I. **Issue:** Joint Affiliation Agreement Between USF Board of Trustees and the Johnnie B. Byrd, Sr. Alzheimer’s Center and Research Institute

**Proposed action:** Affirm Affiliation Agreement

**Background information:** Pursuant to Article III-A of the USF BOT Operating Procedures, the Executive Committee of the Board is authorized to conserve time, and act as the Board’s agent in helping the President to address routine business between regular Board meetings; and it shall assist the Chair and the President in their joint responsibility to help the Board to function effectively and efficiently.

On June 17, 2008 the Chair of USF BOT and Johnnie Byrd representing the Byrd Board signed a Term Sheet creating a Joint Affiliation Board ("JAB") and providing key elements for development of an Affiliation Agreement. The USF Board Chair has appointed the following four (4) individuals to serve on the seven (7) member JAB: Trustee Sherrill Tomasino, Vice President Karen Holbrook, Mr. Frank Morsani and Dr. Wayne Goodman. Three members were appointed by the Chair of the existing Byrd Institute board.

An appropriate Affiliation Agreement has been developed and unanimously approved and recommended by the JAB to both USF and the Byrd Institute. While the President is authorized to execute the Agreement on behalf of USF the courtesy of Executive Committee affirmance is requested. The Byrd Institute has also scheduled a board meeting for August 22nd to affirm the Agreement.

The Agreement includes three major elements: Governance through the JAB; operations consistent with Sec. 1004.445, F.S. through a new CEO (Stephen K. Klasko, M.D., M.B.A); and the advisory/advocacy role of the existing Byrd Institute board.

**Strategic Goal(s) Item Supports:** Expanding world-class interdisciplinary research, creative, and scholarly endeavors. Expanding local and global engagement initiatives to strengthen and sustain healthy communities and to improve the quality of life.

**Supporting documentation:** Affiliation Agreement with two (2) attachments

**Prepared by:** Steven Prevaux
AFFILIATION AGREEMENT BETWEEN

UNIVERSITY OF SOUTH FLORIDA

AND

JOHNNIE B. BYRD, SR. ALZHEIMER’S CENTER AND RESEARCH INSTITUTE

I. Background

The University of South Florida Board of Trustees (the “University” or “USF”) has established a wide array of expertise, programs and resources dedicated to research, education, patient care and community service related to Alzheimer’s disease and other neurodegenerative diseases including but not limited to:

A. The USF Collaborative on Aging and participating USF programs and faculty members (e.g. FMHI Department of Aging and Mental Health; USF School of Aging Studies; Florida Policy Exchange Center on Aging; Training Academy on Aging).

B. The USF Health Sciences Center and its Colleges, academic departments and programs (e.g. USF Memory Disorder Clinic established at the USF College of Medicine pursuant to § 430.502 (1) (a) Florida Statutes; Suncoast Gerontology Center; Center for Neurodegenerative Disease; USF Physicians Group; Department of Psychiatry and Behavioral Medicine; Center for Hospice, Palliative Care and End-of-Life Studies; Division of Geriatric Medicine).

The Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute (the “Byrd Institute” or “Institute”) was established in 2004 pursuant to Florida Statutes § 1004.445 at the University of South Florida’s Tampa campus. The Byrd Institute’s mission is to serve as a state and national resource for research, education, treatment, prevention and early detection of Alzheimer’s disease. The Byrd Institute has constructed a premier facility on USF’s Tampa campus.
II. Affiliation Intention

The University and the Byrd Institute, hereinafter collectively referred to as "the Parties," seek to work collaboratively as a state and national resource for research, education, treatment, prevention and early detection of Alzheimer’s disease with the goal of discovering a cure for Alzheimer’s disease.

The parties agreed upon and executed a Term Sheet on June 20, 2008, incorporated herein by reference as Attachment “A,” expressing their mutual desire to enter into an Affiliation Agreement (“Agreement”) to provide a framework for further cooperation and collaboration between the parties to achieve excellence and prominence in their common missions with the mutual goal of discovering a cure to Alzheimer’s disease.

III. Governance

In order to implement their mutual Affiliation Intention, on July 1, 2008, the Parties appointed the joint Byrd/USF Affiliation Board ("Joint Affiliation Board") comprised of seven members as follows:

A. Byrd Institute Appointees to Joint Affiliation Board

Three members appointed by the Chair of the Byrd Institute Board (these appointees may include the Chair of the Byrd Institute Board and may be members of the Byrd Institute Board);

B. USF Appointees to Joint Affiliation Board

Four members appointed by the Chair of the USF Board of Trustees (these appointees may include the Chair of the USF Board of Trustees and may be members of the USF Board of Trustees);

C. Selection of Joint Affiliation Board Chair

The Chair shall be selected from the members by majority vote of the Joint Affiliation Board;
D. The Joint Affiliation Board Powers and Duties

In keeping with the provisions of Sec. 1004.445, Florida Statutes, and the Term Sheet and to accomplish the mission of the Byrd Institute, the Byrd Institute Board of Directors hereby appoints and delegates authority and responsibility, to the extent permitted by law, to the Joint Affiliation Board to perform duties with respect to the Institute as follows:

1. Assume the responsibilities, powers and duties of the Board of Directors of the not-for-profit corporation in Sec. 1004.445 Florida Statutes as modified by this agreement;

2. Appoint Stephen K. Klasko, M.D. M.B.A., the Senior Vice President USF Health and Dean USF College of Medicine, as Chief Executive Officer with powers and duties as articulated in Sec. 1004.445(6) Florida Statutes;

3. Require that University administrative policies and procedures including but not limited to finance, audit, personnel, property, research administration be followed;

4. Assure that fund balances and income held by and/or attributable to the Byrd Institute are expended exclusively to benefit the institute’s statewide mission.

E. Existing Byrd Institute Board

The existing Byrd Institute Board of Directors shall continue to function as an advisory/advocacy board to the Joint Affiliation Board with the primary responsibility of assuring the continued focus of the institute’s statewide mission to advance research, education, treatment, prevention and early detection of Alzheimer’s disease. The Byrd Institute Board will be responsible for engaging community leaders, legislators, and other concerned citizens in supporting the mission of this Institute. They will be actively involved in raising public awareness of this disease and in soliciting philanthropic support for this Institute.

F. Facilities

Regardless of the duration of this Affiliation Agreement, the facilities on the
campus of University of South Florida known as the Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute, including all furnishings, equipment and other chattels used in the operation of those facilities shall be utilized exclusively by and for the University of South Florida for the operation of the Byrd Institute and primarily for research and patient care in Alzheimer’s and related memory disorders.

G. **Chief Executive Officer**

A single individual shall serve as the Chief Executive Officer (“CEO”) of the Byrd Institute and the Joint Affiliation Board and shall be vested with the Powers and Duties as expressly stated in Sec. 1004.445, Florida Statutes (Attachment “B”).

H. **Council of Scientific Advisers**

The Byrd Institute shall have a council of scientific advisers (“Council”) to the CEO comprised of leading researchers, physicians, and scientists pursuant to Sec. 1004.445(7) Florida Statutes.

**IV. Applications for Alzheimer's Disease Research Funding**

A. In 2007-08 (FY) funds appropriated by the Florida Legislature to the Byrd Institute have been allocated pursuant to the provisions of statute.

B. For 2008-09 (FY) there are currently no appropriated funds to allocate to qualified investigators as contemplated by statute.

C. Funds currently held and/or received by the Institute will be spent exclusively for Alzheimer’s research and related expenses.

D. Future funds provided by state appropriations shall be made available consistent with the provisions of said appropriation.

E. The Institute will continue to seek grants and donations collaboratively with qualified investigators at all universities and established research programs to further the mission of the Institute.
F. The Joint Affiliation Board shall follow established University policies and procedures regarding financial accountability.

G. Any appropriation to the Institute provided in a general appropriations act shall be paid directly to the Board of Directors of the Byrd Institute by warrant drawn by the Chief Financial Officer from the State Treasury. Funds provided from future appropriations or grants shall be made available to researchers in accord with the applicable provisions of such appropriation or grant. The Joint Affiliation Board shall follow established procedures regarding financial accountability.

V. MISCELLANEOUS

A. This Affiliation Agreement will have an initial term of five (5) years, and may be extended or modified by written agreement of the Parties.

B. The Parties agree to jointly pursue appropriate legislative revisions consistent with the terms of this Agreement.

C. Neither party shall enter into any contract which would obligate the other party to provide personnel, equipment or facilities without the advance review and consent to that party. Neither party shall be responsible in any way for the debts, liabilities or obligations of the other party. Neither party has any obligation to incur costs for or provide services to the other party, and each party may condition its provision of any services to the other party upon the negotiation and execution of agreements for such other party to purchase and pay fair market value compensation for such services.

D. Neither party shall use the name, logo or trademarks of the other party, or the Parties’ affiliation, in any advertising, promotion, literature, fundraising, requests for legislative appropriations, or in any other manner, without the express prior consent of the other party.

VI. Notice

Any notice to be provided pursuant to this Agreement shall be deemed sufficient if mailed by certified mail as follows:
To Joint Affiliation Board:  
Chair  
Johnnie B. Byrd, Sr. Alzheimer's Center and Research Institute  
4001 East Fletcher Avenue  
Tampa, Florida 33613

With Copies to:  
Chief Executive Officer  
Johnnie B. Byrd, Sr. Alzheimer's Center and Research Institute  
4001 East Fletcher Avenue  
Tampa, Florida 33613

To USF:  
President  
University of South Florida  
4202 E. Fowler Avenue, ADM 241  
Tampa, Florida 33620

With Copies to:  
Office of the General Counsel  
University of South Florida  
4202 East Fowler Avenue, ADM 250  
Tampa, Florida 33620

To Byrd Institute:  
Chair  
Johnnie B. Byrd, Sr. Alzheimer's Center and Research Institute  
4001 East Fletcher Avenue  
Tampa, Florida 33613

With copies to:  
General Counsel  
Johnnie B. Byrd, Sr. Alzheimer's Center and Research Institute  
4001 East Fletcher Avenue  
Tampa, Florida 33613
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on August ____ 2008.

FOR UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES:

________________________________________
Judy Genshaft, President

FOR JOHNNIE B. BYRD, SR., ALZHEIMER’S CENTER AND RESEARCH INSTITUTE:

________________________________________
Pam Vergara, Chair

Two (2) Attachments:
Attachment “A”- Term Sheet (June 20, 2008)
Attachment “B”- Section 1004.445 Florida Statutes (2008)

Approved on July 18, 2008
TERM SHEET FOR
JOHNNIE B. BYRD, SR. ALZHEIMER’S CENTER
AND RESEARCH INSTITUTE AND
THE UNIVERSITY OF SOUTH FLORIDA

Background

The University of South Florida ("USF") and Johnnie B. Byrd, Sr. Alzheimer’s Center and Research Institute ("Byrd") seek to work collaboratively together to conduct research with the goal of discovering a cure for Alzheimer’s disease. Towards that end, the parties mutually desire to enter into a more detailed affiliation agreement, subject to approval by each party’s governing board, consistent with the terms specified below.

Terms

An Affiliation Agreement between the Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute Board of Directors (Byrd Board) and the University of South Florida Board of Trustees (USF/BOT) shall provide for:

(1) Byrd/USF Affiliation Board comprised of seven members as follows:

- Three members appointed by the Chair of the Byrd Board; these appointees may include the chair of the Byrd Board and may be members of the Byrd Board
- Four members appointed by the Chair of the USF BOT; these appointees may include the Chair of the USF/BOT and may be members of the USF/BOT
- The Chair shall be selected from the members by majority vote

(2) The Byrd/USF Affiliation Board shall:

- Assume the responsibilities, powers and duties of the Board of Directors of the not-for-profit corporation in 1004.445 F.S. as modified by this agreement
- Appoint the Vice President USF Health or the Dean USF COM as Chief Executive Officer with powers and duties as articulated in 1004.445(6) F.S.
- Require that university administrative policies and procedures including but not limited to finance, audit, personnel, property, research administration be followed
- Assure that fund balances and income held by and/or attributable to the Byrd be expended exclusively to benefit the institute’s statewide mission

(3) Existing Byrd Board

The Byrd Board shall function as an advisory/advocacy board with the primary responsibility of assuring the continued focus of the institute’s statewide mission to advance research, education, treatment, prevent and early detection of Alzheimer’s disease.
Regardless of the duration of this Affiliation Agreement, the facilities on the campus of University of South Florida known as the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, including all furnishings, equipment and other chattels used in the operation of those facilities shall be utilized exclusively by and for the University of South Florida for the operation of the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute and research and patient care in Alzheimer's and related memory disorders.

Johnnie B. Byrd, Jr.

Date: 6-17-08

Rhea Law

Date: 6-17-08
involuntary clients in accordance with institute programs. Clients to be admitted are exempted from prior screening by a community mental health center.

(3) The institute may provide direct services in coordination with other agencies. The institute may also provide support services to state agencies through joint programs, collaborative agreements, contracts, and grants.

(4) The institute shall operate under the authority of the President of the University of South Florida and shall employ a mental health professional as director. The director shall hold a faculty appointment in a university's college or department related to mental health within the university. The director has primary responsibility for establishing active liaisons with the community of mental health professionals and other related constituencies in the state and may, with approval of the university president, establish appropriate statewide advisory groups to assist in developing these communication links.

HIST: s. 190, ch. 2002-387.

(5) The Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute is established at the University of South Florida.

(2) (a) The State Board of Education shall enter into an agreement for the utilization of the facilities on the campus of the University of South Florida to be known as the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, including all furnishings, equipment, and other chattels used in the operation of those facilities, with a Florida not-for-profit corporation organized solely for the purpose of governing and operating the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute. This not-for-profit corporation, acting as an instrumentality of the state, shall govern and operate the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute in accordance with the terms of the agreement between the State Board of Education and the not-for-profit corporation. The not-for-profit corporation may, with the prior approval of the Board of Governors, create either for-profit or not-for-profit corporate subsidiaries, or both, to fulfill its mission. The not-for-profit corporation and its subsidiaries are authorized to receive, hold, invest, and administer property and any moneys acquired from private, local, state, and federal, sources, as well as technical and professional income generated or derived from practice activities of the institute, for the benefit of the institute and the fulfillment of its mission.

Effective July 1, 2007, the agreement authority provided to the State Board of Education is transferred to the Board of Governors.

(b) The affairs of the not-for-profit corporation shall be managed by a board of directors who shall serve without compensation. The board of directors shall consist of the President of the University of South Florida and the chair of the Board of Governors, or their designees, five representatives of the state universities, and nine representatives of the public who are neither medical doctors nor state employees. Each director who is a representative of a state university or of the public shall be appointed to serve a term of 3 years. The chair of the board of directors shall be selected by a majority vote of the directors. Each director shall have only one vote. Of the five university representatives, one shall be appointed by the Governor, two by the President of the Senate, and two by the Speaker of the House of Representatives; and of the nine public representatives, three shall be appointed by the Governor, three by the President of the Senate, and three by the Speaker of the House of Representatives. Any vacancy in office shall be filled in the same manner as the original appointment. Any director may be reappointed.

(3) The Board of Governors shall provide in the agreement with the not-for-profit corporation for the following:

(a) Approval by the Board of Governors of the articles of incorporation of the not-for-profit corporation.

(b) Approval by the Board of Governors of the articles of incorporation of any not-for-profit corporate subsidiary created by the not-for-profit corporation.

(c) Utilization of lands, facilities, and personnel by the not-for-profit corporation and its subsidiaries for research, education, treatment, prevention, and the early detection of Alzheimer's disease and for mutually approved teaching and research programs conducted by the University of South Florida or other accredited medical schools or research institutes.

(d) Preparation of an annual financial audit pursuant to s. 11.45 of the not-for-profit corporation's accounts and the accounts of any subsidiaries to be conducted by an independent certified public accountant. The annual audit report shall include management letters and shall be submitted to the Auditor General and the Board of Governors for review. The Board of Governors, the Auditor General, and the Office of Program Policy Analysis and Government Accountability shall have the authority to require and receive from the not-for-profit corporation and any subsidiaries, or from their independent auditor, any detail or supplemental data relative to the operation of the not-for-profit corporation or subsidiary.

(e) Provision by the not-for-profit corporation and its subsidiaries of equal employment
opportunities for all persons regardless of race, color, religion, gender, age, or national origin.

(4) The Board of Governors is authorized to secure comprehensive general liability protection, including professional liability protection, for the not-for-profit corporation and its subsidiaries, pursuant to s. 1004.24. The not-for-profit corporation and its subsidiaries shall be exempt from any participation in any property insurance trust fund established by law, including any property insurance trust fund established pursuant to chapter 254, so long as the not-for-profit corporation and its subsidiaries maintain property insurance protection with comparable or greater coverage limits.

(5) In the event that the agreement between the not-for-profit corporation and the Board of Governors is terminated for any reason, the Board of Governors shall assume governance and operation of the facilities.

(6) The institute shall be administered by a chief executive officer, who shall be appointed by and serve at the pleasure of the board of directors of the not-for-profit corporation, and who shall exercise the following powers and duties, subject to the approval of the board of directors:

(a) The chief executive officer shall establish programs that fulfill the mission of the institute in research, education, treatment, prevention, and early detection of Alzheimer’s disease; however, the chief executive officer may not establish academic programs for which academic credit is awarded and which culminate in the conferring of a degree, without prior approval of the Board of Governors.

(b) The chief executive officer shall have control over the budget and the moneys appropriated or donated to the institute from private, local, state, and federal sources, as well as technical and professional income generated or derived from practice activities of the institute. However, professional income generated by university faculty from practice activities at the institute shall be shared between the institute and the university as determined by the chief executive officer and the appropriate university dean or vice president.

(c) The chief executive officer shall appoint representatives of the institute to carry out the research, patient care, and educational activities of the institute and establish the compensation, benefits, and terms of service of such representatives. Representatives of the institute shall be eligible to hold concurrent appointments at affiliated academic institutions. University faculty shall be eligible to hold concurrent appointments at the institute.

(d) The chief executive officer shall have control over the use and assignment of space and equipment within the facilities.

(e) The chief executive officer shall have the power to create the administrative structure necessary to carry out the mission of the institute.

(f) The chief executive officer shall have a reporting relationship to the Board of Governors or its designee.

(g) The chief executive officer shall provide a copy of the institute’s annual report to the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the chair of the Board of Governors. The annual report shall describe the expenditures of all funds and shall provide information regarding research that has been conducted or funded by the center, as well as the expected and actual results of such research.

(h) By August 1 of each year, the chief executive officer shall develop and submit to the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the chair of the Board of Governors an annual operating budget detailing the planned use of state, federal, and private funds for the fiscal year.

(7) The board of directors of the not-for-profit corporation shall create a council of scientific advisers to the chief executive officer comprised of leading researchers, physicians, and scientists. The council shall review programs and recommend research priorities and initiatives to maximize the state’s investment in the institute. The members of the council shall be appointed by the board of directors of the not-for-profit corporation. Each member of the council shall be appointed to serve a 2-year term and may be reappointed to the council.

(8) (a) Applications for Alzheimer’s disease research funding may be submitted from any university or established research institute in the state. All qualified investigators in the state, regardless of institutional affiliation, shall have equal access and opportunity to compete for the research funding. Grants shall be awarded by the board of directors of the not-for-profit corporation on the basis of scientific merit, as determined by an open, competitive peer review process that ensures objectivity, consistency, and high quality. The following types of applications shall be considered for funding:

1. Investigator-initiated research grants.
2. Institutional research grants.
3. Collaborative research grants, including those that advance the finding of cures through basic or applied research.

(b) Preference may be given to grant proposals that foster collaboration among institutions, researchers, and community practitioners because these proposals support the advancement of cures through basic or applied
research, including clinical trials involving Alzheimer's patients and related networks.

(c) To ensure that all proposals for research-funding are appropriate and are evaluated fairly
on the basis of scientific merit, the board of
directors of the not-for-profit corporation, in
consultation with the council of scientific advisors,
shall appoint a peer review panel of independent,
scientifically qualified individuals to review the
scientific content of each proposal and establish its
scientific priority score. The priority scores shall
be forwarded to the council and must be
considered by the board of directors of the not-for-
profit corporation in determining which proposals
shall be recommended for funding.

(d) The council of scientific advisors and the
peer review panel shall establish and follow
rigorous guidelines for ethical conduct and
adhere to a strict policy with regard to conflict of
interest. All employees, members of the board of
directors, and affiliates of the not-for-profit
corporation shall follow the same rigorous
guidelines for ethical conduct and shall adhere to
the same strict policy with regard to conflict of
interest. A member of the council or panel may
not participate in any discussion or decision with
respect to a research proposal by any firm, entity,
or agency with which the member is associated
as a member of the governing body or as an
employee or with which the member has entered
into a contractual arrangement. Meetings of the
council and the peer review panels are subject to
chapter 119, s. 286.011, and s. 24, Art. I of the
State Constitution.

(9) In carrying out the provisions of this section,
the not-for-profit corporation and its subsidiaries
are not agencies within the meaning of s. 20.03(11).

(10) The following information is confidential and
exempt from s. 119.07(1) and s. 24, Art. I of the
State Constitution:
(a) Personal identifying information relating
to clients of programs created or funded through
the Johnnie B. Byrd, Sr., Alzheimer's Center and
Research Institute that is held by the institute,
the University of South Florida, the Board of
Governors, or the State Board of Education;
(b) Medical or health records relating to
patients held by the institute;
(c) Materials that relate to methods of
manufacture or production, potential trade
secrets, potentially patentable material, actual
trade secrets as defined in s. 688.002, or
proprietary information received, generated,
ascertained, or discovered during the course of
research conducted by or through the institute
and business transactions resulting from such
research;
(d) The personal identifying information of a
donor or prospective donor to the institute who
wishes to remain anonymous; and
(e) Any information received by the institute
from a person from another state or nation or the
Federal Government that is otherwise
confidential or exempt pursuant to the laws of
that state or nation or pursuant to federal law.
Any governmental entity that demonstrates a
need to access such confidential and exempt
information in order to perform its duties and
responsibilities shall have access to such
information.

(11) Any appropriation to the institute provided
in a general appropriations act shall be paid directly
to the board of directors of the not-for-profit
corporation by warrant drawn by the Chief
Financial Officer from the State Treasury.

(12) Beginning in fiscal year 2006-2007, the sum
of $15 million is appropriated annually from
recurring funds in the General Revenue Fund to the
Grants and Donations Trust Fund within the
Department of Elderly Affairs for the Johnnie B.
Byrd, Sr., Alzheimer's Center and Research
Institute at the University of South Florida for the
purposes as provided under paragraph (6)(a),
conducting and supporting research, providing
institutional research grants and investigator-
initiated research grants, developing and operating
integrated data projects, and providing assistance to
statutorily designated memory disorder clinics as
provided under s. 430.502. Not less than 80 percent
of the appropriated funds shall be expended for
these purposes, and not less than 20 percent of the
appropriated funds shall be expended for peer-
reviewed investigator-initiated research grants.

(13) By June 1, 2009, the Division of Statutory
Revision of the Office of Legislative Services shall
 certify to the President of the Senate and the
Speaker of the House of Representatives the
language and statutory citation of this section,
which is scheduled to expire January 1, 2011.

(14) The Legislature shall review the
performance, the outcomes, and the financial
management of the Johnnie B. Byrd, Sr.,
Alzheimer's Center and Research Institute during
the 2010 Regular Session of the Legislature and
shall determine the most appropriate funding
source and means of funding the center and
institute based on its review.

(15) This section expires January 1, 2011, unless
reviewed and reenacted by the Legislature before
that date.

1004.447. Florida Institute for Human and
Machine Cognition, Inc.

(1) (a) There is created a not-for-profit
corporation, to be known as the "Florida Institute
for Human and Machine Cognition, Inc., which