
Kansas Bioscience Authority
Forensic Audit Report Regarding
the Financial Commitments to CIBOR, Inc.

Prepared by
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REPORT OF MEARA WELCH BROWNE, P.C.

January 15, 2012

Nature of the Investigation

We have been retained by the Kansas Bioscience Authority (“KBA”) Board of Directors to provide forensic investigation services (“forensic audit”) on behalf of the KBA relating to KBA’s previous financial commitments to the Center of Innovation for Biomaterials in Orthopedic Research (“CIBOR”) and its fulfillment of those commitments. This report (the “Initial Interim Report”) summarizes the results of our investigation to date.

General Background

On August 14, 2007, the Kansas Bioscience Authority (“KBA”) released a Request for Proposal for the Kansas Bioscience Centers of Innovation Planning Grants (“KBCI RFP”). The purpose of the KBCI RFP was to award planning grants of up to \$200,000 for organizations to submit comprehensive proposals for the “Phase I development of a Kansas Bioscience Center of Innovation within six months of receiving the planning grant.”

On December 1, 2008, the KBA released a Request for Proposal for The Kansas Bioscience Centers of Innovation (“2009 RFP”). The purpose of the 2009 RFP was to address Kansas’ “dual needs to (1) assist existing and emerging bioscience industries in capturing new knowledge and research findings for their product and production functions and (2) build strong world-class bioscience development centers.” The 2009 RFP further stated that “KBA funds will leverage significant private and federal funds and enable Kansas within five years to have several major large-scale national and international centers.” Additionally, the RFP stated “The KBA reserves the right to fund any proposal in full or in part” and “Issuing this RFP does not bind the KBA to making any awards. The KBA administers the RFP, and will administer all awards made under this RFP.”

Early in 2009, Via Christi Health System and its subsidiary Via Christi Regional Medical Center (“Via Christi”), in conjunction with the Wichita Composites Advisory Board and in partnership with Kansas Universities, submitted a response to the RFP for the Center of Innovation for

Biomaterials in Orthopedic Research (“CIBOR”). The submission requested state funding of \$31,000,000 over a five-year period to undertake the applied development of and commercialization of medical devices around the current composite technology cluster that exists in the greater Wichita area.

On July 17, 2009 a Cooperative Agreement (“Coop Agreement”) became effective between the KBA and CIBOR. Under the Coop Agreement, and subject to terms and conditions contained within, the KBA agreed to make an award of \$4,000,000 to CIBOR.

On January 10, 2011, the KBA investment committee recommended funding of \$1,500,000 based upon CIBOR’s progress to date, the strategic goals of CIBOR in fiscal year 2011, and the total amount of funding available to support the Centers of Innovation for the remainder of fiscal year 2011.

On January 24, 2011, the KBA board approved additional funding in the amount of \$1,500,000 to CIBOR for fiscal year 2011 as part of Amendment #1 to the Coop Agreement (“Amendment #1”). Amendment #1 was executed in April 2011 and applied to the period from July 1, 2010 through June 30, 2011.

At the June 15, 2011 KBA Executive Committee Meeting of the Board of Directors, the Center of Innovation Program was approved for \$7,500,000 of funding for fiscal year 2012. Of this amount, \$3,000,000 was awarded to CIBOR related to fiscal year 2012, running from July 1, 2011 to June 30, 2012. This \$3,000,000 award is inclusive of the modification of the State of Kansas House Bill 2383, which allocates \$1,000,000 of KBA funds to CIBOR through Wichita State University (“WSU”). Amendment #2 to the Coop Agreement (“Amendment #2”) was executed on November 28, 2011 related to this additional award for the period from July 1, 2011 through June 30, 2012.

Summary of Procedures Performed

In conducting our analysis, we performed the following procedures:

- We conducted multiple discussions with Tariq Abdullah, General Counsel and Compliance Officer for the KBA. Mr. Abdullah acted as a liaison between our firm and the KBA in order to facilitate our access to KBA documents and the appropriate individuals within the KBA.
- We reviewed the Cooperative Agreement between the KBA and CIBOR dated July 17, 2009.
- We reviewed the Amendment #1 to the Cooperative Agreement dated January 24, 2011.
- We reviewed the Amendment #2 to the Cooperative Agreement dated November 28, 2011.
- We reviewed the 2009 RFP released on December 1, 2008.
- We reviewed the CIBOR 2009 RFP Application for the Centers of Innovation Program (Undated).
- We reviewed all of the documents listed in Exhibit D to this report.
- We conducted initial discussions with Tom Krol, Director of Commercialization for Heartland BioVentures and the KBA liaison to CIBOR, and Tariq Abdullah, in which we discussed the need to identify all relevant parties who currently work for CIBOR or entities affiliated with CIBOR, including Wichita State University (“WSU”), National Institute for Aviation Research (“NIAR”), and Via Christi (collectively referred to as “CIBOR and its affiliates”). We started with an initial list of individuals from CIBOR and its affiliates’ associates provided by Tom Krol and added to this list as our engagement progressed. In these discussions, we also requested the names and contact information for all current employees at the KBA, former employees of the KBA that worked with or were involved in communicating with CIBOR, and all individuals that they were aware of which might have been involved in the KBA’s dealings with CIBOR.
- We were provided with access to the KBA’s client management system (database), Biz-Trakker. Initially, we accessed the system to obtain documentation related to the process the KBA undertook with each of the Centers of Innovation. Subsequently, we accessed the database to obtain relevant files based on conversations with various individuals during the course of the engagement.
- On November 13 through 15, 2011 we traveled to Wichita to conduct discussions with several individuals from CIBOR and its affiliates. Prior to going to Wichita, we contacted these individuals by e-mail and requested that they provide us with a listing of the names of all of the individuals from the KBA (past and present) that they believe were involved in communications regarding the KBA’s funding of CIBOR. We also requested that they gather

any documents, correspondence, e-mails, contemporaneous notes, or other records that related to the matter that we were investigating. Generally, our discussions with these individuals were initiated by obtaining an understanding of the role of each individual as it related to the relationship between the KBA and CIBOR and their understanding of the primary points of contention. Our discussions centered on our understanding of the issues, the documents we had previously reviewed and any documentation provided by the individuals. The individuals with whom these discussions were held included:

- Dr. Don Beggs, President - WSU
 - Tom Aldag, Director of Research and Development - NIAR
 - Dr. John Tomblin, Executive Director - NIAR
 - Dr. Paul Wooley, Chief Scientific Officer - CIBOR
 - Mike Good, Director, Research Business Operations - Via Christi
 - Rich Sullivan, Chief Executive Officer - CIBOR
 - Mike Wegner, Chief Financial Officer - Via Christi
 - David McDonald, Associate Provost for Research and Dean – WSU (meeting by phone).
- We met with Dale Rodman, Kansas State Secretary of Agriculture, on November 30, 2011 and reviewed the status of our engagement and our initial thoughts. We subsequently held phone conversations with Mr. Rodman related to this matter.
 - We conducted multiple phone discussions with Susan Wagle, Kansas State Senator, on December 1, 2011. As a result of these discussions, Ms. Wagle gave us the names of some additional people to contact.
 - We met with David Vranicar, President and CEO of the KBA on December 2 and reviewed the status of our engagement and our initial thoughts. Subsequent to this meeting, we had additional conversations and meetings with Mr. Vranicar, Mr. Abdullah and Mr. Krol in order to obtain additional information and explanations regarding documents and records we reviewed as part of our engagement.
 - We spoke with Dan Watkins, Chairman of the Board of the KBA.
 - We met with Nancy Ruf, Contract Administrator for the KBA on December 2, 2011 in order to gain an understanding of specific documents and records we were reviewing.

- We corresponded with Ruth Saale, Director of Accounting and Financial Reporting at the KBA.
- On January 5, 2012, we conducted an online meeting and interview with Tom Thornton, former Chief Executive Officer of the KBA, related to the concept of the Centers of Innovation, his knowledge of the KBA's funding commitment to CIBOR, the criteria considered by the KBA to determine funding, specific areas of non-compliance related to CIBOR, and the use of milestones. Mr. Thornton represented that he was unaware of any oral commitment to CIBOR promising a firm commitment of \$20 million. His responses were consistent with our understanding of these topics based upon the documents we reviewed and conversations we conducted in the course of the engagement.
- On January 17, 2012, we met with and interviewed Jan Katterhenry, former CFO of the KBA, related to her knowledge of KBA's funding commitment to CIBOR, her role as it related to the allocation of the KBA's funding, the development of milestones, and areas of non-compliance that resulted in award payments not being made on the planned date of distribution. Specifically, Ms. Katterhenry represented that she was unaware of any oral commitment to CIBOR promising a firm commitment of \$20 million. Her responses were consistent with our understanding of these topics based upon the documents we reviewed and conversations we conducted in the course of the engagement.
- We spoke with Forrest Chumley, President and CEO of Heartland Plant Innovations ("HPI") which is, like CIBOR, one of the KBA's Centers of Innovation. We discussed HPI's general experience with the KBA and made specific inquiries regarding provisions of HPI's cooperative agreement with the KBA that were similar to provisions contained in the CIBOR cooperative agreement..
- We attempted to contact John Moore, the former CEO of CIBOR, on multiple occasions but were unsuccessful. We did acquire an electronic file from CIBOR personnel containing some of Mr. Moore's e-mails saved on September 23, 2010. The file also contains documents from what appears to have been Mr. Moore's computer hard drive. We are unable to determine the extent to which these files represent a complete copy of Mr. Moore's e-mail and documents.
- We conducted multiple phone discussions with Lisa Scott, Controller for CIBOR, related to CIBOR's fiscal year end audits for 2010 and 2011, KBA award payments to CIBOR, and CIBOR's accounting and cash flows.

- We conducted multiple phone discussions with Mark Taylor, Director of Business Operations for CIBOR, related the process for developing milestones with KBA.
- We held a brief discussion with Cydney Boler, an attorney for Foulston Siefken. Our subsequent efforts to contact Ms. Boler were unsuccessful.
- We gathered electronic evidence for review as part of our investigation. The evidence gathered consisted of several exact bit for bit copies of hard drive images of various personnel at the KBA (see below). The evidence was provided by the accounting firm BKD who had already performed the original hard drive acquisitions. Upon our request, BKD copied the hard drive images to SATA hard drives provided by MWB. This tool creates a hash value of the image before and after copying the image or image segments in order to ensure the copy is exact. On or around November 7th, 2011 the following KBA personnel's images were requested by MWB and subsequently provided by BKD:
 - Tom Thornton's New Laptop Hard Drive – Acquired on or about April 27, 2011
 - Tom Thornton's Old Laptop Hard Drive – Acquired on or about April 15, 2011
 - Janice Katterhenry's Hard Drive – Initially acquired on or about April 15, 2011
 - Janice Katterhenry's Hard Drive – Second acquisition of same drive on or about October 8, 2011
 - Marsh Loscalzo's Hard Drive – Acquired on or about April 15, 2011
 - Nancy Ruf's Hard Drive – date of acquisition unknown
 - David Vranicar's Hard Drive – Acquired on or about May 5, 2011
 - Chad Bettes' Hard Drive – Acquired on or about May 6, 2011
 - Lindsay Thornton's Hard Drive – Acquired on or about April 16, 2011
 - Lisa Kay's Hard Drive – Acquired on or about May 19, 2011
 - Katie Montes's Hard Drive – Acquired on or about July 11, 2011
 - Mary Cummings' Hard Drive – Acquired on or about August 4, 2011
 - Ruth Saale's Hard Drive – Acquired on or about July 11, 2011
 - Ruth Saale's Old Laptop Hard Drive – Acquired on or about October 8, 2011
 - Ryan White's Hard Drive – Acquired on or about July 28, 2011
 - Terry Osborn's Hard Drive – Acquired on or about May 6, 2011
 - Tom Krol's Hard Drive – Acquired on or about July 28, 2011

The attached Exhibit A contains a description of the search protocols and processes that were conducted on the aforementioned hard drives.

In conducting our engagement, where possible, we endeavored to correlate or relate the perspectives that were shared with us by the KBA and CIBOR and its affiliates to actual documents and records. During the course of our engagement, it became apparent that, with regard to the KBA's previous financial commitments to CIBOR and its fulfillment of those commitments, there were two primary areas of contention between the KBA and CIBOR and its affiliates as follows:

1. The total value of funds awarded and the period of the award
2. The milestones required of CIBOR in the Cooperative Agreement and the timing of related payments

Notwithstanding the fact that individuals have unique perspectives, in general, the personnel from the KBA held similar perspectives with regard to these two areas of contention. Concurrently, the individuals we spoke with from CIBOR and its affiliates held different, but relatively consistent perspectives with regard to these two areas of contention. As such, in the following analysis, we refer to both “the KBA perspective” and “the CIBOR and its affiliates' perspective”. The following discussion and analysis identifies relevant facts and documents identified during our investigation. We have also endeavored to summarize the perspectives presented by the KBA and CIBOR and its affiliates. This information is organized around the two primary points of contention that were identified during our engagement.

Points of Contention Regarding the Cooperative Agreement

1. The primary point of contention regarding the KBA’s previous financial commitments to CIBOR is the total value of the funds awarded and the period of the award. The following narrative outlines the opinions and perspectives that were related to us in conducting our interviews, as well as the facts and documents that we gathered in conducting our engagement:

The Cooperative Agreement contains the following language in Section 1. Statement of Award:

"The KBA hereby agrees to make an award to Awardee in the amount of \$4,000,000, subject to (among other things) the terms and conditions of this Agreement."

The payment of the \$4,000,000 award is outlined in KBA Board of Directors Meeting Minutes dated May 19, 2009, which contain the following excerpts:

- “The Committee recommends a grant of \$880,000 by June 1, 2009, \$780,000 of which will purchase equipment for research and \$100,000 will support operations. Quarterly payments will then be made through FY 2010 in the amount of \$780,000 each upon CIBOR meeting milestones based on metrics to be mutually developed between KBA staff and CIBOR.”
- “Future funding will be reviewed in February 2010 based on the successful completion of milestones.”

The perspective shared with us by personnel from the KBA is that the language in the Cooperative Agreement, in conjunction with the subsequent KBA Board approvals of additional awards, sets out the record of the KBA’s financial commitments to CIBOR to date. The attached Exhibit B to our report is a matrix that includes a chronology of the KBA funds awarded, requested, and received by CIBOR. This matrix also contains a chronology of appropriated KBA funds provided to CIBOR as a result of the State of Kansas House Bill 2383 (“House Bill 2383”). As reflected in Exhibit B, the total funds that have been awarded to CIBOR by the KBA as of the date of this report is \$7,500,000. In addition, under House Bill 2383 CIBOR is to receive an additional \$1,000,000.

The perspective that was conveyed to us during our interviews with personnel from the KBA is that the total amount that has been awarded to CIBOR by the KBA is \$7,500,000. It is significant to note that this amount and the content of the aforementioned documents is not disputed by anyone we spoke with from CIBOR and its affiliates. Rather, the perspective shared with us by personnel from CIBOR and its affiliates regarding the financial commitments by the KBA to CIBOR primarily relates to the following documents and records:

- The Kansas Bioscience Authority Fiscal Year 2009 RFP

This document makes reference to a “five year” award period in several sections as follows:

- i. Section 3.1 Purpose - "The KBA has been allocated up to \$75 million to fund 3-5 centers over a five year period."
- ii. Section 3.5 Term of the Project - "The Kansas Bioscience Centers of Innovation ("KBCI") Award Period will be 10 years. The first 5 years will be the Project Period during which the active work funded by the grant will take place."
- iii. Section 4.3 General Center Concept - "The continuation plan presents a credible scenario for the Center to operate beyond the five-year Project Period with an increasing fraction of operational support coming from non-KBA sources."
- iv. Section 4.3 General Center Concept, Project Goals and Objectives - "Specific goals and objectives should be defined for the Center's initial five-year period of operations, reflecting the expectation that the Kansas Bioscience Centers of Innovation will be sustainable beyond that period of time."
- v. Section 4.3 General Center Concept, Continuation Plan - "The continuation plan must clearly indicate how the Center will be sustained and flourish beyond the five-year funding period."
- vi. Section 5.3.7 Projected Economic Impacts - "The proposal must contain a realistic forecast of the direct employment, personal income, and product revenue for two time points - the first being at the completion of the active work on the grant and the second being five years thereafter."

In addition to the above references, it was noted that all exhibits to the RFP are presented based on a five-year funding period.

- The KBA's Request for Proposals for Centers of Innovation Planning Grants released August 14, 2007

This document contains the following language:

- i. "At a minimum, a successful applicant should demonstrate capabilities to achieve a 3X match of KBA investments over a 10 year period of operations."
- ii. "The KBA recognizes that research-driving economic development initiatives require long-term horizons of 10 years or more. The KBA will favor credible plans to achieve faster results. Consistent with the principles of an economic

stimulus initiative, successful applicants will be driven either to sustain operations independent of state funding after a reasonable period of time (10 to 20 years) or to declare victory and cease operations once a self-sustaining industry cluster has been fully developed.”

- CIBOR’s application in response to the 2009 RFP was for \$31 million and contains an outline for how each of its goals will be sustained beyond year five. It was indicated by individuals from CIBOR and its affiliates that, subsequent to the submission of this application, CIBOR was informed by Tom Thornton, the previous Chief Executive Officer of the KBA, that their proposal needed to be reduced to \$20 million over five years. In the context of these conversations, these individuals were left with the impression that CIBOR would receive the reduced amount of \$20 million over five years. Additionally, it was also expressed by individuals that worked on the CIBOR application that they would have applied for a different project or a reduced project scope if they had known that the five year funding was not guaranteed.
- News media articles were identified that indicated that CIBOR was awarded a \$20 million five year grant. The ultimate source of the information contained in the articles published by news media outlets is unknown.

In addition to the above, it was noted by several individuals associated with CIBOR and its affiliates that they believed that lengthy oral discussions were held in the presence of KBA personnel where the financial commitment was referenced or discussed as being \$20 million over five years. However, no one indicated that a firm oral commitment of \$20 million was made by anyone from the KBA.

The perspective we gathered from the KBA in response to the above referenced views of CIBOR and its affiliates was, in addition to the contract language in the Cooperative Agreement and KBA Board award approvals previously referenced, the following:

- The KBA’s 2009 RFP states - "The KBA has been allocated up to \$75 million to fund 3-5 centers over a five year period." The language does not guarantee that \$75 million amount will be awarded.

- The KBA's 2009 RFP states - "The KBA reserves the right to fund any proposal in full or in part" and "Issuing this RFP does not bind the KBA to making any awards." There was nothing in the RFP that provided award guarantees.
- The KBA's 2009 RFP states - "The sustainability of the Center will be evaluated on a variety of economic outcomes; such as revenue growth, patents, and new companies started." This provision indicates that any awards will require ongoing evaluation.
- Personnel from the KBA indicated that their funding was capped in February 2009, subsequent to the release of the 2009 RFP on December 1, 2008.
- Personnel from the KBA indicated that it would have been irresponsible for the KBA to award the full \$20 million up front, without ongoing milestone and accountability requirements.
- The KBA personnel we spoke with stated that they are not aware of any oral representations which contradicted the Cooperative Agreement language.

Meara Welch Browne Analysis

Our forensic procedures did not identify any documents, records or correspondence where the KBA made or appeared to make a firm economic commitment of a \$20 million award to CIBOR. Additionally, no one we spoke with from CIBOR and its affiliates indicated that oral representations of a firm commitment of \$20 million were made directly to them.

With regards to the time period of the 2009 RFP, we did identify documents that appeared to be KBA long term cash flow projections from March 2009 which seem to indicate that the KBA intended at that time to allocate \$16 million a year for five years to the Centers for Innovation (See Exhibit B, row 4, source document 005 - KBA Ways and Means). However, we did not find any contracts, records, documents, or e-mails that appeared to share this information with parties outside of the KBA.

Additionally, our procedures also identified the following documents related to this point of contention:

- A series of e-mails, draft letters and a grant letter from July and August, 2009 where a grant application letter of support is requested from the KBA by CIBOR. The Chief

Executive Officer of CIBOR at the time (John Moore) requests from the KBA “a statement to the effect that assuming CIBOR meets mutually established milestones this funding could total \$20.0 million over a five year period.” The KBA responds “We could provide you a letter of support for \$4.0 million to be used as matching against the federal award.” The CIBOR CEO responded “I understand your intent to limit your letter of support to the funding to which the KBA has committed (assuming we meet the milestones in the FY 2010 Work Plan).” The final letter that was issued references \$4 million. (See Exhibit B, rows 11 and 12, source documents 011 - Email Chain regarding NIST Grant Letter of Support, 012 - Tom Thornton Draft Letter of Support for the NIST Construction Grant - July 31, 2009, 013 - Email from Nancy Ruf regarding Final Letter of Support for NIST Grant, 014 - Tom Thornton Final Letter of Support for the NIST Construction Grant - August 4, 2009.)

- An e-mail from the CIBOR CEO dated January 21, 2010, where he states “It is my understanding that the KBA will evaluate in February the progress their Centers have made to determine if their staff will recommend funding for the next four years. In order for CIBOR to have the best opportunity to receive funding for that period I believe some organizations/individual assignment changes must be made.” This e-mail seems to indicate that John Moore (then CEO of CIBOR) understood the amount committed to CIBOR was \$4 million and not \$20 million. (See Exhibit B, row 24, source document 024 - Organizational Issues within CIBOR.)
- The attached Exhibit B to this report contains a chronology of some of the communications between the KBA and CIBOR regarding CIBOR’s operations and milestones. The documents that are described, referenced and/or excerpted on this schedule are included as attachments to this report. None of these documents appear to contain any representations or contentions from CIBOR and its affiliates that they believe the KBA made a firm commitment to CIBOR of \$20 million.

With regard to the level of the KBA’s funding to CIBOR in fiscal years 2011 and 2012, the investment recommendation of the investment committee of the KBA dated January 10, 2011 state the following:

“CIBOR requested \$2,000,000 of funding for the last two quarters of fiscal year 2011. On January 10, 2011 the KBA investment committee recommended funding of \$1,500,000 based upon CIBOR’s progress to date, the strategic goals of CIBOR in FY 2011, and the total amount of funding available to support the Centers of Innovation for the remainder of FY 2011.”

Additionally, the investment recommendation of the investment committee of the KBA dated September 26, 2011, state the following:

“At the June 15, 2011 KBA Executive Committee Meeting of the Board of Directors, the Center of Innovation Program was approved for \$7,500,000 of funding for FY 2012. KBA staff subsequently worked with CIBOR to reduce their original request for \$5,900,000 of funding to the \$3,000,000 related to FY 2012, running from July 1, 2011 to June 30, 2012. This includes the modification of House Bill 2383 which allocates \$1,000,000 of KBA funds to CIBOR through Wichita State University (“WSU”). Consistent with guidance provided by the KBA board, KBA staff recommended funding of \$3,000,000 in FY 2012 to support CIBOR core operations, maintain CIBOR’s current facility and labs, and allow CIBOR to continue to advance its highest priority development projects. The recommendation goes on to state that, “Appropriate funding of CIBOR is dependent upon the assumptions that the State of Kansas will provide the KBA capped cash funding of \$35 million for FY 2012. CIBOR has other sources of cash (Knight Foundation, Via Christi Foundation, contracts), and its progress is affected by the strength of KBA support; however, CIBOR should focus on its path to independence from KBA funds.”

We reviewed these recommendations with the management of the KBA and discussed the factors that impacted the level of funding received by CIBOR from the KBA in fiscal years 2011 and 2012. The factors discussed included the following:

- Since FY 2009, the KBA’s funding from the State of Kansas has been reduced and is currently capped at \$35 million a year.
- Although the KBA has a significant balance of cash on hand, they indicated that they have many other future commitments for grants and awards. Per the KBA Director of

Accounting and Financial Reporting, at December 31, 2011 the KBA had a cash balance of \$84.0 million, total investment commitments of \$262.3 million, previous payments on these commitments of \$104.4 million, and an amount remaining to be paid on these commitments of \$157.9 million. (Note: KBA had made total investment commitments of \$250.5 million as of June 30, 2011.)

- CIBOR’s actual contract revenues during fiscal years 2010 and 2011 in relation to the amounts projected in the Cooperative Agreement. Specifically, it was noted that CIBOR’s total projected contract revenue per the Cooperative Agreement for FY 2010 and 2011 was \$3 million and the actual contract revenue for this period was \$100,057.
 - The KBA believed that the number and diversity of CIBOR’s projects were more than could be effectively managed prior to the arrival of Richard Sullivan.
 - CIBOR’s attainment of milestones as discussed below.
2. The second point of contention related to the KBA’s previous financial commitments to CIBOR and its fulfillment of those commitments related to the milestones required of CIBOR in the Cooperative Agreement and the timing of related payments. In regard to this issue, the Cooperative Agreement contains the following language:
- Section 5.a. Oversight Responsibility – “KBA will oversee the technical, programmatic, financial and administrative performance of this Award and the Project. KBA will designate a Contract Administrator (the “Contract Administrator”) that will be responsible for overseeing the Project and the Award. The Contract Administrator will:
 - Work with the Awardee to develop a Work Plan acceptable to the KBA;
 - Discuss programmatic, technical, managerial, and scheduling concerns with Awardee;
 - Provide Awardee guidance on relevant topics as requested;
 - Assist Awardee with the integration, collaboration, and coordination of the Project with other projects funded by KBA;
 - Review and approve the reports and other financial information submitted to the KBA by the Awardee; and
 - Conduct desk and on-site reviews with the Awardee as necessary to resolve any KBA questions or issues uncovered during reviews or audits.”

- Section 6.b.i. Reimbursement or Milestone Payments - "If the Award is to be paid upon the completion of one or more Project milestones as set out on Schedule B, each payment of Award funds will be contingent upon Awardee's satisfactory progress and expenditure of previously distributed Award funds as budgeted."
- Section 7.d. Cost Sharing Records - "The Awardee must maintain records of all Project costs that are claimed by the Awardee as cost sharing."
- Schedule B Award Payment Terms, Milestones for Center of Innovation for Biomaterials in Orthopedic Research (CIBOR, Inc.) - This schedule relates the completion of milestones to award payment dates for fiscal year 2010.
- Schedule E – Center of Innovation for Biomaterials in Orthopedic Research (CIBOR., Inc.) Work Plan Year One - This schedule lists the milestone requirements by anticipated period of completion during fiscal year 2010.
- Amendment #1 to the Cooperative Agreement dated January 24, 2011, contains an Exhibit B that lists the milestones for fiscal year 2011.
- Amendment #2 to the Cooperative Agreement dated November 28, 2011, contains an Exhibit B that lists the milestones for fiscal year 2012.

As outlined in the above excerpts, the concept of milestones was used within the Coop Agreement to lay out the criteria CIBOR was expected to accomplish and the expected time frame for completion. From the KBA's perspective, the milestones provide a methodology for measuring and managing the progress of the awardee. Management with the KBA indicated that they utilize milestones related to virtually all their investment and award activities. The completion of milestones was the primary metric to be used for the disbursement of awarded funds. The documents that we have reviewed reflect extensive correspondence between the KBA and CIBOR regarding the completion or achievement of these milestones. Much of this dialogue relates to CIBOR's delay in the completion of certain milestones and the concurrent delay in award payments.

Exhibit C to our report contains a listing of the milestones under the Cooperative Agreement and related amendments. Based on review of the contemporaneous records, the delay in completion of the above referenced milestones was the primary reason the disbursement of

previously awarded funds was delayed. The following table shows the actual date the award was requested by CIBOR and the actual date the award was disbursed:

CIBOR	Award Requested	Award Paid	No. of Days to Approve
FY10 - Milestone #1	7/17/2009	8/11/2009	25
FY10 - Milestone #2	10/28/2009	4/16/2010	170
FY10 - Milestone #3	4/19/2010	7/14/2010	86
FY10 - Milestone #4	10/25/2010	12/16/2010	52
FY11 - Milestone #1	3/25/2011	4/11/2011	17
FY11 - Milestone #2	6/10/2011	7/22/2011	42

The compliance issues that resulted in the lag between the date awards were requested by CIBOR and the date they were paid included:

- The development of bylaws and articles of incorporation for CIBOR that were satisfactory to both the KBA and CIBOR and its affiliates.
- Creation of a Board of Directors that met the requirements of the KBA
- The quantification and calculation of in-kind contributions (“cost share”) by CIBOR’s affiliates.
- Drafting and content of an intellectual property policy.
- Financial reporting, business plan documentation, and restrictions on award spending.
- The retention of a permanent Chief Executive Officer (“CEO”)

The KBA’s perspective regarding the above milestones is summarized as follows:

- They are an important tool for measuring progress and insuring accountability from award recipients that was utilized for virtually all KBA investments and among all the Centers of Innovation.
- To a large degree, CIBOR set their own milestones.
- The milestones have been refined over the first two years of the program and milestones where the cost exceeded the benefit have been modified or waived.
- The KBA continued to disburse money to CIBOR even when they had not attained certain milestones.

The perspective of CIBOR and its affiliates regarding the milestones is summarized as follows:

- Linking the payment of award money to milestones has created difficulties in managing the business. Because the KBA has been their primary source of cash flow, the uncertainty of surrounding milestone attainment translates to operating uncertainty.
- The inability to attain certain milestones in the first two years was due to the lack of KBA funding.

Meara Welch Browne Analysis

Exhibit B to this report is a matrix that contains a chronology of communications between the KBA and CIBOR regarding CIBOR's operations and milestones. The documents that are referenced and/or excerpted on this schedule are included as attachments to this report.

A review of Exhibit B and the related documents provides insight into the delays that occurred regarding the payment of awarded funds from the KBA to CIBOR. There were obviously a number of issues in dispute during this time period with regard to the legal control of CIBOR (i.e., the articles of incorporation, bylaws, board of directors), the value of economic contributions (i.e., in-kind contributions), the rights to potential economic rewards (i.e., intellectual property, equity interests), and the interpretation and requirements of given milestones (i.e., financial reporting, business plan documentation, and restrictions on award spending). These records indicate that the positions taken by each of the members to the Coop Agreement over the course of this time period contributed to the delays in the awarded funding as they negotiated to establish or maintain their perceived rights and interests.

In an effort to try and evaluate the KBA's dealings with CIBOR in the context of these disputes, our analysis included a review of the cooperative agreements and other documents and correspondence related to the KBA's other Centers of Innovation. Specifically, we endeavored to compare the KBA's management and administration of their contract with CIBOR to that of the other Centers of Innovation. Since the inception of the Centers of Innovation, KBA has awarded funding to four organizations: CIBOR, Heartland Plant Innovations ("HPI"), Kansas Alliance for Biorefining and Bioenergy ("KABB"), and the Center for Animal Health Innovation ("CAHI"). CIBOR, HPI and KABB executed

cooperative agreements in June/July 2009 and CAHI executed an agreement in April 2011. Given the timing of the award to CAHI, the focus of this comparison going forward will be primarily on the other three entities. The following summarizes our analysis:

- CIBOR and HPI were both awarded \$4 million by the KBA, while KABB was awarded \$4.1 million.
- CIBOR, HPI and KABB submitted budgets in their application that were adjusted downward, as follows:
 - CIBOR requested \$31 million in funding over 5 years, adjusted to \$20 million (64.5% of requested award).
 - HPI requested \$35 million in funding over 5 years, adjusted to \$20 million (57.1% of requested award).
 - KABB requested \$32 million in funding over 5 years; the copy of the KABB Cooperative Agreement that we obtained did not indicate an adjustment, but we were informed that KABB was told that the KBA would not provide any more than \$20 million in total to one Center. However, there was never any formal recasting of the budget as the KBA only invested \$4.1 million with no commitment beyond that point.
- CIBOR, HPI and KABB received letters from the KBA delineating deviations from their respective Cooperative Agreement and from previously established milestones. While the compliance issues are specific to each center, they share several common deviations including, but not limited to:
 - Required changes to bylaws
 - Supporting documentation of cost-share/in-kind contributions
 - Required financial statements and metrics
 - Development of an Intellectual Property Agreement.
- CIBOR and HPI were both awarded funding for the second half of FY 2011 on January 24, 2011; CIBOR was awarded \$1.5 million based on a request of \$2 million (75%), HPI was awarded \$1 million based on a request of \$2 million (50%).
- KABB used only \$400,000 of the \$4.1 million award received for FY 2010; the balance of this funding was available to them in FY 2011 and no additional award was made; as

of November 10, 2011 KABB has received \$1.975 million of the original \$4.1 million award.

- Per the KBA Director of Accounting and Financial Reporting, as of 12/31/11, funds committed and paid to each of the Centers of Innovation were as follows:

Center	Commitment	Payments
CIBOR*	\$ 7,500,000	\$ 6,050,000
HPI	\$ 9,818,658	\$ 5,393,500
KABB	\$ 4,100,000	\$ 1,975,000
CAHI	\$ 1,000,000	\$ 409,000

* Excluded from the CIBOR “Payments” is \$1,000,000 appropriated by the state as part of State House Bill 2383

- The Cooperative Agreements for both CIBOR and HPI contemplated funding contingent upon the completion of agreed upon milestones. Due to deviations like those noted above, both experienced delays in funding as follows:

CIBOR	Award Requested	Award Paid	No. of Days to Approve
FY10 - Milestone #1	7/17/2009	8/11/2009	25
FY10 - Milestone #2	10/28/2009	4/16/2010	170
FY10 - Milestone #3	4/19/2010	7/14/2010	86
FY10 - Milestone #4	10/25/2010	12/16/2010	52
FY11 - Milestone #1	3/25/2011	4/11/2011	17
FY11 - Milestone #2	6/10/2011	7/22/2011	42
HPI	Award Requested	Award Paid	No. of Days to Approve
FY10 - Milestone #1	7/21/2009	7/27/2009	6
FY10 - Milestone #2	10/31/2009	4/20/2010	171
FY10 - Milestone #3	6/21/2010	7/2/2010	11
FY10 - Milestone #4	10/25/2010	11/1/2010	7
FY11 - Milestone #1	6/21/2011	6/27/2011	6
FY11 - Milestone #2	9/21/2011	9/29/2011	8

- On September 9, 2010, both CIBOR and HPI received a letter from KBA related to the preparation of budgets for FY 2011 funding; the letters included specific language related to two common points of contention, as follows:
 - “There is a 10% limitation on the use of KBA funds for equipment and construction expenses (new construction and renovation).”
 - “During FY 2011, cost share can be 1 to 1, but keep in mind that at the end of 5 years, the cost share cumulatively must be 2 to 1.”

The above analysis seems to indicate that the Centers of Innovation were treated in an equitable fashion.

Additionally and related to the last bullet point above, based on our interviews and review of the correspondence between the KBA and CIBOR, we conducted specific inquiry into the KBA’s restriction limiting CIBOR’s capital expenditures to 10% of the funds awarded by the KBA.

The Cooperative Agreement contains the following language in Schedule A:

Schedule A - Detailed Restrictions on Uses of Award - "Construction expenses for the Center, including new construction and renovations, rearrangements, and alterations of existing space, shall be limited to 10% of the KBA Award funds."

Additionally, the KBA’s Fiscal Year 2009 RFP dated December 1, 2008, contains the following language:

Appendix A “Kansas Bioscience Center of Innovation - Budget forms for Center must clearly identify those KBA funds that are being requested for capital expenses; i.e., to acquire, renovate, or construct facilities and purchase equipment. Use of KBA funds for the construction and or modification of facilities will be limited to 10% of the KBA funds.”

The KBA’s interpretation of the above provisions has been that ten percent (10%) limitation applies to equipment purchases. For example, the following is an excerpt from a letter dated July 19th, 2010, sent by Tom Thornton to John Moore at CIBOR:

“The KBA board approved \$780,000 for CIBOR equipment. Outside of this special approval, the terms of the Cooperative Agreement and accompanying RFP define capital expenses as "to acquire, renovate, or construct facilities and purchase equipment. Capital expenses are limited to 10% of the KBA funds.”

CIBOR sent the following response to this letter:

“The referenced provision of the Agreement is inaccurately stated. The Agreement in schedule A provides "Construction expenses for the Center, including new construction and renovations, rearrangements and alterations of existing space, shall be limited to 10% of the KBA Award funds." There is no reference to capital equipment. At the KBA's finance committee's recommendation the KBA board approved a first payment of \$1,660,000 to CIBOR which included \$880,000 to be utilized for the immediate purchase of scientific equipment identified to the investment committee. CIBOR's FY2010 Business Plan, which was approved by the CIBOR Board that included Jan Katterhenry on September 12, 2009, called for the purchase of \$2,200,000 of scientific equipment throughout the fiscal year. Approximately \$1,000,000 which was identified for purchase in the first quarter has been acquired. Funding uncertainty has precluded the purchase of the balance of the scientific equipment. In summary, there is no restriction in the Agreement on the amount of KBA funds that can be used for the purchase of equipment. Having received CIBOR board approval to acquire scientific equipment beyond \$880,000 is no violation of the Agreement.”

Subsequent to this exchange, the Amendment #1 to the Cooperative Agreement dated January 24, 2011 was executed and includes the following provision:

1. Section 4.a.i. Acquisition and Use of Equipment is amended to include the following: "the definition of capital expenditures includes, but is not limited to, the acquisition, renovation or construction of facilities and the purchase of equipment. It shall be limited to 10% of KBA Award funds, unless specifically requested by Awardee of a waiver and approved through written amendment by KBA. KBA acknowledges consent of the FY 2010 capital expenditures which took Awardee above this 10%

limit." Similar language was also amended in Schedule A to reflect the inclusion of equipment in the 10% limitation.

The KBA's interpretation of the original Coop Agreement has been that equipment is included in the ten percent (10%) limitation. From the perspective of CIBOR and its affiliates, their original application for funding from the KBA clearly indicated that the use of KBA funds for the purchase of equipment would exceed 10% of the funds received. Specifically, it is CIBOR's assertion that the 10% limitation on equipment never made sense within the context of their proposal and hindered their ability to make progress on key projects. They believe that this restriction, combined with the subsequent reduced level of KBA funding, has hampered their ability to achieve their KBA milestones. Additionally, multiple individuals from CIBOR and its affiliates expressed their belief that the KBA's policies with regard to limitations on capital expenditures and equipment have not been applied in an equitable fashion among all of their investments. Specifically, they believe that other KBA funded projects within the State did not contain this limitation on capital expenditures. The scope of our procedures did not include a review of projects outside the Centers of Innovation and, therefore, we have no basis for commenting on this perspective. That said, it was noted in our review that during fiscal years 2010 and 2011, CIBOR incurred \$2,513,088 of capital expenditure costs and their original budget for capital expenditures for this two year period per the Coop Agreement was \$2,827,919. The difference equates to an 11% decrease from the original budget. Additionally, it was noted that \$1,498,338 of the capital expenditures came from KBA funds. These expenditures represented 31.5% of the KBA funds received as of that date (or \$1,498,338/\$4,750,000). Lastly, it was represented by management of the KBA repeatedly informed CIBOR of their opportunity to request waivers to acquire equipment in excess of limitations when specific needs arose.

Summary Conclusion

Ultimately, the disputes between the KBA and CIBOR center on their different paradigms with regard to what the KBA's commitments were to CIBOR and the legal rights under the Coop Agreement. From an economic perspective, CIBOR viewed the KBA award as a \$20 million grant whereby they would have complete control to make their own assessments of risk and determine

the ways in which the award money was spent. The KBA's view was that the award was a \$4 million grant with specific requirements that allowed the KBA to make their own risk assessments over time, which in turn impacted their level of future investment. In addition, it was the responsibility of CIBOR to achieve pre-determined milestones in order to receive the funding committed to them by the KBA within the Cooperative Agreement. The interviews we conducted and the records we reviewed did not reveal any evidence of a firm economic commitment beyond the \$7.5 million that was awarded in the Coop Agreement and subsequent KBA Board approvals of additional awards. The following summarizes the financial commitments and fulfillment of those commitments as of the date of this report as reflected in the attached Exhibit B:

<i>(as of January 15, 2012)</i>			
KBA Funds Awarded to CIBOR			7,500,000
KBA Award Funds Requested by CIBOR			6,100,000
KBA Award Funds Received by CIBOR			6,050,000
Appropriated KBA Funds Awarded under House Bill 2383			1,000,000
Funds Received by CIBOR under House Bill 2383			712,227
KBA Funds Received			6,050,000
State Funds Received			712,227
Total Funds Received by CIBOR			6,762,227

Summary of Records and Facts

In conducting our analysis, we utilized and relied upon the pertinent records and facts listed in the attached exhibits and included in the above discussion.

Qualifications of Engagement Partner– Steve W. Browne, CPA, ABV, CITP, CFE, CISA, CFF

I am (i) a certified public accountant, (ii) licensed in Missouri and Kansas, (iii) accredited in business valuation, (iv) a certified information technology professional, (v) a certified fraud examiner, (vi) a certified information systems auditor, and (vii) certified in financial forensics. I serve as partner of Meara Welch Browne, P.C. and direct the audit, valuation and litigation support departments. Prior to joining the firm in 1990, I was an auditor with Ernst & Young. I earned my

Bachelor of Science degrees in Finance and Accounting from Kansas State University and my Masters degree in Economics from the University of Missouri, Kansas City. For over 22 years, I have participated extensively in engagements for audit and accounting, mergers and acquisitions, business valuations and damage analysis studies as both a client advisor and an expert witness.



Meara Welch Browne, P.C.

Exhibit A – Electronic Evidence and Search Protocols

We gathered electronic evidence for review as part of our investigation. The majority of the evidence gathered consisted of several exact bit for bit copies of hard drive images of various personnel at the KBA (see below). This evidence was attained from the accounting firm BKD who had already performed the original hard drive acquisitions. Upon our request, BKD copied the hard drive images to SATA hard drives provided by our firm. The tool used to copy these hard drives creates a hash value of the image before and after copying the image or image segments in order to ensure the copy is exact. On or around November 7, 2011 the following KBA personnel's images were requested by MWB and subsequently provided by BKD:

- Tom Thornton's New Laptop Hard Drive – Acquired on or about April 27, 2011 (Note - In conducting our forensic work, we learned that, with regard to Tom Thornton's New Laptop Hard Drive, a software tool had been utilized to erase all traces of deleted files from his hard drive. This was confirmed with BKD. However, Mr. Thornton's resident Outlook Email file was still present on the hard drive and, given that Outlook stores deleted emails inside its primary file, those deleted emails were still available to be forensically analyzed with our software.)
- Tom Thornton's Old Laptop Hard Drive – Acquired on or about April 15, 2011
- Janice Katterhenry's Hard Drive – Initially acquired on or about April 15, 2011
- Janice Katterhenry's Hard Drive – Second acquisition of same drive on or about October 8, 2011
- Marsh Loscalzo's Hard Drive – Acquired on or about April 15, 2011
- Nancy Ruf's Hard Drive – Date acquired is unknown
- David Vranicar's Hard Drive – Acquired on or about May 5, 2011
- Chad Bettes' Hard Drive – Acquired on or about May 6, 2011
- Lindsay Thornton's Hard Drive – Acquired on or about April 16, 2011
- Lisa Kay's Hard Drive – Acquired on or about May 19, 2011
- Katie Montes's Hard Drive – Acquired on or about July 11, 2011
- Mary Cummings' Hard Drive – Acquired on or about August 4, 2011
- Ruth Saale's Hard Drive – Acquired on or about July 11, 2011
- Ruth Saale's Old Laptop Hard Drive – Acquired on or about October 8, 2011

- Ryan White's Hard Drive – Acquired on or about July 28, 2011
- Terry Osborn's Hard Drive – Acquired on or about May 6, 2011
- Tom Krol's Hard Drive – Acquired on or about July 28, 2011

In addition to the above, we acquired an electronic file from CIBOR that contained documents and e-mails that were saved on September 23, 2010. This file appears to contain copies of data from a computer that was used by John Moore, CIBOR's former Chief Executive Officer. We are unable to determine the extent to which these files represent a complete copy of Mr. Moore's e-mail and documents.

Once the images were provided to MWB, they were copied with Evidence Mover onto a central RAID array connected directly to MWB's forensic workstation. As with the original copy from BKD's server to the SATA drives, hash totals were created before and after the copying process and compared to ensure they matched for each evidence file copied.

Once the evidence was in place on the MWB forensic workstation, the following process was performed for each drive image:

- Each hard drive image was added as an "evidence record" to a central EnCase "Case".
- Any Outlook/Exchange "OST" (or email) files were copied into another folder on the RAID array and added to their own individual EnCase "Case".
- The OST files, which are compound encrypted files, were then "expanded" into readable Outlook files using the email extraction tool within EnCase. During this process, the option to recover deleted emails was selected. Also during this process, a tool called PST Walker was used to do a manual cursory search and analysis of the email files for relevance to the subject matter in question.
- All of the cases were processed using the indexing option. This option creates a searchable index of all the data on each image in the case. This allows for searches of any search term or compound search term using logical operators such as "and" and "or" and others to do very specific or very broad searches for emails or documents relating to various subject matter.

Various searches were performed on each drive. As relevant documents and emails were found, they were extracted to be used for further analysis and reporting. All searches pertained to the following subject matter addressed in our engagement:

- The understanding between the KBA and CIBOR as to the amount and length of the award. Specifically, was the award \$4 million for one year or \$20 million over 5 years.
- The milestone requirements within the Coop Agreement.
- The understanding between the KBA and CIBOR as to whether or not there was a limit of 10% of KBA funds allowed for the purchase of equipment.
- The KBA's administration of the contracts with the Centers of Innovation.

The following are examples of search terms that were used individually and/or in conjunction with a group of other terms in order to extract relevant documents and emails. (Note – the following list is not all inclusive with regard to the terms searched. Additionally, the terms were not universally searched on each hard drive that was obtained. Investigator discretion was utilized based upon different facts and documents that were gathered and statements made during our interviews with relevant individuals.)

- Center of Innovation for Biomaterials in Orthopedic Research
- CIBOR
- C.I.B.O.R.
- Via Christi Health System
- Wichita State University
- National Institute for Aviation Research
- NIAR
- N.I.A.R.
- Centers of Innovation
- National Center for Animal Health Innovation
- CAHI
- C.A.H.I.
- Kansas Innovation Center for Advanced Plant Design
- HPI

- H.P.I.
- Heartland Plant Innovations
- Kansas Wheat Commission
- Kansas Alliance for Biorefining and Bioenergy
- KABB
- K.A.B.B.
- Cooperative Agreement
- Coop
- Agreement
- Grant
- Award
- Funding
- Fund
- Allocation
- Budget
- Investment
- Promise
- Guarantee
- Payment
- \$4 million
- 4,000,000
- 4000000
- \$20 million
- 20,000,000
- 20000000
- 5 year(s)
- Year(s)
- Recommendation
- Annual
- Amendment

- Agreement

The following tools were used at some point in the processing of acquiring, copying and analyzing the evidence collected from the KBA:

- Guidance Software's EnCase® Forensic ("EnCase" ®)
- AccessData Group's Forensic Toolkit® ("FTK" ®)
- MicroForensics' Evidence Mover
- PST Walker Software's PST Walker

Kansas Bioscience Authority Matter - CIBOR

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
1	8/14/2007						Kansas Bioscience Authority ("KBA") released a Request for Proposal for the Kansas Bioscience Centers of Innovation Planning Grants ("KBCI RFP"). The purpose of the KBCI RFP was to award planning grants of up to \$200,000 for organizations to submit comprehensive proposals for the "Phase I development of a Kansas Bioscience Center of Innovation within six months of receiving the planning grant."
2	12/1/2008						KBA released a Request for Proposal for The Kansas City Bioscience Centers of Innovation ("RFP"). The purpose of the RFP was to address Kansas' "dual needs to (1) assist existing and emerging bioscience industries in capturing new knowledge and research findings for their product and production functions and (2) build strong world-class bioscience development centers."
3	2/6/2009						Via Christ Health System and its subsidiary Via Christi Regional Medical Center ("Via Christi"), in conjunction with the Wichita Composites Advisory Board and in partnership with Kansas Universities, submitted a response to the RFP for the Center of Innovation for Biomaterials in Orthopaedic Research ("CIBOR"). The submission requested state funding of \$31,000,000 over a five-year period to undertake the applied development of and commercialization of medical devices around the current composite technology cluster that exists in the greater Wichita area.
4	4/23/2009						E-mail from Jan Katterhenry to Tom Thornton, Ruth Saale and Lindsay Holwick attaching a spreadsheet related to cash flow projections - KBA Projected Cash Flow for Fiscal Years 2009 through 2019
5	5/7/2009						Third-party expert evaluators recommend funding of CIBOR to receive \$780,000 for 2009 and \$4 million in FY 2010. Thereafter, the center's progress will be evaluated and funded as appropriate.
6	5/19/2009						<p>The payment of the \$4,000,000 award is outlined in Kansas Bioscience Authority Board of Directors Meeting Minutes dated May 19, 2009, which contain the following excerpts:</p> <p>"i. The Committee recommends a grant of \$880,000 by June 1, 2009, \$780,000 of which will purchase equipment for research and \$100,000 will support operations. Quarterly payments will then be made through FY 2010 in the amount of \$780,000 each upon CIBOR meeting milestones based on metrics to be mutually developed between KBA staff and CIBOR.</p> <p>ii. Future funding will be reviewed in February 2010 based on the successful completion of milestones."</p>

Kansas Bioscience Authority Matter - CIBOR

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
7	5/20/2009						Wichita Eagle article states, "The KBA voted Tuesday to give a \$4 million first installment on a \$20 million, five year grant to Wichita scientists..."
8	7/6/2009	1,660,000					Milestone #1 Award Payment Planned
9	7/17/2009						Cooperative Agreement ("Agreement") was executed between KBA and CIBOR. Under the Agreement, and subject to terms and conditions contained within, the KBA agreed to make an award of \$4,000,000 to CIBOR.
10	7/17/2009		1,660,000				Award Payment Request Submitted
11	7/31/2009						E-mail chain regarding KBA Support for CIBOR's NIST Grant Proposal: July 27, 2009 - John Moore to Jan Katterhenry: "This is a follow-up to my email of last week in which I sought KBA support for a \$14 million to \$15 million grant...I am requesting a Letter of Support from the KBA which identifies these monies as matching funds." July 27, 2009 - Jan Katterhenry to John Moore: "John, we could provide you a letter of support for \$4.0 million to be used as matching against the federal award." July 27, 2009 - John Moore to Jan Katterhenry: "I understand your intent to limit your letter of support to the funding to which the KBA has committed. A statement to the effect that assuming CIBOR meets mutually established milestones this funding could total \$20.0 million over a five year period would be greatly appreciated." July 28, 2009 - John Moore to Nancy Ruf: "I would like to have the KBA issue the letter of support for \$4.0 million which Jan offered." July 30, 2009 - Nancy Ruf to Jan Katterhenry: "I did speak with John and he said that he spoke with Tom. Therefore, my draft is to include up to \$20 Million, but put subject to availability of KBA funds, board approval etc..." A draft of the letter was prepared, dated July 31, 2009 including the \$20 million.
12	8/4/2009						On August 4th, 2009 a final Letter of Support related to the NIST Grant was provided to CIBOR. The final letter included \$4 million of support based upon the following e-mail exchange: August 3, 2009 - Tom Thornton to Nancy Ruf and David Vranicar: "We have only committed FY 2010 funds and cannot make commitments, or statements, beyond that." August 3, 2009 - Tom Thornton to Jan Katterhenry: "I have removed the \$20 million statement per your request...Do you still want me to include the 10% limit language below?"
13	8/4/2009						Cooperative Agreement was executed by Tom Thornton with John Moore present at the KBA offices on 8/4/09 with Nancy Ruf present

Kansas Bioscience Authority Matter - CIBOR

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
14	8/11/2009			1,660,000			Milestone #1 Award Payment Received; KBA Distribution Date
15	10/1/2009	780,000					Milestone #2 Award Payment Planned
16	10/28/2009		780,000				Award Payment Request Submitted - KBA internal reviews on 1/10/10, 2/8/10, and 4/12/10
17	10/29/2009						E-mail from John Moore to Michalene Maringer, Don Beggs and (BCC:) Jerry Antes indicating that he had met with Janice Katterhenry the day before to go over the Award Payment Request. CIBOR's performance was reviewed against 11 milestones, all of which had been met. One item that might be an issue would be the cost match.
18	11/23/2009						E-mail from John Moore regarding a meeting with Jan Katterhenry and Nancy Ruf where he was told CIBOR was not meeting KBA's financial reporting requirements
19	12/19/2009						E-mail from Mike Wegner to John Moore and Mike Good related to an upcoming phone conversation with Jan with the expectation that the financial reporting issues had been resolved.
20	12/22/2009						E-mail from Nancy Ruf to Mike Good, Darla Larkin, John Moore, Ryan White and Jan Katterhenry providing a follow-up to a conference call the previous day related to compliance issues. The e-mail includes a listing of open items for CIBOR to complete, including those related to financial reporting.
21	12/23/2009						E-mail from Jan Katterhenry to Nancy Ruf and Tom Thornton regarding the voting rights as delineated in the Articles and Bylaws; Board is supposed to have voting rights per KBA policy, but Via Christi (51%) and Wichita State (49%) have the voting rights per the current documents
22	1/1/2010	780,000					Milestone #3 Award Payment Planned
23	1/8/2010						E-mail from Jan Katterhenry to Nancy Ruf regarding an e-mail from John Moore that lists information requested on a recent teleconference in which Jan questions how CIBOR plans to pay for \$1.5M of equipment
24	1/21/2010						E-mail from John Moore to Michalene Maringer and Don Beggs stating, "It is my understanding that the KBA will evaluate in February the progress their Centers have made to determine if their staff will recommend funding for the next four years. In order for CIBOR to have the best opportunity to receive funding for that period I believe some organizational/individual assignment changes must be made."

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Kansas Bioscience Authority Matter - CIBOR

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
25	2/10/2010						E-mail from John Moore to Michalene Maringer and Don Beggs regarding a presentation for an upcoming board meeting noting the unpredictability of KBA payments and lack of communication from Jan.
26	2/11/2010						Letter from Tom Thornton to CIBOR regarding contract compliance deficiencies
27	2/11/2010						E-mail from Jan Katterhenry to Michalene Maringer, Tom Krol, Tom Thornton and John Moore stating the deviations letter had been reviewed with John Moore and "this letter outlines the items that must be Received before KBA funds the latest payment request from CIBOR."
28	2/11/2010						CIBOR prepared a response to the February 11, 2010 letter from Tom Thornton regarding possible compliance issues. The response provided a point-by-point assessment of CIBOR's compliance with the stated deviations.
29	2/25/2010						KBA letter to CIBOR regarding FY 2011 Annual Operating Plan Requirements
30	3/22/2010						E-mail from Tom Krol to Jan Katterhenry and Nancy Ruf setting an agenda for an upcoming financial review meeting with CIBOR
31	3/31/2010						Response to 2/25/10 letter of deviations, e-mail from John Moore to Nancy Ruf with attachment
32	3/31/2010						E-mail from John Moore to Nancy Ruf, Jan Katterhenry, and Tom Krol with an attachment documenting items discussed at a meeting on 3/26 regarding CIBOR's understanding of future financial reporting requirements
33	4/1/2010						E-mail from Nancy Ruf to Ruth Saale indicating KBA "sent them a correction actions letter on 2/25/10 and will not make a payment until they respond to the letter"
34	4/1/2010	780,000					Milestone #4 Award Payment Planned
35	4/8/2010						E-mail from John Moore regarding a conversation with Tom Krol stating his belief that CIBOR will only receive one more payment of \$780k during this fiscal year and will not receive \$4M in FY 2011
36	4/12/2010						E-mail from John Moore to Don Beggs and Michalene Maringer stating that legislators should not be contacted at this time and his intention to send a second invoice as a followup to the one sent in October; includes Maringer response that it "seems that KBA's funding from the state was reduced from \$68M to \$35M"
37	4/19/2010		780,000				Award Payment Request Submitted
38	4/20/2010						KBA Distribution Date

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Kansas Bioscience Authority Matter - CIBOR

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
39	4/21/2010			780,000			Milestone #2 Award Payment Received
40	4/23/2010						E-mail from Nancy Ruf to Ruth Saale indicating "We won't process this until we have paid the 2nd Milestone AND only if they can prove they need the cash."
41	5/3/2010						Letter from Lyle Pishney of Lathrop & Gage to Kevin Arnel of Foulston Siefkin regarding CIBOR's entity structure as it relates to the requirements of the Cooperative Agreement
42	5/20/2010						Letter from Kevin Arnel to Gary Knight, VP of Legal Affairs for Via Christi, and Ted Ayers, VP and General Counsel for WSU, regarding CIBOR Bylaw Issues that remain unresolved
43	5/24/2010						E-mail from John Moore to Paul Wooley, Tom Aldag, Mark Taylor, Mike Good, Darla Larkin, and Toni Buttner regarding the FY 2011 budget and the need to resolve financial reporting and in-kind issues as these are the reason funding is being delayed
44	6/7/2010						E-mail from John Moore to Don Beggs stating, "Tom Krol called Friday and asked if we would consider having Darla Larkin and Mike Wegner be responsible for the financial reporting and function for CIBOR."
45	6/18/2010						E-mail from John Moore to Tom Krol and Jan Katterhenry regarding the extremely difficult cash flow shortage CIBOR is facing
46	6/21/2010						E-mail chain including statement by Tom Krol that he is trying to process the payment but is getting pushback due to several compliance issues related to financial reporting, in-kinds, and the IP Policy
47	7/1/2010						E-mail from John Moore to John Carlin, former Governor of Kansas, requesting a meeting regarding CIBOR
48	7/2/2010						E-mail from John Moore to Tom Krol, Don Beggs and Kevin Conlin advising that steps will begin to cease operations if the milestone 3 payment is not made
49	7/8/2010						E-mail from Jan Katterhenry to Don Beggs indicating approval of milestone 3 payment with the caveat that compliance issues remain and must be resolved
50	7/13/2010						Letter from Tom Thornton approving payment of Milestone 3 despite deficiencies
51	7/14/2010			780,000			Milestone #3 Award Payment Received
52	7/15/2010						KBA Distribution Date

Kansas Bioscience Authority Matter - CIBOR

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
53	7/19/2010						<p>Letter from Tom Thornton to John Moore at CIBOR regarding compliance issues. The letter states, "We find the items listed below to be out of compliance. To come to a resolution of these items, we request a meeting at the KBA with you, Don Beggs or officer of WSU, and Kevin Conlin or officer of Via Christi at your earliest opportunity"</p> <p>Compliance issues related to the Coop Agreement and milestones noted include: "WSU/NIAR does not have adequate documentation to support the value identified" "The KBA board approved \$780,000 for CIBOR equipment." "The CIBOR board lacks adequate medical device industry representation." "Inconsistencies between the Cooperative Agreement and legal set-up of CIBOR are significant and require immediate attention." "The CEO search has languished for months." "CIBOR does not have an IP policy in place."</p>
54	7/19/2010						<p>CIBOR prepared a response to the July 19, 2010 letter from Tom Thornton stating, "The annual NIAR/Industry/State (NIS) funds received...have been discussed extensively by the KBA" "The referenced provision of the Agreement is inaccurately stated." "There is no restriction in the Agreement on the amount of KBA funds that can be used for the purchase of equipment." "CIBOR believes the KBA's definition of 'industry' as being medical device companies is far too narrow." "These issues were addressed by Kevin Conlin and Tom Thornton on Tuesday August 3rd and a briefing is expected on August 5, 2010." "The search for a permanent CEO has diligently been conducted for months." "A position paper on IP which has been agreed to by Via Christi, Wichita State University, and CIBOR has been given to the KBA." "The CIBOR Product Planning Matrix is its industry assessment tool." "The targeted \$600,000 in customer revenues was overly ambitious for the first year"</p>
55	8/2/2010						<p>Letter from Tom Thornton to John Moore regarding the CIBOR Position Paper on IP Ownership with the following language: "The KBA has received the Position Paper on Intellectual Property Ownership...we are pleased to see CIBOR is taking steps to develop an IP Policy." "As you know, the noncompliance letter sent last month notes one important item as 'inconsistencies between the Cooperative Agreement and legal set-up of CIBOR'. " "We suggest you to consider the validity of performing additional work on an IP Policy based on foundational covenants which are likely to require modification."</p>

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Kansas Bioscience Authority Matter - CIBOR

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Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
56	8/23/2010						On August 23, 2010 CIBOR and KBA met to discuss nine areas of possible non-compliance identified in Tom Thornton's July 19, 2010 letter. Action items, agreements reached, open items, and other actions to be taken were noted within the minutes to that meeting.
57	8/31/2010						E-mail from Nancy Ruf regarding action items based on 8/23/10 quarterly meeting including attachment with Actions Items for CIBOR and KBA
58	9/9/2010						Letter from Tom Thornton to CIBOR regarding KBA's intention to evaluate the Centers of Innovation for fiscal year 2011 funding. The letter states, "we expect compliance with the following: there is a 10% limitation on the use of KBA funds for equipment and construction expenses" Undated response from John Moore indicates, "we are concerned about your statement that there is a 10% limitation on the use of KBA funds for equipment and construction expenses (new construction and renovation). We have no objection to this applying to construction expenses. However, including equipment in this limitation would render it impossible for CIBOR to make the progress that its FY2010 Business Plan and the FY2011 Business Plan approved by CIBOR's board envisioned."
59	10/25/2010		780,000				Award Payment Request Submitted
60	11/5/2010						Letter from Rich Sullivan indicating CIBOR purchased equipment not previously approved by KBA and requesting a waiver for additional equipment purchases.
61	11/18/2010						Letter from Kevin Arnel to CIBOR Board of Directors related to Drafts of the Amended and Restated Articles of Incorporation and Bylaws
62	11/22/2010						Amended letter from Rich Sullivan indicating CIBOR purchased equipment not previously approved by KBA and requesting a waiver for additional equipment purchases.
63	12/1/2010						Email from Nancy Ruf to Rich Sullivan stating "KBA is willing to waive all unreceived milestones in lieu of CIBOR providing a detailed budget of the planned uses of the \$780,000 ."
64	12/6/2010						Email from Mark Taylor to Nancy Ruf submitting the Spend Plan
65	12/8/2010						Email from Nancy Ruf to Ruth Saale indicating KBA is "waiting on conclusion of KF equipment issue."
66	12/14/2010						Email from Mark Taylor to Nancy Ruf submitting the REVISED Spend Plan

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Kansas Bioscience Authority Matter - CIBOR

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Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
67	12/16/2010			780,000			Milestone #4 Award Payment Received; KBA Distribution Date
68	1/10/2011						CIBOR requests \$2M for the remaining two quarters of FY 2011; KBA staff recommends \$1.5M based upon KBA Board approved Annual Operating Plan
69	1/24/2011						On January 24, 2011 the KBA board approved additional funding in the amount of \$1,500,000 to CIBOR for fiscal year 2011 as part of Amendment #1 to the Agreement ("Amendment #1").
70	3/1/2011	750,000					3QFY11 Award Payment Planned
71	3/25/2011		750,000				Award Payment Request Submitted
72	4/11/2011						Letter from Tom Thornton to CIBOR regarding the upcoming process and requirements for the FY 2012 AOP Plan
73	4/15/2011			750,000			3QFY11 Award Payment Received (Check Date)
74	4/18/2011						Amendment #1 was executed on April 18, 2011 related to the additional award for the period from July 1, 2010 through June 30, 2011.
75	4/20/2011						KBA Distribution Date (Date of Letter accompanying \$750,000 check)
76	6/1/2011	750,000					4QFY11 Award Payment Planned
77	6/10/2011		750,000				Award Payment Request Submitted
78	6/15/2011						KBA Board approves \$7.5M for the Center of Innovation Program at the June 15, 2011 Executive Committee Meeting
79	6/16/2011						ML Weekes submits a cost share audit report which questioned \$1.8 million of in-kind contributions submitted by CIBOR

Exhibit B - Chronology of Funding, Correspondence, and Related Events

Kansas Bioscience Authority Matter - CIBOR

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80	7/22/2011			750,000			4QFY11 Award Payment Received; KBA Distribution Date
81	8/29/2011						BKD completes the audit of CIBOR Fiscal Year Ended June 30, 2010 Financials
82	9/26/2011						KBA Staff recommends funding of \$3M in FY 2012 to support CIBOR core operations, maintain CIBOR's current facility and labs, and allow CIBOR to continue to advance its highest priority development projects
83	10/21/2011				1,000,000		Amount paid directly to WSU on behalf of CIBOR from KBA funds. An agreement for funding was executed between Wichita State and CIBOR related to the state appropriations from House Bill 2383.
84	10/24/2011						Approval by the Investment Committee of the recommendation by KBA staff to fund CIBOR up to \$3,000,000 for FY 2012 through the Centers of Innovation Program; \$1,000,000 legislatively mandated and paid to CIBOR through WSU and \$2,000,000 budgeted through milestones; A second approval of the investment committee was necessary due a revision of the milestones to include language related to KBA obtaining equity in CIBOR's newly formed for-profit entity as follows: "NOTE: KBA will only make Q3 and Q4 FY 12 payments upon completion of good-faith negotiations that result in a meaningful KBA equity interest in one or more for-profit companies in the CIBOR, Inc. structure"
85	10/30/2011						Invoice sent related to CIBOR non-executive salaries from July 1, 2011 to Oct 18, 2011; Cibor rent from July through October; miscellaneous other charges
86	10/31/2011						KBA board of directors approved additional funding in the amount of three million dollars (\$3,000,000) to Awardee for fiscal year 2012, two million dollars of which to be funded directly by the KBA. The remaining one million dollars to be provided by the State of Kansas to Grantee via Wichita State University as mandated by the Kansas legislature in the 2011 session
87	11/9/2011					339,304	Payment Received related to 10/30/11 invoice

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Kansas Bioscience Authority Matter - CIBOR

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Row #	Date	KBA Funds Awarded	KBA Award Requested	KBA Award Received	State Funds to WSU	State Funds Received	Event
88	11/10/2011						Tom Krol e-mailed Rich Sullivan on November 10, 2011 recognizing receipt of CIBOR's plan for Grant and Institutional Funding but also noting the plan required updates. This funding plan was originally included as a milestone in the FY 2011 Q3 work plan.
89	11/17/2011						Invoice sent related to CIBOR non-executive salaries from Oct 19, 2011 to November 11, 2011; November rent; miscellaneous other charges
90	11/28/2011						Amendment #2 to the Agreement ("Amendment #2") was executed on November 28, 2011 related to this additional award for the period from July 1, 2011 through June 30, 2012.
91	11/29/2011						BKD completes the audit of CIBOR Fiscal Year Ended June 30, 2011 Financials
92	11/30/2011	600,000					Amendment #2 Work Plan includes multiple payments associated with the completion of milestones scheduled in Q1 of FY2012
93	12/7/2011					118,497	Payment Received related to 11/17/11 invoice
94	12/14/2011						Invoice sent related to CIBOR non-executive salaries from Nov 12, 2011 to Dec 9, 2011; December rent; miscellaneous other charges
95	12/15/2011		600,000				Award Payment Request Submitted
96	12/30/2011			550,000			CIBOR was paid \$550,000 of a possible \$600,000 from the planned milestone award. Half of a \$100,000 segment of the award was paid due to non-compliance related to planning/efforts to obtain funding from sources outside the KBA (philanthropic and governmental). Tom Krol e-mailed Rich Sullivan on November 10, 2011 recognizing receipt of CIBOR's plan for Grant and Institutional Funding but also noting the plan required updates. This funding plan was originally included as a milestone in the FY 2011 Q3 work plan.
97	12/31/2011					127,023	Automatic payments related to WSU/CIBOR employees salaries from July 1, 2011 through Dec 31, 2011
98	1/12/2012						Expecting to send an invoice related to CIBOR non-executive salaries from Dec 10, 2011 to Jan 6, 2012; January rent; miscellaneous other charges

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Kansas Bioscience Authority Matter - CIBOR

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99	Expected 1/13/2012					127,403	Anticipated receipt of payment related to 12/14 invoice
100	1/31/2012	400,000					Amendment #2 Work Plan includes multiple payments associated with the completion of milestones scheduled in Q2 of FY2012
101	3/31/2012	500,000					Amendment #2 Work Plan includes multiple payments associated with the completion of milestones scheduled in Q3 of FY2012
102	6/30/2012	500,000					Amendment #2 Work Plan includes multiple payments associated with the completion of milestones scheduled in Q4 of FY2012

7,500,000 6,100,000 6,050,000 1,000,000 712,227

(as of January 15, 2012)

KBA Funds Awarded to CIBOR	7,500,000
KBA Award Funds Requested by CIBOR	6,100,000
KBA Award Funds Received by CIBOR	6,050,000
Appropriated KBA Funds Awarded under House Bill 2383	1,000,000
Funds Received by CIBOR under House Bill 2383	712,227

KBA Funds Received	6,050,000
State Funds Received	712,227
Total Funds Received by CIBOR	<u>6,762,227</u>

Exhibit C - Record of Milestones under the Cooperative Agreement and Related Amendments

Kansas Bioscience Authority Matter - CIBOR

Exhibit C - Record of Milestones under the Cooperative Agreement and Related Amendments

Milestone was waived either at the time of review or a subsequent period
FY 2011 or FY 2012 Milestone from amendments
Milestone deferred to subsequent period

Source	Milestone	Date Milestone Achieved
FY 2010 - Work Plan Checklist for Month 1 - Period Ended 7/31/09		
Cooperative Agreement	Prepare FY 2010 Management Plan which includes:	
	Financial Plan	As of 11/4/09
	Capital Plan	As of 11/4/09
	Facilities Plan	As of 11/4/09
	Hiring Plan	As of 11/4/09
	Potential Projects Plan	As of 11/4/09
Cooperative Agreement	Complete Application process for 501(c)(3)	
	Receive IRS ID Number and Tax Exempt Status	As of 4/12/10
Cooperative Agreement	Develop Policies and Procedures	
	Conflicts of Interest	As of 11/4/09
	Signature Authority	As of 4/12/10
	Records Retention	As of 4/12/10
	Procurement	As of 11/4/09
	Financial Auditing	As of 4/12/10
	Intellectual Property	As of 4/12/10
Cooperative Agreement	Develop Articles of Incorporation and By-Laws	Agreed upon orally by Tom Thornton
Cooperative Agreement	Refine the Value of Services to be provided either as purchased services or as cost sharing	As of 11/4/09
Cooperative Agreement	Identify salary and benefits costs of individuals who will provide services on a cost share basis	As of 11/4/09
Cooperative Agreement	Fill the CIBOR Administrative Staff positions	As of 4/12/10
Cooperative Agreement	Purchase equipment identified on June 2009 Request for Payment	As of 4/12/10

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Source	Milestone	Date Milestone Achieved
Cooperative Agreement	Create a Board of Directors which meets the requirements of the KBA. All above referenced plans and documents shall be reviewed and approved at the first Board Meeting.	Agreed upon orally by Tom Thornton
FY 2010 - Work Plan Checklist for 1st Quarter (Months 1 - 3) - Period Ended 9/30/09		
Cooperative Agreement	Convene first Board of Directors Meeting	As of 11/4/09
Cooperative Agreement	With Board direction, select projects which will be initiated during FY 2010 and establish evaluation criteria. Selection will be driven by market demand and financial potential.	As of 11/4/09
Cooperative Agreement	Based upon the projects selected and the need to balance near term revenue opportunities with long term research, the prioritization of laboratory construction will occur.	As of 4/12/10
Cooperative Agreement	Develop the ability to assess market and industry requirements. This will initially be based upon input from leaders in the medical device industry and orthopaedic medicine. This assessment will be constantly refined and performed quarterly.	As of 4/12/10
Cooperative Agreement	Begin a national search for the CEO. The board will lead this directive per the qualifications listed in the Management Plan. The outcome will be hiring a highly credentialed CEO with proven experience in commercialization and business start-up.	As of 2/8/10
Cooperative Agreement	Execute contracts for purchased services and/or reach agreement regarding services that will be provided on a cost share basis	As of 1/10/10
Cooperative Agreement	Acquire Directors and Officers (D&O) and Executives and Officers (E&O) Insurance	As of 11/4/09
Cooperative Agreement	Identify temporary facilities and begin modifications for second Quarter occupancy	As of 11/4/09
Cooperative Agreement	Identify all IT requirements necessary for optimum communications between the CIBOR partners	As of 11/4/09
Cooperative Agreement	Establish a formal working relationship with Wichita Composites Advisory Board to fully understand the capabilities of regional composite manufacturers	As of 11/4/09
Cooperative Agreement	Establish a working relationship with Heartland Bioventures	As of 11/4/09
Cooperative Agreement	Seek a multi-million grant from the Knight Foundation	As of 11/4/09

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Kansas Bioscience Authority Matter - CIBOR

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Source	Milestone	Date Milestone Achieved
Cooperative Agreement	Apply for a Recovery Act NIST Construction Grant. If successful, occupancy would be in the fall of 2011.	As of 11/4/09
Cooperative Agreement	Purchase equipment allotted in the second quarter. (NOTE: Should this be 1st Qtr?)	As of 4/12/10
Cooperative Agreement	Initiate budget performance reviews - to be monthly	As of 11/4/09
Cooperative Agreement	Meet KBA match requirements	Waived
FY 2010 - Work Plan Checklist for 2nd Quarter (Months 4-6) - Period Ended 12/31/09		
Cooperative Agreement	Hold a Board of Directors Meeting	5/21/2010
Cooperative Agreement	Move into Temporary Facilities	As of 7/9/10
Cooperative Agreement	Continue to refine the market and industry assessment tool and perform a second quarter assessment	As of 7/9/10
Cooperative Agreement	Acquire that portion of the Dept of Labor's WIRED Grant that is earmarked for CIBOR	Waived
Cooperative Agreement	Pursue financial support from medical device companies for prototype development	As of 7/9/10
Cooperative Agreement	Develop a prototype prioritization plan based on medical device companies' and composite manufacturers' support and market potential	As of 12/15/10
Cooperative Agreement	Begin development of one new prototype product	As of 7/9/10
Cooperative Agreement	Purchase equipment allotted for second quarter	Equipment was not purchased as originally approved but was later approved retroactively
Cooperative Agreement	Meet KBA match requirements	Waived
FY 2010 - Work Plan Checklist for 3rd Quarter (Months 7-9) - Period Ended 3/31/10		
Cooperative Agreement	Perform all activities that occur quarterly (i.e. board meeting and market and industry assessments)	As of 7/9/10

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Kansas Bioscience Authority Matter - CIBOR

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Source	Milestone	Date Milestone Achieved
Cooperative Agreement	Complete one fully staffed and equipped laboratory	As of 12/15/10
Cooperative Agreement	Begin development of a second prototype product	As of 7/9/10
Cooperative Agreement	Purchase equipment allotted to 3rd quarter	Equipment was not purchased as originally approved but was later approved retroactively
Cooperative Agreement	Achieve KBA funding for years Two through Five	Waived
Cooperative Agreement	Meet KBA match requirements	Waived
<i>FY 2010 - Work Plan Checklist for 4th Quarter (Months 10-12) - Period Ended 6/30/10</i>		
Cooperative Agreement	Perform all activities that occur quarterly (i.e. board meeting and market and industry assessments)	As of 12/15/10
Cooperative Agreement	Review all contracts to which CIBOR is a party	As of 12/15/10
Cooperative Agreement	Assess the Center's performance against the planned budget	As of 12/15/10
Cooperative Agreement	Prepare the Management Plan for FY 2011	As of 12/15/10
Cooperative Agreement	Complete two additional fully staffed and equipped laboratories	Waived
Cooperative Agreement	Purchase equipment allotted to 4th quarter	Equipment was not purchased as originally approved but was later approved retroactively
Cooperative Agreement	Begin development of a third prototype product	As of 12/15/10
Cooperative Agreement	Meet KBA match requirements	Waived
<i>FY 2011 - Work Plan Checklist for 3rd Quarter (Months 7-9) - Period Ended 3/31/11</i>		
First Amendment to the Cooperative Agreement	Launched regulatory compliance systems including quality system to insure ISO 13485 compliance	As of 3/25/11
First Amendment to the Cooperative Agreement	Hired Controller to provide necessary reporting requirements of the KBA	As of 3/25/11
First Amendment to the Cooperative Agreement	Identify and plan for revenue from philanthropic and governmental sources	Deferred to Q4 2011
First Amendment to the Cooperative Agreement	Initiate IP submission policies and procedures to include USPTO and PCT	As of 6/10/11
First Amendment to the Cooperative Agreement	Achieve commercial revenues of \$140,000	As of 6/10/11
First Amendment to the Cooperative Agreement	Initiated hiring process of VP of Business Development (orthopaedic device industry experience)	As of 3/25/11

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Kansas Bioscience Authority Matter - CIBOR

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Source	Milestone	Date Milestone Achieved
First Amendment to the Cooperative Agreement	Met KBA requirements for reporting, including monthly and quarterly financials and exhibits and alignment with Cooperative Agreement	As of 3/25/11
FY 2011 - Work Plan Checklist for 4th Quarter (Months 10-12) - Period Ended 6/30/11		
First Amendment to the Cooperative Agreement	Identify and plan for revenue from philanthropic and governmental sources (Deferred from 3rd Quarter)	Deferred to Q1 2012
First Amendment to the Cooperative Agreement	Complete an IP Policy (Deferred from 3rd Quarter)	As of 6/10/11
First Amendment to the Cooperative Agreement	Achieve commercial revenues of \$140,000	Deferred to Q4 2012
First Amendment to the Cooperative Agreement	Write three patent disclosure documents and work with Counsel to file with USPTO and PCT	As of 6/10/11
First Amendment to the Cooperative Agreement	Prepare FY 2012 business plan	As of 6/10/11
First Amendment to the Cooperative Agreement	Complete plan to ensure Radiolucent Instrument project is to market Q1 of 2012	As of 6/10/11
First Amendment to the Cooperative Agreement	Hire VP of Business Development	As of 6/10/11
First Amendment to the Cooperative Agreement	Met KBA requirements for reporting, including monthly and quarterly financials and exhibits and alignment with Cooperative Agreement	As of 6/10/11
FY 2012 - Work Plan Checklist for 1st Quarter (Months 1-3) - Period Ended 9/30/11 (NOTE: CIBOR can submit a payment request upon completion of each sub-milestone)		
Second Amendment to the Coop Agreement	Operational - CIBOR will prepare and submit quarterly financial reports and comply with CIBOR-KBA Cooperative Agreement	As of 12/15/11
Second Amendment to the Coop Agreement	Prior Milestones - Plan and demonstrated efforts to achieve revenues from philanthropic and governmental sources (Deferred from 3QFY2011)	Deferred to Q2 2012
Second Amendment to the Coop Agreement	Programmatic - General Laboratory Programs: WSU's Institutional Animal Care and Use Committee (IACUC) approval of the CIBOR Animal Core Laboratory facility plans.	As of 12/15/11
Second Amendment to the Coop Agreement	Programmatic - General Laboratory Programs: Purchase and installation of a composite press and confocal microscope	As of 12/15/11
Second Amendment to the Coop Agreement	Programmatic - Composite Bone Growth Scaffolding and Composite Spine: The Composites Core Laboratory will begin to compile a carbon foam specimen portfolio	As of 12/15/11

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Kansas Bioscience Authority Matter - CIBOR

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Source	Milestone	Date Milestone Achieved
Second Amendment to the Coop Agreement	Programmatic - Radiolucent Surgical Instruments: The Biocompatibility Core Laboratory will develop the risk potential testing for drill and saw shards	As of 12/15/11
<i>FY 2012 - Work Plan Checklist for 2nd Quarter (Months 4-6) - Period Ended 12/31/11</i>		
Second Amendment to the Coop Agreement	Operational - CIBOR will prepare and submit quarterly financial reports and comply with CIBOR-KBA Cooperative Agreement	
Second Amendment to the Coop Agreement	Programmatic - Dept. of Defense Grant -- Casualty Stabilization Project: CIBOR will assemble a Military Medicine Advisory Panel (MMAP) to advise CIBOR and its partner agencies on the "Casualty Stabilization Project", funded by DoD.	
Second Amendment to the Coop Agreement	Programmatic - Composite Bone Growth Scaffolding and Composite Spine: Develop prototype	
Second Amendment to the Coop Agreement	Programmatic - Radiolucent Surgical Instruments: CIBOR shall register with the FDA as a Design Specification Developer.	
<i>FY 2012 - Work Plan Checklist for 3rd Quarter (Months 7-9) - Period Ended 3/31/12</i>		
Second Amendment to the Coop Agreement	(NOTE: KBA will only make Q3 and Q4 FY 12 payments upon completion of good-faith negotiations that result in a meaningful KBA equity interest in one or more for-profit companies in the CIBOR, Inc. structure)	
Second Amendment to the Coop Agreement	Operational - CIBOR will prepare and submit quarterly financial reports and comply with CIBOR-KBA Cooperative Agreement	
Second Amendment to the Coop Agreement	Programmatic - Composite Spine: Complete basic characterization of PEEK and initiate the design of a lumbar spinal implant device	

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Source	Milestone	Date Milestone Achieved
Second Amendment to the Coop Agreement	Programmatic - Radiolucent Surgical Instruments: CIBOR will launch the radiolucent instruments	
<i>FY 2012 - Work Plan Checklist for 4th Quarter (Months 10-12) - Period Ended 6/30/12</i>		
Second Amendment to the Coop Agreement	(NOTE: KBA will only make Q3 and Q4 FY 12 payments upon completion of good-faith negotiations that result in a meaningful KBA equity interest in one or more for-profit companies in the CIBOR, Inc. structure)	
Second Amendment to the Coop Agreement	Operational - CIBOR will prepare and submit quarterly financial reports and comply with CIBOR-KBA Cooperative Agreement	
Second Amendment to the Coop Agreement	Prior Milestones - Contractual income of the additional \$41,250 (FY2011)	
Second Amendment to the Coop Agreement	Programmatic - Composite Spine: Develop a void analysis testing protocol.	
Second Amendment to the Coop Agreement	Programmatic - Commercial Program: Complete commercial contract relating to MRI safety and choke design and initiate development of a PEEK micro-surface testing protocol to support CIBOR's pursuit of commercial capabilities.	

Document Received	Source
CIBOR 3-21-11 Tab 4 articles of inc bylaws revision IP ownership	Biz-Trakker
Notes from CIBOR Board Meeting 12 - Tom Krol	Biz-Trakker
CIBOR Tech - Bylaws	Biz-Trakker
Audited Financials by BKD for FY11 (reduced).zip	Biz-Trakker
CIBOR 3-21-11 Tab 8 commercial project review	Biz-Trakker
FY 2010-Equipment Certification	Biz-Trakker
IC Minutes 120610 FINAL	Biz-Trakker
082510 Equipment Request_with_projects	Biz-Trakker
signed cap exp policy	Biz-Trakker
022310 Cibor ByLaw response	Biz-Trakker
CIBOR Talking Points 21Feb2011	Biz-Trakker
010711 Wichita Eagle Article	Biz-Trakker
013111 Wichita Eagle Article	Biz-Trakker
071310 Tom T Letter to CIBOR about upcoming Milestone 3 payment	Biz-Trakker
CIBOR - Second Stmt Incorpor -Revised Bylaws 8 31 09	Biz-Trakker
Articles of Incorporation	Biz-Trakker
Nov09 bankstmt	Biz-Trakker
Sept 09 financials	Biz-Trakker
08.19.11 Wooley Employment Status	Biz-Trakker
Audited Financials by BKD for FY 10	Biz-Trakker
CIBOR 043010 BS	Biz-Trakker
CIBOR 043010 IS DETAIL	Biz-Trakker
CIBOR 043010 IS SUM	Biz-Trakker
CIBOR 053110 BS	Biz-Trakker
CIBOR 053110 IS DETAIL	Biz-Trakker
CIBOR 053110 IS SUM	Biz-Trakker
CIBOR 063010 BS	Biz-Trakker
CIBOR 063010 IS DETAIL	Biz-Trakker
CIBOR 063010 IS SUM	Biz-Trakker
CIBOR 073110 BS	Biz-Trakker
CIBOR 073110 IS DETAIL	Biz-Trakker
CIBOR 073110 IS SUM	Biz-Trakker
CIBOR 093010 BS as of 100810	Biz-Trakker
CIBOR 093010 IS SUM as of 101310	Biz-Trakker
CIBOR 103110 BS	Biz-Trakker
CIBOR 103110 IS SUM	Biz-Trakker
CIBOR 123110 BS	Biz-Trakker
CIBOR 123110 IS SUM	Biz-Trakker
CIBOR Financial Statements as of August 31 2011	Biz-Trakker
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Financial Statements	Biz-Trakker
FY11 Cash Flow-Dec10	Biz-Trakker
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3b-Anim Health Center Recommn For 02 07 11 IC Mtg Final	Biz-Trakker
5B-Anim Health Center Recommn For 3-1-11 BOD	Biz-Trakker
CAHI Coop Agrmt_EXECUTED	Biz-Trakker
4a4-AHCI Update to Investment Committee - 1-10-11 v.2.2	Biz-Trakker
AH Innovation Proposal FINAL Jan20 2011	Biz-Trakker
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App Info with Proposal Ltr & Abstract	Biz-Trakker
Board Minutes March 2011_Final	Biz-Trakker
CAHI Articles of Incorporation	Biz-Trakker
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h-CAHI IC Update - for 7-25-11 Board book	Biz-Trakker
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KACHI Evaluation 12 October 2009	Biz-Trakker
KACHI Proposal 8-12-09	Biz-Trakker
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5. HPI Investment Comm Meeting 02 04 11	Biz-Trakker
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5. HPI Financials September 30, 2010	Biz-Trakker
6. HPI FY2010 Audited Financial Statements_Final	Biz-Trakker
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Quarterly Financial Statements 30 Jun 2010	Biz-Trakker
September 30, 2010 Financials	Biz-Trakker
HPI 4th Quarter Milestone Request	Biz-Trakker
HPI 070210 Wire Transfer Payment for 3rd Milestone FY 2010	Biz-Trakker
HPI 080709 1st Milestone Pymt - Check 916	Biz-Trakker
HPI 103109 2nd Milestone request (unexecuted)	Biz-Trakker
HPI Milestone 4 Narrative 040110	Biz-Trakker
HPI Jan 29 2010 Award Payment Request	Biz-Trakker
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HPI Wire Pymt 062711 Q3 FY11 Operational of 287k	Biz-Trakker
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030609 Exec Session Investment Recommendation Bioenergy	Biz-Trakker
PLAZA-1741479-Final Approved-Investment_Committee_Minutes-- March_5_2009	Biz-Trakker
Final.CWDOCS-618106-v2-KBA_Board_Minutes_-_3_9_09	Biz-Trakker
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Roskma CEO Agreement with KABB	Biz-Trakker
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FY 2011 required revised exhibits submitted to KBA 12-17-2010	Biz-Trakker
4a1-KABB Investment Recommendation Write-Up 1-10-11 ver 2 2	Biz-Trakker
Inv Comm Minutes 011011 Final 020211	Biz-Trakker
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Audited Financials_Periods ended June 30 2011 and 2010 by AGH	Biz-Trakker
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041910 Award Pymt Request for Milestone 3	Biz-Trakker
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Tom Thornton's New Laptop Hard Drive – Acquired on or about April 27, 2011	BKD
Tom Thornton's Old Laptop Hard Drive – Acquired on or about April 15, 2011	BKD
Janice Katterhenry's Hard Drive – Initially acquired on or about April 15, 2011	BKD
Janice Katterhenry's Hard Drive – Second acquisition of same drive on or about October 8, 2011	BKD
Marsh Loscalzo's Hard Drive – Acquired on or about April 15, 2011	BKD
Nancy Ruf's Hard Drive – Acquired on or about UNKNOWN	BKD
David Vranicar's Hard Drive – Acquired on or about May 5, 2011	BKD
Chad Bettes' Hard Drive – Acquired on or about May 6, 2011	BKD
Lindsay Thornton's Hard Drive – Acquired on or about April 16, 2011	BKD
Lisa Kay's Hard Drive – Acquired on or about May 19, 2011	BKD
Katie Montes's Hard Drive – Acquired on or about July 11, 2011	BKD
Mary Cummings' Hard Drive – Acquired on or about August 4, 2011	BKD
Ruth Saale's Hard Drive – Acquired on or about July 11, 2011	BKD

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Ruth Saale's Old Laptop Hard Drive – Acquired on or about October 8, 2011	BKD
Ryan White's Hard Drive – Acquired on or about July 28, 2011	BKD
Terry Osborn's Hard Drive – Acquired on or about May 6, 2011	BKD
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01 - RFP 2009	CIBOR Binder
02 - CIBOR Application 2009	CIBOR Binder
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04 - Investment Committee - May 7 2009	CIBOR Binder
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06 - Cooperative Agreement	CIBOR Binder
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09 - IC Business Analysis and Board Approval	CIBOR Binder
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12 - Feb 2012 CIBOR Financials	CIBOR Binder
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CIBOR BKD AUDIT 2010 Mgt letter	CIBOR E-mail Documents
CIBOR Writeup for IC Sep2011v6	CIBOR E-mail Documents
ML Weekes Final Audit Report 06 16 2011	CIBOR E-mail Documents
050609 KBCI cooperative agreement with McDonald highlights	CIBOR/David McDonald
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Attachment B - Financial Performance March through Q3 2010	CIBOR/Wichita
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CIBOR Response Re Performance Milestones	CIBOR/Wichita
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Final Letter of Support	E-mail Search
KBA Financial Ways and Means	E-mail Search
9-24-2009 Press Release	E-mail Search
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CIBOR CONFIDENTIAL WriteUp Final for 1-24-11 BOD	E-mail Search
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	E-mail Search
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HPI Budget Evaluation Process Letter 2-25-10	E-mail Search
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everstkc emails	E-mail Search
ex b referenced in moore email	E-mail Search
FY 2011 budget 011310	E-mail Search
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IC Recap may 15 2009	E-mail Search
Inv Comm Minutes 011011 Final 020211	E-mail Search
investment.source.prod_affiliate.80	E-mail Search
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ljworld 041411	E-mail Search
Mar 2009 financials and highlights 040609	E-mail Search
nist grant submission	E-mail Search
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press_release.source.prod_affiliate.80	E-mail Search
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001_cibor 071310	John Moore E-mail Attachments
001_CIBOR FY 11 for Center IC Review letter	John Moore E-mail Attachments
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2010-05-03 Pishny to Arnel	John Moore E-mail Attachments
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2010-06-30 ltr lyle pishny	John Moore E-mail Attachments
070609 Draft KBCI CIBOR Cooperative Agreement (Redline version)	John Moore E-mail Attachments
083110 CIBOR Action Items_23Aug2010_CLEAN FINAL	John Moore E-mail Attachments
Agreement to Provide Interim President (Rev. 8-23-2009)	John Moore E-mail Attachments
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CENTER OF INNOVATION IN BIOMATERIALS IN ORTHOPAEDIC RESEARCH	John Moore E-mail Attachments
ceo_search_specification[1]	John Moore E-mail Attachments
CGSCF CEO Assessment Policy	John Moore E-mail Attachments
CGSCF Conflict of Interest Policy after SIA review 20Dec05 (2)	John Moore E-mail Attachments
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CGSCF Records Retention Policy	John Moore E-mail Attachments
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CIBOR Invoice & Cost Share 2009.09.30	John Moore E-mail Attachments
CIBOR Invoice & Cost Share 2009.12.31	John Moore E-mail Attachments
CIBOR KBA 01 25 2010	John Moore E-mail Attachments
CIBOR_capital_purchase_policy_09032009	John Moore E-mail Attachments
CIBOR_Chandler_WolffJan11Draft3	John Moore E-mail Attachments
CIBOR_it_infrastructure_rev_a_09022009	John Moore E-mail Attachments
CIBOR_it_software_list_by_employee_lab_09112009	John Moore E-mail Attachments
CIBOR_item_3_response_02192010	John Moore E-mail Attachments
compare 6-22 to 6-29 letter to pishny	John Moore E-mail Attachments
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John BS w-notes 123109	John Moore E-mail Attachments
June est cash	John Moore E-mail Attachments
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Letter of Support April 2009	John Moore E-mail Attachments
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WORK PLAN YEAR ONE	John Moore E-mail Attachments
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Capital Purchases FY 2010	John Moore Scanned Files
CIBOR Compensation	John Moore Scanned Files
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Operations and Program Plan FY 2011	John Moore Scanned Files
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Q3 and Q4 2010 Financials and FY 2011 Plan	John Moore Scanned Files
John Moore's Old Emails	John Moore's Old E-mail
KBA Bylaws Amended	KBA Website
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KBA FY 2008 Audit	KBA Website
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110630 investments by city	KBA/David Vranicar
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Mark Taylor E-mail to Nancy Ruf regarding Revised Spend Plan for FY10 Q4 - December 14, 2010	KBA/Nancy Ruf
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Nancy Ruf e-mail to Rich Sullivan regarding FY10 Q4 Milestones - December 1, 2010	KBA/Nancy Ruf
Rich Sullivan Letter to Nancy Ruf regarding Equipment Purchases - November 5, 2010	KBA/Nancy Ruf
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2-HPI WriteUp Final for 1-24-11 BOD rev 1-21-11	KBA/Tariq Abdullah
6. HPI FY2010 Audited Financial Statements_Final	KBA/Tariq Abdullah
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030110 KICAPD Response Letter to our Correction Actions Letter	KBA/Tariq Abdullah
Amdt No 2 Auth Form_EXECUTED	KBA/Tariq Abdullah
e-HPI Investment Committee Write-Up-for 7-25-11 Board book	KBA/Tariq Abdullah
Fully Executed HPI KBA Coop Agrmt	KBA/Tariq Abdullah
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2-HPI KWICbldg IC Write-up v4	KBA/Tariq Abdullah
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Amendment 1 EXECUTED	KBA/Tariq Abdullah
Amendment 2_ EXECUTED	KBA/Tariq Abdullah
Amendment 3_ EXECUTED	KBA/Tariq Abdullah
Amendment 4_ EXECUTED	KBA/Tariq Abdullah
Amendment 5_ EXECUTED	KBA/Tariq Abdullah
Amendment No2_ EXECUTED_for FY 12 Funding	KBA/Tariq Abdullah
CAHI Coop Agrmt_EXECUTED	KBA/Tariq Abdullah
Fully Executed KICAPD Grant Agreement-Reduced File Size for Emailing	KBA/Tariq Abdullah
HPI Amendment No 1_Executed (Duplicate)	KBA/Tariq Abdullah
KABB Fully Executed Cooperative Agt 6-25-09	KBA/Tariq Abdullah
FY2012 AOP - KBA Centers of Innovation	KBA/Tom Krol
KBA Funding to Centers of Innovation as of 111011	KBA/Tom Krol
111011 TK E-mail Regarding CIBOR Grant Funding Plan	KBA/Tom Krol
Second Amendment to the Coop Agreement	KBA/Tom Krol
Tom Krol - Notes from 120911 CIBOR Board Meeting	KBA/Tom Krol