Memorandum of Understanding

This Memorandum of Understanding ("MOU") is entered into on this __22__ day of __June__, 2011 by and among Virginia Polytechnic Institute and State University ("Virginia Tech"), a state agency and public institution of higher education of the Commonwealth of Virginia, Carilion Clinic ("Carilion"), a Virginia nonstock corporation, and Virginia Tech Carilion School of Medicine, Inc. ("VTCSOM"), a Virginia nonstock corporation (Virginia Tech, Carilion and VTCSOM, collectively, the "parties").

REQUITALS:


B. Carilion is a tax-exempt, nonstock, non-membership corporation with a self-perpetuating community board. Carilion is the parent organization of and owns or controls a health care delivery system that consists of multiple health care provider entities as well as entities that service the providers and the public. Carilion is authorized to enter into this MOU.

C. VTCSOM is a Virginia nonstock corporation with 501(c)(3) nonprofit tax status established as a medical school to develop physician thought leaders through inquiry, research and discovery. VTCSOM has been authorized to enter into this MOU.

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D. Virginia Tech, Carilion, and the Virginia Tech Foundation, Inc., entered into a Memorandum of Understanding, effective May 8, 2008, which, in part, called for the creation of a research institute and a separate medical school in Southwest Virginia.

E. VTCSOM was established as the medical school identified in the Memorandum of Understanding effective May 8, 2008, between Virginia Tech and Carilion.

F. The parties desire to enhance the collaborative structure and framework to facilitate the VTCRI’s and VTCSOM’s progress towards the goals outlined in the Memorandum of Understanding effective May 8, 2008.

G. The parties hereby agree that this Memorandum of Understanding shall supersede in all respects the Memorandum of Understanding effective May 8, 2008.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. **Structure of the Virginia Tech Carilion School of Medicine.**

   VTCSOM has been formed as a nonstock, nonprofit corporation availing itself of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The parties agree that the VTCSOM Board shall be restructured so that its operations will not be controlled either by Virginia Tech or Carilion or the two jointly.

   1.1 **Articles of Incorporation.** VTCSOM avers that its Articles conform to the requirements for Section 501(c)(3) status. VTCSOM agrees to maintain its status as a Section 501(c)(3) corporation. A copy of the current Articles is
attached hereto as Schedule 1. VTCSOM agrees to provide all other parties a copy of its Articles as amendments are adopted.

1.2 **Bylaws.** Copies of the current Bylaws of VTCSOM are attached hereto as Schedule 2. VTCSOM agrees to provide all other parties a copy of its Bylaws as amendments are adopted.

1.3 **Governance.** The governance structure for VTCSOM in the restructured Articles and Bylaws shall be as follows:

1.3.1 Two members of the VTCSOM Board of Directors ("Board") shall be appointed by the Board of Visitors of Virginia Tech from a slate of candidates provided by the President of Virginia Tech.

1.3.2 Two members of the Board shall be appointed by the Board of Directors of Carilion from a slate of candidates provided by Carilion's Chief Executive Officer.

1.3.3 There shall be six (6) Independent Board members (the "Independent Directors" and each an "Independent Director") appointed by the Board. The initial selection of the Independent Directors, none of whom shall be either employed or affiliated with the parties, shall be made by the current Board.

1.3.4 The Board members shall have four-year terms. Initially, the terms of appointment shall be staggered to achieve roughly one-fourth of the Board's terms expiring each year. The Board will elect a chair and a vice-chair, both of whom will be the Independent Directors.
1.3.5 The VTCSOM shall have a Dean, who shall be selected by the Board and who, for all matters involving VTCSOM, shall report to the Board.

2. Formation of the Virginia Tech Carilion Research Institute (VTCRI)

2.1 VTCRI shall exist to promote and conduct health related research, advance the teaching missions for graduate students at Virginia Tech, mentor VTCSOM medical students in the research domain of their curriculum, as may be agreed, and provide opportunities for collaborative research and research mentoring for Carilion Clinic's graduate medical education programs, as may be agreed.

2.2 VTCRI shall be constituted as an Institute of Virginia Tech as defined by Virginia Tech policy. As part of their duties and responsibilities, faculty (other than persons on the regular teaching faculty of Virginia Tech who conduct research in VTCRI) who are hired by VTCRI contribute to the education of the medical students primarily by being available to serve as mentors for the students' research projects. Such mentorship will be in kind and without remuneration to VTCRI and shall be requested by the Dean of VTCSOM and acceptable to Virginia Tech and Carilion. Virginia Tech agrees that such mentorship provides benefits to VTCRI equal to the value of the faculty provision of mentorship activities. Any member of the regular teaching faculty at Virginia Tech may, but shall not be required to, provide research mentoring or teach in the VTCSOM.
2.3 VTCRI shall have a stakeholder’s committee composed of senior leaders and administrators from Virginia Tech, Carilion Clinic, and VTCSOM. In addition, the VTCRI will have an external scientific advisory board composed of scientific leaders in the relevant biomedical and behavioral science disciplines represented in the VTCRI to provide guidance and periodic evaluation of the programs in the VTCRI. Both the stakeholders committee and the advisory board shall be selected and appointed by the Provost of Virginia Tech in close coordination with the Executive Director of the VTCRI, except that the parties agree that the two Carilion appointees to the VTCSOM governing board shall serve ex officio on the stakeholder’s committee. The VTCRI shall have an Executive Director who shall be appointed pursuant to regular Virginia Tech procedures for administrative appointments, with appropriate input from the advisory boards. There shall be a requirement for the Executive Director to hold the appropriate terminal degree to allow her/him to be a national leader in biomedical research. To ensure the effective integration of the VTCRI with VTCSOM, it is envisioned that the Executive Director will serve as the Senior Dean for Research in VTCSOM subject to appointment by the Dean.

2.4 Virginia Tech may serve as the applicant institution/grantee for the award of grant funds for research to be conducted by employees of VTCSOM to the extent lawfully permissible. VTCRI, through Virginia Tech, may contract with VTCSOM or Carilion for services needed in connection with grants received.

2.5 Virginia Tech, VTCSOM and Carilion shall each have the right to perform independent research using their respective employees and facilities.
3. Financing.

3.1 Real Estate and Facility for VTCRI and VTCSOM.

3.1.1 The General Assembly of the Commonwealth of Virginia appropriated to Virginia Tech funding for the construction of a building of 150,000 square feet housing the VTCSOM and the VTCRI.

3.1.2 Virginia Tech owns the building that houses VTCSOM and that Virginia Tech agrees to lease space to the VTCSOM on terms to be mutually agreed upon and memorialized in a separate lease agreement.

3.1.3 Virginia Tech has entered into a ground lease with Carilion for the land and adequate parking. Carilion may, in the future, sell or donate a fee simple interest in the land on which the building was built and parking provided. The ground lease provides that at the end of the lease term Virginia Tech shall have the option to renew the lease for an equivalent period or buy the land at the then fair market value, excluding the value of any improvements owned by Virginia Tech.

3.1.4 The portion of the building not leased to VTCSOM shall house the VTCRI.

3.1.5 Virginia Tech has entered into an agreement with Carilion to provide routine maintenance and operation for the building, with such costs being funded by the operations expenses of VTCSOM or VTCRI as may be appropriate.
3.2 **Start-Up Operating Capital.** The parties agreed that $70 million in contributions from Virginia Tech and Carilion, collectively, would be needed over a seven (7) year period beginning May 8, 2008, to operate the VTCRI and VTCSOM.

3.2.1 All funds to be contributed by Virginia Tech pursuant to this Section 3.2 shall be contingent upon sufficient funds having been raised by Virginia Tech or some other Virginia Tech entity approved for such purpose and made available. If sufficient funds have not been raised or made available, then Carilion and Virginia Tech shall cooperate in the raising of such funds and the management of cash shortfalls. No Virginia Tech contributions shall be made from appropriated funds except as provided by law.

3.2.2 It is agreed that the contributions to start-up operating capital from Virginia Tech and Carilion whether already made or to be made in the future, are in the nature of equity contributions and neither Virginia Tech nor Carilion shall have an expectation or be entitled to be repaid for their respective contributions to start-up operating capital for either VTCSOM or VTCRI.

3.2.3 Effective upon the execution of this Memorandum of Understanding, Virginia Tech agrees to assume sole responsibility for funding any remaining start-up capital for VTCRI at least at the level outlined in VTCRI Pro Forma attached hereto as Schedule 3, and incorporated herein by reference.
3.2.4 Effective upon the execution of this Memorandum of Understanding, Carilion Clinic agrees to assume sole responsibility for funding the remaining start-up capital for VTCSOM at least at the level outlined in the VTCSOM Pro Forma attached hereto as Schedule 4, and incorporated herein by reference, up to a total commitment for start-up operating capital of $35 million.

3.3 In-Kind Contributions. Virginia Tech and Carilion agree that each shall make in-kind contributions to the operation of VTCSOM and Carilion agrees that it shall make in-kind contributions to VTCRI. Each party agrees to keep auditable records of its in-kind contributions and provide an accounting of same to the Board of VTCSOM on an annual basis. Neither Virginia Tech nor Carilion shall expect or seek reimbursement for any such in-kind contributions, unless Virginia Tech and Carilion and, in the case of in-kind contributions to VTCSOM, VTCSOM mutually decide otherwise. Virginia Tech and Carilion also agree that whatever in-kind contributions each may make shall be consistent with the restrictions of federal or state law and any federal, state or other grant that is being used to pay part or all of the salary or other funding of the person or function that is being provided as an in-kind contribution. In-kind contributions shall not count as contribution for start-up operating capital in Section 3.2 above. For its part, Virginia Tech is authorized to and shall provide in-kind support for VTCRI in the form of physical space, including but not limited to the market value of any space used to conduct experiments or to serve as office space for students in Blacksburg and the National Capital Region, but excluding the market value of
the space occupied by VTCSOM and VTCRI in the building owned by Virginia Tech in Roanoke as provided for in Section 3.1 above.

3.4 *Paid Contributions.* At the request of the VTCSOM Dean, and in accordance with Section 2.2 of this Agreement, Virginia Tech agrees that Virginia Tech faculty, subject to availability and other teaching and research commitments, will provide teaching services in VTCSOM for the four (4)-year Medical School curriculum. Payment for such teaching services by Virginia Tech faculty other than faculty who are hired to work primarily as researchers in the VTCRI shall be in the amount of $100.00 per contact hour for the first year of the operation of VTCSOM and shall be indexed annually by the Consumer Price Index ("CPI") thereafter unless otherwise agreed by Virginia Tech and VTCSOM. Carilion will facilitate the process by which the Dean identifies faculty with primary appointments in the VTCSOM faculty who are also Carilion physicians and educators to provide teaching services in VTCSOM for the four (4)-year Medical School curriculum. Payment for such teaching services shall be in the amount of $200.00 per contact hour for physicians and up to $100.00 per contact hour for non-physicians, and shall be indexed annually by the CPI after the first year of operation of VTCSOM unless otherwise agreed by Carilion and VTCSOM. VTCSOM may contract with individuals not employed or otherwise engaged by Virginia Tech or Carilion as VTCSOM deems reasonable to meet the needs of students and relevant accreditation standards.

3.5 *Annual Operating Support for VTCSOM.* Annually, beginning July 1, 2010, $2 million (in 2007 dollars indexed by the CPI in subsequent years, with
funds so indexed being referred to herein as “indexed”) of approved operating support for VTCSOM shall be provided by Carilion. Carilion shall have no expectation for repayment of such support. Such annual operating support is an on-going commitment of Carilion outside of the $35 million start-up commitment identified in Section 3.2. At the conclusion of the initial five year term of this Memorandum of Understanding, Carilion agrees to continue on-going support of VTCSOM in the amount of $2 million annually (indexed) to the extent this MOU is extended by the parties.

3.6 Additional Funding. In the event that VTCSOM requires additional operating support in excess of that provided in Section 3.2 and Section 3.5, Carilion will provide up to a $1 million loan indexed per annum. Should VTCSOM require additional supplemental support, it may request funds from the Carilion Clinic Board to be provided at the sole discretion of the Carilion Clinic Board. Any supplemental support provided under this section shall be funded by Carilion as a loan to VTCSOM with a market-based interest rate. Loans from Carilion may be properly accounted for as liabilities on the books of VTCSOM, but Carilion shall have no claim to repayment of such loans, except from surpluses described in Section 3.6.2 below.

3.6.1 In no event, including integration of VTCSOM into Virginia Tech, shall Virginia Tech repay or be expected to repay operating support or loans made by Carilion or any successor thereto. In no event shall Carilion repay or be expected to repay support made by Virginia Tech.
3.6.2 *Surpluses.* Total surpluses may be realized from gains at VTCSOM. To the extent surpluses are generated in any particular year at the VTCSOM, such surpluses shall be used according to the following priority:

3.6.2.1 First, to ensure the financial stability of VTCSOM, surpluses will accumulate as cash reserves up to the amount of $5 million;

3.6.2.2 Second, to repay Carilion for any operating loans to VTCSOM;

3.6.2.3 Third, to provide for programmatic developments, including VTCSOM’s endowment, tuition, extra operating expenses, and program improvements. It is not intended that any excess monies shall be returned to Carilion.

3.7 Under no circumstances shall Virginia Tech be required or expected to repay Carilion (or any successor to Carilion) for any extra operating expenses or loans made by Carilion to cover additional operating expenses of VTCSOM.

Similarly, Carilion shall not be required or expected to repay Virginia Tech for any additional support made by Virginia Tech to cover operating expenses of VTCRI.

4.0 Operations of VTCSOM

4.1 *Non-Liability of Parties.* The parties understand and agree that neither Virginia Tech nor Carilion shall be liable for any of VTCSOM’s contracts, torts, or other acts or omissions. In addition, Virginia Tech and Carilion shall not provide any legal defense for VTCSOM or for its directors, officers, employees, staff or
students, except to the extent any of the parties’ employees served on VTCSOM’s Board in their capacity as employees of their respective organizations. VTCSOM shall carry its own liability and directors and officers ("D&O") insurance or program of self-insurance. Levels of coverage shall be subject to approval by the VTCSOM Board. Virginia Tech, as an agency of the Commonwealth, shall be free to assert such rights to sovereign immunity as may exist. In the event Carilion wishes to provide liability coverage for VTCSOM through its captive insurance company, such coverage shall be approved in advance by a majority of the non-Carilion Board members. The prices and terms of such coverage shall be consistent with the fair market value of the insurance services offered.

4.2 Separate Collaborative Agreements. There may be separate collaborative agreements between and among Virginia Tech (including VTCRI), VTCSOM and Carilion. Further, nothing herein shall prevent Virginia Tech, Carilion or VTCSOM from entering into collaboration and research agreements or projects with other third parties similar to those covered by this MOU.

4.3 Faculty Appointments to VTCSOM. Faculty appointments to VTCSOM shall be recommended by the Dean of VTCSOM through an application and appointment process established by the Board and shall be subject to ratification by the Board.

4.4 Accreditation. VTCSOM shall seek full accreditation by the Liaison Committee on Medical Education ("LCME") at the earliest time feasible, and for accreditation as required by the Southern Association of Colleges and Schools
("SACS"), as a private institution of higher education in Virginia approved by the State Council of Higher Education for Virginia (SCHEV). All material decisions with respect to accreditation and application shall be subject to an approval of the Board. A copy of all material decisions with respect to accreditation shall be provided within thirty (30) days of receipt or the time the materials are sent to accrediting bodies to Carilion and Virginia Tech.

4.5 **Curriculum.** The curriculum shall be set by VTCSOM.

4.6 **Faculty Appointments to VTCRI.** Virginia Tech shall recruit faculty for appointments in VTCRI. These appointments shall be governed by Virginia Tech's regular application and review process. Nothing in this section shall be construed to limit Virginia Tech with regard to the selection, hiring and retention of personnel or the making of appointments to VTCRI. It is recognized that hiring decisions include recognition of the objectives outlined in Section 2.2 above. Individuals who are employees of Carilion or VTCSOM may make application for such faculty positions and shall be evaluated and hired in accordance with Virginia Tech's faculty appointment process. At Virginia Tech's sole discretion, Carilion employees may be granted faculty rank at Virginia Tech. Consistent with Section 3.4 above, it is understood and agreed that faculty hired by the VTCRI, individuals on the Virginia Tech faculty who work at the VTCRI, and other Virginia Tech faculty, may apply to teach in VTCSOM, or may be asked by VTCSOM, but shall not be required, to teach in VTCSOM.
5.0 Term of MOU

This Memorandum of Understanding shall have an initial term of five (5) years. Beginning six months prior to the end of the five year term, the parties agree to conduct a review of the goals and objectives of this MOU to determine if those goals and objectives are being met and to negotiate in good faith the continuation of the Memorandum of Understanding. It is the intent of Virginia Tech and Carilion to continue to support the on-going success of VTCSOM and VTCRI.

This MOU shall expire immediately upon the occurrence of any of the following.

5.1 The VTCSOM Board requests and Virginia Tech, through its Board of Visitors, agrees to incorporate VTCSOM into Virginia Tech. In such event, VTCSOM, Virginia Tech and Carilion shall seek any necessary approval from SCHEV, and any accrediting or licensing entity for Virginia Tech to assume responsibility for VTCSOM and work out a financial solution as consistent as possible within the spirit of the envisioned partnership. Virginia Tech shall not be obligated to repay or otherwise assume liability for any extra operating expenses or loans made by VTCSOM or Carilion (or any successor thereto) as part of any such transfer;

5.2 The execution of a superseding agreement. An ancillary agreement shall not be deemed to be a superseding agreement without specific provisions contained therein. The parties understand and agree that the superseding agreement must contain an express provision to supersede this MOU and identify the specific section(s) to be superseded;
5.3 VTCSOM does not receive all full and necessary accreditation from LCME and SACS by June 30, 2014;

5.4 The project is no longer feasible as determined by the VTCSOM Board; however, any wind down shall allow for the conclusion of the program of study for any medical students enrolled in VTCSOM.

5.5 Within the Lease Agreement, there are rights of default that are exercised;

5.6 Payments are not made because of non-appropriation clause exercised by the General Assembly of Virginia or Virginia Tech; however, any wind down shall allow for the conclusion of the program of study for any medical students enrolled in the VTCSOM; or

5.7 VTCSOM is no longer feasible as an on-going private entity or as an entity of Virginia Tech then the Board may consider the feasibility for Carilion to continue operations if Carilion is interested. In such event, Virginia Tech and Carilion shall review the name of the medical school and seek approval from SCHEV and any necessary accrediting or licensing entity. Carilion shall not agree to repay or otherwise assume liability for any extra operating expenses made by Virginia Tech as part of any such transfer.

6.0 Extension of MOU. At the expiration of this MOU, the parties agree to negotiate in good faith the extension of this MOU on terms mutually acceptable to all parties and supportive of the long-term viability and success of VTCSOM and VTCRI.

7.0 Licensing.

7.1 Subject to the terms of the Memorandum of Understanding, Virginia Tech hereby grants to VTCSOM a non-exclusive license to use the name Virginia
Tech. No right, express or implied, is granted to VTCSOM to sublicense or otherwise transfer in whole or in part the right to use the name Virginia Tech to third parties, and any such right is expressly withheld from this MOU. No right, express or implied, is granted to VTCSOM to allow anyone to manufacture or otherwise produce articles bearing the name Virginia Tech, except as permitted through a separate licensing agreement executed by the parties.

7.2 Subject to the terms of this Memorandum of Understanding, Carilion hereby grants to VTCSOM and Virginia Tech, acting on behalf of VTCRI, a non-exclusive license to use the name Carilion. No right, express or implied, is granted to VTCSOM or Virginia Tech, acting on behalf of VTCRI, to sublicense or otherwise transfer in whole or in part the right to use the name Carilion to third parties, and any such right is expressly withheld from this MOU. No right, express or implied, is granted to VTCSOM and Virginia Tech, acting on behalf of VTCRI, to allow anyone to manufacture or otherwise produce articles bearing the name Carilion, except as permitted through a separate licensing agreement executed by the parties.

8.0 2008 Memorandum of Understanding. The parties agree that this Memorandum of Understanding supersedes, in all respects, the Memorandum of Understanding executed by Virginia Tech, Carilion Clinic, and the Virginia Tech Foundation for limited purposes, in 2008 and that said 2008 MOU shall have no further force or effect.

9.0 Conflict of Interests Policy. There shall be a conflict of interests policy and a corporate opportunity doctrine that shall be adopted by unanimous consent of the
VTCSOM Board. Said policy shall not conflict with existing Virginia Tech policy and applicable state law governing Virginia Tech as an instrumentality of the Commonwealth of Virginia.

10.0 Intellectual Property. Any inventions or copyrighted materials or other intellectual property (collectively “intellectual property”) conceived, expressed and/or reduced to practice under the terms of this MOU by the employees of Virginia Tech shall vest in Virginia Tech. Any intellectual property conceived, expressed and/or reduced to practice by Carilion’s employees under the terms of this MOU shall vest in Carilion. Any intellectual property conceived, expressed and/or reduced to practice by VTCSOM’s employees under the terms of this MOU shall vest in VTCSOM. Any inventions or copyrighted materials or other intellectual property conceived, expressed and/or reduced to practice under the terms of this MOU by the employees of VTCRI shall vest in Virginia Tech. Any intellectual property made jointly by employees of or by joint employees of some combination of Virginia Tech, Carilion or VTCSOM under the terms of this MOU shall become the joint property of Virginia Tech, Carilion or VTCSOM as the case may be. The parties further agree that in the event any intellectual property is created under the terms of this MOU, the party owning the intellectual property shall grant the other and VTCSOM a non-exclusive, fully-paid license to use the intellectual property for their respective internal research, teaching and business purposes. The parties further agree to negotiate in good faith and incorporate into a formal collaboration agreement provisions related to management, marketing and sharing of royalties related to intellectual property developed under this MOU.
11.0 General.

11.1 Notices. Any notice, payment or instrument required or permitted to be given or delivered by any party shall be deemed to have been received, personally delivered or transmitted by color copy or facsimile transmission, which shall be immediately confirmed and shall be followed by mailing an original of the same within 72 hours following deposit of the same in the United States Post Office, registered or certified mail, postage prepaid or a courier service, personal delivery or national delivery service with appropriate receipt and shall be addressed as follows:

Virginia Tech  
Charles W. Steger, Ph.D.  
Virginia Polytechnic Institute and State University  
201 Burruss Hall  
Blacksburg, VA  24061

With a copy to: Kay Heidbreder, Esq.  
Virginia Polytechnic Institute and State University  
Office of General Counsel  
327 Burruss Hall  
Blacksburg, VA  25061

Virginia Tech Carilion School of Medicine  
Cynda A. Johnson  
Virginia Tech Carilion School of Medicine  
2 Riverside Circle, Suite M140  
Roanoke, VA  24016

With a copy to: Carilion Clinic  
Nancy H. Agee  
Carilion Clinic  
Carilion Roanoke Memorial Hospital  
1W Administration  
1906 Bellview Avenue  
Roanoke, VA  24014
11.2 **Severability.** If any part of this MOU is held illegal or unenforceable by a court of competent jurisdiction, the remainder of this MOU shall be given effect to the fullest extent possible.

11.3 **Non-Discrimination.** The parties agree not to discriminate on the basis of race, gender, disability, age, veteran status, national origin, religion, sexual orientation or political affiliation.

11.4 **Other Agreements.** Nothing herein shall be construed as affecting the authority or ability of Virginia Tech, VTCSOM or Carilion or any affiliates of such, to perform their respective obligations under other agreements. This MOU shall not confer any additional rights on or waive any rights given, by any party hereto, under any other agreement to which they are a party.

11.5 **Waiver.** Failure of any party to insist upon the strict performance of any of the provisions of this MOU by any other party, or the failure by any party to exercise its rights upon the default of any other party, shall not constitute a waiver of such party's right to insist upon and demand strict compliance by the other party within the terms of this MOU thereafter.

11.6 **Third-Party Beneficiary.** Nothing in this MOU, expressed or implied, is intended to or shall be construed to confer upon or give to any person or entity other than parties herein any rights, remedies or claims under or by reason of this MOU or any covenants, conditions or stipulations hereof, and all covenants,
conditions, promises and agreements contained in this MOU by or on behalf of any party shall be for the sole and exclusive benefit of these parties and for no others.

11.7 Amendment. This MOU may be amended from time to time by written supplement hereto executed by all the parties.

11.8 Counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original.

11.9 Governing Law. This MOU shall be governed by the laws of the Commonwealth of Virginia without regard to Virginia law regarding choice of law or other conflict of laws, and venue and jurisdiction shall be in the City of Roanoke, Virginia, and each party agrees to waive any objections to venue.

11.10 The Effective Date. The MOU shall be effective as of the date of the last signature under this MOU.

11.11 Successors and Assigns. This Memorandum of Understanding shall be binding, to the extent permitted by law, on the successors and assigns of the parties to this MOU.

WITNESS WHEREOF, the parties have executed this MOU as of the date written by its name.
Virginia Polytechnic Institute and State University

By: [Signature]

Charles W. Steger
Carilion Clinic

By: Nancy Agee

Nancy H. Agee
Virginia Tech Carilion School of Medicine

By:                  
Cynda A. Johnson
SCHEDULE 1
VIRGINIA TECH CARILION SCHOOL OF MEDICINE, INC.

ARTICLES OF INCORPORATION

The undersigned hereby forms a nonstock, not-for-profit corporation under the provisions of the Virginia Nonstock Corporation Act, Chapter 10, Title 13.1 of the Code of Virginia, and adopts articles of incorporation of said corporation as follows:

I.

The name of the corporation is "Virginia Tech Carilion School of Medicine, Inc."

II.

The corporation is organized and shall be operated exclusively for charitable and educational purposes within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), including without limitation, the following purposes and objectives:

(a) Establish and develop a medical school ("Medical School") to provide additional physician resources to address long-term regional health care needs in Southwestern Virginia;

(b) Support and work in collaboration with the Virginia Polytechnic Institute and State University's Research Institute to advance medical research and promote bioinformatics and biomedical engineering;

(c) Expand Carilion's range of health care services available in the region; and

(d) Strengthen the state and local economies with increased research funding and private investment.

The corporation shall have all powers and authority now or hereafter conferred upon nonstock, not-for-profit corporations organized under the laws of the Commonwealth of Virginia; provided, however, that (a) no part of the net earnings of the corporation shall inure to the benefit of or be distributable to its officers, directors, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth above; (b) no substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation except as provided in §501(h) of the Code, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of (or in opposition to) any candidate for public office, and (c) notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation operated exclusively for charitable and educational purposes within the meaning of, and exempt from federal income tax under, §501(c)(3) of the Code or (ii) by a corporation, contributions to which are deductible under §170(c)(2) of the Code.
III.

In compliance with §13.1-814 of the Code of Virginia, the corporation shall not have the authority to issue shares of stock.

IV.

The corporation shall have no members.

V.

The initial registered office of the corporation shall be located in Fairfax County at 3110 Fairview Park Drive, Suite 1400, Falls Church, Virginia 22042. The initial registered agent shall be Benton Burroughs, Jr. who is a resident of Virginia and a member of the Virginia State Bar and whose business address is the same as the address of the initial registered office.

VI.

The corporation shall be managed by a Board of Directors ("Board"). The Board shall be chosen as follows:

A. Two (2) Directors shall be appointed by the Board of Visitors of Virginia Polytechnic Institute and State University ("Virginia Tech") from a slate of candidates provided by the President of Virginia Tech, and

B. Two (2) Directors shall be appointed by the Board of Carilion Clinic from a slate of candidates provided by the Chief Executive Officer of Carilion Clinic, and

C. Six (6) Independent Directors. None of the Independent Directors shall be either employed by or affiliated with Virginia Tech or Carilion Clinic.

The terms of the Directors and all other matters concerning the Directors shall be as set forth in the Bylaws of the corporation.

VII.

A. To the full extent that the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation (which limitation shall be (i) $1 or the minimum amount allowed to be stated by such Act if a specific dollar amount is required to be stated or (ii) the full extent of the limitation set forth in such Act if no specific dollar amount is required to be stated) or elimination of the liability of directors or officers, a director or officer of the corporation shall not be liable to the corporation for monetary damages. Any amendment to or repeal of this Article shall not adversely affect any right of protection of a director or officer of the corporation, current or past, for or with respect to any acts or omissions of such director or officer occurring prior to such amendment: or repeal.
B. To the full extent permitted and in the manner prescribed by the Virginia Nonstock Corporation Act and any other applicable law, the corporation shall indemnify a director or officer of the corporation or a volunteer of any Board of Directors' recognized committee, current or past, who is or was a party to any such proceeding by reason of the fact that he is or was such a director, officer or volunteer or is or was serving at the request of the corporation as a director, officer, employee, volunteer or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. The Board of Directors is hereby empowered, by majority vote of a quorum of disinterested Directors, to contract in advance to indemnify any such party.

C. The Board of Directors is hereby empowered, by majority vote of a quorum of disinterested directors, to cause the corporation to indemnify or contract in advance to indemnify any person not specified in Section B of this Article who was or is a party to any proceeding, by reason of the fact that he is or was an employee or agent of the corporation or a volunteer for the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, to the same extent as if such person were specified as one to whom indemnification is granted in Section B.

D. The corporation may purchase and maintain insurance to indemnify it against the whole or any portion of the liability assumed by it in accordance with this Article and may also procure insurance, in such amounts as the Board of Directors may determine, on behalf of any person who is or was a director, officer, employee, volunteer on any Board of Directors' recognized committee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against any liability asserted against or incurred by any such person in any such capacity or arising from his status as such, whether or not the corporation would have power to indemnify him against such liability under the provisions of this Article.

E. Notwithstanding the foregoing, nothing herein shall be construed as a waiver of the sovereign immunity enjoyed by Virginia Polytechnic Institute and State University as a state agency of the Commonwealth of Virginia.

VIII.

Notwithstanding any provisions of these Articles to the contrary, should the corporation at any time be determined to be a private foundation as defined in §509(a) of the Code:

A. the corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by §4942 of the Code;

B. the corporation shall not engage in any act of self-dealing as defined in §4941(d) of the Code;
C. the corporation shall not retain any excess business holdings as defined in §4943(c) of the Code;

D. the corporation shall not make any investments in such manner as to subject it to tax under §4944 of the Code; and

E. the corporation shall not make any taxable expenditures as defined in §4945(d) of the Code.

IX.

Upon the termination, dissolution, or winding down of the corporation, in any manner and for any reason, voluntary or involuntary, the Board shall, after making provisions for the payment of all of the liabilities of the corporation, distribute any remainder funds or monies to a section 501(c)(3) organization, for one or more exempt purposes within the meaning of section 501(c)(3) of the Code.

Dated: May 14, 2011

[Signature]
Barton Burroughs, Jr.
Incorporator

[Signature]
Secretary
SCHEDULE 2
BYLAWS
OF THE
VIRGINIA TECH CARILLON SCHOOL OF MEDICINE, INC.

Virginia Polytechnic Institute and State University ("Virginia Tech"), a state agency and public institution of higher education in the Commonwealth of Virginia, and Carillion Clinic ("Carillion"), incorporated in the Commonwealth of Virginia as a tax-exempt nonstock, non-membership corporation, in their association for the establishment of a Medical School, hereby adopt the following bylaws which shall govern the management and operation of the business and the regulation of its affairs as it relates to the Medical School, to the extent consistent with the Articles of Incorporation ("Articles") and applicable law.

ARTICLE I
NAME

The name of the corporation is the Virginia Tech Carillion School of Medicine, Inc. (the "Corporation").

ARTICLE II
PURPOSES OF THE CORPORATION

The Corporation has been organized and shall be operated exclusively for charitable and educational purposes, which shall be limited to operating as a Medical School in the Commonwealth of Virginia.

ARTICLE III
DEFINITION OF TERMS

Unless otherwise stated in these Bylaws, all of the terms used in these Bylaws which are defined in Section 13.1-803 of the Code shall be deemed to have the meaning set forth in such Section of the Code.
ARTICLE IV
ADOPTION

In accordance with Section 13.1-822 of the Code, these Bylaws shall become effective upon ratification, approval and formal adoption by the Board of Directors of the Corporation at its organizational meeting or any subsequent meeting.

ARTICLE V
OFFICES AND REGISTERED AGENT

Offices. The Corporation shall maintain continuously in the Commonwealth of Virginia a registered office at such place as may be designated by the Board of Directors (the "Board") or the President. The principal office of the Corporation and such other offices as it may establish shall be located at such place(s), either within or without the Commonwealth of Virginia, as may be designated by the Board.

Agent. The Corporation shall maintain continuously within the Commonwealth of Virginia a registered agent, which agent shall be designated by the Board of Directors or the President.

Changes. Any change in the registered office or registered agent of the corporation shall be accomplished in compliance with the existing Virginia law and as provided by these Bylaws.

ARTICLE VI
BOARD OF DIRECTORS

A. General Powers and Duties. The affairs and property of the Corporation shall be managed, controlled and directed by a Board of Directors. The Board shall have, and may exercise, any and all powers provided in the Articles of Incorporation or the Virginia law which are necessary or convenient to carry out the purposes of the Corporation.

B. Composition of the Board.

1. The number of Directors constituting the Board shall be ten (10) and shall include four (4) designated Directors and six (6) Independent Directors. Any changes to the number of Directors shall be fixed by resolution approved by a majority vote of the Board, but such number shall not be less than nine (9) or more than thirteen (13) and the majority of board members must be Independent Directors.

2. There shall be four (4) Designated Directors. Two (2) Directors shall be appointed by the Board of Visitors of Virginia Polytechnic Institute and State
University ("Virginia Tech") from a slate of candidates provided by the President of Virginia Tech. Two (2) Directors shall be appointed by the Board of Carilion Clinic from a slate of candidates provided by the Chief Executive Officer of Carilion Clinic. There shall be six (6) Independent Directors. None of the Independent Directors shall be either employed by or affiliated with Virginia Tech or Carilion Clinic.

3. The term of a Director shall be four (4) years, provided that the increases in the numbers of Independent Directors (three (3) additional) since organizational meeting shall be staggered to achieve roughly one-fourth of the Board’s terms expiring each year.

The term of a Director shall also expire upon his or her death, resignation or removal as set out herein.

4. Any vacancy in the Board that is an Independent Director including a vacancy caused by the expiration of a Director’s term or by an increase in the number of Directors comprising the Board, shall be filled by a majority vote of the remaining Directors in office. When a vacancy is created by an increase in the number of Directors, the Board shall specify the term and status [Designated or Independent] of the Director filling such vacancy.

5. A director may resign at any time by giving notice thereof in writing to the Secretary of the Corporation. A resignation shall be effective when the notice is delivered unless the notice specifies a later effective date.

6. A Director may be removed only for cause, and such action shall require a majority vote of the other Directors in office.

7. The Board shall annually elect a Chairman and Vice-Chairman of the Board from the Independent Directors. The Chairman shall preside at all meetings of the Board at which he or she is present and shall perform such other duties as may be required of him or her by the Board. In the absence of the Chairman, the Vice-Chairman shall preside at meetings of the Board and both shall perform such other duties as may be required of him or her by the Board.

C. Meetings of the Board of Directors

1. Regular meetings of the Board of Directors shall be held at least four (4) times each year. Special meetings shall be called at the discretion of the Chairman, at the request of one-third of the Directors in office or at the request of the President of the Corporation. The last regular meeting of the Board in each fiscal year shall constitute its annual meeting.
2. The time and place of all meetings of the Board shall be designated by the Chairman. The meetings may be held within or without the Commonwealth of Virginia.

3. At least ten (10) days' notice shall be given to each Director of a regular meeting of the Board. A special meeting of the Board may be held upon notice of at least five (5) days. Notice of a meeting of the Board of Directors shall specify the date, time and place of the meeting, but except as provided in Article IX of these Bylaws, need not specify the purpose for the meeting or the business to be conducted. Notice must be either delivered personally to each Director, mailed to his or her business address as it appears on the records of the Corporation, sent by facsimile to his or her facsimile number as it appears on the records of the Corporation, or sent by email with return receipt request to his or her email address as it appears on the records of the Corporation or by national courier service. If such notice is given by mail, it shall be deemed delivered five (5) days after it is deposited in the United States mail properly addressed and with postage prepaid thereon. If such notice is given by facsimile, it shall be deemed delivered upon receipt of confirmation that the transmittal has been successful. If such notice is given by email, it shall be deemed delivered upon receipt of the return receipt requested. Notwithstanding the foregoing, a Director may waive notice of any regular or special meeting of the Board of Directors by written statement filed with the Board of Directors, or by oral statement at any such meeting. Attendance at a meeting of the Board shall also constitute a waiver of notice, except where a Director states that he or she is attending for the purpose of objecting to the conduct of business on the ground that the meeting was not lawfully called or convened.

4. Six Board members, of whom four shall be Independent Directors, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

5. Except as otherwise provided by law, the Articles of Incorporation or these Bylaws (including but not limited to Paragraph 8 herein), all matters before the Board of Directors shall be decided by a majority vote of the Directors present at a meeting at which a quorum exists.

6. The Chairman of the Board shall preside over meetings of the Board at which he or she is present. In the absence of the Chairman, the Vice-Chairmen shall preside at meetings of the Board. If neither of them is present, the President shall preside. If he or she is not present, the Secretary shall preside. If none of the officers are present, a chairman shall be elected by the meeting. The Secretary of the Corporation shall act as secretary of the meetings if he or she is present. If he or she is not present, the officer presiding over the meeting shall appoint a secretary of the meeting.
7. Any or all Directors may participate in a meeting of the Board or a committee of the Board by means of conference telephone or video conference or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participating shall constitute presence in person at the meeting.

8. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if the text of the resolution or matter agreed upon is sent to all the Directors in office and all the Directors in office consent to such action in writing, setting forth the action taken. Such consent in writing shall have the same force and effect as a vote of the Board at a meeting and may be described as such in any document executed by the Corporation. Action taken under this section is effective when the last Director signs the consent, unless the consent specifies otherwise.

ARTICLE VII
COMMITTEES

A. Executive Committee. By a majority vote of the Directors in office, the Board of Directors may designate an Executive Committee consisting of at least five (5) Directors, the majority of whom shall be Independent Directors. Except as otherwise required by law or these Bylaws, the Executive Committee shall have such authority as the Board of Directors shall grant to it for the business of the corporation, including the power to authorize the seal of the Corporation to be affixed to all papers that may require it. The Executive Committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors when required. Vacancies shall be filled by the Independent or Designated Directors (for their respective representation).

B. Other Committees. The Board may create other committees consisting of Directors or other persons, which committees shall have such authority as the Board may by law direct. The committee (or committees) dealing with governance, compensation, and audit shall be chaired by an Independent Director.

ARTICLE VIII
OFFICERS

A. Designations. The Officers of the Corporation shall be a President, a Secretary, a Treasurer and such other Officers as may from time-to-time be deemed advisable by the Board. The Dean of The Medical School will serve as the President of the Corporation. Any two or more offices may be held by the same individual, except for the offices of President and Secretary.

B. Term. All of the Officers of the Corporation shall hold their offices for such terms, as shall be determined from time-to-time by the Board of Directors and shall exercise such
powers, perform such other duties and receive such compensation as shall be determined from time-to-time by the Board;

C. **Successor.** The Officers of the Corporation shall hold office until their successors are chosen and qualified. Subject to the requirements with respect to the President, any Officer of the Corporation may be removed with or without cause, at any time by a majority of the Directors in office. Subject to the requirements with respect to the President, any vacancy occurring in any Office of the Corporation may be filled by the Board.

D. **Authority for Contracts.** The President, Secretary, Treasurer and such other Officers as may be authorized by the Board may enter into and execute on behalf of the Corporation contracts, leases, debt obligations and all other forms of agreements or instruments, whether under seal or otherwise, permitted by law, the Articles of Incorporation and these Bylaws, except where such documents are required by law to be otherwise signed and executed or where the signing and execution thereof shall be exclusively delegated to some other Officer or agent of the Corporation.

E. **Officer Duties and Power.** The duties and powers of the Officers of the Corporation shall be as provided in these Bylaws or as provided pursuant to these Bylaws or (except to the extent they are inconsistent with these Bylaws or with any provision made pursuant hereto) shall be those customarily exercised by corporate officers holding such offices.

F. **The President.** The President shall perform all duties customary to that office and shall supervise and control all of the affairs of the Corporation in accordance with any policies and directives approved by the Board of Directors. The President shall have the power to change the registered agent and registered office of the Corporation.

G. **The Secretary.** The Secretary shall be responsible for keeping an accurate record of the proceedings of all meetings of the Board and such other actions of the Corporation as the Board shall direct. He or she shall give or cause to be given all notices in accordance with these Bylaws or as required by law and, in general, perform all duties customary to the office of secretary. The Secretary shall have custody of the seal of the Corporation, and he or she, or an Assistant Secretary, shall have the authority to affix the same to any instrument requiring it. When so affixed, it may be attested by his or her signature or by the signature of such Assistant Secretary. The Board may give authority to any Officer to affix the seal of the Corporation and to attest the affixing by his or her signature.

H. **The Treasurer.**

1. The Treasurer shall perform all duties customary to that office, shall have the custody of and be responsible for all corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in the books of the Corporation. He or she shall deposit or cause to be deposited all monies or
other valuable effects in the name of the Corporation in such depositories as shall be selected by the Board of Directors.

2. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors or its delegate, taking proper vouchers for such disbursements, and shall render an account of all his or her transactions as Treasurer and of the financial condition of the Corporation to the President and the Board of Directors at its regular meetings or when the Board of Directors so requires.

ARTICLE IX
MISCELLANEOUS PROVISIONS

A. **Seal.** The seal of the Corporation shall be circular in form and shall have inscribed thereon the words, "Virginia Tech Carilion School of Medicine, Inc.," "Commonwealth of Virginia" and "Corporate Seal."

B. **Signatures.** All checks, drafts, notes, bonds, bills of exchange, and orders for the payment of money of the Corporation; all deeds, mortgages, and other written contracts and agreements to which the Corporation shall be a party; and all assignments or endorsements of registered bonds or other securities owed by the Corporation, shall be signed by such Officers or such other person or persons as the Board of Directors or these Bylaws may from time to time designate.

C. **Fiscal Year.** The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

ARTICLE X
AMENDMENTS

A. **Amendment of Bylaws.** These Bylaws may be altered, amended or repealed, or new Bylaws may be adopted, at any meeting of the Board of Directors, by a majority vote of the Directors in office, if at least ten (10) days' written notice is given of the intention to take such action at such meeting.

B. **Amendment of Articles of Incorporation.** The Articles of Incorporation may be altered or amended, or new Articles of Incorporation may be adopted, at any meeting of the Board of Directors, by a majority vote of the Directors in office, if at least ten (10) days' written notice is given of the intention to take such action at such meeting.

ARTICLE XI
TRANSACTIONS WITH DIRECTORS
Any contract or other transaction between the Corporation and one or more of its directors, or between the Corporation and any firm of which one or more of its directors are members or employees, or in which they are interested, or between the Corporation and any corporation or association of which one or more of its directors are shareholders, members, directors, officers or employees, or in which they are interested, shall be valid for all purposes, notwithstanding the presence of the director or directors at the meeting of the Board of Directors of the Corporation that acts upon, or in reference to, the contract or transaction, and notwithstanding his or their participation in the action, if the fact of such interest be disclosed or known to the Board of Directors and the Board of Directors shall, nevertheless, authorize or ratify the contract or transaction, the interested director or directors to be counted in determining whether a quorum is present and to be entitled to vote on such authorization or ratification. This section shall not be construed to invalidate any contract or other transaction that would otherwise be valid under the common and statutory law applicable to it.
SCHEDULE 3
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<td>(200,000)</td>
<td>(250,000)</td>
<td>(500,000)</td>
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<td>19,518,256</td>
<td>14,018,924</td>
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<td>11,028,818</td>
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Net
SCHEDULE 4
Virginia Tech Carilion School of Medicine  
Financial Performance & Forecast  
Academic Year 2008 through 2016

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<td>26,000</td>
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| **Operating Expenses** |          |          |          |          |          |          |          |          |          |
| Teaching & Facilitation Expenses | - | - | - | 1,819,247 | 3,354,357 | 4,211,330 | 5,116,702 | 5,270,204 | 5,428,309 |
| Building Rent         | -        | -        | -        | -        | -        | 613,176   | 613,176   | 613,176   | 613,176   |          |          |
| Operation of Facility | -        | -        | -        | -        | -        | 400,000   | 400,000   | 400,000   | 400,000   | 400,000   | 400,000   |
| Student Fees          | -        | -        | -        | -        | -        | 120,393   | 194,481   | 275,677   | 364,506   | 382,731   | 401,868   |
| Other Operating Expenses | 88,726 | 297,182 | 517,393 | 1,286,583 | 1,754,389 | 1,997,906 | 2,255,035 | 2,324,486 | 2,396,020 |
| Consulting Fees       | 441,737  | 1,103,381 | 306,223  | 100,000  | -        | -        | -        | -        |          |          |
| **Total Expenses**    | 1,113,226 | 3,475,877 | 3,305,512 | 7,293,309 | 10,219,603 | 11,518,385 | 12,892,855 | 13,258,336 | 13,535,145 |

| Expenses in Excess of Revenue before Contributions | (1,113,226) | (3,475,877) | (3,252,013) | (7,267,309) | (7,953,122) | (7,940,708) | (6,416,549) | (6,459,515) | (6,497,683) |

| Contributions |          |          |          |          |          |          |          |          |          |
| Carilion Start Up Funds | 1,113,226 | 3,475,877 | 3,111,366 | 2,765,273 | 3,316,024 | 3,164,498 |          |          |          |
| VT Start Up Funds |          |          |          |          |          |          |          |          |          |
| Carilion Loans |          |          |          |          |          |          |          |          |          |
| Carilion Operating Subsidy |          |          |          |          |          |          |          |          |          |
| VT Operating Subsidy |          |          |          |          |          |          |          |          |          |
| VT Operating Subsidy from Carilion Start Up Funds |          |          |          |          |          |          |          |          |          |
| Research Mentors & Projects supplied by VT |          |          |          |          |          |          |          |          |          |
| **Total Contributions** | 1,113,226 | 3,475,877 | 3,252,013 | 7,267,309 | 7,953,122 | 7,940,708 | 6,416,549 | 6,459,515 | 6,497,683 |

| Net income for school |          |          |          |          |          |          |          |          |          |

| Capital Expenditures |          |          |          |          |          |          |          |          |          |
| Carilion Start Up Funds used for VTCRI |          |          |          |          |          |          |          |          |          |
| Carilion Start Up Funds Utilized in Total | 1,113,226 | 3,475,877 | 3,930,788 | 7,951,478 | 5,634,573 | 5,552,603 | 2,459,748 | 2,533,540 | 2,609,546 |
| Cumulative Start Up Funds Utilized in Total | 1,113,226 | 4,589,103 | 8,519,889 | 16,471,369 | 22,105,943 | 27,658,546 | 30,118,294 | 32,651,834 | 35,261,380 |
| Annual Carilion Subsidy plus Carilion Loan |          |          |          |          |          |          |          |          |          |
| Amount exceeding original indexed $2M subsidy & $1M loan |          |          |          |          |          |          |          |          | (26,409) |
