

FLORIDA SOUTHWESTERN STATE COLLEGE DISTRICT BOARD OF TRUSTEES Agenda Item Summary

Meeting Date: 1/27/2015

1. **Action Requested/Purpose:** Approval of a Gift Agreement between Suncoast Credit Union, Florida SouthWestern State College Foundation, Inc. and The District Board of Trustees of Florida SouthWestern State College.

2. **Fiscal Impact:** ☐ Yes ☒ No ☐ N/A

3. **Funding Source:** N/A Amount: \$ See N/A

4. **Administration Recommendation:** Administration recommends approval.

5. Agenda Item Type:

- ☒ Action Item
☐ Consent Agenda
☐ Information Only
☐ Board Requested Information/Report

8. Requirement/Purpose (Include Citation)

- ☒ Statute 1001.64
☐ Administrative Code
☒ Other Board Policy 6Hx6:4.07 and 6Hx6:7.02

9. Background Information:

Suncoast Credit Union has proposed making a \$5,000,000.00 gift to the Foundation to be used for the construction of a Student Recreation and Athletic Facility. In exchange for the gift the College agrees to name the new facility the "The Suncoast Credit Union Arena" and also to giving the Donor a dedicated hospitality suite, which shall be named "The Suncoast Credit Union Hospitality Suite" all as more fully set forth in the attached Gift Agreement.

Prepared By:


 Mark Lupe, General Counsel

Requested by:


 Vice President, Institutional Advancement

Approved For Agenda by:


 President

GIFT AGREEMENT

(Florida SouthWestern State College Foundation, Inc./
Florida SouthWestern State College, Florida)

This Gift Agreement (the "Agreement"), is made and entered by and between the following parties:

- A. Suncoast Credit Union, a federally insured, state chartered credit union
6801 East Hillsborough Avenue
Tampa, Florida 33610
- B. The Florida SouthWestern State College Foundation, Inc.,
a Florida non-profit corporation
8099 College Parkway
Fort Myers, Florida 33919-5998
- C. The District Board of Trustees of Florida SouthWestern
State College, Florida
8099 College Parkway
Fort Myers, Florida 33919-5998

For purposes of this Agreement, Suncoast Credit Union shall hereinafter be referred to as the "Donor"; the Florida SouthWestern State College Foundation, Inc. shall hereinafter be referred to as the "FSW Foundation"; and the District Board of Trustees of Florida SouthWestern State College, Florida shall hereinafter be referred to as the "College".

RECITALS

WHEREAS, the College has or will enter into an construction management agreement between the College and a to be determined construction manager for the purpose of constructing a new arena on the Lee County campus of the College (the "Campus") consisting of approximately 74,000 square feet with an estimated seating capacity in excess of 3,000 patrons, having projected project cost of approximately Twenty Million and No/100 Dollars (\$20,000,000.00) (the "Arena"); and

WHEREAS, the Donor wishes to make a charitable gift to the College in the amount of Five Million and No/100 Dollars (\$5,000,000.00) for the use and benefit of the College, the same to be used specifically for costs related to the construction of the Arena, subject to the terms and conditions set forth herein; and

WHEREAS, the FSW Foundation desires to accept such charitable gift for the use and benefit of the College and for the specific purpose for costs related to the construction of the Arena, subject to the terms and conditions set forth herein; and

WHEREAS, the parties hereto desire to reduce in writing their agreement with respect to the aforementioned charitable gift, the costs of construction of the Arena and other ancillary agreements or inducements related to the same, all as more particularly set forth below.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), the and mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. **Recitals.** The Recitals to this Agreement are true and correct and are incorporated herein by reference.

2. **Donor's Gift.** The Donor, by execution of this Agreement, does hereby pledge to the FSW Foundation for the use and benefit of the College a charitable gift of Five Million and No/100 Dollars (\$5,000,000.00) (the "Gift") to be used by the College for costs related to the construction of the Arena. The Gift will be paid, in one (1) lump sum payment, during the construction of the Arena and shall be due and payable no later than fifteen (15) days after the FSW Foundation and the College provide to the Donor a notarized affidavit, in the form attached hereto as Exhibit C establishing that the College has paid project costs of the Arena of at least Ten Million and No/100 Dollars (\$10,000,000.00). The parties agree that the Donor shall have no further obligation to fund any additional dollars for any further costs related to the construction of the Arena once the Gift has been paid according to the terms set forth herein. The College and the FSW Foundation do hereby warrant and represent that the Gift will be used for the purposes herein stated.

3. **Material Inducements.** As a material inducement to the Donor for the Gift, the FSW Foundation and/or the College, as applicable, further agree to the following:

A. The Arena shall be named "The Suncoast Credit Union Arena".

B. The permanent signage to be utilized for the Arena naming the Arena, to-wit: "The Suncoast Credit Union Arena", are more particularly depicted on Exhibit "A" attached hereto and made a part hereof by reference (the "Arena Signage").

C. The Arena Signage shall, subject to the terms and conditions of this Agreement, remain and be used on the Arena for the useful life of the Arena, to-wit: forty (40) years from the date the Arena becomes operational and open for its intended use(s) as evidenced by the issuance of a Certificate of Occupancy issued by the applicable governmental authority (the "Governmental Approval(s)").

D. The Donor shall be entitled to the exclusive use of a dedicated hospitality suite, which shall be named "The Suncoast Credit Union Hospitality Suite", the same of which is more particularly depicted on Exhibit "B" attached hereto and incorporated herein by reference (the "Hospitality Suite"); it being expressly understood that the College will provide for the cleaning, maintenance and repair of the same. The Donor hereby agrees to leave the Hospitality Suite in good order after each use.

E. The College does hereby agree not to offer, grant or sell the right to name any subordinate part of the Arena to any third party who engages in business activities or offers products and services that are directly competitive

with one or more of the Donor's products or services. Notwithstanding the foregoing, in the event the College desires to offer, grant or sell naming rights to a third party and the College is unsure as to whether the Donor considers the third party to be a direct competitor then the College shall obtain the approval of the Donor in writing which approval shall not be unreasonably withheld or delayed. In the event that the Donor fails to respond to a request for approval within 21 days then the approval shall be conclusively deemed to have been granted. Provided, however, that nothing set forth in this Agreement shall prohibit the College from accepting event sponsorships from a third party and displaying the third party's name as part of an individual sponsored event.

F. The Donor, at Donor's sole cost and expense, shall have, direct access to the students and faculty of the College in order that the Donor shall have the ability to present to students and faculty its membership requirements, current and anticipated products and services, and to the extent needed, the College shall provide a designated area or space in the College's student union for the purposes of cooperating and assisting the Donor with regard to the matters set forth in this paragraph.

G. The Donor, at Donor's sole cost and expense, shall have the right to provide ATM services to the students and faculty of the Colleges at designated locations mutually agreed in writing between the parties and the Donor shall have the right of first refusal with respect to any new ATM installations on the Lee County College Campus. The Donor shall have a right of first refusal to discuss, the development of a Kiosk or branch on the Lee County Campus as may be mutually agreed in a separate written agreement; it being the express intent of the parties the Donor will be accorded first consideration by the College in the event that the College decides that a financial services Kiosk or branch is needed on campus to serve the faculty, staff and students.

H. All advertising by the College for events held at the Arena shall refer to the venue as "The Suncoast Credit Union Arena."

4. **Term and Termination.** Unless otherwise terminated pursuant to other provisions of this Agreement, the parties agree to the following term and termination provisions:

A. **Term.** The term of this Agreement will commence on the Effective Date (as defined herein) and end on that date which is the end of the useful life of the building to wit: 40 years from the date of the Governmental Approval(s) as the same is defined herein.

B. **Termination.** The parties agree that this Agreement may be terminated as follows:

i. **Joint Termination by College and FSW Foundation.** The College and the FSW Foundation, jointly, in any of the following circumstances may terminate this Agreement:

a. The Donor shall fail to materially perform or materially observe any covenant condition or agreement on its

part to be performed pursuant to the terms of the Agreement and such failure shall not have been remedied within thirty (30) days after receipt by the Donor of written notice thereof (ten (10) days in the case of default of payment), said notice to specifically set forth the nature of the default in order to provide the Donor an unqualified right to cure the default; or

b. The Donor becomes insolvent or is adjudged bankrupt; makes an assignment to the benefit of creditors; files a petition for bankruptcy; consents to be adjudicated a voluntary bankruptcy; initiates reorganization proceedings; or ceases to conduct its operations in the normal course of business.

ii. Termination by the Donor. The Donor may terminate this agreement as follows:

a. The College and/or the FSW Foundation shall fail to materially perform or materially observe any covenant condition or agreement on its part to be performed pursuant to the terms of the Agreement and such failure shall not have been remedied within thirty (30) days after receipt by College and/or the FSW Foundation of written notice thereof, said notice to specifically set forth the nature of the default in order to provide Contractor an unqualified right to cure the default; or

b. The College and/or the FSW Foundation becomes insolvent or is adjudged bankrupt; makes an assignment to the benefit of creditors; files a petition for bankruptcy; consents to be adjudicated a voluntary bankruptcy; initiates reorganization proceedings; or ceases to conduct its operations in the normal course of business.

C. **Additional Termination Provisions.** The parties hereby agree to the following additional termination provisions:

i. The Donor, FSW Foundation and the College hereby agree that the Arena shall be constructed and any Governmental Approval(s) obtained for the operation and use of the Arena within 1260 days after the Effective Date of this agreement., In the event that completion does not occur within the 1260 day period , then in such event, this Agreement shall be deemed terminated and of no force and effect and the FSW Foundation and/or the College shall, within ten (10) days from the end of the 1260 day period, immediately refund the Gift to the Donor, unless the parties otherwise agree in writing. Provided however that the 1260 day period shall be tolled during any period of time during which the College is legally prohibited from conducting construction activities.

ii. Additionally, the Donor, the FSW Foundation and the College further agreed that if at any time during the term of this

Agreement the Arena is transferred or conveyed from the College to a third party that is not approved in writing by the Donor, is closed, deconstructed, destroyed or severely damaged and the College and/or the FSW Foundation makes a decision not to rebuild the Arena (the "Closure Event"), then in such event, this Agreement shall be deemed terminated and of no force and effect and the FSW Foundation and/or the College, as applicable, shall within fifteen (15) days after a transfer to a third party, or after a decision not to rebuild is made, refund to the Donor a pro-rata portion of the Gift based on the remaining outstanding balance of months of the Term of the Agreement. For example, if at the time of transfer to a third party or at the time of the decision not to rebuild, one-half of the Term has passed, then the Donor shall be entitled to a fifty percent (50%) refund of the Gift. Notwithstanding the foregoing, any decision not to rebuild must be made within two hundred seventy (270) days of the "Closure Event" and, if not so made, the refund shall become self-operative at the end of said period.

5. **Confidentiality.** During the term of this Agreement, the FSW Foundation and/or the College may become privy to Confidential Information (as defined below) and proprietary information of the Donor. The parties agree to the following confidentiality provisions, as follows: For purposes of this Agreement, the term "Confidential Information" shall include, without limitation, all trade secrets of a party and all other information and material that relates or refers to the plans, policies, finances, corporate developments, products, pricing, sales, services, procedures, intra-corporate transactions, suppliers, customers and members of the Donor, the Donor customer and member addresses, the Donor customer and member account numbers and the Donor customer and member email addresses, as well as other financial information relating to suppliers, prospects, clients, members and any other similar confidentiality information and material which such party does not make generally available to the public, and further, including any and all non-personal information as the same is more particularly defined in the Gramm-Leach-Bliley Act. By way of illustration, but not limitation, Confidential Information includes all computer software (including object code and source code), computer software and data base technologies, systems, structures and architectures, and the processes, formulae, compositions, improvements, inventions, discoveries, concepts, ideas, designs, methods and information developed, acquired, owned, produced, or practiced at any time by a party.

A. **Disclosure of Confidential Information.** With respect to Confidential Information, the FSW Foundation and College hereby agree that each shall not, without the prior written consent of the Donor, (i) disclose to any third party any Confidential Information; (ii) permit any third party to have access to any Confidential Information; and (iii) use any Confidential Information for any purpose other than as contemplated by this Agreement. Upon termination of this Agreement, the FSW Foundation and College shall deliver to the Donor all documentation and other materials that contain Confidential Information and make no further use of any such Confidential Information. The FSW Foundation and College shall take all commercially reasonable steps to ensure the confidentiality of all Confidential Information and agrees that (i) in the event a breach or threatened breach of this section, that the Donor shall be entitled to a temporary and/or a permanent injunctive relief against the FSW Foundation and College and (ii) that the FSW Foundation and College shall maintain the

confidentiality of and not disclose to any third party the Confidential Information received by it except as provided by in this Agreement or is required by law.

B. **Supplemental Nondisclosure.** As aforesaid, the FSW Foundation and College further acknowledge that they may receive Confidential Information about the Donor and the Donor's members and customers during the course of this Agreement. The FSW Foundation and College warrant that the FSW Foundation and College, its officers, directors, employees, representatives and agents will: (i) hold in strictest confidence all Confidential Information, including, but not limited to, names, addresses, telephone numbers, account numbers and all other non-public personal information regarding any member or customer of the Donor or their relationship with the Donor; (ii) not use Confidential Information for any purpose other than providing the Services set forth in this Agreement; and (iii) not provide any Confidential Information to any third party without the Donor's prior written consent, except as required by applicable federal and state law and regulations, as amended from time to time. The FSW Foundation and College will use commercially reasonable means to implement appropriate administrative, technical, and physical safeguards to (i) ensure the confidentiality of the Confidential Information; (ii) protect against threats or hazards to the security or integrity of the Confidential Information; and (iii) protect against unauthorized access to or use of the Confidential Information.

C. **Disclaimer.** Confidential Information does not include any information that (i) is or becomes part of the public domain through no act or omission of the FSW Foundation and College; (ii) was in the FSW Foundation and College's lawful possession prior to the disclosure by the Donor and had not been obtained by the FSW Foundation and College either directly or indirectly from the Donor; (iii) is lawfully disclosed to the FSW Foundation and College by a third party without restriction on disclosure; or (iv) is disclosed by the Donor and specifically identified in writing by the Donor as subject to unrestricted disclosure. Nothing herein will prohibit the disclosure or use of Confidential Information by the FSW Foundation and College (i) as is necessary to perform the FSW Foundation and College's obligations under this Agreement; (ii) to the extent necessary to comply with any civil or criminal subpoena or other legal process; (iii) to otherwise effect, administer or enforce a transaction or service requested or authorized by the Donor; or (iv) to respond to judicial process or governmental regulatory authorities having jurisdiction over the FSW Foundation and College.

D. **Return of Confidential Information.** Confidential Information held by the FSW Foundation and College shall be returned to the Donor, or if requested by the Donor, destroyed at termination and the FSW Foundation and College must provide the Donor with written assurance that all Confidential Information provided by the Donor has been removed from the operations of the FSW Foundation and College and is no longer by the FSW Foundation and College for any purpose whatsoever.

E. **Confidential Information Exemption:** Nothing contained in this Paragraph 5 shall be applicable to the production of public records as defined under Florida law including Chapter 119, Florida Statutes by the FSW Foundation or the College.

6. **Indemnification.**

A. The Donor shall indemnify, hold harmless and defend the FSW Foundation and/or the College, as the case may be, from any and all claims, losses, damages, liabilities, costs or expenses (including reasonable attorney's fees and expenses) (collectively "Losses") that arise out of or in conjunction with: (i) the failure of the Donor, its officers, employees or agents to conform to the statutes, ordinances and other regulations and requirements of any governmental authority in connection with its performance of this Agreement, (ii) the gross negligence or willful misconduct of the Donor, its officers, employees and agents, (iii) any material breach by the Donor, its officers, agents or employees of any term, condition, warranty, representation or any other portion of this Agreement or (iv) the Donor's unauthorized use of the services provided hereunder. All liability incurred hereunder shall be limited to the amount of actual Losses incurred.

B. To the extent permitted by F.S. 768.28 and subject strictly to the monetary limits stated therein the FSW Foundation and/or the College shall, jointly and severally indemnify, hold harmless and defend the Donor from and against any and all Losses that arise out of or in connection with: (i) the failure of the FSW Foundation and/or the College, its officers, directors, employees, representatives or agents to conform to the statutes, ordinances and other regulations and requirements of any governmental authority in connection with its performance of this Agreement, (ii) the gross negligence or willful misconduct of the FSW Foundation and/or the College, its officers, directors, employees, representatives and agents (including its subcontractors, if any), (iii) any material breach by the FSW Foundation and/or the College, its officers, directors, employees, representatives or agents (including its subcontractors, if any) of any term, condition, warranty, representation or any other portion of this Agreement.

7. **Proprietary Rights.** The College will have the ongoing right, without charge or prior written approval, to use the trademarks, names, likenesses and images of the Donor in photographs, print, audio visual, digital and any other form of medium (the "Medium Materials") and to use, reproduce, distribute, exhibit and publish the Medium Materials in any manner, in whole or in part, including in brochures, programs, website postings, informational and marketing materials and reports and publications describing the College's development and business activities. Other than the foregoing, except as otherwise set forth in this Agreement, the parties hereto will not use the other party's name or any of the other party's logos, service marks, trade dress, trademarks, trade names or any other similar proprietary rights in any advertising, marketing, products, services or otherwise without the prior written consent of all parties hereto.

8. **Intellectual Property.** Subject to Paragraph 7 above, the parties hereto acknowledge that each party has or may have certain intellectual property rights, including but not limited to all intellectual property rights of any kind and nature, whether published or unpublished, patentable or otherwise subject to legal protection, in whatever form and whatever media, including but not limited to copyrightable works, patentable works, service marks, trade dress, trademarks, trade names, any and all goodwill associated therewith or otherwise (the "Intellectual Property Rights"), and each

party agrees that each is sole owner of all the respective party's Intellectual Property Rights (as defined above), and that upon termination of this Agreement, none of the parties may display, advertise, assign, sell or otherwise use in any manner the Intellectual Property Rights unless otherwise agreed in writing between the parties hereto.

9. **Independent Contractor; No Agency.** The parties hereto acknowledge that the Donor is an independent contractor with respect to any and all matters set forth in the Agreement. None of the parties nor their successors or assigns, if any, will be deemed an employee, joint venture or partner of the other party for any reason whatsoever. Any party is solely responsible for all federal, local, provincial and state employment (including self-employment, if applicable), income, social security and other similar levies and taxes payable by such party on or with respect to the matters set forth in this Agreement. Nothing contained in this Agreement will confer upon any party, its successors or assigns any remedies or rights of any kind or nature whatsoever or to any benefits that may be provided, directly or indirectly, under any employee, benefit arrangement, plan or policy of the other party, nor will anything contained in this Agreement constitute a limitation on or restriction against the right of the other party or any of the party's successors or assigns to amend, modify or terminate any such arrangement, plan or policy at any time and from time to time. Further, none of the parties, their successors or assigns will have any authority to act for or to bind the other party in any way, and none of the parties will hold themselves out as having the power to make commitments to others on behalf of any of the other parties without all of the parties' prior written consent. None of the parties, including their successors or assigns, will make any representations or warranties on behalf of any other party without the other party's prior written consent.

10. **Miscellaneous.**

A. **Assignment.** This Agreement may not be assigned by any of the parties without the express written consent of all parties hereto.

B. **Entire Agreement.** This Agreement sets forth all the promises, covenants, agreements, conditions and understanding between the parties hereto and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained. This Agreement may be modified only by an agreement in writing signed by the parties to this Agreement.

C. **Construction.** Section headings are included for convenience or reference only and are not intended to define or limit the scope of any provision of this Agreement and should not be used to construe or interpret this Agreement.

D. **Waiver.** No delay, failure or waiver of either party's exercise or partial exercise of any right or remedy under this Agreement shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. Any waiver by either party of any provision of this Agreement shall not imply a subsequent waiver of that or any other provision of this Agreement.

E. **Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall in no way be affected or impaired thereby.

F. **Counterparts; Facsimile Transmission.** This Agreement may be executed by the parties in one or more counterparts, and each of which when so executed shall be an original but all such counterparts shall constitute one and the same instrument. This Agreement may be transmitted between the parties by facsimile or electronic (email) transmission or other electronic device and the parties intend that the foregoing signatures shall constitute original signatures and that the same shall for all purposes constitute good and valid execution and delivery of this Agreement.

G. **Drafting.** Notwithstanding the general rules of construction, both the Donor and the FSW Foundation and College acknowledge that both parties were given an equal opportunity to negotiate the terms and conditions contained in this Agreement, and agree that the identity of the drafter of this Agreement is not relevant to any interpretation of the terms and conditions of this Agreement.

H. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns. The parties do not intend the benefits of this Agreement to inure to any third party, and nothing contained herein shall be construed as creating any right, claim or cause of action in favor of any such third party, against either of the parties hereto.

I. **Florida Contract; Venue.** This Agreement shall be construed according to the laws of the State of Florida and venue for any dispute resolution, claim, demand, litigation, arbitration or otherwise hereunder shall be held in Hillsborough County, Florida.

J. **Notices.** All material notices or other communications or notices required under this Agreement shall be given to the parties in writing to the applicable addresses set forth below, or to such other addresses as the parties may substitute by written notice given in the manner prescribed in this section as follows: (i) overnight express courier-receipt confirmed; or (ii) by hand delivery-receipt confirmed, electronic transmission-receipt confirmed, or facsimile transmission-receipt confirmed, to such addresses:

If to the Donor:	Suncoast Credit Union 6801 East Hillsborough Avenue Tampa, Florida 33610 Attention: Gary J. Vien Title: Chief Administrative Officer Telephone #: (813) 280-4421 Facsimile #: (813) 740-2075 Email: gary.vien@suncoastcreditunion.com
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If to College: Florida SouthWestern State College
8099 College Parkway
Fort Myers, Florida 33919-5566
Attention: Gina B. Doeble, EdD, CPA
Title: Vice President Administrative Services
Telephone: (239) 489-9029
Facsimile: (239) 489-9055
Email: Gina.Doeble@fsw.edu

If to FSW
Foundation: Florida SouthWestern State College
8099 College Parkway
Fort Myers, Florida 33919-5566
Telephone: (239) 489-9215
Attention: Louis Traina, EdD
Vice President, Institutional Advancement
Email: Louis.Traina@fsw.edu

Such notices shall be deemed to have been duly given either one (1) calendar day after the date of mailing as described above or one (1) business day after being received during business hours by an express mail courier or by hand delivery.

K. **Time is of the Essence.** Time is of the essence with respect to any and all terms, conditions and provisions of the Agreement and any and all exhibits thereto.

L. **Effective Date.** This Agreement shall be effective when signed by representatives of both parties and approved by the District Board of Trustees of Florida SouthWestern State College.

M. **Compliance with Laws.** The FSW Foundation and College and the Donor, their employees, officers, agents, representatives, subcontractors (if applicable) and other personnel shall comply with any and all applicable federal, state and local laws and regulations (including implementing regulations) in their respective performance of this Agreement and the performance of any of their agents, representatives, subcontractors or otherwise.

N. **Authority.** The FSW Foundation and College and the Donor hereby warrant and represent to each other that the persons executing this Agreement have full and complete authority to enter into the same on behalf of the FSW Foundation and College and the Donor and that, subject to Subparagraph the approval of this agreement by the District Board of Trustees of Florida SouthWestern State College, any and all actions of the FSW Foundation and College and the Donor contemplated or required for execution of this Agreement have been duly authorized by appropriate business action.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year set forth below.

Suncoast Credit Union, a federally,
insured, state chartered credit union

By: Thomas R. Dorey
Printed Name: Thomas R. Dorey
Its: President and CEO

Dated: Jan 20, 2015

The District Board of Trustees of Florida
SouthWestern State College, Florida

By: Jeffery S. Allbritten
Printed Name: Jeffery S. Allbritten
Its: President

Dated: 1/20/15

Suncoast Credit Union, a federally,
insured, state chartered credit union

By: Gary J. Vien
Printed Name: Gary J. Vien
Its: Chief Administrative Officer

Dated: JANUARY 20, 2015

Florida SouthWestern State College
Foundation, Inc., a Florida non-profit
corporation

By: Louis J. Traina
Printed Name: Louis J. Traina
Its: Vice President and FSW Foundation
Executive Director

Dated: 1/20/15

Approved as to Form:

[Signature]
General Counsel
Florida SouthWestern State College

Exhibit "A"
Arena Signage

(see attached)

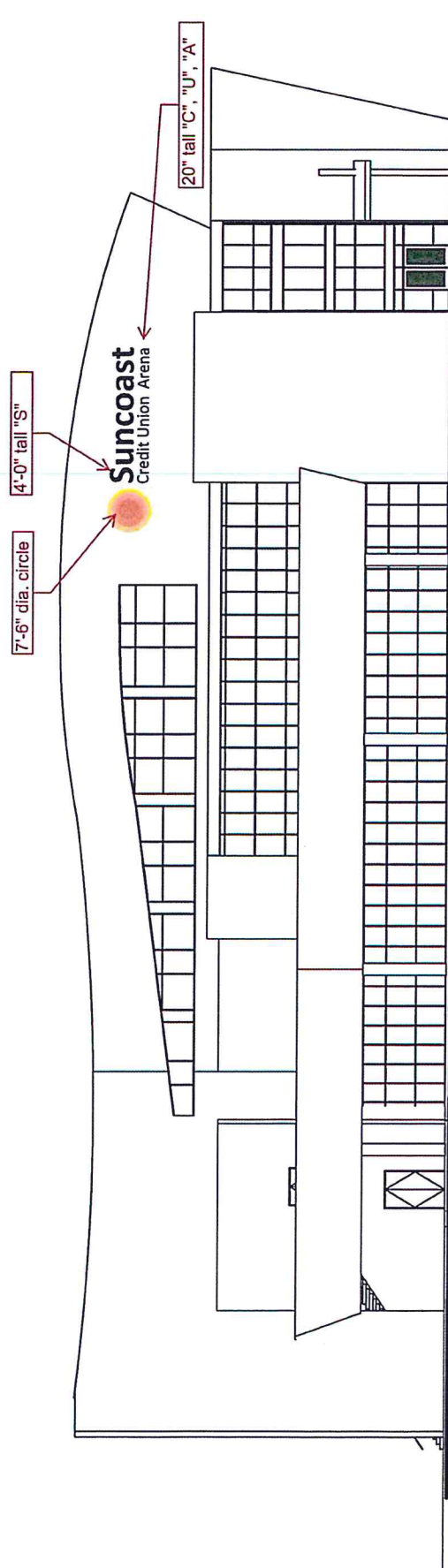
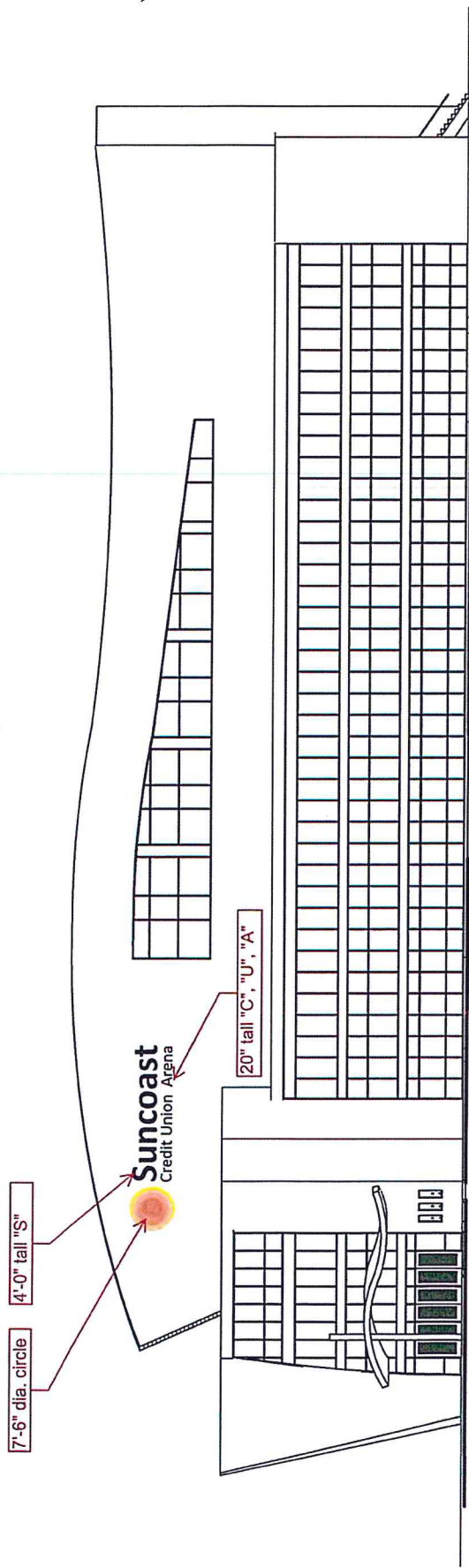


Exhibit "B"
Hospitality Suite

(see attached)



Exhibit "C"

Form of Affidavit

(see attached)

AFFIDAVIT OF PAYMENT OF PROJECT COSTS
(the "Affidavit")

STATE OF FLORIDA
COUNTY OF LEE

On this day, personally appeared before me, a Notary Public in and for the State of Florida, Gina B. Doeble and Louis J. Traina (collectively, the "Affiants"), who by me being first duly sworn, depose and say as follows:

1. That the Affiants are, respectively, the Vice President, Administrative Services of the District Board of Trustees of Florida SouthWestern State College, Florida (the "College") and the Vice President and FSW Foundation Executive Director of Florida SouthWestern State College Foundation, Inc., a Florida non-profit corporation (the "FSW Foundation").

2. That this Affidavit is executed in accordance with Paragraph 2 of that certain Gift Agreement made and entered into by and between Suncoast Credit Union, a federally insured, state chartered credit union, the FSW Foundation and the College, having an Effective Date of _____, a copy of which is attached hereto and made a part hereof by reference as Exhibit "A" (the "Gift Agreement").

3. That pursuant to Paragraph 2 of the Gift Agreement, the Affiants hereby certify that the College has paid project costs of the Arena (as defined in the Gift Agreement) of at least Ten Million and No/100 Dollars (\$10,000,000.00) as of the date of the execution of this Affidavit, the same of which have been exclusively used for the costs of construction of the Arena pursuant to the terms of the Gift Agreement.

4. That this Affidavit is provided to Suncoast Credit Union as a material inducement for said credit union to pay that charitable gift of Five Million and No/100 Dollars (\$5,000,000.00) to the FSW Foundation for the use and benefit of the College for costs related to the construction of the Arena, as more particularly set forth in the Gift Agreement.

FURTHER AFFIANTS SAYETH NOT.

Gina B. Doeble, EdD, CPA

Louis J. Traina, EdD

Sworn to and subscribed before me this ____ day of _____, 20__, by Gina B. Doeble, as Vice President, Administrative Services of the College, and Louis J. Traina, as Vice President and FSW Foundation Executive Director, who are ____ personally known to me or ____ produced

as
identification, on behalf of the College and FSW Foundation, respectively.

Printed Name: _____
Notary Public – State of Florida