements, in the amounts of $8,886.00 and $21,498.00, respectively, represent services and expenses in connection with legal advice.)

TOTAL DUE...........................................................................$ 30,384.00

Payment of legal fees for professional services rendered by Butler|Snow (statements dated 12/12/17, 12/12/17 and 1/11/18) from the funds of the University of Southern Mississippi. (These statements, in the amounts of $737.50, $6,431.00 and $147.50, represent services and expenses in connection with legal advice.)

TOTAL DUE...........................................................................$ 7,316.00
Payment of legal fees for professional services rendered by Mayo|Mallette (statement dated 12/8/17) from the funds of the University of Southern Mississippi. (This statement, in the amount of $115.50, represents services and expenses in connection with legal advice.)

TOTAL DUE………………………………………………………………………………$ 115.50
1. **SYSTEM – COMMISSIONER’S NOTIFICATION OF APPROVAL**
   a. **ASU** – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” On January 19, 2018, Commissioner Glenn F. Boyce approved the Lease Agreement with Twyla D. Graise for the lease of approximately 1,150 square feet of space in the Dorothy Gray Home Management Building on the Lorman Campus to be used as a hair care salon and beauty supply business. This is a revenue generating lease for the university with a term of two years beginning January 1, 2018, with annual rent being $8,400 or $700 per month. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.
   b. **UMMC** – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” On January 19, 2018, Commissioner Glenn F. Boyce approved the Standard Staffing Services Agreement with TEKsystems, Inc., extending the term of the existing agreement for three years, or through February 1, 2021, with the same terms and conditions as those previously approved by the Board of Trustees, including pricing. The original agreement was approved by the Board on January 22, 2015 for a term of three years and will expire on February 1, 2018. Additional amendments have also been approved by the Board. UMMC utilizes staff augmentation for work on Epic related projects. Since the requested contract renewal involves an expenditure contract that has been approved by the Board, and since the renewal terms are not changing from those already approved by the Board, the Commissioner is authorized, per Board Policy 707.01, to approve the same on behalf of the Board. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.
   c. **UMMC** – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” Pursuant to Board Policy 707.03 Approval for Prepayment for Goods or Services, the Commissioner is authorized to approve certain prepayment/waivers on behalf of the Board. It further provides in part that written permission from the Commissioner or Board must be obtained prior to making or contracting to make prepayment of goods or services before such goods or services are received. On January 19, 2018, Commissioner Glenn F. Boyce approved the request to enter into an agreement with the City of Jackson for a one-day rental of Thalia Mara Hall on March 18, 2018, as the venue at which UMMC will hold its School of Medicine Match Day Ceremony. The rental period is from 11:00 a.m. until 3:00 p.m. on that date at a total cost of $700 to be prepaid in two installments as set out in the agreement. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.
d. **USM** – In accordance with Board Policy 707.01 Land, Property, and Service Contracts, “The Commissioner is authorized and empowered to approve non-oil, gas and mineral leases in an amount equal to or less than $100,000.” On January 19, 2018, Commissioner Glenn F. Boyce approved the Lease Agreement with AITC Polymers, LLC for approximately 1,415 square feet of lab and equipment space in USM’s Accelerator building. This is a one-year agreement that renews automatically for additional one-year terms at the same rental rate for up to two renewal terms unless terminated by AITC upon sixty days written notice. The annual rental amount is $24,000 with a total contract amount of $72,000. The IHL Associate Commissioner for Legal Affairs has reviewed and approved the contract document.