

STATE BUDGET AND CONTROL BOARD

Meeting of Monday, May 2, 2011 -- 9:30 A. M.

Room 252, Edgar A. Brown Building

AGENDA INDEX

<u>Item</u>	<u>Agency</u>	<u>Subject</u>
A.	ADOPTION OF PROPOSED AGENDA	
B.	MINUTES OF PREVIOUS MEETING	
C.	BLUE AGENDA	
1.	State Treasurer's Office	Bond Counsel Selection
2.	Division of General Services	Easement
3.	Division of General Services	Real Property Transactions
4.	Office of Local Government	Grant Request
5.	Division of Procurement Services	Procurement Audit of Trident Technical College Enterprise Campus Authority
6.	Division of Procurement Services	Request for Reauthorization of the Trident Technical College Enterprise Campus Authority's Procurement Policy
7.	Executive Director	South Carolina Deferred Compensation Commission Chairman Appointment
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STATE BUDGET AND CONTROL BOARD

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7.	Executive Director	South Carolina Deferred Compensation Commission Chairman Appointment
8.	Executive Director	Revenue Bonds

AGENCY: State Treasurer

SUBJECT: Bond Counsel Selection

The State Treasurer's Office has provided the following notification of the assignment of bond counsel for conduit issues (for ratification of issuer's counsel only) for which Board approval is requested:

CONDUIT ISSUES: (For ratification of Issuer's Counsel only)

Description of Issue	Agency/Institution (Borrower)	Borrower's Counsel	Issuer's Counsel
\$6,700,000 SC JEDA	Coker College	Haynsworth Sinkler Boyd	Howell Linkous & Nettles
\$45,000,000 SC JEDA	Georgetown Hospital System	Haynsworth Sinkler Boyd	Nexsen Pruet
\$10,000,000 SC JEDA	Abundant Power Solutions, LLC	McGuire Woods	Haynsworth Sinkler Boyd

BOARD ACTION REQUESTED:

Approve the referenced bond counsel assignment.

ATTACHMENTS:

Bond Counsel Selection Approved by the State Treasurer's Office

Items for May 2, 2011 Budget & Control Board Meeting
 Bond Counsel and Issuer Counsel Selections by the State Treasurer's Office are as follows:

CONDUIT ISSUES: (For ratification of Issuer's Counsel only)

Description of Issue	Agency/Institution (Borrower)	Borrower's Counsel	Issuer's Counsel	Date STO Approved
\$6,700,000 SC JEDA	Coker College	Haynsworth Sinkler Boyd	Howell Linkous & Nettles	3/28/2011
\$45,000,000 SC JEDA	Georgetown Hospital System	Haynsworth Sinkler Boyd	Nexsen Pruet	3/28/2011
\$10,000,000 SC JEDA	Abundant Power Solutions, LLC	McGuire Woods	Haynsworth Sinkler Boyd	3/31/2011

OTHER REVENUE ISSUES:

Description of Issue	Agency/Institution	Approved Bond Counsel	Date STO Approved

SPECIAL ASSIGNMENT OF BOND COUNSEL:

Description of Issue	Agency/Institution	Approved Bond Counsel	Date STO Approved

STATE BUDGET AND CONTROL BOARD

BLUE AGENDA

MEETING OF May 2, 2011

ITEM NUMBER 2

AGENCY: Division of General Services

SUBJECT: Easement

The Division of General Services requests approval of the following easement in accordance with SC Code of Laws:

County Location: Marion/Horry
From: Budget and Control Board
To: South Carolina Electric and Gas Company
Consideration: \$700
Description/Purpose: To grant a 0.23 acre easement for the relocation, installation, operation and maintenance of a natural gas pipeline across the Little Pee Dee River adjacent to Highway 378.

BOARD ACTION REQUESTED:

Approve the referenced easement.

ATTACHMENTS:

Agenda item worksheet; SC Code of Laws Sections 1-11-80, 1-11-90, 1-11-100 and 10-1-130

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 2, 2011

Blue Agenda

1. Submitted by:

- (a) Agency: Division of General Services
- (b) Authorized Official Signature:



Charles R. Platt, Director

2. Subject:

EASEMENT

3. Summary Background Information:

The Division of General Services requests approval of the following easement in accordance with SC Code of Laws:

- (a) County Location: Marion/Horry
- From: Budget and Control Board
- To: South Carolina Electric and Gas Company
- Consideration: \$700
- Description/Purpose: To grant a 0.23 acre easement for the relocation, installation, operation and maintenance of a natural gas pipeline across the Little Pee Dee River adjacent to Highway 378.

4. What is the Board asked to do? Approve the referenced easement.

5. What is recommendation of Board Division involved? Recommend approval of the referenced easement.

6. List of Supporting Documents:

SC Code of Laws Sections 1-11-80, 1-11-90 and 1-11-100

SECTION 1-11-80. Board authorized to grant easements for public utilities on vacant State lands.

The State Budget and Control Board is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.

SECTION 1-11-90. Board authorized to grant rights of way over State marshlands for roads or power or pipe lines to State agencies or political subdivisions.

The State Budget and Control Board may grant to agencies or political subdivisions of the State, without compensation, rights of way through and over such marshlands as are owned by the State for the construction and maintenance of roads, streets and highways or power or pipe lines, if, in the judgment of the Budget and Control Board, the interests of the State will not be adversely affected thereby.

SECTION 1-11-100. Execution of instruments conveying rights of way or easements over marshlands or vacant lands.

Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when authorized by resolution of the Budget and Control Board, duly recorded in the minutes and records of such Board and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the majority of the members of the State Budget and Control Board.

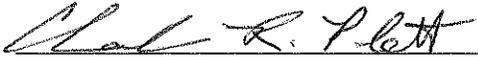
BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 2, 2011

Blue Agenda

1. Submitted by:

- (a) Agency: Division of General Services
(b) Authorized Official Signature:


Charles R. Platt, Director

2. Subject: REAL PROPERTY CONVEYANCES

3. Summary Background Information:

- (a) **Agency:** Department of Natural Resources
Acreage: 13.71± acres
Location: South side of Highway 17
County: Colleton
Purpose: To sell real property to the Department of Transportation for road improvements associated with the widening of US Highway 17/ ACE Basin Parkway.
Price/Transferred To: \$91,857/Department of Transportation
Disposition of Proceeds: To be retained by Department of Natural Resources.
Additional Information: The property was appraised as three separate tracts of land for \$54,690, which appraisals did not include the value of the timber on the property.
- (b) **Agency:** Budget and Control Board (Department of Employment and Workforce)
Acreage: 5.88± acres
Location: Deming Way and US Highway 78, Summerville
County: Dorchester
Purpose: To dispose of surplus real property.
Price/Transferred To: Not less than appraised value/To be determined
Disposition of Proceeds: To be divided between Budget and Control Board and Department of Employment and Workforce pursuant to Proviso 80A.35.
- (c) **Agency:** Budget and Control Board (Department of Disabilities and Special Needs)
Acreage: 0.193 acre
Location: 400 Washington Street, Winnsboro
County: Fairfield
Purpose: To dispose of surplus real property.
Price/Transferred To: \$3,675/Fairfield County Disabilities and Special Needs Board
Disposition of Proceeds: To be divided between Budget and Control Board and Department of Disabilities and Special Needs pursuant to Proviso 80A.35.

4. What is Board asked to do? Approve the property conveyances as requested.

5. What is recommendation of Board Division involved? Recommend approval of the property conveyances as requested.

6. List of Supporting Documents:

1. SC Code of Laws Section 1-11-65
2. 2010-2011 Appropriations Act 291, Part 1B, Proviso 80A.35
3. (a) Department of Natural Resources – Colleton County
(b) Budget and Control Board (Dept. of Employment and Workforce) – Dorchester County
(c) Budget and Control Board (Dept. of Disabilities and Special Needs) – Fairfield County

SECTION 1-11-80. Board authorized to grant easements for public utilities on vacant State lands.

The State Budget and Control Board is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.

SECTION 1-11-90. Board authorized to grant rights of way over State marshlands for roads or power or pipe lines to State agencies or political subdivisions.

The State Budget and Control Board may grant to agencies or political subdivisions of the State, without compensation, rights of way through and over such marshlands as are owned by the State for the construction and maintenance of roads, streets and highways or power or pipe lines, if, in the judgment of the Budget and Control Board, the interests of the State will not be adversely affected thereby.

SECTION 1-11-100. Execution of instruments conveying rights of way or easements over marshlands or vacant lands.

Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when authorized by resolution of the Budget and Control Board, duly recorded in the minutes and records of such Board and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the majority of the members of the State Budget and Control Board.

South Carolina General Assembly
118th Session, 2009-2010

H. 4657

General Appropriations Bill for fiscal year 2010-2011
As Ratified by the General Assembly

PART IB

OPERATION OF STATE GOVERNMENT

SECTION 80A - F03-BUDGET AND CONTROL BOARD

80A.35. (BCB: Sale of Surplus Real Property) Up to 50% of the proceeds, net of selling expenses, from the sale of surplus real properties shall be retained by the Budget and Control Board and used for the deferred maintenance of state-owned buildings. The remaining 50% of the net proceeds shall be returned to the agency that the property is owned by, under the control of, or assigned to and shall be used by that agency for non-recurring purposes. This provision applies to all state agencies and departments except: institutions of higher learning; the Public Service Authority; the Ports Authority; the MUSC Hospital Authority; the Myrtle Beach Air Force Redevelopment Authority; the Department of Transportation; the Columbia State Farmers Market; the Department of Agriculture's Columbia Metrology Lab building and property; the Charleston Naval Complex Redevelopment Authority; the Department of Commerce's Division of Public Railways; the Midlands Technical College Enterprise Campus Authority; the Trident Technical College Enterprise Campus Authority; the Commissioners residence at the Department of Corrections and the Educational Television Commission's Key Road property.

The Educational Television Commission shall be authorized to retain the net proceeds from the sale of its property on Key Road, and such proceeds shall only be used for the renovation of the ETV Telecommunications Center. If it is determined that sufficient net proceeds are not to be derived from the sale of its property on Key Road to cover the cost of all renovations of the Telecommunications Center, the property on Key Road shall not be sold. Any proposed sale hereunder shall, prior to said sale, be submitted to the Budget and Control Board for approval as being in compliance with the requirements of this subsection.

The Department of Corrections shall be authorized to retain the net proceeds from the sale of the residence provided for the Commissioner of the Department of Corrections and use such proceeds for deferred maintenance needs at the Department of Corrections.

The Forestry Commission shall be authorized to retain the net proceeds from the sale of surplus land for use in firefighting operations and replacement of firefighting equipment.

The Department of Natural Resources shall be authorized to retain the net proceeds from the sale of existing offices originally purchased with a federal grant or with restricted revenue from hunting and fishing license sales for the improvement, consolidation, and/or establishment of regional offices and related facilities.

The Department of Agriculture, the Educational Television Commission, the Department of Corrections, the Department of Natural Resources, and the Forestry Commission shall annually submit a report, within sixty days after the close of the fiscal year, to the Senate Finance Committee and the House Ways and Means Committee on the status of the sale of the identified property and a detailed accounting on the expenditure of funds resulting from such sale.

This provision is comprehensive and supersedes any conflicting provisions concerning disposition of state owned real property whether in permanent law, temporary law or by provision elsewhere in this act.

Any unused portion of these funds may be carried forward into succeeding fiscal years and used for the same purposes.

AGENCY: Division of General Services

SUBJECT: Real Property Transactions

The Division of General Services recommends approval of the following property conveyances:

- (a) **Agency:** Department of Natural Resources
Acreage: 13.71± acres
Location: South side of Highway 17
County: Colleton
Purpose: To sell real property to the Department of Transportation for road improvements associated with the widening of US Highway 17/ACE Basin Parkway.
Price/Transferred To: \$91,857/Department of Transportation
Disposition of Proceeds: To be retained by Department of Natural Resources.
Additional Information: The property was appraised as three separate tracts of land and is valued for \$54,690, which appraisals did not include the value of the timber on the property.
- (b) **Agency:** Budget and Control Board (Department of Employment and Workforce)
Acreage: 5.88± acres
Location: Deming Way and US Highway 78, Summerville
County: Dorchester
Purpose: To dispose of surplus real property.
Price/Transferred To: Not less than appraised value/To be determined
Disposition of Proceeds: To be divided between Budget and Control Board and Department of Employment and Workforce pursuant to Proviso 80A.35.
- (c) **Agency:** Budget and Control Board (Department of Disabilities and Special Needs)
Acreage: 0.193 acre
Location: 400 Washington Street, Winnsboro
County: Fairfield
Purpose: To dispose of surplus real property.
Price/Transferred To: \$3,675/Fairfield County Disabilities and Special Needs Board
Disposition of Proceeds: To be divided between Budget and Control Board and Department of Disabilities and Special Needs pursuant to Proviso 80A.35.

BOARD ACTION REQUESTED:

Approve the property conveyances as requested.

ATTACHMENTS: Agenda item worksheet and attachments

**(a) Department of Natural Resources
Colleton County**

List of Supporting Documents:

1. Letter from Department of Natural Resources
2. Map

South Carolina Department of Natural Resources



John E. Frampton
Director

D. Breck Carmichael, Jr.
Deputy Director for
Wildlife and Freshwater Fisheries

March 8, 2011

Linda Gordon
South Carolina Budget and
Control Board
1201 Main Street, Suite 410
Columbia, South Carolina 29201

RE: Sale of SCDNR Property in Colleton County

Dear Ms. Gordon:

The South Carolina Department of Natural Resources (SCDNR) proposes to sell 13.71 acres of undeveloped land in Colleton County to the South Carolina Department of Transportation (SCDOT). Enclosed is an appraisal of the property. Please place this item on the agenda of the April 2011 meeting of the Budget and Control Board.

The subject property is requested by SCDOT for the widening of U.S. Highway 17. SCDOT proposes paying above fair market value for the land. The proposed sale was approved by the SCDNR Board on February 18, 2011.

If you need any additional information, please call Ken Prosser at 734-3914. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Frampton".

John E. Frampton
Director

C: Don Winslow, SCDNR
Paul League, SCDNR
Ken Prosser, SCDNR

*Recd. 3/14/11
LG*

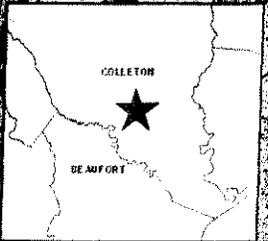
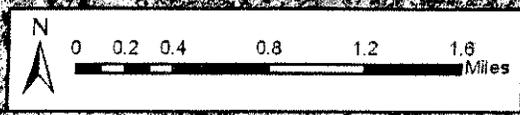
Donnelley WMA
Colleton County
Proposed Sale to SCDOT



Donnelley WMA

US 17

Donnelley Dr



**(b) Budget and Control Board (Department of Employment and Workforce)
Dorchester County**

List of Supporting Documents:

1. Letter from Department of Employment and Workforce
2. Maps

PO Box 998
1550 Gadsden Street
Columbia, SC 29202
www.dew.sc.gov



Nikki R. Haley
Governor

John L. Finan
Executive Director

803-737-0106 (Phone)
803-737-2832 (Fax)

March 16, 2011

Linda Gordon
Real Property Services
State Budget and Control Board
1200 Senate Street, Suite 460
Columbia, SC 29201

Re: Surplus property disposal request

Dear Ms. Linda Gordon:

The South Carolina Department of Employment and Workforce (SCDEW) is formally declaring the subject property located at the NE corner of Deming Way and US Hwy. 78, Summerville, SC 29483, TMS#129-00-00-135, as surplus property. SCDEW is requesting Budget and Control Board approval to dispose of the subject property. The 5.88 gross acre tract is undeveloped and shall remain undeveloped as it is no longer SCDEW's intention to construct a facility on the subject property. For more information, please contact Matt Sexton by phone 803-737-0106 or by email msexton@dew.sc.gov. Thank you for your assistance in disposing the subject property.

Per your request, please see the attached Plat and MAI Certified Appraisal Report.

With kind regards,

Sincerely,

A handwritten signature in cursive script that reads "James Mac Horton".

James "Mac" Horton
Deputy Executive Director

BOUNDARY AND TOPOGRAPHIC MAP
 PREPARED FOR
S.C. EMPLOYMENT SECURITY COMMISSION - SUMMERVILLE

COY AND DINIENS
 1111 1/2 S. 11th St.
 CHARLOTTE, N.C. 28203
 DECEMBER 19, 1957

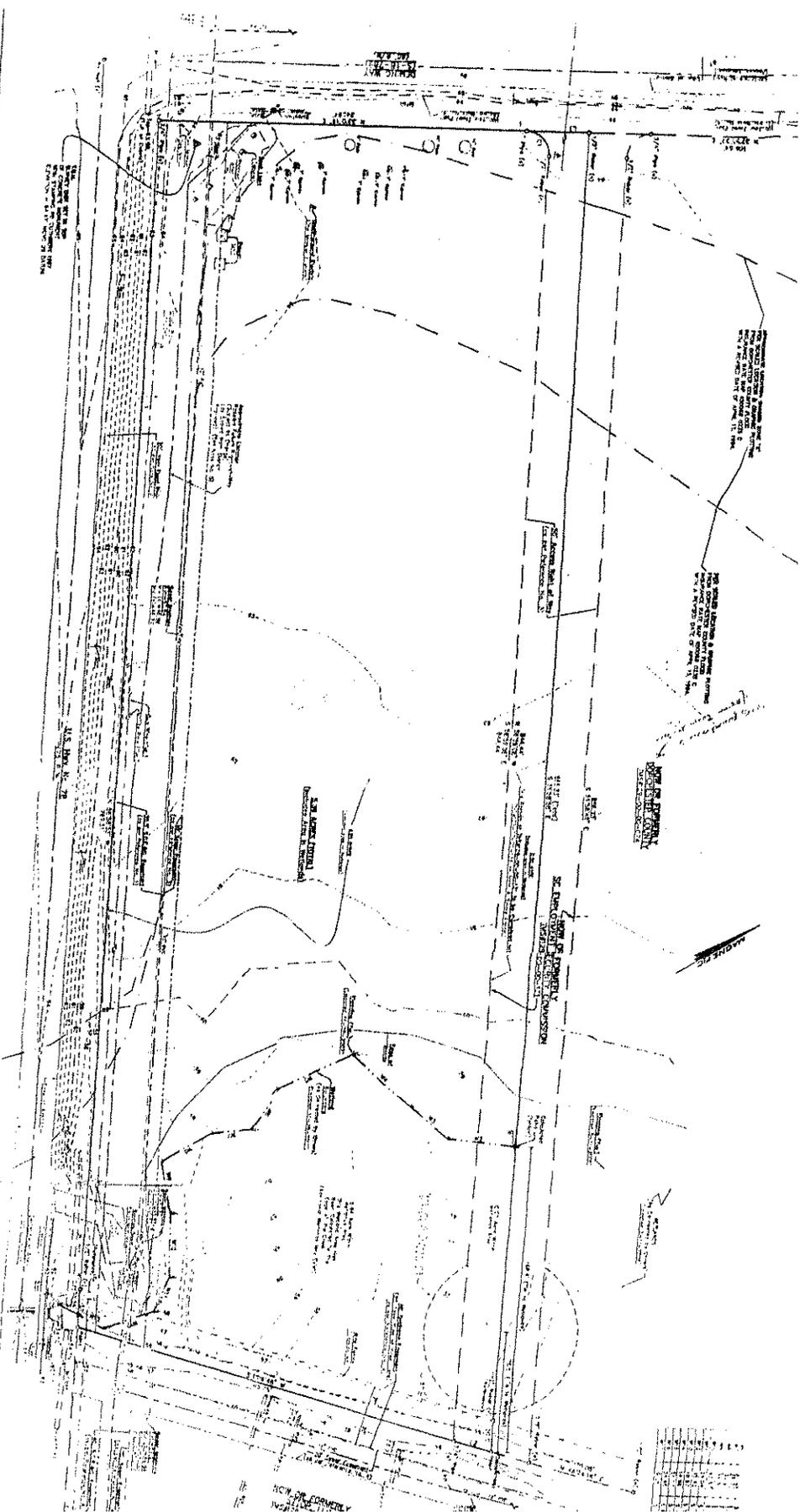
DATE OF SURVEY: 11/15/57
 DATE OF PLOTTING: 12/19/57

SCALE: 1" = 100' (VERTICAL)
 1" = 200' (HORIZONTAL)

PROJECTION: U.S. NAD 83
 DATUM: MEAN SEA LEVEL

CERTIFICATION
 I, the undersigned, being duly qualified and licensed as a Professional Surveyor in the State of North Carolina, do hereby certify that the foregoing is a true and correct copy of the original field notes and computations, and that the same were prepared by me or under my direct supervision and control.

RESERVED



**(c) Budget and Control Board (Department of Disabilities and Special Needs)
Fairfield County**

List of Supporting Documents:

3. Letter from Department of Disabilities and Special Needs
4. Map

Beverly A. H. Buscemi, Ph.D.
State Director
David A. Goodell
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy
Thomas P. Waring
Associate State Director
Administration



COMMISSION
Richard C. Huntress
Chairman
Deborah C. McPherson
Vice Chairman
Otis D. Speight, MD, MBA, CPE
Secretary
W. Robert Harrell
Kelly Hanson Floyd
Nancy L. Banov, M.Ed.

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
803/898-9600
Toll Free: 888/DSN-INFO
Website: www.ddsn.sc.gov

April 4, 2011

Ms. Lisa Catalanotto
Budget and Control Board
Office of General Services Division
Business & Agency Services – Real Property Services
1201 Main Street, Suite 420
Columbia, SC 29201

RE: Surplus Property – Fairfield County

Dear Ms. Catalanotto:

The South Carolina Department of Disabilities and Special Needs wishes to surplus approximately 8,406 square feet of land in Winnsboro, SC. The parcel will be sold at market value with the proceeds deposited in its capital account in accordance with applicable law. Therefore, your assistance would be appreciated in obtaining the Budget and Control Board's approval to surplus this property and to authorize the Department to sell this property for no less than appraised, market value of \$3,000 plus expenses to the Fairfield County DSN Board for the construction of a building to provide services.

For the Board's consideration, I am enclosing a plat showing the proposed surplus property. Additionally, I am enclosing an MAI appraisal of the proposed surplus property. Lastly, the Department's Commission will be voting to surplus this parcel of land at its April 21, 2011 meeting. A copy of the approved minutes of the Commission's action will be forwarded when completed.

Your assistance in submitting our request to the Board for approval is greatly appreciated. Please call me at 898-9686 if I can be of further assistance or provide additional information.

Sincerely,

Tana Vanderbilt
General Counsel

Encls.

cc: Dr. Beverly A.H. Buscemi, State Director-DDSN
Mr. Tom Waring, Associate State Director-Administration-DDSN

DISTRICT I

DISTRICT II

P.O. Box 239
Clinton, SC 29335-5328
Phone: (864) 938-3497

Mullands Center - Phone: 803/935-7500
Whitten Center - Phone: 864/833-2733

9995 Miles Jamison Road
Summerville, SC 29485
Phone: 843/832-5576

Coastal Center - Phone: 843/873-5750
Pee Dee Center - Phone: 843/664-2600
Salisbury Center - Phone: 812/225-1100

STATE BUDGET AND CONTROL BOARD
MEETING OF May 2, 2011

BLUE AGENDA
ITEM NUMBER 4

AGENCY: Office of Local Government

SUBJECT: Grant Request

The Office of Local Government advises of the following grant request:

Grantee:	Jasper County
Grant Request:	\$150,000
Purpose/Description:	The project, known as the Purrysburg Sewer Project, will entail installation of approximately 5200 ft. of 8" gravity sewer and pump station and force main to serve predominately single-family homes consisting of a mixture of stick building and manufactured homes, one business and a community center along Old Charleston Road in order to provide public water services.
Project Impact:	Completion of the project will provide water services as needed.
Cost of Project:	\$952,690
OLG Recommendation:	\$150,000. Community Development Block Grant and local funds will provide the balance.

BOARD ACTION REQUESTED:

Approve the following grant request as recommended by the Office of Local Government:
Jasper County, \$150,000.

ATTACHMENTS:

Agenda item worksheet and attachment

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 2, 2011

Agenda: Blue

1. Submitted By:

(a) Agency: *B&C Bd. - Local Government*

(b) Authorized Official Signature: _____



2. Subject:

Budget and Control Board Grant Program request by Jasper County/Beaufort-Jasper Water and Sewer Authority (Grant Agreement No. 1848).

3. Summary and Background Information:

Grantee: Jasper County

Grant Request: \$150,000.00

Purpose/Description: The project known as the Purrysburg Sewer Project will entail installation of approximately 5200 ft of 8" gravity sewer and pump station and force main to serve predominately single-family homes consisting of a mixture of stick built and manufactured homes, one business and a Community Center along Old Charleston Road in order to provide public water services.

Project Impact: Completion of this project will provide water services as needed.

Cost of Project: \$ 952,690.00

OLG recommendation: \$150,000.00 CDBG and Local funds will provide the balance.

4. What is Board asked to do?

Approve request in the amount of \$150,000.00.

5. What is recommendation of Board Division involved?

Approve request in the amount of \$150,000.00.

6. Recommendation of other Division/agency (as required)?

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. Supporting Documents

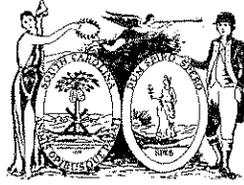
(a) List Those Attached:

Jasper County/Beaufort-Jasper Water and Sewer Authority Grant Agreement No. 1848

(b) List Those Not Attached But Available From Submitter:

STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF LOCAL GOVERNMENT

CERTIFIED
No. 1848



GRANT AGREEMENT

RECEIVED

MAR 18 2011

BUDGET & CONTROL BOARD OFFICE
OF LOCAL GOVERNMENT

This grant agreement is entered into this 22nd day of February 2011, between the South Carolina State Budget and Control Board, through the Office of Local Government, an agency of the State of South Carolina (the "State") and Jasper County a county of the State of South Carolina (the "Project Sponsor").

WHEREAS, the State is authorized to administer and manager certain State funds to be used for rural improvement, economic development and to improve the quality of life for the citizens of the State of South Carolina; and

WHEREAS, Project Sponsor may undertake projects and receive assistance in the financing of such projects by way of grants made from such State funds and to enter into grant agreements providing for the terms for using such grants and providing for the repayment of amounts received from the funds together with interest thereon in the event of violation of such terms by the Project Sponsor; and

WHEREAS, the Project Sponsor proposes to acquire and/or construct the goods and/or services for the project described in Appendix "A" hereto (the "Project");

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

ARTICLE 1

Section 1.1. Definitions: Except to the extent modified or supplemented by this Agreement, any term used herein shall have the following meaning:

- 1.1.1 Agreement means this Grant Agreement, as described above and any amendments or supplements thereto.
- 1.1.2 Grant Funds means the monies and any loans secured by loan guarantees provided under this Agreement.
- 1.1.3 Project means the construction or manufacturing program or other activities, including the administration thereof, with respect to which Grant Funds are being provided under this Agreement as more particularly described on Appendix "A" attached hereto and made a part hereof.
- 1.1.4 Project Budget means the line-item budget for the use of all grant funds as set forth on Appendix "B" attached hereto and made a part hereof.
- 1.1.5 Project Sponsor means each entity designated as a recipient for grant or loan guarantee assistance in the Grant Award and signing the acceptance provision of the Grant Award.
- 1.1.6 State means the State Budget and Control Board, Office of Local Government ("OLG").

ARTICLE 2

GRANT CONDITIONS

Section 2.1. Grant made and accepted: In consideration of the mutual promises of this Agreement and upon and subject to its terms and conditions, the State agrees to make, and the Project Sponsor agrees to accept, the Grant herein provided for the installation of approximately 5200 ft of 8" gravity sewer and a pump station and forcemain to serve households along Old Charleston Road. Water services will be provided as needed.

Section 2.2 Purpose Limited to Project: The Project Sponsor shall use the proceeds of the grant only to pay the actual costs of the project described in the Project Budget. Except to the extent otherwise approved in writing by the State, only the costs shown in the Project Budget shall be allowed and only in the amounts provided for each category.

Section 2.3. Ineligible costs: Funds obligated or expended prior to the grant award or for activities which have not received prior approval from the State shall be considered ineligible costs and shall not be eligible for payment with Grant Funds.

Section 2.4. Budget Changes: Any changes in the grant budget affecting more than ten percent (10%) of any line-item must be approved in writing by the State; provided, however, that no increase for the General Administration line-item shall be allowed without prior approval of the State, regardless of the amount of percentage of increase.

Section 2.5. Grant Award and Letter of Credit: Project Sponsor whose applications for grants are approved by the State, will receive a grant award and letter of credit for the amount of the Project Budget as approved by the Office of Local Government. The Project Sponsor may receive the grant funds following approval of a draw request on the credit established by the Grant Award. Draw requests will be made on forms approved by the State and such requests are subject to approval by the State.

Section 2.6. Disbursements: The State may make and the Project Sponsor shall accept full or partial disbursements from the State only against incurred, actual, eligible costs up to the grant amount as provided in this Agreement. In those cases when the Project Sponsor has paid the incurred project costs and is seeking reimbursement for payment of such costs theretofore paid by the Project Sponsor, any check for disbursement from the fund to pay such costs, at the option of the State, shall be drawn to the Project Sponsor alone or jointly to the Project Sponsor and the vendor supplying the goods and services for the project. Such check will be mailed to the Project Sponsor. Requests for disbursement shall be made on forms of the State, unless the State otherwise directs, and shall be accompanied by such invoices and other proofs as the State may reasonably require.

Section 2.7. Time Limitation and Extension of Time: Grant funds received by the Project Sponsor must be spent as described in Section 2.2 of this Agreement within six (6) months of the date of approval by the State. All unspent grant funds at the end of the above six-month period shall be returned to the State within thirty (30) days of the expiration of the six-month period with interest at the rate of _____% per annum added thereof. The State may grant an extension of time to the Project Sponsor for spending the grant funds if there are extreme hardship circumstances which prevent the Project Sponsor from complying with the time limitation. The Project Sponsor must, prior to the expiration of the six-month period, request, in writing, an extension of time detailing the hardship circumstances, indicating how the Project Sponsor intends to overcome the hardship and projection of when the funds would be spent. In any case, the extension will not exceed three (3) months. The State, in its sole discretion, may terminate its promise to grant all, or any portion of the Grant Funds which have not been advanced if:

- 2.7.1 the Project Sponsor has not entered into a contract with respect to acquisition of goods and services to begin the Project as described in Project Budget within six (6) months of the date hereof; or
- 2.7.2 a circumstance arises or becomes known which, in the State's sole discretion and opinion, (i) substantially impairs the ability of the Project Sponsor to complete the project, or (ii) substantially impairs the merit of the Project.

Section 2.8. Accounting for Project Transactions: The Project Sponsor must set up a separate bank account for each separate grant agreement and account for all grant fund transactions separately. The bank, the account and a Project Sponsor representative shall be designated by the Project Sponsor before it may request disbursements and such designations shall be subject to approval by the State. The bank account used for the grant funds by the Project Sponsor shall be an interest-bearing account.

Section 2.9. Program Income: The State may require as a condition of any funds distributed by the State under the provisions of this Agreement, that the Project Sponsor pay the State any such income as is earned from the Project during the six-month period following the execution of this Agreement. However, the State shall waive such condition to the extent such income is applied by the Project Sponsor to continue the activity from which such income was derived.

ARTICLE 3

Remedies

Section 3.1. Grant Repaid: If the Project Sponsor violates the terms of this Agreement, or any applicable law or regulations, the State may, by notice in writing to the Project Sponsor, demand the principal portion of the Grant Funds which have been disbursed to the Project Sponsor immediately due and payable to the State, together with interest calculated on it at the rate of _____% per annum. Interest above shall continue to accrue and compound until the date of payment.

Section 3.2. Collection Costs and Fees: In the event of a violation of this Agreement, the State may collect Grant Funds paid plus interest as described in Section 3.1. Costs and fees associated with the collection, including attorney's fees, are also to be collected from the Project Sponsor. The Project Sponsor agrees to pay the State all such costs and fees, including attorney's fees, incurred in collecting the grant funds and interest.

Section 3.3. Additional Remedy: Upon any failure of the Project Sponsor to make any payment to the State in accordance with the provisions of this Agreement, the State, without further action, may request and, the Project Sponsor by acceptance of the grant herein, hereby specifically authorizes the State Treasurer and Comptroller General of the State to pay the State the amount of state aid to which the Project Sponsor may become entitled to until all delinquent payments described in Sections 3.1 and 3.2 have been paid.

ARTICLE 4

General

Section 4.1. Reporting Requirements: The Project Sponsor agrees to complete and submit all reports, in such form and according to such schedule, as may be required by the State.

Section 4.2. Audit: The Project Sponsor agrees to have conducted an independent audit of grant funds and submit all audit findings to the Board upon completion of project.

Section 4.3. Maintenance of Records: Records and accounts for Grant Fund transactions must be maintained using generally-accepted accounting principals. Detailed records and source documents must be maintained in a neat, easily accessible manner. Records for all grant funds must be retained for five (5) years after receipt of the final disbursement by the Project Sponsor. However, if any litigation, claim, or audit is started before the expiration of the five-year period, then records must be retained for five (5) years after the litigation, claim, or audit is resolved.

Section 4.4. Access: All records with respect to all matters covered by this Agreement shall be made available for random audit and inspection by the State.

Section 2.8. Accounting for Project Transactions: The Project Sponsor must set up a separate bank account for each separate grant agreement and account for all grant fund transactions separately. The bank, the account and a Project Sponsor representative shall be designated by the Project Sponsor before it may request disbursements and such designations shall be subject to approval by the State. The bank account used for the grant funds by the Project Sponsor shall be an interest-bearing account.

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Section 4.4. Access: All records with respect to all matters covered by this Agreement shall be made available for random audit and inspection by the State.

Section 4.5. Ownership: Title to property acquired in whole or in part with grant funds shall be vested in the Project Sponsor, subject to divestment by State, where its use for project or other approved activities is discontinued. Project Sponsor should exercise caution in the use, maintenance, protection, and preservation of such property during the period of project use. The Project Sponsor must file with the State a property inventory statement (in a form acceptable to the State) within thirty (30) days of receipt of the final disbursement by the Project Sponsor and must agree to be subject to audit by State or its dully authorized representatives for verification of the information contained in the property inventory form.

Section 4.6. Applicable Law: This Agreement is made under and shall be construed in accordance with the laws of the State of South Carolina. By accepting this grant, the Project Sponsor also agrees to submit to the jurisdiction of the courts of the State of South Carolina for all matters arising or to the arise hereunder, including but not limited to, performance of said grant and the payment of licenses and taxes of whatever kind of nature applicable hereto.

Section 4.7. Amendments: Any changes to this grant award affecting the scope of work of the project must be approved, in writing, by the State and shall be incorporated in written amendment(s) to this Agreement.

IN WITNESS WHEREOF, The Project Sponsor and the State have caused these presents to be signed, sealed and delivered all as of the date hereon.

(SEAL)

By  (Project Sponsor)

Print Name Andrew Fulghum

Its Administrator, Jasper County

By 

Print Name William D. Moss Jr.
BEAUFORT-JASPER WATER SEWER
AUTHORITY

Attest:


Its Club to Council

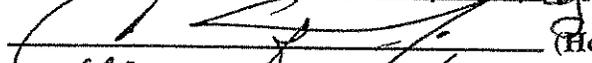
South Carolina State Budget and Control Board

By _____

I hereby attest to have reviewed this Grant Agreement for the herein named project.

 (Senator)

Sen. Clementa C. Pinckney (Print Name)

 (House Member)

CURTIS PRANTLEY (Print Name)

APPENDIX "A"

PROJECT SPONSOR: Jasper County

GRANT NUMBER: 1848

SCOPE OF WORK

	<u>Description</u>	<u>Budget</u>	<u>Grant Funds Requested</u>
1.	<u>Acquisition</u>	<u>20,000</u>	<u> </u>
2.	<u>Rehab Private Property</u>	<u>72,400</u>	<u> </u>
3.	<u>Water Facilities</u>	<u>27,000</u>	<u> </u>
4.	<u>Sewer Facilities</u>	<u>725,590</u>	<u>150,000</u>
5.	<u>Engineering</u>	<u>63,430</u>	<u> </u>
6.	<u>General Administration</u>	<u>44,270</u>	<u> </u>
7.	<u> </u>	<u> </u>	<u> </u>
8.	<u> </u>	<u> </u>	<u> </u>
9.	<u> </u>	<u> </u>	<u> </u>
10.	<u> </u>	<u> </u>	<u> </u>
11.	<u> </u>	<u> </u>	<u> </u>
12.	<u> </u>	<u> </u>	<u> </u>
13.	<u> </u>	<u> </u>	<u> </u>
14.	<u> </u>	<u> </u>	<u> </u>
15.	<u> </u>	<u> </u>	<u> </u>
16.	<u> </u>	<u> </u>	<u> </u>
17.	<u> </u>	<u> </u>	<u> </u>
18.	<u> </u>	<u> </u>	<u> </u>
19.	<u> </u>	<u> </u>	<u> </u>
20.	<u> </u>	<u> </u>	<u> </u>
	TOTAL	952,690	150,000

APPENDIX "B"

The Project shall consist of the following:

See attached.

Source of Funding of Project:

Federal Funds		
State Funds	500,000	CDBG
Local Funds	57,430	Jasper County
Other Funds	245,260	BJWSA
Budget and Control Board Funds	150,000	
Total Project Funds	952,690	

Grant Application #1848 Jasper County
APPENDIX "B"

Jasper County proposes to extend sewer lines along Old Charleston Highway in the Purrysburg neighborhood. Once the project is completed the improvements will be turned over to Beaufort Jasper Water Sewer Authority (BJWSA) for ownership and maintenance. The will not be a subrecipient agreement for this project.

The project is located on Old Charleston Road, in the Purrysburg neighborhood outside of Hardeeville, Jasper County, SC. The project area is in a low lying area near the Savannah River.

The project area is made up of predominately single family owner occupied homes, a mixture of stick built and manufactured homes. There is one small business and a Community Center. The service area was determined by Beaufort-Jasper Water Sewer Authority. The same area is the area that was included in the Purrysburg Water CDBG project.

Residents along the Old Charleston Road have been experiencing problems with their septic systems. Problems including overflowing of the systems, lines backing up, strong odor and slow flushing. Property owners have been denied septic system permits to install systems on their property, therefore they cannot put homes on their property.

SCDHEC does the septic systems permitting, but do not require maintenance or inspections once the systems are installed. They do inspections only upon request. They have tested septic systems in the Leevy-Limehouse-Ballinger areas in Jasper County. They ranked #64 on the Community Survey for Sewer Needs list by SCDHEC. Jasper County has submitted an application to SCDHEC to have the Old Charleston Road area surveyed. The results will be forwarded to Grants Administration.

Adverse conditions are: high seasonal water table and the shallow depth to slowly permeable subsoil. SCDHEC evaluated a site in the Old Charleston Road project area to determine its potential to support a septic tank system. They conducted numerous soil borings into the original soil and physically examined the soil samples. They found evidence of an extremely high seasonal water table. Their findings indicate that the estimated seasonal high water table on the site will be less than 12 inches from the surface of the ground for extended periods of time during a typical wet season (late winter and early spring). They also found the subsoil to contain a high amount of clay at a shallow depth (less than 18 inches). The clayey subsoil is very restrictive and slowly permeable and does not allow for good percolation of water and sewage through the soil. The site conditions are such that they know of nothing within reason that can be done to make a septic tank system adequately dispose of and treat sewage satisfactorily on the property.

Residents report: The soil won't pass the perk test in the area. The soil has a lot of clay. When it rains, the yards flood and covers the septic systems. This does not allow the water to go to the drain field. The waste then runs into the yard. Which remains sometimes for several weeks until the area dries. the toilet backs up especially when it rains. Some have had their tanks pumped several times, but the problems still come back. Even properly maintained septic

systems last approximately 20 years. A lot of the systems in place at this time have been there for 20 years.

In order to be connected to public sewer, the houses must be connected to public water. There is public water in the area. Houses that are not currently connected to public water will be connected in this project.

There are approximately 107 people in the project area, 74 (70%) LMI qualifying, 38 occupied houses, 2 unoccupied houses, 1 small business and a community center.

The Project shall consist of the following:

The project will install approximately 5200 feet of 8" gravity sewer and a pump station and forcemain to serve the households on Old Charleston Road. Water services will be provided to residents that are not currently served with public water.

Sewer

8" PVC Sewer 4 – 6 inches	approximately 1200LF
8" PVC Sewer 4- 6 inches	approximately 1200LF
8" PVC Sewer 8-10 inches	approximately 1200 LF
8" PVC Sewer 10-12 inches	approximately 1200 LF
8" PVC Sewer 12-14 inches	approximately 1200LF
48" Precast Manhole	400 LF
Submersible Pump Station	1 each
Acquisition	1 lot for pump station
4" Force main	2400LF
Remove/repave pavement	375 SY
Connection to existing force main	1
Sewer Services 6"PVC	39
Water Services	10
Bore under Purrysburg Road	

Acquisition:

Property will be acquired to construct a pump station to serve the area. Sewer lines will be installed in the public right of way.

Engineering:

An engineer has been competitively procured to provide engineering services.

Source of Funding of Project:

State Funds (CDBG)	\$500,000
Local (Jasper County)	57,430
Beaufort Jasper Water Sewer Authority	245,260
Requesting from SC Budget & Control	<u>150,000</u>
	\$952,690

AGENCY: Division of Procurement Services

SUBJECT: Procurement Audit of Trident Technical College Enterprise Campus Authority

The Procurement Services Division, in accord with Section 59-53-1784(B), has reviewed the procurement system of Trident Technical College Enterprise Campus Authority. The audit report is submitted as information only.

BOARD ACTION REQUESTED:

In accord with Section 59-53-1784(B), receive as information only the audit report of Trident Technical College Enterprise Campus Authority.

ATTACHMENTS:

Agenda item worksheet and attachments

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

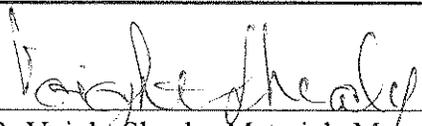
Meeting scheduled for: May 2, 2011

Blue Agenda

1. Submitted by:

(a) Agency: Procurement Services Division

(b) Authorized Official Signature:



R. Voight Shealy, Materials Management Officer

2. Subject: Procurement Audit of the Trident Technical College Enterprise Campus Authority

3. Summary Background Information:

In accordance with Section 59-53-1784(B) of the South Carolina Code of Laws, the Procurement Services Division has reviewed the procurement system of the Trident Technical College Enterprise Campus Authority. The audit report is submitted as information only.

4. What is Board asked to do?

Receive the audit report as information only.

5. What is recommendation of Board division involved?

We recommend the report be received as information only.

6. Recommendation of other office (as required)?

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. List of supporting documents:

(a) Section 59-53-1784(B) of the South Carolina Code of Laws

SECTION 59-53-1784. Lease agreements for construction and use of Enterprise Campus facilities; procurement policy; disposal of surplus property.

(B) For all matters associated with the Enterprise Campus, the authority is exempt from the South Carolina Consolidated Procurement Code, however, the authority shall adopt a procurement policy requiring competitive solicitations, and the policy must be filed with and approved by the State Budget and Control Board. The policy must include provisions for audit and recertification.

AGENCY: Division of Procurement Services

SUBJECT: Request for Reauthorization of the Trident Technical College Enterprise Campus Authority's Procurement Policy

Trident Technical College Enterprise Campus Authority requests that the Budget and Control Board reauthorize the Trident Technical College Enterprise Campus Authority's Procurement Policy.

The College makes this request in accordance with Section 59-53-480(B) of the South Carolina Code of Laws, which exempts the Authority from the South Carolina Consolidated Procurement Code, provided the authority adopts a procurement policy requiring competitive solicitations. As a condition of adoption, the statute requires that the policy be filed with and approved by the State Budget and Control Board. The Board originally approved the procurement policy at its September, 2006 meeting. That approval expires at the end of the second quarter of the fifth calendar year following approval which will be June 30, 2011. Trident Technical College Enterprise Campus Authority requests that the Budget and Control Board reauthorize the Procurement Policy. The Authority requested no changes to the current policy.

BOARD ACTION REQUESTED:

As requested by Trident Technical College Enterprise Campus Authority, reauthorize the Authority's Procurement Policy.

ATTACHMENTS:

Agenda item worksheets; Section 59-53-480(B) of the South Carolina Code of Laws; Trident Technical College Enterprise Campus Authority Procurement Policy; Poelker letter dated 3/30/11; Summary comparison of Procurement Policy to the South Carolina Consolidated Procurement Code

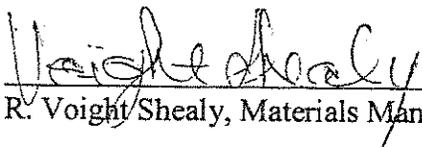
BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting scheduled for: May 2, 2011

Blue Agenda

1. Submitted by:

- (a) Agency: Procurement Services Division
- (b) Authorized Official Signature:


R. Voight Shealy, Materials Management Officer

2. Subject: Request for re-authorization of the Trident Technical College Enterprise Campus Authority's Procurement Policy

3. Summary Background Information:

Trident Technical College Enterprise Campus Authority requests that the Budget and Control Board re-authorize the Trident Technical College Enterprise Campus Authority's Procurement Policy.

The College makes this request in accordance with Section 59-53-480(B) of the South Carolina Code of Laws, which exempts the Authority from the South Carolina Consolidated Procurement Code, provided the authority adopts a procurement policy requiring competitive solicitations. As a condition of adoption, the statute requires that the policy be filed with and approved by the State Budget and Control Board. The Board originally approved the procurement policy at its September, 2006 meeting. That approval expires at the end of the second quarter of the fifth calendar year following approval which will be June 30, 2011. Trident Technical College Enterprise Campus Authority requests that the Budget and Control Board re-authorize the Procurement Policy. The Authority requested no changes to the current policy.

4. What is Board asked to do?

As requested by Trident Technical College Enterprise Campus Authority, re-authorize the Authority's Procurement Policy.

5. What is recommendation of Board division involved?

Re-authorize the Trident Technical College Enterprise Campus Authority's Procurement Policy

6. Recommendation of other office (as required)?

- (a) Authorized Signature: _____
- (b) Division/Agency Name: _____

7. List of supporting documents:

- (a) Section 59-53-480(B) of the South Carolina Code of Laws
- (b) Trident Technical College Enterprise Campus Authority Procurement Policy
- (c) Poelker letter dated 3/30/11
- (d) Summary comparison of Procurement Policy to the South Carolina Consolidated Procurement Code

SECTION 59-53-480. Exemptions from statutory bonding, leasing, procurement, and disposition of surplus property requirements; adoption of procurement policy.

(B) For all matters associated with the enterprise campus, the authority is exempt from the South Carolina Consolidated Procurement Code; except that, the authority shall adopt a procurement policy requiring competitive solicitations, and the policy must be filed with and approved by the State Budget and Control Board. The policy must include provisions for audit and recertification.

TRIDENT TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY
PROCUREMENT POLICY

ARTICLE I.

GENERAL PROVISIONS

SECTION 10. Citation.

This document shall be known and may be cited as the Trident Technical College Enterprise Campus (TTCECA) Authority Procurement Policy".

(a) As used in this document, unless the context clearly indicates otherwise, "TTCECA Procurement Policy" or "Procurement Policy" means this document including Appendix A, attached hereto, which is incorporated into this document by reference as if it were set out in this document in its entirety.

(b) Unless otherwise stated, all references to codes, procedures or policies pertain to this TTCECA Procurement Policy.

(c) The TTCECA Procurement Policy is adopted pursuant to Section 59-53-480(B) of the South Carolina Code of Laws.

(d) Every solicitation, and every advertisement, notice or award of a solicitation issued or published pursuant to this Procurement Policy shall state as follows: PURSUANT TO SECTION 59-53-480(B), THIS PROCUREMENT IS CONDUCTED IN ACCORDANCE WITH THE TTCECA PROCUREMENT POLICY.

SECTION 20. Purpose and policies.

The underlying purposes and policies of the TTCECA Procurement Policy are:

(a) to provide increased economy in TTCECA procurement activities and to maximize to the fullest extent practicable the purchasing values of funds while ensuring that procurements are the most advantageous to the TTCECA and in compliance with the provisions of the Ethics Government Accountability and Campaign Reform Act of 1991, as amended;

(b) to foster effective broad-based competition for TTCECA procurement within the free enterprise system;

(c) to develop procurement capability responsive to appropriate user needs;

(d) to permit the continued development of explicit and thoroughly considered procurement policies and practices;

(e) to require the adoption of competitive procurement policies and practices by TTCECA;

(f) to ensure the fair and equitable treatment of all persons who deal with TTCECA; and

(g) to provide safeguards for the maintenance of a procurement system of quality and integrity with clearly defined rules for ethical behavior on the part of all persons engaged in the TTCECA procurement process.

SECTION 30. Obligation of good faith.

Every contract or duty within the TTCECA Procurement Policy imposes an obligation of good faith in its negotiation, performance or enforcement. "Good faith" means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.

SECTION 35. TTCECA may not designate surety company.

If the TTCECA enters into a procurement contract and requires the bidder to provide a surety bond to secure the bid or the performance or payment of the contract, TTCECA may not require that the surety bond be furnished by a particular surety company or through a particular agent or broker.

SECTION 40. Application of TTCECA Procurement Policy.

(1) **General Application.** This TTCECA Procurement Policy applies only to contracts solicited or entered into after the approval of TTCECA Procurement Policy by the State Budget and Control Board unless the parties agree to its application to a contract entered into prior to that date.

(2) **Application to Procurement.** The TTCECA Procurement Policy is authorized by Section 59-53-480(B) and applies to every procurement of supplies, services, or construction by Trident Technical College Enterprise Campus Authority for matters associated with the Enterprise Campus as that term is defined in Section 59-53-465.

(3) **Compliance with Federal Requirements.** Where a procurement involves the expenditure of federal assistance or contract funds, TTCECA shall also comply with such federal law and authorized regulations as are mandatorily applicable and which are not presently reflected in this Procurement Policy. Notwithstanding, where federal assistance or contract funds are used in a procurement by TTCECA, requirements that are more restrictive than federal requirements shall be followed.

(4) The acquisition of any facility or capital improvement by a foundation or eleemosynary organization on behalf of or for the use of TTCECA which involves the use of public funds in the acquisition, financing, construction, or current or subsequent leasing of the facility or capital improvement is subject to the provisions of this Procurement Policy in the same manner as TTCECA. The definition and application of the terms "acquisition", "financing", "construction", and "leasing" are governed by standards and principles established by the State Auditor.

(5) This Procurement Policy, including the accompanying Appendix, does not apply to any construction on real property if (a) the property has been leased by the TTCECA to a non-public entity, (b) the lease was approved pursuant to Section 59-53-480(A), and (c) the construction is paid for entirely by non-public funds. All construction performed to facilities on the Enterprise Campus, or on real property owned by the TTCECA, shall be performed in compliance with the fire, life and safety codes administered by the State Engineer pursuant to Section 10-1-180, the same as any other public building.

(6) Notwithstanding any other provision of this policy, the authority must comply with the provisions of Chapter 47 of Title 2; provided, however, only State Budget and Control Board approval is required for leases and lease purchase agreements, including ground lease agreements, the terms and conditions thereof, and the consideration involved, for the construction or use of facilities on the Enterprise Campus. Upon the expiration of the lease purchase agreements, including ground lease agreements, the private entity shall surrender unto the authority such premises with the existing buildings, other structures, and improvements constructed and located on the Enterprise Campus, in the same condition as when the construction of the buildings, other structures, and improvements were completed, only natural and normal wear and tear excepted. The approval of the State Budget and Control Board required herein for leases and lease purchase agreements, including ground lease agreements, is in lieu of or a substitute for any other approval required by any other provision of law or regulation. The full faith and credit of the State toward the lease obligations must not be pledged, and any statement to the contrary is deemed null and void as a matter of public policy.

SECTION 45. Payment for supplies and services.

Payment for supplies and services shall be as stated in the terms and conditions of the contract for the supplies and services.

SUBARTICLE 3.

DETERMINATIONS

SECTION 210. Determinations.

Written determinations and findings required by this Procurement Policy shall be retained in an official contract file of TTCECA. Such determinations shall be documented in sufficient detail to satisfy the requirements of audit as provided for in Section 1230.

SUBARTICLE 5.

DEFINITIONS

SECTION 310. Definitions.

Unless the context clearly indicates otherwise:

(2) "Board" means the governing body of the TTCECA.

(4) "Change order" means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

(5) "Chief officer" means the person, above the level of procurement officer, designated in writing as such by the TTCECA Agency Head.

(7) "Construction" means the process of building, altering, repairing, remodeling, improving, or demolishing any Trident Technical College or TTCECA structure or building or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings, or real property.

(8) "Contract" means all types of agreements, for the procurement of supplies, services, or construction.

(9) "Contract modification" means a written order signed by the procurement officer, directing the contractor to make changes which the changes clause of the contract authorizes the procurement officer to order without the consent of the contractor.

(10) "Contractor" means any person having a contract with TTCECA.

(13) "Days" means calendar days. In computing any period of time prescribed by this Procurement Policy, or by any order of the Procurement Review Panel, the day of the event from which the designated period of time begins to run is not included. If the final day of the designated period falls on a Saturday, Sunday, or a legal holiday for the state or federal government, then the period shall run to the end of the next business day.

(15) "Designee" means a duly authorized representative of a person with formal responsibilities under the procedure.

(19) "Grant" means the furnishing by the State or the United States government of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award, the primary purpose of which is to procure specified end products, whether in the form of supplies, services, or construction. A contract resulting from such an award shall not be deemed a grant but a procurement contract.

(20) "Invitation for Bids" means a written or published solicitation issued by an authorized procurement officer for bids to contract for the procurement of stated supplies, services or construction, which will ordinarily result in the award of the contract to the responsible bidder making the lowest responsive bid.

(24) "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

(25) "Procurement officer" means any person duly authorized by TTCECA, to enter into and administer contracts and make written determinations and findings with respect thereto.

(27) "Real property" means any land, all things growing on or attached thereto, and all improvements made thereto including buildings and structures located thereon.

(28) "Request for Proposals (RFP)" means a written or published solicitation issued by the procurement officer for proposals to provide supplies services, or construction which ordinarily result in the award of the contract to the responsible bidder making the proposal determined to be most advantageous to TTCECA. The award of the contract must be made on the basis of evaluation factors that must be stated in the RFP.

(29) "Services" means the furnishing of labor, time, or effort by a contractor not required to deliver a specific end product, other than reports which are merely incidental to required performance. This term includes consultant services other than architectural, engineering, land surveying, construction management, and related services.

(30) "Subcontractor" means any person having a contract to perform work or render service to a prime contractor as a part of the prime contractor's agreement with TTCECA.

(31) "Supplies" means all personal property including, but not limited to, equipment, materials, printing, and insurance.

(33) "State Engineer" means the person holding the position as head of the state engineer's office.

(37) "TTCECA" means the Trident Technical College Enterprise Campus Authority.

SUBARTICLE 7.

PUBLIC ACCESS TO PROCUREMENT INFORMATION

SECTION 410. Public access to procurement information.

Procurement information shall be a public record to the extent required by Chapter 4 of Title 30 (The Freedom of Information Act) with the exception that commercial or financial information obtained in response to a "Request for Proposals" or any type of bid solicitation which is privileged and confidential need not be disclosed.

Privileged and confidential information is information in specific detail not customarily released to the general public, the release of which might cause harm to the competitive position of the party supplying the information. Examples of this type of information would include:

- (1) customer lists;
- (2) design recommendations and identification of prospective problem areas under an RFP;
- (3) design concepts, including methods and procedures;
- (4) biographical data on key employees of the bidder.

Evaluative documents pre-decisional in nature such as inter- or intra-agency memoranda containing technical evaluations and recommendations are exempt so long as the contract award does not expressly adopt or incorporate the inter- or intra-agency memoranda reflecting the pre-decisional deliberations.

For all documents submitted in response or with regard to any solicitation or other request, the person submitting the documents must comply with any instructions provided in the solicitation for making information exempt from public disclosure. Any information not marked as required by the applicable

instructions may be disclosed to the public. Nothing in this subparagraph exempts documents from this disclosure in accordance with Title 30, Chapter 4.

SUBARTICLE 11.

ACCEPTANCE OF GIFTS-IN-KIND AND CERTAIN SERVICES

SECTION 475. TTCECA may accept certain gifts-in-kind; restrictions.

TTCECA may accept gifts-in-kind of architectural or engineering services, or both, and items of construction of value less than two hundred fifty thousand dollars with the approval of the Director of the Office of General Services and designated staff of the Joint Bond Review Committee, provided that these gifts may not be made or accepted if these gifts are offered with intent of influencing the judgment of TTCECA. No other approvals or procedural requirements, including the provisions of Chapter 35, Title 11, may be imposed on the acceptance of these gifts.

ARTICLE 3.

PROCUREMENT ORGANIZATION

SECTION 540. Authority and duties of TTCECA.

(3) Approval of Operational Procedures. TTCECA may develop internal operational procedures consistent with this Procurement Policy; provided, that such operational procedures are certified in writing by the chief officer as being consistent with this Procurement Policy.

SUBARTICLE 3.

EXEMPTIONS

SECTION 710. Exemptions.

Any exemption granted by the Budget and Control Board pursuant to Section 11-35-710 of the South Carolina Code of Laws shall have the same effect on procurements conducted under this Procurement Policy that such an exemption has on procurements conducted pursuant to Title 11, Chapter 35 of the South Carolina Code of Laws. Any exemption granted by Section 11-35-710 of the South Carolina Code of Laws shall have the same effect on procurements conducted under this Procurement Policy that such an exemption has on procurements conducted pursuant to Title 11, Chapter 35 of the South Carolina Code of Laws.

SUBARTICLE 5.

SECTION 840. Delegation of authority.

Subject to this Procurement Policy, the TTCECA agency head may delegate authority to designees.

SECTION 841 Approvals by State Budget and Control Board

The TTCECA Procurement Policy was approved by the State Budget and Control Board on September 19, 2006. The TTCECA Procurement Policy shall be resubmitted to the State Budget and Control Board for re-approval during the first quarter of the fifth calendar year following initial approval. The TTCECA Procurement Policy expires at the end of the second quarter of the fifth calendar year following initial approval unless re-approved by the State Budget and Control Board.

SUBARTICLE 9.

AUDITING

SECTION 1230. Auditing

(1) The Materials Management Office in consultation with TTCECA shall develop written plans for the auditing of procurements conducted pursuant to this Procurement Policy.

Auditors from the Materials Management Office shall review the adequacy of the TTCECA internal controls in order to ensure compliance with the requirement of this Procurement Policy. Any noncompliance discovered through audit must be transmitted in management letters to the TTCECA and the State Budget and Control Board. The auditors shall provide in writing proposed corrective action to TTCECA. Based upon audit recommendations of the Materials Management Office, the State Budget and Control Board may revoke the TTCECA's authority under this Procurement Policy. Costs associated with the internal review and audits are the responsibility of TTCECA and will be paid to the entity performing the audit.

ARTICLE 5.

SOURCE SELECTION AND CONTRACT

SUBARTICLE 1.

DEFINITIONS

SECTION 1410. Definitions of terms used in this article.

Unless the context clearly indicates otherwise:

- (1) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with cost principles.
- (2) "Established catalog price" means the price included in a catalog, price list, schedule, or other form that:
 - (a) is regularly maintained by a manufacturer or vendor of an item;
 - (b) is either published or otherwise available for inspection by customers and
 - (c) states prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for the supplies or services involved.
- (3) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in Section 1520.
- (4) "Purchase description" means specifications or any other document describing the supplies, services, or construction to be procured.
- (5) "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- (6) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance which may be substantiated by past performance.

(7) "Responsive bidder or offeror" means a person who has submitted a bid or offer which conforms in all material aspects to the invitation for bids or request for proposals.

SUBARTICLE 3.

METHODS OF SOURCE SELECTION

SECTION 1510. Methods of source selection.

All TTCECA contracts shall be awarded by competitive sealed bidding as provided in Section 1520 except as otherwise provided in:

- (1) Section 1525 (Fixed Priced Bidding);
- (2) Section 1528 (Competitive Best Value Bidding);
- (6) Section 1530 (Competitive Sealed Proposals);
- (7) Section 1540 (Negotiations After Unsuccessful Competitive Sealed Bidding);
- (8) Section 1550 (Small Purchases);
- (9) Section 1560 (Sole Source Procurements);
- (10) Section 1570 (Emergency Procurements);
- (13) Section 3020 (Construction Procurement Procedures);
- (14) Section 3220 (Architect-Engineer, Construction Management and Land Surveying Services Procurement Procedures);
- (15) Section 3230 (Exception for Small Architect-Engineer and Land Surveying Services Contracts).

SECTION 1520. Competitive sealed bidding.

- (1) Condition for Use. Contracts amounting to one hundred thousand dollars or more shall be awarded by competitive sealed bidding except as otherwise provided in Section 1510.
- (2) Invitation for Bids. An invitation for bids shall be issued in an efficient and economical manner and shall include specifications and all contractual terms and conditions applicable to the procurement.
- (3) Notice. Adequate notice of the invitation for bids shall be given at a reasonable time prior to the date set forth therein for the opening of bids. Such notice shall include publications in a newspaper of general circulation in the State such as "South Carolina Business Opportunities".
- (4) Receipt and Safeguarding of Bids. All bids (including modifications) received prior to the time of opening shall be kept secure and unopened, except as otherwise provided for in this Procurement Policy.
- (5) Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids and as otherwise provided in this Procurement Policy. The amount of each bid, and such other relevant information, together with the name of each bidder, shall be tabulated. The tabulation shall be open to public inspection at that time.
- (6) Bid Acceptance and Bid Evaluation. Bids shall be accepted unconditionally without alteration or correction, except as otherwise authorized in this Procurement Policy. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. Bids shall be evaluated based on the requirements set forth in the invitation for bids and in accordance with this Procurement Policy.
- (7) Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before bid opening, withdrawal of inadvertently erroneous bids after award, or cancellation and re-award of awards or contracts, after award but prior to performance may be permitted in accordance with Appendix A. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the TTCECA or fair competition shall be permitted. Except as may otherwise be provided by Appendix A, all decisions to permit the correction or withdrawal of bids, or to cancel awards, or contracts, after award but prior to performance shall be supported by a written determination by the chief officer.

(8) Discussion with Bidders. As provided in the invitation for bids, discussions may be conducted with apparent responsive bidders for the purpose of clarification to assure full understanding of the requirements of the invitation for bids. All bids, in TTCECA's sole judgment, needing clarification shall be accorded such an opportunity. Clarification of any bidder's bid must be documented in writing by the procurement officer and shall be included with the bid. Documentation concerning the clarification shall be subject to disclosure upon request as required by Section 410.

(9) Tie Bids. If two or more bidders are tied in price while otherwise meeting all of the required conditions, awards are determined as follows:

(a) If there is a South Carolina firm tied with an out-of-state firm, the award must be made automatically to the South Carolina firm.

(b) Tie bids involving South Carolina firms must be resolved in favor of the South Carolina firm located in Berkeley, Charleston or Dorchester County.

(d) Tie bids involving South Carolina firms in Berkeley, Charleston or Dorchester County must be resolved by the flip of a coin in the office of the procurement officer and witnessed by all interested parties.

(e) In all other situations where bids are tied, the award will be made by the procurement officer to the tied bidder offering the quickest delivery time, or if the tied bidders have offered the same delivery time, the tie shall be resolved by the flip of a coin in the office of the chief officer or TTCECA agency head or designee and witnessed by all interested parties.

(10) Award. Unless there is a compelling reason to reject bids as prescribed by Appendix A, notice of an intended award of a contract to the lowest responsive and responsible bidders whose bid meets the requirements set forth in the invitation for bids shall be given by posting such notice at a location specified in the invitation for bids. Prior to the posting of the award, TTCECA may negotiate with the lowest responsive and responsible bidder to lower his bid within the scope of the invitation for bids. The invitation for bids and the posted notice must contain a statement of a bidder's right to protest under Section 4210(1) and the date and location of posting must be announced at bid opening. When a contract has a total or potential value in excess of one hundred thousand dollars, in addition to the posted notice, notice of an intended award must be given to all bidders responding to the solicitation, except when only one response is received. Such notice must contain a statement of the bidder's right to protest under Section 4210(1).

When a contract has a total or potential value in excess of one hundred thousand dollars, sixteen days after notice is given TTCECA may enter into a contract with the bidder named in the notice in accordance with the provisions of this Procurement Policy and of the bid solicited. When only one response is received, the notice of intended award and the sixteen-day delay of award may be waived. A determination of responsibility must be made before award in accordance with Section 1810.

(11) Request for Qualifications. Prior to soliciting bids, the procurement officer may issue a request for qualifications from prospective bidders. Such request shall contain at a minimum a description of the supplies or services to be solicited by the invitation for bids, the general scope of the work, the deadline for submission of information, and how prospective bidders may apply for consideration. The request shall require information concerning the prospective bidders' product specifications, qualifications, experience, and ability to perform the requirements of the contract. Adequate public notice of the request for qualifications shall be given in the manner provided in Section 1520(3).

After receipt of the responses to the request for qualifications from prospective bidders, the prospective bidders shall be ranked from most qualified to least qualified on the basis of the information provided. Bids shall then be solicited from at least the top two prospective bidders by means of an invitation for bids. The failure of a prospective bidder to be selected to receive the invitation for bids shall not be grounds for protest under Section 4210.

(13) Minor Informalities and Irregularities in Bids. A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids having no effect or merely a trivial or negligible effect on total bid price, quality, quantity, or delivery of the supplies or performance of the contract, and the correction or waiver of which would not

be prejudicial to bidders. The procurement officer shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive any such deficiency when it is to the advantage of TTCECA. Such communication or determination shall be in writing. Examples of minor informalities or irregularities include, but are not limited to:

- (a) failure of a bidder to return the number of copies of signed bids required by the solicitation;
- (b) failure of a bidder to furnish the required information concerning the number of the bidder's employees or failure to make a representation concerning its size;
- (c) failure of a bidder to sign its bid, but only if the firm submitting the bid has formally adopted or authorized the execution of documents by typewritten, printed, or rubber stamped signature and submits evidence of such authorization, and the bid carries such a signature or the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned document, such as the submission of a bid guarantee with the bid or a letter signed by the bidder with the bid referring to and identifying the bid itself;
- (d) failure of a bidder to acknowledge receipt of an amendment to a solicitation, but only if:
 - (i) the bid received indicates in some way that the bidder received the amendment, such as where the amendment added another item to the solicitation and the bidder submitted a bid, thereon, provided that the bidder states under oath that it received the amendment prior to bidding and that the bidder will stand by its bid price or,
 - (ii) the amendment has no effect on price or quantity or merely a trivial or negligible effect on quality or delivery, and is not prejudicial to bidders, such as an amendment correcting a typographical mistake in the name of the governmental body;
- (e) failure of a bidder to furnish an affidavit concerning affiliates;
- (f) failure of a bidder to execute the certifications with respect to Equal Opportunity and Affirmative Action Programs;
- (g) failure of a bidder to furnish cut sheets or product literature;
- (h) failure of a bidder to furnish certificates of insurance;
- (i) failure of a bidder to furnish financial statements;
- (j) failure of a bidder to furnish references;
- (k) failure of a bidder to furnish its bidder number; and
- (l) notwithstanding Section 40-11-200(B) of the South Carolina Code of Laws, the failure of a bidder to indicate his contractor's license number or other evidence of licensure, provided that no contract shall be awarded to the bidder unless and until the bidder is properly licensed under the laws of South Carolina.

SECTION 1525. Competitive fixed price bidding.

(1) **Conditions for Use.** When the procurement officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to TTCECA, a contract may be entered into by competitive fixed price bidding subject to the provisions of Section 1520 and Appendix A, unless otherwise provided for in this section.

(2) **Fixed Price Bidding.** The purpose of fixed price bidding is to provide multiple sources of supply for specific supplies or services based on a preset maximum price that the TTCECA will pay for such supplies or services.

(3) **Public Notice.** Adequate public notice of the solicitation shall be given in the same manner as provided in Section 1520(3).

(4) **Pricing.** The TTCECA shall establish, prior to issuance of the fixed price bid, a maximum amount the TTCECA will pay for the supplies or services desired.

(5) **Evaluation.** Vendors' responses to the fixed price bid will be reviewed to determine if they are responsive and responsible.

(6) **Discussion with Responsive Bidders.** Discussions may be conducted with apparent responsive bidders to assure understanding of the requirements of the fixed price bid. All bidders whose bids, in the procurement officer's sole judgment, need clarification shall be accorded such an opportunity.

- (7) Award. Award must be made to all responsive and responsible bidders to the TTCECA request for competitive fixed price bidding. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit.
- (8) Bids Received After Award. Bidders not responding to the initial fixed price bid may be added to the awarded vendors' list provided the bidder furnishes evidence of responsibility and responsiveness to the TTCECA original fixed price bid as authorized by the solicitation.
- (9) Remedies. The failure of a specific offeror to receive business, once it has been added to the awarded vendors' list, shall not be grounds for a contract controversy under Section 4230.

SECTION 1528. Competitive best value bidding.

- (1) Conditions for Use. When a procurement officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the TTCECA, a contract may be entered into by competitive best value bidding subject to the provisions of Section 1520 and Appendix A, unless otherwise provided for in this section.
- (2) Best Value Bidding. The purpose of best value bidding is to allow factors other than price to be considered in the determination of award for specific supplies or services based on pre-determined criteria identified by the TTCECA.
- (3) Public Notice. Adequate public notice of the request for the solicitation shall be given in the same manner as provided in Section 1520(3).
- (4) Bid Opening. At bid opening, the only information that will be released is the names of the participating bidders. Cost information will be provided after the ranking of bidders and the issuance of award.
- (5) Evaluation Factors. The best value bid shall state the factors to be used in determination of award and the numerical weighting for each factor. Cost must be a factor in determination of award and cannot be weighted at less than sixty percent. Best value bid evaluation factors may include, but are not limited to, any of the following as determined by the TTCECA in its sole discretion and not subject to protest:
- (a) operational costs that the TTCECA would incur if the bid is accepted;
 - (b) quality of the product or service, or its technical competency;
 - (c) reliability of delivery and implementation schedules;
 - (d) maximum facilitation of data exchange and systems integration;
 - (e) warranties, guarantees, and return policy;
 - (f) vendor financial stability;
 - (g) consistency of the proposed solution with the TTCECA's planning documents and announced strategic program direction;
 - (h) quality and effectiveness of business solution and approach;
 - (i) industry and program experience;
 - (j) prior record of vendor performance;
 - (k) vendor expertise with engagement of similar scope and complexity;
 - (l) extent and quality of the proposed participation and acceptance by all user groups;
 - (m) proven development methodologies and tools; and
 - (n) innovative use of current technologies and quality results.
- (6) Discussion with Responsive Bidders. Discussions may be conducted with apparent responsive bidders to assure understanding of the best value bid. All bidders whose bids, in the TTCECA's sole judgment, need clarification shall be accorded such an opportunity.
- (7) Selection and Ranking. Bids shall be evaluated by using only the criteria stated in the best value bid and by adhering to the weighting as assigned. All evaluation factors, other than cost, will be considered prior to determining the effect of cost on the score for each participating bidder. Once the evaluation is complete, all responsive bidders shall be ranked from most advantageous to least advantageous to the TTCECA, considering only the evaluation factors stated in the best value bid.

(8) Award. Award must be made to the responsive and responsible bidder whose bid is determined, in writing, to be most advantageous to the TTCECA, taking into consideration all evaluation factors set forth in the best value bid. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit.

SECTION 1530. Competitive sealed proposals.

(1) Conditions for Use. When a procurement officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to TTCECA, a contract may be entered into by competitive sealed proposals subject to the provisions of Section 1520, unless otherwise provided for in this section. Subject to the requirements of Section 3220, the TTCECA may provide that it is either not practicable or not advantageous to TTCECA to procure specified types of supplies, services, or construction by competitive sealed bidding.

(2) Public Notice. Adequate public notice of the request for proposals shall be given in the same manner as provided in Section 1520(3).

(3) Receipt of Proposals. Proposals shall be opened publicly in accordance with procedures of the TTCECA. A tabulation of proposals shall be prepared and shall be open for public inspection after contract award.

(4) Request for Qualifications. Prior to soliciting proposals, the procurement officer may issue a request for qualifications from prospective offerors. Such request shall contain at a minimum a description of the supplies or services to be solicited by the request for proposals and the general scope of the work and shall state the deadline for submission of information and how prospective offerors may apply for consideration. The request shall require information only on their qualifications, experience, and ability to perform the requirements of the contract.

After receipt of the responses to the request for qualifications from prospective offerors, the prospective offerors shall be ranked from most qualified to least qualified on the basis of the information provided. Proposals shall then be solicited from at least the top two prospective offerors by means of a request for proposals. The failure of a prospective offeror to be selected to receive the request for proposals shall not be grounds for protest under Section 4210.

(5) Evaluation Factors. The request for proposals shall state the relative importance of the factors to be considered in evaluating proposals but shall not require a numerical weighting for each factor. Price may but need not be an evaluation factor.

(6) Discussion with Offerors. As provided in the request for proposals, discussions may be conducted with apparent responsive offerors for the purpose of clarification to assure full understanding of the requirements of the request for proposals. All offerors, whose proposals, in TTCECA's sole judgment, need clarification, shall be accorded such an opportunity.

(7) Selection and Ranking. Proposals shall be evaluated using only the criteria stated in the request for proposals and there must be adherence to any weightings that have been previously assigned. Once evaluation is complete, all responsive offerors shall be ranked from most advantageous to least advantageous to the TTCECA, considering only the evaluation factors stated in the request for proposals. If price is an initial evaluation factor, award shall be made in accordance with Section 1530(9) below.

(8) Negotiations. Whether price was an evaluation factor or not, the procurement officer, may, in its sole discretion and not subject to challenge through a protest filed under Section 4210, proceed in any of the manners indicated below:

- (a) negotiate price with the highest ranked offeror. If a satisfactory price cannot be agreed upon, price negotiations may be conducted, in the sole discretion of TTCECA, with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by TTCECA in its sole discretion; or
- (b) negotiate with the highest ranking offeror on matters affecting the scope of the contract, so long as the overall nature and intent of the contract is not changed. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted, in the sole discretion of TTCECA, with

the second, and then the third, and so on, ranked offerors to such level of ranking as determined by TTCECA in its sole discretion; or

(c) during the negotiation process as outlined in subsections (a) and (b) above, if the procurement officer is unsuccessful in its first round of negotiations, it may reopen negotiations with any offeror with whom it previously negotiated; or

(d) if, after following the procedures set forth in this subsection, a contract is not able to be negotiated, the scope of the request for proposals may be changed in an effort to reduce the cost to a fair and reasonable amount, and all responsive offerors must be allowed to submit their best and final offers.

(e) In conducting negotiations, there must be no disclosure of any confidential information derived from proposals and negotiations submitted by competing offerors.

(9) Award. Award must be made to the responsive offeror whose proposal is determined in writing to be the most advantageous to the TTCECA, taking into consideration price and the evaluation factors set forth in the request for proposals, unless the TTCECA determines to utilize one of the options provided in Section 1530(8). The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit. Procedures and requirements for the notification of intent to award the contract shall be the same as those stated in Section 1520(10).

SECTION 1540. Negotiations after unsuccessful competitive sealed bidding.

When bids received pursuant to an invitation for bids under Section 1520 are considered unreasonable by the TTCECA, or are not independently reached in open competition, or the low bid exceeds available funds as certified by the TTCECA fiscal officer, and it is determined in writing by the chief officer, that time or other circumstances will not permit the delay required to re-solicit competitive sealed bids, a contract may be negotiated pursuant to this section, provided that:

(1) each responsible bidder who submitted a bid under the original solicitation is notified of the determination and is given reasonable opportunity to negotiate;

(2) the negotiated price is lower than the lowest rejected bid by any responsible and responsive bidder under the original solicitation;

(3) the negotiated price is the lowest negotiated price offered by any responsible and responsive offeror.

SECTION 1550. Bid procedures for Small Purchases.

(1) The following small purchase procedures may be utilized in conducting procurements for TTCECA that are less than one hundred thousand dollars in actual or potential value. Procurement requirements must not be artificially divided by TTCECA so as to constitute a small purchase under this section.

(2) Competition and Price Reasonableness. (a) Purchases Not in Excess of Five Thousand Dollars. Small purchases not exceeding five thousand dollars may be accomplished without securing competitive quotations if the prices are considered to be reasonable.

(b) Purchases from five thousand one cents to twenty five thousand dollars. Solicitations of verbal or written quotes from a minimum of three qualified sources of supply must be made and documentation of the quotes attached to the purchase requisition. The award shall be made to the lowest responsive and responsible source.

(c) Purchases from twenty five thousand one cents to fifty thousand dollars. Solicitation of written quotes from a minimum of three qualified sources of supply must be made and documentation of the quotes attached to the purchase requisition. The award must be made to the lowest responsive and responsible source.

(d) Purchases from fifty thousand one cents to one hundred thousand dollars. Written solicitation of written quotes, bids, or proposals shall be made. The procurement must be advertised at least once in the South Carolina Business Opportunities publication. A copy of the written solicitation and written quotes must be attached to the purchase requisition. Except as otherwise provided in this Procurement Policy,

the award shall be made to the lowest responsive and responsible source or, when a request for proposal process is used, the highest ranking offeror.

(3) Protest rights. The provisions of Section 4210 do not apply to contracts awarded under the procedures set forth in this section.

(4) All competitive procurements above fifty thousand dollars must be advertised at least once in the South Carolinas Business Opportunities publication.

SECTION 1560. Sole source procurement.

A contract may be awarded for a supply, service, or construction item without competition when, the TTCECA agency head, or a designee above the level of the procurement officer, determines in writing that there is only one source for the required supply, service, or construction item.

Written documentation must include the determination and basis for the proposed sole source procurement. Any delegation of authority respect to sole source determinations must be submitted in writing to the board. In cases of reasonable doubt, competition must be solicited. Any decision by TTCECA that a procurement be restricted to one potential vendor must be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

Any violation of this procedure by TTCECA shall, upon recommendation of the Materials Management Office and with approval of the majority of the State Budget and Control Board, result in the temporary suspension not to exceed one year of the TTCECA's ability to procure supplies, services, or construction items under this section.

SECTION 1570. Emergency procurements.

Notwithstanding any other provision of this Procurement Policy, the TTCECA agency head or a designee above the level of procurement officer may make or authorize others to make emergency procurements only when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions provided, that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

SECTION 1575. Participation in Auction or Bankruptcy Sale

TTCECA, having knowledge of either an auction or a sale of supplies from a bankruptcy, may elect to participate. TTCECA shall (a) survey the needed items being offered to ascertain their condition and usefulness, (b) determine a fair market value for new like items through informal quotes, (c) determine the fair market value from similar items considering age and useful life, and (d) estimated repair cost and delivery cost, if any, of the desired items. Using this information, TTCECA shall determine the maximum price that it can pay for each item desired. At the auction or sale, TTCECA shall not exceed the maximum price so determined.

SUBARTICLE 5.

CANCELLATION OF SOLICITATIONS

SECTION 1710. Cancellation of invitation for bids or request for proposals.

Any solicitation under this Procurement Policy may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of TTCECA. The reasons for rejection, supported with documentation sufficient to satisfy external audit,

shall be made a part of the contract file. TTCECA shall not be obligated to reimburse offerors for any cost associated with cancellation.

SUBARTICLE 7.

RESPONSIBILITY OF BIDDERS AND OFFERORS

SECTION 1810. Responsibility of bidders and offerors.

(1) **Determination of Responsibility.** Responsibility of the bidder or offeror shall be ascertained for each contract let by TTCECA based upon full disclosure to the procurement officer concerning capacity to meet the terms of the contracts and based upon past record of performance for similar contracts. TTCECA may establish standards of responsibility that shall be enforced in all contracts awarded pursuant to this Procurement Policy.

(2) **Determination of Non-responsibility.** A written determination of non-responsibility of a bidder or offeror shall be made in accordance with this Procurement Policy. The unreasonable failure of a bidder or offeror to supply information promptly in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror.

(3) **Right of Nondisclosure.** Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the offices of TTCECA, the Office of the Attorney General, or the procurement officer without prior written consent by the bidder or offeror.

SECTION 1830. Cost or pricing data.

(1) **Contractor Certification.** A contractor shall, except as provided in subsection (3) of this section, submit cost or pricing data and shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually determined specified date prior to the date of:

(a) the pricing of any contract awarded by competitive sealed proposals pursuant to Section 1530 or pursuant to the sole source procurement authority as provided in Section 1560 where the total contract price exceeds an amount established by the TTCECA ; or

(b) the pricing of any change order or contract modification which exceeds an amount established by the TTCECA.

(2) **Price Adjustment.** Any contract, change order or contract modification under which a certificate is required shall contain a provision that the price to TTCECA, including profit or fee, shall be adjusted to exclude any significant sums by which TTCECA finds that such price was increased because the contractor furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between TTCECA and the contractor.

(3) **Cost or Pricing Data Not Required.** The requirements of this section shall not apply to contracts:

(a) where the contract price is based on adequate price competition;

(b) where the contract price is based on established catalog prices or market prices;

(c) where contract prices are set by law or regulations; or

(d) where it is determined in writing that the requirements of this section may be waived and the reasons for such waiver are stated in writing.

SUBARTICLE 9.

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TYPES AND FORMS OF CONTRACTS

SECTION 2010. Types of contracts; contract forms;

(1) **Types of Contracts.** Subject to the limitations of this section, any type of contract which will promote the best interests of TTCECA may be used, except that the use of a cost-plus-a-percentage-of-cost contract shall be approved by the board. A cost-reimbursement contract, including a cost-plus-a-percentage-of-cost contract, shall be used only when a determination sufficient for external audit is prepared showing that such contract is likely to be less costly to the TTCECA than any other type or that it is impracticable to obtain the supplies, services or construction required except under such a contract.

(2) **Contract Forms.** The TTCECA shall prescribe the form of the contracts to be used in connection with TTCECA purchasing and construction.

SECTION 2030. Multi-term contracts.

(1) **Specified Period.** Unless otherwise provided by law, a contract for supplies or services shall not be entered into for any period of more than one year unless approved in a manner prescribed in Appendix A; provided, that the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore.

(2) **Determination Prior to Use.** Prior to the utilization of a multi-term contract, it shall be determined in writing by the TTCECA:

(a) that estimated requirements cover the period of the contract and are reasonably firm and continuing;

(b) that such a contract will serve the best interests of TTCECA by encouraging effective competition or otherwise promoting economies.

(3) **Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods.** When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.

(4) The maximum time for any multi-term contract is seven years. Contracts exceeding seven years must be approved by the Board.

SUBARTICLE 11.

AUDIT OF RECORDS

SECTION 2220. Right to audit records.

(1) **Audit of Cost or Pricing Data.** All TTCECA contracts shall contain a clause setting forth the right at reasonable times and places to audit the books and records of any contractor or subcontractor who has submitted cost or pricing data pursuant to Section 1830 to the extent that such books and records relate to such cost or pricing data. The contract shall further set forth that the contractor or subcontractor who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books and records that relate to such cost or pricing data for three years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing by the chief officer; provided, however, that such records shall be retained for additional periods of time beyond this three-year period upon request of the chief officer.

(2) **Contract Audit.** TTCECA shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed price contract to the

extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the procurement officer.

SUBARTICLE 13.

DETERMINATIONS AND REPORTS

SECTION 2410. Finality of determinations.

The determinations required by Section 1520(7) (Competitive Sealed Bidding: Correction or Withdrawal of Bids; Cancellation of Awards), Section 1520(11) (Competitive Sealed Bidding: Request for Qualifications), Section 1525(1) (Competitive Fixed Price Bidding: Conditions for Use), Section 1528(1) (Competitive Best Value Bidding: Conditions for Use), Section 1528(8) (Competitive Best Value Bidding: Award), Section 1530(1) (Competitive Sealed Proposals, Conditions for Use), Section 1530(4) (Competitive Sealed Proposals: Request for Qualifications), Section 1530(8) (Competitive Sealed Proposals: Negotiations), Section 1530(9) (Competitive Sealed Proposals, Selection and Ranking of Prospective Offerors), Section 1530(10) (Competitive Sealed Proposals Award), Section 1540 (Negotiations After Unsuccessful Competitive Sealed Bidding), Section 1560 (Sole Source Procurement), Section 1570 (Emergency Procurement), Section 1810(2) (Responsibility of Bidders and Offerors, Determination of Non-responsibility), Section 1830(3) (Cost or Pricing Data, Cost or Pricing Data Not Required), Section 2010 (Types and Forms of Contracts), Section 2030(2) (Multi-Term Contracts, Determination Prior to Use), Section 3220(5) (Procurement Procedure, Selection and Ranking of the Three Most Qualified), and Section 4210(7) (Stay of Procurement During Protests, Decision to Proceed) shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law. The procurement officer or TTCECA's designees shall review samples of such determinations periodically, and issue reports and recommendations on the appropriateness of the determinations made.

SECTION 2420. Reporting of anticompetitive practices.

When any information or allegations concerning anticompetitive practices among any bidders or offerors, come to the attention of the TTCECA, immediate notice of the relevant facts shall be transmitted to the Attorney General.

SECTION 2430. Retention of procurement records.

All procurement records shall be retained and disposed of in accordance with TTCECA policy and procedures. All retained documents shall be made available to the Attorney General or a designee upon request and proper receipt therefore.

SECTION 2440. Records of procurement actions.

(1) Contents of Records. TTCECA shall maintain a record listing contracts to include but not limited to Section 1560 (Sole Source Procurement) or Section 1570 (Emergency Procurements). The procurement officer shall maintain these records for four years and the record shall contain:

- (a) each contractor's name;
- (b) the amount type of each contract;
- (c) a listing of supplies, services, or construction procured under each contract.

(2) Publication of Records. A copy of the record regarding sole source and emergency procurements shall be submitted to the Materials Management Office on an annual basis and shall be available for public inspection.

ARTICLE 7.

SPECIFICATIONS

SUBARTICLE 1.

DEFINITIONS

SECTION 2610. Definitions of terms used in this article.

As used in this article, the term "specifications" means any technical or purchase description or other description of the physical or functional characteristics, or of the nature of a supply, service, or construction item. It may also include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

SUBARTICLE 3.

SPECIFICATIONS

SECTION 2710. Issuance of specifications; duties of the TTCECA.

The TTCECA may prescribe procedures governing the preparation, maintenance, and content of specifications for supplies, services, and construction required by TTCECA.

SECTION 2730. Assuring competition.

All specifications shall be drafted so as to assure cost effective procurement of the TTCECA actual needs and shall not be unduly restrictive.

SECTION 2750. Specifications prepared by architects and engineers.

The requirements of this article regarding the non-restrictiveness of specifications apply to each solicitation and include, among other things, all specifications prepared by architects, engineers, designers, draftsmen, and land surveyors for TTCECA contracts.

ARTICLE 9.

CONSTRUCTION, ARCHITECT-ENGINEER, CONSTRUCTION MANAGEMENT, AND LAND SURVEYING SERVICES

SUBARTICLE 1.

DEFINITIONS

SECTION 2910. Definitions of terms used in this article.

As used in this article, unless the context clearly indicates otherwise:

(1) "Architect-engineer and land surveying services" are those professional services associated with the practice of architecture, professional engineering, land surveying, landscape architecture, and interior design pertaining to construction, as defined by the laws of this State, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming conceptual designs, plans and specifications, cost estimates, inspections, shop drawing reviews, sample recommendations, preparation of operating and maintenance manuals, and other related services.

(2) "Construction" means the process of building, altering, repairing, remodeling, improving, or demolishing any public structure or building or other public improvements of any kind to any real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(3) "Construction management services" are those professional services associated with a system in which TTCECA directly contracts with a professional construction manager to provide that group of management activities required to plan, schedule, coordinate, and manage the design and construction plan of a TTCECA project in a manner that contributes to the control of time, cost, and quality of construction as specified in the construction management contract.

SUBARTICLE 3.

CONSTRUCTION SERVICES

SECTION 3010. Method of construction contracting administration.

The method of construction contracting administration used for a construction project by the TTCECA shall be determined to be that method which is most advantageous to TTCECA and will result in the most timely, economical, and successful completion of the construction project. The TTCECA shall determine in writing the appropriate method of construction contracting administration for a particular project and shall state in writing the facts and considerations which led to the selection of that particular method.

SECTION 3020. Construction procurement procedures.

(1) Source Selection. All TTCECA construction contracts shall be awarded pursuant to the procedures set forth in Section 1520 or 1530 subject to the exceptions enumerated in subsection (2) of this section and except as provided in Sections 1550, 1560, and 1570.

(2) The competitive processes required by subsection (1) of this section shall be subject to the following exceptions:

(a) Bid Acceptance. TTCECA solicitation shall set forth all requirements of the solicitation including, but not limited to:

(i) TTCECA, in consultation with the architect-engineer assigned to the project, shall identify all major subcontractors, who are expected to perform work for the prime contractor to or about the construction. In addition, TTCECA in consultation with the architect-engineer assigned to the project may identify by specialty any subcontractors who are expected to perform work which is vital to the project. The determination of which subcontractors are included in the list provided in the solicitation is not protestable under any other provision of this Procurement Policy. Any bidder in response to a solicitation for bids shall set forth in his bid the name of only those subcontractors that will perform the work as identified in the solicitation for bids. If the bidder determines to use his own employees to perform any portion of the work for which he would otherwise be required to list a subcontractor and if the bidder is qualified to perform such work under the terms of the solicitation, the bidder shall list himself in the

appropriate place in his bid and not subcontract any of that work except with the approval of TTCECA for good cause shown.

- (ii) Failure to complete the list provided in the solicitation renders the bidder's bid unresponsive.
- (iii) No prime contractor whose bid is accepted shall substitute any person as subcontractor in place of the subcontractor listed in the original bid, except for one or more of the following reasons:
 - (a) upon a showing satisfactory to TTCECA by the contractor that a subcontractor who was listed is not financially responsible;
 - (b) upon a showing satisfactory to TTCECA by the contractor that the scope of work bid by a listed subcontractor did not include a portion of the work required in the plans and specifications, and the exclusion is not clearly set forth in the listed subcontractor's original bid;
 - (c) upon a showing satisfactory to TTCECA made by the contractor within four working days of the bid opening that the subcontractor was listed as a result of an inadvertent clerical error;
 - (d) upon a showing satisfactory to TTCECA by the contractor that the listed subcontractor failed or refused to submit a performance and payment bond when requested by the prime contractor after the subcontractor had represented to the prime contractor that he could obtain a performance and payment bond;
 - (e) upon a showing satisfactory to TTCECA by the contractor that the listed subcontractor is required to be licensed and does not have the license by the time it is required by law;
 - (f) when the listed subcontractor fails or refuses to perform his subcontract;
 - (g) when the work of the listed subcontractor is found by TTCECA to be substantially unsatisfactory;
 - (h) upon mutual agreement of the contractor and subcontractor;
 - (i) with the consent of TTCECA for good cause shown.

The request for substitution must be made to TTCECA in writing. This written request does not give rise to any private right of action against the prime contractor in the absence of actual malice.

(iv) Where substitution is allowed, the prime contractor, before obtaining prices from any other subcontractor, must attempt in good faith to negotiate a subcontract with at least one subcontractor whose bid was received prior to the submission of the prime contractor's bid. Nothing in this section affects a contractor's ability to request withdrawal of a bid in accordance with the provisions of this Procurement Policy.

(b) A determination of responsibility must be made before award in accordance with Section 1810.

(c) When bids received pursuant to an invitation for bids conducted pursuant to Section 1520 exceeds available funds and it is determined in writing by TTCECA that circumstances will not permit the delay required to re-solicit competitive sealed bids, a contract may be negotiated pursuant to this section with the lowest responsible and responsive bidder, provided that this base bid, less any deductive alternates, does not exceed available funds by an amount greater than five percent of the construction budget established for that portion of the work. TTCECA may change the scope of the work to reduce the cost to be within the established construction budget but shall not reduce the cost below the established construction budget more than ten percent without the written approval of the chief officer based on the best interest of TTCECA.

(2) When the lowest base bid received pursuant to an invitation for bids exceeds approved available funds and the TTCECA is able to identify additional funds for the project, as certified by the appropriate fiscal officers, in the amount of the difference between the lowest base bid and the approved available funds for the project, the TTCECA shall submit its request to use the additional funds to the State Budget and Control Board and Joint Bond Review Committee in accordance with the provisions of Sections 2-47-40 and 2-47-50 of the South Carolina Code of Laws. The provisions of this paragraph apply only to those TTCECA projects that, pursuant to this code or Section 59-53-480, are subject to the provisions of Chapter 47, Title 2 of the South Carolina Code of Laws.

SECTION 3025. Approval of architectural, engineering or construction changes

TTCECA shall be allowed to approve and pay for amendments to architectural/engineering contracts and change orders to construction contracts which do not alter the original scope or intent of the project and which do not exceed the previously approved project budget.

SECTION 3030. Bond and security.

In all cases involving bonding and security, the requirement shall be left to the discretion of the TTCECA. The provisions of this section do not relieve TTCECA of any other applicable statutory requirements including, but not limited to Title 29, Chapter 6 of the South Carolina Code of Laws.

SECTION 3060. Fiscal responsibility.

Subject to Section 40(6), every contract modification, change order, or contract price adjustment under a construction contract with TTCECA shall be subject to the provisions of Sections 2-47-40 and 2-47-50 except as otherwise provided in Section 59-53-480.

SUBARTICLE 5.

ARCHITECT-ENGINEER, CONSTRUCTION MANAGEMENT, AND LAND SURVEYING SERVICES

SECTION 3210. Applicability and policy.

It is the policy of TTCECA to announce publicly all requirements for architect-engineer, construction management, and land surveying services and to negotiate contracts for such services on the basis of demonstrated competence and qualification for the particular type of services required and at fair and reasonable prices. This policy does not prohibit the acquisition of such services pursuant to Article 5 when such services are acquired in conjunction with construction.

SECTION 3220. Procurement procedures.

(1) **Selection Committee.** TTCECA shall establish its own architect-engineer, construction management, and land surveying services selection committee hereinafter referred to as the selection committee, which shall be composed of those individuals whom the TTCECA agency head determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project. The TTCECA agency head shall serve on all selection committees.

(2) **Advertisement of Project Description.** The selection committee shall be responsible for:

- (a) developing a description of the proposed project,
- (b) enumerating all required professional services for that project, and
- (c) preparing a formal invitation to firms for submission of information.

The invitation shall include, but not be limited to, the project title, the general scope of work, a description of all professional services required for that project, the submission deadline, and how interested firms may apply for consideration. The invitation shall be formally advertised in South Carolina Business Opportunities.

(3) **Response to Invitation.** The date for submission of information from interested persons or firms in response to an invitation shall be not less than fifteen days after publication of the invitation. Interested architect-engineer, construction management, and land surveying persons or firms shall be required to respond to the invitation with the submission of information which the invitation requires.

(4) **Interviews with Interested Firms.** Following receipt of information from all interested persons and firms, the selection committee shall hold interviews with at least three persons or firms who have

responded to the committee's advertisement and who are deemed most qualified on the basis of information available prior to the interviews. If less than three persons or firms have responded to the advertisement, the committee shall hold interviews with those that did respond. The selection committee's determination as to which will be interviewed shall be in writing and shall be based upon its review and evaluation of all submitted materials. The written report of the committee shall specifically list the names of all persons and firms that responded to the advertisement and enumerate the reasons of the committee for selecting those to be interviewed. The purpose of the interviews shall be to provide such further information as may be required by the TTCECA selection committee to fully acquaint itself with the relative qualifications of the several interested firms.

(5) Selection and Ranking of the Three Most Qualified. The selection committee shall evaluate each of the persons or firms interviewed in view of their:

- (a) past performance;
- (b) the ability of professional personnel;
- (c) demonstrated ability to meet time and budget requirements;
- (d) location;
- (e) recent, current, and projected workloads of the firms;
- (f) creativity and insight related to the project; and
- (g) related experience on similar projects and any other criteria identified in the invitation.

Based upon these evaluations, the selection committee shall select the three persons or firms which, in its judgment, are the best qualified, ranking the three in priority order. The selection committee's report ranking the three chosen persons or firms shall be in writing and shall include data substantiating its determinations.

(7) Negotiation of Contract. The procurement officer shall negotiate a contract for services with the most qualified person or firm at a compensation which is fair and reasonable to the TTCECA. Should the procurement officer be unable to negotiate a satisfactory contract with this person or firm, negotiations shall be formally terminated. Negotiations shall commence in the same manner with the second and then the third most qualified until a satisfactory contract has been negotiated. If no agreement is reached with one of the three, additional persons or firms in order of their competence and qualifications shall be selected after consultation with the selection committee, and negotiations shall be continued in the same manner until agreement is reached.

(9) Award. Once a contract has been successfully negotiated in accordance with this section, notification of award of a contract shall be sent to all firms responding to the invitation.

SECTION 3230. Exception for small architect-engineer and land surveying services contract.

(1) Procurement Procedures for Certain Contracts. When TTCECA is securing architect-engineer or land surveying service which is estimated not to exceed fifty thousand dollars, TTCECA may employ the architects, engineers, or land surveyors by direct negotiation and selection, taking into account:

- (a) the nature of the project,
- (b) the proximity of the architect-engineer or land surveying services to the project,
- (c) the capability of the architect, engineer, or land surveyor to produce the required service within a reasonable time,
- (d) past performance, and
- (e) ability to meet project budget requirements.

(2) Maximum Fees Payable to One Person or Firm. Fees paid during the twenty-four month period immediately preceding negotiation of the contract by any TTCECA for professional services performed by any one architectural-engineering or land surveying firm pursuant to Section 3230(1) shall not exceed one hundred thousand dollars. All persons or firms seeking to render professional services pursuant to this section shall furnish TTCECA a list of professional services, including fees paid therefore, performed for the TTCECA during the fiscal year immediately preceding the fiscal year in which the negotiations are occurring and during the fiscal year in which the negotiations are occurring.

(4) Splitting of Larger Projects Prohibited. TTCECA shall not break a project into small projects for the purpose of circumventing the provisions of Section 3220 and this section.

SUBARTICLE 3.

REGULATIONS FOR SALE, LEASE, TRANSFER, AND DISPOSAL

SECTION 3810. Procedures for sale, lease, transfer and disposal.

TTCECA is exempt from all laws governing the disposal of surplus property.

SECTION 3820. Allocation of proceeds for sale or disposal of surplus supplies.

The sale of all TTCECA owned supplies, property, or personal property not in actual TTCECA use shall be conducted and directed by the TTCECA. Such sales shall be held at such places and in such manner as in the judgment of the TTCECA shall be most advantageous to the TTCECA. Unless otherwise determined by TTCECA, sales shall be by either public auction or competitive sealed bid to the highest bidder.

ARTICLE 17.

LEGAL AND CONTRACTUAL REMEDIES

SUBARTICLE 1.

ADMINISTRATIVE RESOLUTION OF CONTROVERSIES

SECTION 4200. In every procurement under this Procurement Policy, TTCECA shall include a statement in the solicitation documents relating to the procurement, the following statement: "By participating in this procurement, the bidder, offeror, contractor, or subcontractor agrees that the rights and remedies contained in the Trident Technical College Enterprise Campus Authority Procurement Policy are to the exclusion of all other rights and remedies for the bidder, offeror, contractor, or subcontractor against Trident Technical College Enterprise Campus Authority at common law or otherwise for the loss or potential loss of an award of a contract under the Trident Technical College Enterprise Campus Authority Procurement Policy." The statement shall be typed in underlined capital letters, or rubber-stamped prominently, on the first page of the solicitation document.

SECTION 4210. Right to protest; procedure; settlement of protest; administrative review and decision; notice of decision; finality; stay of procurement pending; exclusivity of remedy.

(1) Right to Protest; Exclusive Remedy.

(a) Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest to the chief officer in the manner stated in subsection (2) below within fifteen days of the date of issuance of the Invitation For Bids or Requests for Proposals or other solicitation documents, whichever is applicable, or any amendment thereto, if the amendment is at issue.

(b) Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest to the chief officer in the manner stated in subsection (2) below within fifteen days of the date notification of award is posted in accordance with this code.

(c) The rights and remedies granted in this article to a disappointed bidder, offeror, contractor, or subcontractor are to the exclusion of all other rights and remedies of such disappointed bidder, offeror, contractor, or subcontractor against the TTCECA at common law or otherwise for the loss or potential loss of an award of a contract under the TTCECA Procurement Policy.

(2) Protest Procedure. A protest under subsection (1) shall be in writing, submitted to the chief officer, and shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided.

(3) Duty and Authority to Attempt to Settle Protests. Prior to commencement of an administrative review as provided in subsection (4), the chief officer, TTCECA agency head, or designees thereof shall attempt to settle by mutual agreement a protest of an aggrieved bidder, offeror, contractor, or subcontractor, actual or prospective, concerning the solicitation or award of the contract. The chief officer, TTCECA agency head, or designees thereof shall have the authority to approve any settlement reached by mutual agreement.

(4) Administrative Review and Decision. If in the opinion of the chief officer, after reasonable attempt, a protest cannot be settled by mutual agreement, the chief officer shall promptly conduct an administrative review and shall issue a decision in writing within ten days of completion of the review. The decision shall state the reasons for the action taken.

(5) Notice of Decision. A copy of the decision under subsection (4) of this section along with a statement of appeal rights under Section 4210(6) shall be mailed or otherwise furnished immediately to the protestant and any other party intervening. The chief officer shall also post a copy of the decision at a date and place communicated to all parties participating in the administrative review, and such posted decision shall indicate the date of posting on its face and shall be accompanied by a statement of the right to appeal provided in Section 4210(6).

(6) Finality of Decision. A decision under subsection (4) of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected by the decision requests a further administrative review by the Procurement Review Panel under Section 4410(1) within ten days of posting of the decision in accordance with Section 4210(5). The request for review shall be directed to the chief officer, who shall forward the request to the Procurement Review Panel and shall be in writing, setting forth the reasons why the person disagrees with the decision of the chief officer. The person may also request a hearing before the Procurement Review Panel.

(7) Stay of Procurement During Protests. In the event of a timely protest under subsection (1) TTCECA shall not proceed further with the solicitation or award of the contract until a decision is rendered by the chief officer, or, in the event of timely appeal to the Procurement Review Panel, until a decision is rendered by the panel; provided, however, that solicitation or award of a protested contract will not be stayed if the chief officer, or TTCECA agency head, makes a written determination that the solicitation or award of the contract without delay is necessary to protect the best interests of the TTCECA.

SECTION 4220. Authority to debar or suspend.

Any order of suspension or debarment issued pursuant to Title 11, Chapter 35 of the South Carolina Code of Laws shall have the same effect on procurements conducted under this Procurement Policy that such an order has on procurements conducted pursuant to Title 11, Chapter 35 of the South Carolina Code of Laws.

SECTION 4230. Authority to resolve contract and breach of contract controversies.

(1) Applicability. This section applies to controversies between the TTCECA and a contractor or subcontractor when the subcontractor is the real party in interest, which arises under or by virtue of a contract between them including, but not limited to, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission. The procedure set forth in this section shall constitute the exclusive means of resolving a controversy between the TTCECA and a

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contractor or subcontractor concerning a contract solicited and awarded under the provisions of the TTCECA Procurement Policy.

(2) Request for Resolution; Time for Filing. Either the TTCECA or the contractor or subcontractor when the subcontractor is the real party in interest may initiate resolution proceedings before the chief officer by submitting a request for resolution to the chief officer in writing setting forth the general nature of the controversy and the relief requested with enough particularity to give notice of the issues to be decided. A request for resolution of contract controversy must be filed within one year of the date the contractor last performs work under the contract; provided, however, that in the case of latent defects a request for resolution of a contract controversy must be filed within one year of the date the requesting party first knows or should know of the grounds giving rise to the request for resolution.

(3) Duty and Authority to Attempt to Settle Contract Controversies. Prior to commencement of an administrative review as provided in subsection (4), the chief officer must attempt to settle by mutual agreement a contract controversy brought under this section. The chief officer shall have the authority to approve any settlement reached by mutual agreement.

(4) Administrative Review and Decision. If, in the opinion of the chief officer, after reasonable attempt, a contract controversy cannot be settled by mutual agreement, the chief officer must promptly conduct an administrative review and shall issue a decision in writing within ten days of completion of the review. The decision shall state the reasons for the action taken.

(5) Notice of Decision. A copy of the decision under subsection (4) of this section and a statement of appeal rights under Section 4230(6) shall be mailed or otherwise furnished immediately to all parties participating in the administrative review proceedings. The chief officer must also post a copy of the decision at a time and place communicated to all parties participating in the administrative review, and such posted decision must indicate the date of posting on its face and shall be accompanied by a statement of the right to appeal provided in Section 4230 (6).

(6) Finality of Decision. A decision under subsection (4) of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected requests a further administrative review by the Procurement Review Panel under Section 4410 (1) within ten days of the posting of the decision in accordance with Section 4230 (5). The request for review must be directed to the chief officer who shall forward the request to the Procurement Review Panel and must be in writing setting forth the reasons why the person disagrees with the decision of the chief officer. The person may also request a hearing before the Procurement Review Panel.

(7) Regarding any controversy arising out of a contract between the TTCECA and a contractor, as a condition of receiving the award of a contract, TTCECA may require any bidder or offeror to agree to voluntary or mandatory alternative dispute resolution, including but not limited to, mediation and arbitration.

SUBARTICLE 2.

REMEDIES

SECTION 4310. Solicitations or awards in violation of the law.

(1) Applicability. The provisions of this section apply where it is determined by either the chief officer or the Procurement Review Panel, upon administrative review, that a solicitation or award of a contract is in violation of this Procurement Policy or other applicable provisions of law. The remedies set forth herein may be granted by either the chief officer after review under Section 4210 or by the Procurement Review Panel after review under Section 4410(1).

(2) Remedies Prior to Award. If, prior to award of a contract, it is determined that a solicitation or proposed award of a contract is in violation of this Procurement Policy or other applicable provision of law, then the solicitation or proposed award may be:

(a) canceled;

- (b) revised to comply with this Procurement Policy or other applicable provision of law and re-bid; or
- (c) awarded in a manner that complies with the provisions of this Procurement Policy.
- (3) Remedies After Award. If, after an award of a contract, it is determined that the solicitation or award is in violation of this Procurement Policy or other applicable provision of law;
 - (a) the contract may be ratified and affirmed, provided it is in the best interests of the TTCECA; or
 - (b) the contract may be terminated and the payment of such damages, if any, as may be provided in the contract, may be awarded.
- (4) Entitlement to Costs. In addition to or in lieu of any other relief, when a protest submitted under Section 4210 is sustained, and it is determined that the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, then the protesting bidder or offeror may request and be awarded a reasonable reimbursement amount, including reimbursement of its reasonable bid preparation costs.

SECTION 4320. Contract controversies.

Remedies available in a contract controversy brought under the provisions of Section 4230 are as follows: The chief officer or the Procurement Review Panel, in the case of review under Section 4410(1), may award such relief as is necessary to resolve the controversy as allowed by the terms of the contract or by applicable law.

SECTION 4330. Frivolous protests.

- (1) Signature on Protest Constitutes Certificate. The signature of an attorney or party on a request for review, protest, motion, or other document constitutes a certificate by the signer that the signer has read such document, that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass, limit competition, or to cause unnecessary delay or needless increase in the cost of the procurement or of the litigation.
- (2) Sanctions for Violations. If a request for review, protest, pleading, motion, or other document is signed in violation of this subsection on or after appeal to the Procurement Review Panel, the Procurement Review Panel, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the protest, pleading, motion, or other paper, including a reasonable attorney's fee.

SUBARTICLE 3.

REVIEW PANEL

SECTION 4410. Procurement Review Panel.

Section 11-35-4410 of the South Carolina Code of Laws applies to procurements subject to this Procurement Policy to the same extent it applies to procurements pursuant to Title 11, Chapter 35 of the South Carolina Code of Law.

Finality. The decision of the Procurement Review Panel is final as to administrative review and its decision may be appealed to the circuit court under the provisions of the South Carolina Administrative Procedures Act.

ARTICLE 19.

INTERGOVERNMENTAL RELATIONS

SUBARTICLE 1.

APPLICATION

SECTION 4610. Application

For purposes of cooperative purchasing, TTCECA is governed by Article 19, Title 11, Chapter 35 of the South Carolina Code of Laws.

ARTICLE 21.

ASSISTANCE TO MINORITY BUSINESSES

SECTION 5010. Definitions of terms used in this article.

The TTCECA may develop procedures establishing detailed definitions of the following terms using, in addition to the criteria set forth in this section, such other criteria as it may deem desirable.

As used in the article, unless the context clearly indicates otherwise:

- (1) "Minority person" means a United States citizen who is economically and socially disadvantaged.
- (a) "Socially disadvantaged individuals" means those individuals who have been subject to racial or ethnic prejudice or cultural bias because of their identification as members of a certain group, without regard to their individual qualities. Such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts and Native Hawaiians), Asian Pacific Americans, and other minorities to be designated by TTCECA.
- (b) "Economically disadvantaged individuals" means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.
- (2) A "socially and economically disadvantaged small business" means any small business concern which:
 - (a) is at least fifty-one percent owned by one or more citizens of the United States who are determined to be socially and economically disadvantaged.
 - (b) in the case of a concern which is a corporation, fifty-one percent of all classes of voting stock of such corporation must be owned by an individual determined to be socially and economically disadvantaged.
 - (c) in the case of a concern which is a partnership, fifty-one percent of the partnership interest must be owned by an individual or individuals determined to be socially and economically disadvantaged and whose management and daily business operations are controlled by individuals determined to be socially and economically disadvantaged. Such individuals must be involved in the daily management and operations of the business concerned.

SUBARTICLE 3.

ASSISTANCE TO MINORITY BUSINESSES

SECTION 5210. Statement of policy and its implementation.

(1) Statement of Policy. TTCECA recognizes that business firms owned and operated by minority persons have been historically restricted from full participation in our free enterprise system to a degree

disproportionate to other businesses. TTCECA believes that it is in the best interest of TTCECA to assist minority-owned businesses to develop fully as a part of the policies and programs that are designed to promote balanced economic and community growth throughout the State. TTCECA, therefore, wishes to ensure that those businesses owned and operated by minorities are afforded the opportunity to fully participate in the overall procurement process of TTCECA. TTCECA, therefore, takes this leadership role in setting procedures that will result in awarding contracts and subcontracts to minority business firms in order to enhance minority capital ownership, overall state economic development and reduce dependency on the part of minorities.

(2) Implementation. TTCECA shall implement the policy set forth in subsection (1) of this section.

SECTION 5220. Duties of the chief officer.

(1) Assistance from the Chief Officer. The chief officer shall provide appropriate staff to assist minority businesses with the procurement procedures contained in this Procurement Policy.

(3) Source Lists. The procurement officer must maintain special source lists of minority business firms detailing the products and services they provide.

SECTION 5240. Minority business enterprise (MBE) utilization plan.

(1) In order to emphasize the use of minority small businesses, the TTCECA must develop a Minority Business Enterprise (MBE) Utilization Plan. The MBE Utilization Plan must include, but not be limited to:

(b) A policy statement expressing a commitment by the TTCECA to use MBE's in all aspects of procurement;

(2) MBE utilization plans must be submitted to the Governor's Office of Small and Minority Business Assistance ("OSMBA") for approval not later than July thirtieth, annually. Progress reports shall be submitted to the OSMBA not later than ten days after the end of each fiscal quarter and must include the:

- (a) Number of minority firms solicited;
- (b) Number of minority bids received; and
- (c) Dollar amount of minority bids awarded.

SECTION 5260. Annual report regarding contracts with certified small, minority, and women-owned businesses.

The TTCECA must report annually in writing to the board concerning the number and dollar value of contracts awarded to eligible minority businesses during the preceding fiscal year. These records shall be maintained to evaluate the progress of this program.

TRIDENT TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY

PROCUREMENT POLICY
APPENDIX A

- Paragraph 2000 TTCECA Procurement Policy
- Paragraph 2005 Approval of Internal Procurement Procedures Manual.
- Paragraph 2015 Ratification.
- Paragraph 2030 Competitive Sealed Bidding--The Invitation for Bids.
- Paragraph 2045 Receipt and Safeguarding of Bids.
- Paragraph 2050 Bid Opening.
- Paragraph 2055 Bid Acceptance and Bid Evaluation.
- Paragraph 2060 Telegraphic Bids.
- Paragraph 2065 Rejection of Bids.
- Paragraph 2070 Rejection of Individual Bids.
- Paragraph 2075 All or None Qualifications.
- Paragraph 2085 Correction or Withdrawal of Bids; Cancellation of Awards.
- Paragraph 2090 Award.
- Paragraph 2095 Competitive Sealed Proposals.
- Paragraph 2100 Small Purchases and Other Simplified Purchasing Procedures.
- Paragraph 2105 Sole Source Procurements.
- Paragraph 2110 Emergency Procurements.
- Paragraph 2125. Responsibility of Bidders and Offerors.
- Paragraph 2130. Prequalification of Supplies and Suppliers.
- Paragraph 2135. Conditions for Use of Multi-term Contracts.
- Paragraph 2140. Specifications.
- Paragraph 2145. Construction, Architect-Engineer, Construction Management, and Land Surveying Services.
- Paragraph 2152. Leases, Lease/Payment, Installment Purchase, and Rental of Personal Property.
- Paragraph 2160. Assistance to Minority Businesses.

Paragraph 2000. TTCECA Procurement Policy

This Appendix A to the Trident Technical College Enterprise Campus Authority (TTCECA) Procurement Policy is authorized pursuant to Section 59-53-480 of the South Carolina Code of Laws.

The provisions included in this Appendix A supplement the procedures and requirements contained in the main portion of the TTCECA Procurement Policy. If a provision in this Appendix A is inconsistent with a provision contained in the main body of the TTCECA Procurement Policy, then the provision in the main body controls. Nothing contained in this Appendix A shall be construed to waive any rights, remedies or defenses the TTCECA might have under any laws of the State of South Carolina.

Paragraph 2005. Approval of Internal Procurement Procedures Manual.

TTCECA may develop an internal procurement procedures manual consistent with the TTCECA Procurement Policy.

Paragraph 2015. Ratification.

A. Procurement Policy

The ratification of an act obligating the TTCECA in a contract by any person without the requisite authority to do so by an appointment or delegation under this Procurement Policy rests with the TTCECA board which has the authority to ratify all such acts. It is prohibited for a Procurement Officer to ratify such acts.

EXHIBIT

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STATE BUDGET & CONTROL BOARD

B. Corrective Action and Liability. With regard to any ratification, the TTCECA Agency Head shall prepare a written determination as to the facts and circumstances surrounding the act, what corrective action is being taken to prevent reoccurrence, action taken against the individual committing the act, and documentation that the price paid is fair and reasonable.

Paragraph 2030. Competitive Sealed Bidding--The Invitation for Bids.

The invitation for bids shall be used to initiate a competitive sealed bid procurement and shall include the following, as applicable:

- (1) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the individual to whom the bid is to be submitted, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the, TTCECA and any other special information;
- (2) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description;
- (3) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable; and
- (4) instructions to bidders to visibly mark as "confidential" each part of their bid which they consider to be proprietary information. Bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of seven (7) days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Chief Officer or the TTCECA agency head or his designee.

Paragraph 2045. Receipt and Safeguarding of Bids.

A. Procedures Prior to Bid Opening.

All bids (including modifications) received prior to the time of opening shall be kept secure and, except as provided in Subsection B below, unopened. If an invitation for bids is canceled, bids shall be returned to the bidders. Necessary precautions shall be taken to insure the security of the bid. Prior to bid opening, information concerning the identity and number of bids received shall be made available only to the TTCECA, and then only on a "need to know" basis. When bid samples are submitted, they shall be handled with sufficient care to prevent disclosure of characteristics before bid opening.

B. Unidentified Bids.

Unidentified bids may be opened solely for the purpose of identification, and then only by an official specifically designated for this purpose by the Procurement Officer, or a designee. If a sealed bid is opened by mistake, the person who opens the bid will immediately write his/her signature and position on the envelope and deliver it to the aforesaid official. This official shall immediately write on the envelope an explanation of the opening, the date and time opened, the invitation for bids' number, and his signature, and then shall immediately reseal the envelope.

Paragraph 2050. Bid Opening.

A. Procedures.

The Procurement Officer or designee shall decide when the time set for bid opening has arrived, and shall so declare to those present. He shall then personally and publicly open all bids received prior to that time, and read aloud so much thereof as is practicable, including prices, to those persons present and have the bids recorded. The amount of each bid and such other relevant information, together with the name of each bidder, shall be tabulated. The tabulation shall be open to public inspection.

B. Postponement of Bid Opening

If it becomes necessary to postpone a bid opening, the Procurement Officer shall issue the appropriate amendments to the solicitation postponing or rescheduling the bid opening. When the TTCECA is closed due to force majeure, bid opening will be postponed to the same time on the next official business day.

C. Disclosure of Bid Information. Only the information disclosed by the Procurement Officer or his designee at bid opening is considered to be public information under the Freedom of Information Act, Chapter 4 of Title 30, until the notice of intent to award is issued.

Paragraph 2055. Bid Acceptance and Bid Evaluation.

When necessary for the best interest of TTCECA, bid criteria to determine acceptability may include inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be measurable costs to include, but not be limited to, discounts, transportation costs, total or life cycle costs.

Paragraph 2060. Telegraphic Bids.

As a general rule, telegraphic bids will not be authorized. When, in the judgment of the Procurement Officer, the date for the opening of bids will not allow bidders sufficient time to prepare and submit bids on the prescribed forms or when prices are subject to frequent changes, sealed telegraphic bids may be authorized.

Paragraph 2065. Rejection of Bids.

A. Application. Unless there is a compelling reason to reject one or more bids, award will be made to the lowest responsible and responsive bidder. Every effort shall be made to anticipate changes in a requirement prior to the date of opening and to notify all prospective bidders of any resulting modification or cancellation, thereby permitting bidders to change their bids and preventing the unnecessary exposure of bid prices. As a general rule after opening, an invitation for bids should not be canceled and re-advertised due solely to increased quantities of the items being procured; award should be made on the initial invitation for bids and the additional quantity required should be treated as a new procurement.

B. Cancellation of Bids Prior to Award.

When it is determined prior to an award, but after opening, that the requirements relating to the availability and identification of specifications have not been met, the invitation for bids shall be cancelled. Invitations for bids may be cancelled after opening, but prior to award, when such action is consistent with Subsection A above and the Procurement Officer determines in writing that:

- (1) inadequate or ambiguous specifications were cited in the invitation;
- (2) specifications have been revised;
- (3) the supplies or services being procured are no longer required;
- (4) the invitation did not provide for consideration of all factors of cost to the State, such as cost of transporting the TTCECA furnished property to bidders' plants;
- (5) bids received indicate that the needs of the State can be satisfied by a less expensive article differing from that on which the bids were invited;
- (6) all otherwise acceptable bids received are at unreasonable prices;
- (7) the bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith; or
- (8) for other reasons, cancellation is clearly in the best interest of TTCECA. Determinations to cancel invitations for bids shall state the reasons therefore.

C. Extension of Bid Acceptance Period.

Should administrative difficulties be encountered after bid opening which may delay award beyond bidders' acceptance periods, the several lowest bidders should be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties, if any) in order to avoid the need for re-advertisement.

Paragraph 2070. Rejection of Individual Bids.

A. General Application.

Any bid which fails to conform to the essential requirements of the invitation for bids shall be rejected.

B. Alternate Bids.

Any bid which does not conform to the specifications contained or referenced in the invitation for bids may be rejected unless the invitation authorized the submission of alternate bids and the supplies offered as alternates meet the requirements specified in the invitation.

C. Non-responsive Bids

Any bid that fails to conform to the delivery schedule, to permissible alternates thereto stated in the invitation for bids, or to other material requirements of the solicitation may be rejected as non-responsive.

D. Modification of Requirements by Bidder.

Ordinarily a bid should be rejected when the bidder attempts to impose conditions that would modify requirements of the invitation for bids or limit the bidder's liability to the TTCECA since to allow the bidder to impose such conditions would be prejudicial to other bidders. For example, bids should be rejected in which the bidder:

- (1) attempts to protect himself/herself against future changes in conditions, such as increased costs, if total possible cost to the TTCECA cannot be determined;
- (2) fails to state a price and in lieu thereof states that price shall be "price in effect at time of delivery;"
- (3) states a price but qualified such price as being subject to "price in effect at time of delivery;"
- (4) when not authorized by the invitation, conditions or qualifies his/her bid by stipulating that his/her bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement;
- (5) requires the TTCECA to determine that the bidder's product meets the TTCECA specifications; or
- (6) limits the rights of the TTCECA under any contract clause. Bidders may be requested to delete objectionable conditions from their bid provided that these conditions do not go to the substance, as distinguished from the form, of the bid or work an injustice on other bidders.

E. Price Unreasonableness.

Any bid may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price.

F. Bid Guarantee Requirement.

When a bid guarantee is required and a bidder fails to furnish it in accordance with the requirements of the invitation for bids, the bid shall be rejected.

G. Unsigned Bids.

Unsigned bids shall be rejected unless a representative of the company who has the authority to sign is present at the bid opening and if discovery is made prior to the reading of any bids for that procurement, the representative may be allowed to sign the bid.

H. Exceptions to Rejection Procedures. Any bid received after the Procurement Officer or designee has declared that the time set for bid opening has arrived, shall be rejected unless the bid had been delivered to the designated purchasing office or the TTCECA mail room which services that purchasing office prior to the bid opening.

Paragraph 2075. All or None Qualifications.

Unless the invitation for bids so provides, a bid is not rendered non-responsive by the fact that the bidder specifies that award will be accepted only on all, or a specified group, of the items included in the invitation for bids. However, bidders shall not be permitted to withdraw or modify "all or none" qualifications after bid opening since such qualification is substantive and affects the rights of the other bidders.

Paragraph 2085. Correction or Withdrawal of Bids; Cancellation of Awards.

A. General Procedure.

A bidder or offeror must submit in writing a request to either correct or withdraw a bid to the procurement officer. Each written request must document the fact that the bidder's or offeror's mistake is clearly an error that will cause the bidder or offeror substantial loss.

B. Correction Creates Low Bid.

To maintain the integrity of the competitive sealed bidding system, a bidder shall not be permitted to correct a bid mistake after bid opening that would cause such bidder to have the low bid unless the mistake in the judgment of the Procurement Officer is clearly evident from examining the bid document; for example, extension of unit prices or errors in addition.

C. Cancellation Of Award Prior To Performance.

When it is determined after an award has been issued but before performance has begun that the TTCECA's requirements for the goods or services have changed or have not been met, the award or contract may be canceled and either re-awarded or a new solicitation issued, if the Chief Officer determines in writing that:

- (1) Inadequate or ambiguous specifications were cited in the invitation;
- (2) Specifications have been revised;
- (3) The supplies or services being procured are no longer required;
- (4) The invitation did not provide for consideration of all factors of cost to the TTCECA, such as cost of transporting the TTCECA furnished property to bidders' plants;
- (5) Bids received indicate that the needs of the TTCECA can be satisfied by a less expensive article differing from that on which the bids were invited;
- (6) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith;
- (7) Administrative error of the TTCECA discovered prior to performance, or
- (8) For other reasons, cancellation is clearly in the best interest of the TTCECA.

Paragraph 2090. Award.

A. Application.

The contract shall be awarded to the lowest responsible and responsive bidder(s) whose bid meets the requirements and criteria set forth in the invitation for bids.

B. The Procurement Officer shall issue the notice of intent to award or award on the date announced at the bid opening, unless the Procurement Officer determines, and gives notice, that a longer review time is necessary. The Procurement Officer shall give notice of a time extension to each bidder by posting it at the location announced at the bid opening.

C. Written notice of award shall be sent to the successful bidder in procurements over \$50,000.00. Notice of award shall be made available to the public on request and shall be posted at the location announced at the bid opening.

Paragraph 2095. Competitive Sealed Proposals.

A. Receipt and Safeguarding of Proposals.

The provisions of Paragraph 2045 apply to the receipt and safeguarding of proposals.

C. Receipt of Proposals

For the purposes of implementing Section 1530(3), Receipt of Proposals, the following requirements shall be followed:

Proposals shall be opened publicly by the Procurement Officer or designee in the presence of one or more witnesses at the time and place designated in the request for proposals. A tabulation of those offering a proposal shall be made public record. Contents of competing offers shall not be disclosed during the process of negotiation. All offerors must visibly mark as "confidential" each part of their proposal which they consider to be proprietary information.

D. Evaluation of Proposals.

The provisions of Paragraph 2055 apply to implement the requirements of Section 1530(5), Evaluation Factors.

E. Minor Informalities and Irregularities in Proposals.

The provisions of Section 1520(13) apply to competitive sealed proposals.

F. Specified Types of Supplies, Services or Construction.

(1) Pursuant to Section 3020(1), and the approval requirements of Section 3010, the following types of supplies, services, or construction may be procured by competitive sealed proposals:

(a) Architect/Engineer services and construction services to be awarded in the same contract for an indefinite delivery of a specialized service (e.g. Hazardous waste remedial action).

(b) Design/Build or Lease-Purchase contracts where there must be selection criteria in addition to price.

(d) Supplies, services, or construction, where consideration of alternative methods or systems would be advantageous to the TTCECA.

(2) The Procurement Officer shall develop and issue procedures that shall be followed when using the competitive sealed proposal method of acquisition.

G. Other Applicable Provisions.

The following paragraphs apply to competitive sealed proposals:

(1) 2050, Telegraphic Bids,

(2) 2055, Rejection of Bids,

(3) 2070, Rejection of Individual Bids,

(4) 2075, All or None Qualifications,

(5) 2085, Correction or Withdrawal of Bids; Cancellation of Awards, and Cancellation of Awards Prior to Performance.

(7) 2135 Multi-term Contracts.

Paragraph 2100. Small Purchases and Other Simplified Purchasing Procedures.

A. Authority.

(1) Small purchases (under \$100,000) shall be made as provided in Section 1550. In accordance with Section 1550(2) (d), the TTCECA may:

(a) solicit written quotes, as further specified in Section 1550(2) (d);

(b) solicit bids in accordance with Section 1520, Competitive Sealed Bidding, Section 1525, Competitive Fixed Price Bidding, or Section 1528, Competitive Best Value Bidding; or

(c) solicit proposals in accordance with Section 1530, Competitive Sealed Proposals.

(2) In accordance with Section 1550(3), procurements made under these procedures may not be protested under Section 4210 if the total or potential value of the awarded contract(s) does not exceed \$100,000.00.

B. Establishment of Blanket Purchase Agreements.

(1) General. A blanket purchase agreement is a simplified method of filling anticipated repetitive needs for small quantities of supplies or services by establishing "charge accounts" with qualified sources of supply. Blanket purchase agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

(2) Alternate Sources. To the extent practicable, blanket purchase agreements for items of the same type should be placed concurrently with more than one supplier. All competitive sources shall be given an equal opportunity to furnish supplies or services under such agreements.

(3) Terms and Conditions. Blanket purchase agreements shall contain the following provisions:

(a) Description of agreement—a statement that the supplier shall furnish supplies or services, described therein in general terms, if and when requested by the Procurement Officer, or designee, during a specified period and within a stipulated aggregate amount, if any. Blanket purchase agreements may encompass all items that the supplier is in a position to furnish.

(b) Extent of obligation—a statement that the TTCECA is obligated only to the extent of authorized calls actually placed against the blanket purchase agreement.

(c) Notice of individuals authorized to place calls and dollar limitations—a provision that a list of names of individuals authorized to place calls under the agreement, identified by organizational component, and the dollar limitation per call for each individual shall be furnished to the supplier by the Procurement Officer.

(d) Delivery tickets—a requirement that all shipments under the agreement, except subscriptions and other charges for newspapers, magazines, or other periodicals, shall be accompanied by delivery tickets or sales slips which shall contain the following minimum information:

- (1) name of supplier;
- (2) blanket purchase agreement number;
- (3) date of call;
- (4) call number;
- (5) itemized list of supplies or services furnished;
- (6) quantity, unit price, and extension of each item less applicable discounts (unit price and extensions need not be shown when incompatible with the use of automated systems, provided that the invoice is itemized to show this information); and
- (7) date of delivery or shipment.

(e) Invoices—one of the following statements:

- (1) A summary invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipted copies of the delivery tickets; or
- (2) An itemized invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever occurs first, for all deliveries made during a billing period and for which payment has not been received. Such invoices need not be supported by copies of delivery tickets;
- (3) When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated provided that a consolidated payment will be made for each specified period; and the period of any discounts will commence on final date of billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever is later. This procedure should not be used if the accumulation of the individual invoices materially increases the administrative costs of this purchase method.

C. Competition Under Blanket Purchase Agreement.

Calls against blanket purchase agreements shall be placed after prices are obtained. When concurrent agreements for similar items are in effect, calls shall be equitably distributed. In those instances where there are an insufficient number of blanket purchase agreements for any given class of supplies or services to assure adequate competition, the individual placing the order shall solicit quotations from other sources.

D. Calls Against Blanket Purchase Agreement.

Calls against blanket purchase agreements generally will be made orally, except that informal correspondence may be used when ordering against agreements outside the local trade area. Written calls may be executed on TTCECA Purchase Order Form. Documentation of calls shall be limited to essential information. Forms may be developed for this purpose, locally and be compatible with the Comptroller General's Office STARS system.

E. Receipt and Acceptance of Supplies or Services. Acceptance of supplies or services shall be indicated by signature and date on the appropriate form by the authorized TTCECA representative after verification and notation of any exceptions.

F. Review Procedures. The TTCECA shall review blanket purchase agreement files at least semiannually to assure that authorized procedures are being followed. Blanket purchase agreements shall be issued for a period of no longer than 12 months.

Paragraph 2105. Sole Source Procurements.

A. Application.

The following provisions apply to all sole source procurements unless emergency conditions exist as defined in Paragraph 2110.

B. Exceptions.

Sole source procurement is not permissible unless there is only a single supplier. The following are examples of circumstances which could necessitate sole source procurement:

- (1) where the compatibility of equipment, accessories, or replacement parts is the paramount consideration;

(2) where a sole supplier's item is needed for trial use or testing;

(3) [Repealed]

(4) [Repealed]

(5) where the item is one of a kind.

(6) [Repealed]

The determination as to whether a procurement shall be made as a sole source shall be made by either the TTCECA agency head or designee above the level of the procurement officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness. In cases of reasonable doubt, competition should be solicited. The restriction by TTCECA of a procurement to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

Paragraph 2110. Emergency Procurements.

A. Application.

The following provisions apply to every procurement made under emergency conditions that will not permit other source selection methods to be used.

B. Definition.

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, fire loss, or such other reason as may be proclaimed by either the TTCECA agency head or a designee above the level of Procurement Officer. The existence of such conditions must create an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (1) the functioning of TTCECA;
- (2) the preservation or protection of property; or
- (3) the health or safety of any person.

C. Limitations.

Emergency procurement shall be limited to those supplies, services, or construction items necessary to meet the emergency.

D. Conditions.

The TTCECA may make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods, provided that whenever practical, approval by either the TTCECA agency head or designee above the level of Procurement Officer shall be obtained prior to the procurement.

E. Selection of Method of Procurement.

The procedure used shall be selected to assure that the required supplies, services, or construction items are procured in time to meet the emergency. Given this constraint, such competition as is practicable shall be obtained.

F. General Procedures.

Competitive sealed bidding is unsuccessful when bids received pursuant to an Invitation for Bids are unreasonable, noncompetitive, or the low bid exceeds available funds as certified by the appropriate fiscal officer, and time or other circumstances will not permit the delay required to re-solicit competitive sealed bids. If emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

G. Written Determination.

The TTCECA agency head or designee of either shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor.

Paragraph 2125. Responsibility of Bidders and Offerors.

A. TTCECA Standards of Responsibility.

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Factors to be considered in determining whether the TTCECA standards of responsibility have been met include whether a prospective contractor has:

- (1) available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements;
- (2) a satisfactory record of performance;
- (3) a satisfactory record of integrity;
- (4) qualified legally to contract with TTCECA; and
- (5) supplied all necessary information in connection with the inquiry concerning responsibility.

B. Duty of Contractor to Supply Information.

The prospective contractor shall supply information requested by the Procurement Officer concerning the responsibility of such contractor. If such contractor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsible if such failure is unreasonable.

C. Demonstration of Responsibility.

The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- (1) evidence that such contractor possesses such necessary items;
- (2) acceptable plans to subcontract for such necessary items; or
- (3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

D. Justification for Contract Award.

Before awarding a contract, the Procurement Officer must be satisfied that the prospective contractor is responsible.

E. Written Determination of Non-responsibility.

If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the Chief Officer or the Procurement Officer. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror. The final determination shall be made part of the procurement file.

Paragraph 2130. Prequalification of Supplies and Suppliers.

A. Qualified Products Lists.

A qualified products list may be developed with the approval of the TTCECA or the Procurement Officer of the TTCECA authorized to develop qualified products lists, when testing or examination of the supplies or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy TTCECA requirements. The procedures for the inclusion of a product on the qualified products list ("QPL") must be available to prospective vendors for consideration of their product to the list.

B. Prequalification

Prospective suppliers may be pre-qualified, and distribution of the solicitation may be limited to pre-qualified suppliers. Suppliers who meet the prequalification standards at any time shall be added to the pre-qualified list for subsequent solicitations. The fact that a prospective supplier has been pre-qualified does not necessarily represent a finding of responsibility.

Paragraph 2135. Conditions for Use of Multi-term Contracts.

A. General.

A multi-term contract is appropriate when it is in the best interest of the TTCECA to obtain uninterrupted services extending over one fiscal period, where the performance of such services involves high start-up costs, or when a changeover of service contracts involves high phase-in/phase-out costs during a transition period. The multi-term method of contracting is also appropriate when special production of definite quantities of supplies for more than one fiscal period is necessary to best meet TTCECA needs but funds are available only for the initial fiscal period. Special production refers to production for

contract performance when it requires alteration in the contractor's facilities or operations involving high start-up costs. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds thereof. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be cancelled.

B. Objective.

The objective of the multi-term contract is to promote economy and efficiency in procurement by obtaining the benefits of sustained volume production and consequent low prices, and by increasing competitive participation in procurements which involve special production with consequent high start-up costs and in the procurement of services which involve high start-up costs or high phase-in/phase-out costs during changeover of service contracts.

C. Rule Inapplicable.

This Paragraph 2135 applies only to contracts for supplies or services described in Subsection A and does not apply to any other contract including, but not limited to, contracts for construction.

D. Conditions for Use.

(1) The maximum time for any multi-term contract is seven (7) years unless otherwise approved in accordance with Section 2030. A multi-term contract may be used when it is determined in writing by the Procurement Officer that:

(a) Special production of definite quantities or the furnishing of long-term services are required to meet TTCECA needs; or

(b) a multi-term contract will serve the best interests of the TTCECA by encouraging effective competition or otherwise promoting economies in procurement.

(2) The following factors are among those relevant to such a determination:

(a) firms which are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;

(b) lower production cost because of larger quantity or service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;

(c) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality;

(d) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

E. Solicitation.

The solicitation shall state:

(1) the estimated amount of supplies or services required for the proposed contract period;

(2) that a unit price shall be given for each supply or service, and that such unit prices shall be the same throughout the contract (except to the extent price adjustments may be provided in the solicitation and resulting contract);

(3) that the multi-term contract will be cancelled only if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first; however, this does not affect either TTCECA's rights or the contractor's rights under any termination clause in the contract;

(4) that the Procurement Officer must notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period;

(5) whether bidders or offerors may submit prices for:

(a) the first fiscal period only;

(b) the entire time of performance only; or

(c) both the first fiscal period and the entire time of performance;

(6) that a multi-term contract may be awarded and how award will be determined including, if prices for the first fiscal period and entire time of performance are submitted, how such prices will be compared;

and

(7) that, in the event of cancellation as provided in (E) (3) of this Subsection, the contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs.

F. Award.

Award shall be made as stated in the solicitation and permitted under the source selection method utilized. Care should be taken when evaluating multi-term prices against prices for the first fiscal period that award on the basis of prices for the first period does not permit the successful bidder or offeror to "buy in", that is give such bidder or offeror an undue competitive advantage in subsequent procurements.

Paragraph 2140. Specifications.

A. Definitions.

(1) "Brand Name Specification" means a specification limited to one or more items by manufacturers' names or catalogue number.

(2) "Brand Name or Equal Specification" means a specification which uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet TTCECA requirements, and which provides for the submission of equivalent products.

(3) "Qualified Products List" means an approved list of supplies, services, or construction items described by model or catalogue number, which, prior to competitive solicitation, the TTCECA has determined will meet the applicable specification requirements.

(4) "Specification" means any description of the physical, functional, or performance characteristics, or of the nature of a supply, service or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Appendix.

(5) "Specification for a Common or General Use Item" means a specification that has been developed and approved for repeated use in procurements.

B. Issuance of Specifications.

The purpose of a specification is to serve as a basis for obtaining a supply, service, or construction item adequate and suitable for the TTCECA needs in a cost effective manner, taking into account, to the extent practicable, the cost of ownership and operation as well as initial acquisition costs. It is the policy of the TTCECA that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the TTCECA's requirements. All specifications shall be written in a non-restrictive manner as to describe the requirements to be met.

C. Use of Functional or Performance Descriptions.

Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the TTCECA. To facilitate the use of such criteria, the TTCECA shall endeavor to include as a part of their purchase requisitions the principal functional or performance needs to be met. It is recognized, however, that the preference for use of functional or performance specifications is primarily applicable to the procurement of supplies and services. Such preference is often not practicable in construction, apart from the procurement of supply type items for a construction project.

D. Preference for Commercially Available Products.

It is the general policy of the TTCECA to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

E. [Repealed]

F. [Repealed]

Paragraph 2145. Construction, Architect-Engineer, Construction Management, and Land Surveying Services.

A. Method of Construction Contract Administration.

This Subsection contains provisions applicable to the selection of the appropriate method of administration for construction contracts, that is, the contracting method and configuration that is most advantageous to the TTCECA and will result in the most timely, economical, and otherwise successful completion of the construction project.

(1) **Selecting the Method of Construction Contracting.**

In selecting the construction contracting method, the TTCECA may consider the results achieved on similar projects in the past and the methods used. Consideration may be given to all appropriate and effective methods and their comparative advantages and disadvantages and how they might be adapted or combined to fulfill TTCECA requirements.

(2) **Flexibility.**

The TTCECA, shall have sufficient flexibility in formulating the project delivery approach on a particular project to fulfill the TTCECA's needs. In each instance, consideration should be given to all the appropriate and effective means of obtaining both the design and construction of the project.

(3) **Criteria for Selection.**

Before choosing the construction contracting method, a careful assessment must be made by the TTCECA of requirements the project must satisfy and those other characteristics that would be in the best interest of the TTCECA.

The amount and type of financing available for the project is relevant to the selection of the appropriate construction contracting method including what sources of funding are available.

The TTCECA may consider whether a price can be obtained that is fair and reasonable when considered together with the benefit to the TTCECA potentially obtainable from such a contract.

(4) **TTCECA Determination.**

The TTCECA shall develop and review a written determination and it shall describe the construction contracting method chosen and set forth the facts and considerations that led to the selection of that method. This determination shall demonstrate that the requirements and financing of the project were all considered in making the selection.

(3) **[Repealed]**

D. Architect-Engineer, Construction Management and Land Surveying Services Procurement.

(2) **State Engineer's Office Review.** Section 59-53-480 governs the extent to which the TTCECA must comply with the State Engineer's requirements.

Paragraph 2152. Leases, Lease/Payment, Installment Purchase, and Rental of Personal Property.

A. Justification. When TTCECA proposes to enter into an agreement other than an outright purchase, TTCECA is responsible for the justification of such action. Lease, lease/purchase, installment purchase, or rental agreements are subject to the TTCECA Procurement Policy.

Paragraph 2160. Assistance to Minority Businesses.

Subsection A. Definitions

(1) **"Minority Person"** means a United States citizen who is economically and socially disadvantaged.

(2) **"Socially disadvantaged individuals"** means those individuals who have been subject to racial or ethnic prejudice or cultural bias because of their identification as members of a certain group without regard to their individual qualities. Such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts and Native Hawaiians), Asian Pacific Americans, Women and other minorities to be designated by the board.

(3) **"Economically disadvantaged individuals"** means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

(4) **"A socially and economically, disadvantaged small business"** means any small independent business concern which:

(a) At a minimum is fifty-one (51) percent owned by one or more citizens of the United States who are determined to be socially and economically disadvantaged and who also exercise control over the business.

(b) In the case of a corporation, at a minimum, fifty-one (51) percent of all classes of voting stock of such corporation must be owned by an individual or individuals determined to be socially and economically disadvantaged who also exercise control over the business.

(c) In the case of a partnership, at a minimum, fifty-one (51) percent of the partnership interest must be owned by an individual or individuals determined to be socially and economically disadvantaged who also exercise control over the business.

(5) "Small Business" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the criteria and size standards in 13 C.F.R. Section 121 (1989). Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(6) "Minority Business Enterprise" is a business that has been certified as a socially and economically disadvantaged small business.

(7) "OSMBA" means the Office of Small and Minority Business Assistance of the Governor's Office.

Subsection B. Certification as a Minority Business Enterprise (MBE)

(1) A business seeking certification as a Minority Business Enterprise must submit to OSMBA an application and any supporting documentation as may be required.



March 30, 2011

Mr. R. Voight Shealy
Materials Management Officer
South Carolina Budget and Control Board
1201 Main Street, Suite 600
Columbia, SC 29201

Dear Mr. Shealy:

Please accept this letter as our request to have the Trident Technical College Enterprise Campus Authority Alternate Procurement Policy and Procedures on the May 2, 2011, Budget and Control Board Agenda for consideration and approval.

In Act 368 of 2006, the General Assembly created the Trident Technical College Enterprise Campus Authority ("Authority"). The Authority's purpose is to enhance economic development related to the film industry as well as other high-technology industries. The Authority provides the management, development, and operation of the Enterprise Campus. The TTC Enterprise Campus consists of up to 20 acres of the 40 undeveloped acres on Trident Technical College's Main Campus located on Rivers Avenue in North Charleston. The TTC Main Campus currently encompasses approximately 127 acres (including undeveloped land).

Act 368 provides, in Section 59-53-480 (B), that the Authority is exempt from the South Carolina Consolidated Procurement Code, however, the Authority is required to adopt a procurement policy requiring competitive solicitations and the policy must include provisions for audit and certifications. The Authority's procurement policy must be filed with and approved by the State Budget and Control Board.

Working with the staff of the Materials Management Office, the Authority prepared a procurement policy consistent with the requirements of Act 368. The TTC Authority's enabling legislation and the Procurement Policy were modeled after the 2004 legislation establishing the Midlands Technical College Enterprise Campus Authority and the MTCECA Procurement Policy which have been approved by the Budget and Control Board. The starting point for these alternate procurement policies was the South Carolina Consolidated Procurement Code (State Procurement Code). Reference was also made to the procurement policy approved by the State Budget and Control Board for Clemson University. The TTCECA procurement policy is very similar to the methodologies and procedures contained in the State Procurement Code.

The TTCECA Procurement Policy was approved by the State Budget and Control board on September 19, 2006. The TTCECA Procurement Policy expires at the end of the second quarter of the fifth calendar year following initial approval unless re-approved by the State Budget and Control Board.

Rationale for Re-Authorization

The primary value of the TTCECA and its Procurement Policy is the Authority's flexibility, efficiency and speed in handling procurements and lease agreements and in negotiating partnerships with private entities in Berkeley, Charleston and Dorchester Counties. This flexibility and speed is critical to meeting the business plans and operations of such private enterprises as they consider joint ventures which involve workforce development and training opportunities on TTCECA property.

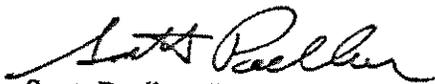
The TTCECA enabling legislation (Act 368 of 2006) noted in the General Assembly findings that the TTC Commission (through the TTCECA) "can better utilize its resources...if the necessary powers and flexibility are granted by the General Assembly for the commission to fulfill its role in a high-technology economy." Further, the General Assembly found that it is in the best interest of the State to provide the powers and flexibility for Trident Technical College and that the best method for accomplishing this is through the creation and establishment of a separate and distinct instrumentality of the state.

The original partnerships that TTCECA anticipated in the film industry have not been possible, primarily due to the lack of permanent film incentives. However, there are now significant opportunities in the aeronautics industry, which could have a much greater impact on the economic development of our service area and the state.

Re-authorization of the procurement policy by the State Budget and Control Board will allow the Authority to respond rapidly to opportunities for development of the Enterprise Campus with high-technology industries.

Thank you for your cooperation and consideration.

Sincerely,



Scott Poelker, P.E., LEED GA
Vice President for Finance and Administration

TRIDENT TECHNICAL COLLEGE ENTERPRISE CAMPUS PROCUREMENT POLICY

Summary

Prepared by the Division of Procurement Services for the Budget and Control Board

Overview

In Act 368 of 2006, the General Assembly created the Trident Technical College Enterprise Campus Authority (TTCECA). The TTCECA's purpose is to enhance economic development related to the film industry as well as other high-technology industries. The original partnerships that TTCECA anticipated in the film industry have not been possible, primarily due to the lack of permanent film incentives. However, there are now significant opportunities in the aeronautics industry, which could have a much greater impact on the economic development of the TTCECA service area and the state. The TTCECA consists of up to 20 acres of the 40 undeveloped acres on Trident Technical College's Main Campus located on Rivers Avenue in North Charleston. The TTC Main Campus currently encompasses approximately 127 acres including the undeveloped land.

Act 368 provides, in Section 59-53-480 (B), that the TTCECA is exempt from the South Carolina Consolidated Procurement Code, however, the TTCECA is required to adopt a procurement policy requiring competitive solicitations and the policy must include provisions for audit and certifications.

Working with the staff of the Division of Procurement Services, the TTCECA prepared a procurement policy consistent with the requirements of Act 368. The TTCECA Procurement Policy was approved by the State Budget and Control board on September 19, 2006. The TTCECA Procurement Policy expires at the end of the second quarter of the fifth calendar year following initial approval unless re-approved by the State Budget and Control Board.

The TTCECA's enabling legislation and Procurement Policy have been modeled after Act 200 of 2004, which established the Midlands Technical College Enterprise Campus Authority and the MTCECA Procurement Policy which has been approved by the Budget and Control Board. The starting point for these alternate procurement policies was the South Carolina Consolidated Procurement Code (State Procurement Code). Reference was also made to the procurement policy approved by the State Budget and Control Board for Clemson University. The TTCECA procurement policy is very similar to the methodologies and procedures contained in the State Procurement Code.

Summary of Procurement Methods

The TTCECA's procurement policy retains the basic solicitation methods contained in the State Procurement Code competitive sealed bidding and competitive sealed proposal methodologies. Similar to the State Procurement Code, sole source procurements and emergency procurements may be made. The State Procurement Code's provisions relating to solicitation of construction and architectural services remain in place. The Policy and Procedures include the following source selection methods (procurement processes).

1. Competitive Sealed Bidding: Solicitations are advertised in South Carolina Business Opportunities (SCBO). Award is made to the lowest priced responsive and responsible bidder. Prequalification is allowed.
2. Competitive Sealed Proposals: Solicitations are advertised in South Carolina Business Opportunities (SCBO). Award is made to the best responsive and responsible offeror, taking into consideration price and non-price factors. Prequalification is allowed. Negotiation is allowed.
3. Sole Source: Award is made to one vendor without a competitive process when the required item is available from only one source. A written determination by the chief officer is required.
4. Emergency: Award is made to one vendor without a competitive process when emergency conditions exist. A written determination by the TTCECA agency head or designee is required.
5. Construction: Solicitations are advertised in South Carolina Business Opportunities (SCBO). Award is made using the process for either Competitive Sealed Bidding or Competitive Sealed Proposals. Additional requirements exist for construction procurements, including the listing by the bidders of those subcontractors that TTCECA asks to be listed.
6. Small Purchase Rules: Small purchase thresholds allow for minimal competition for contracts valued at \$100,000 or less. The primary differences between the Authority's proposed procurement policy and the State Procurement Code are in the areas of small purchases. The various limits for the small purchases have been raised, with the highest level raised to \$100,000.

The TTCECA competition thresholds compare to the State Procurement Code as follows:

Small Purchase Threshold

	<u>TTCECA Procurement Policy</u>	<u>State Procurement Code</u>
Competition threshold	\$5,000	\$2,500
Verbal quotes required	\$5,000.01 - \$25,000	Deleted in 2006 amendments
Written quotes required	\$25,000.01 - \$50,000	\$2,500.01 - \$10,000
Advertisement plus written quotes required	\$50,000.01 - \$100,000	\$10,000.01-\$50,000
Formal Sealed bidding required	\$100,000.01	\$50,000.01

The TTCECA procurement policy allows it to proceed with procurements with minimal need to involve the Division of Procurement Services.

Safeguards are included in the proposed procurement policy including an audit requirement and authority for the State Budget and Control Board to revoke part or all of the approved procurement policy if the TTCECA fails to adhere to the applicable requirements.

Bond and Security (Section 3030)

The requirements shall be left to the discretion of the TTCECA

Right to Protest (Section 4210)

A protest procedure has been included. Protests will be heard by TTCECA's chief procurement officer. CPO decisions may be appealed to the State Procurement Review Panel.

Some of the State Procurement Code's other sections, primarily those establishing the State's procurement authority structure, were eliminated.

The TTCECA Procurement Policy is written on the assumption of the following "line of authority":

- TTCECA Agency Head
- Chief Officer (CO) or designee
- Designees as named by the TTCECA Agency Head
- Procurement Officer

Re-authorization of the procurement policy by the State Budget and Control Board will allow the Authority to respond rapidly to opportunities for development of the Enterprise Campus with high-technology industries.

STATE BUDGET AND CONTROL BOARD
MEETING OF May 2, 2011

BLUE AGENDA
ITEM NUMBER 7

AGENCY: Executive Director

SUBJECT: South Carolina Deferred Compensation Commission Chairman Appointment

In accordance with the SC Code of Laws 8-23-20, the chairman of the Deferred Compensation Commission is designated by the Budget and Control Board.

Historically, the Director of the Retirement Systems has served as chairman of the Deferred Compensation Commission.

BOARD ACTION REQUESTED:

Appoint William Blume, the new Director of the Retirement Systems, as chairman of the South Carolina Deferred Compensation Commission.

ATTACHMENTS:

Agenda item worksheet; SC Code of Laws Ann. 8-23-20

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

For meeting scheduled for:
May 2, 2011

Blue Agenda
 Regular Session
 Executive Session

1. Submitted by:

- a. **Agency:** B&CB Office of the Executive Director
- b. **Authorized Official Signature**

Eleanor Kitzman, Executive Director

2. Subject: South Carolina Deferred Compensation Commission Chairman Appointment

3. Summary Background Information:

In accordance with the SC Code of Laws 8-23-20, the chairman of the Deferred Compensation Commission is designated by the Budget and Control Board.

Historically, the Director of the Retirement Systems has served as chairman of the Deferred Compensation Commission.

4. What is Board asked to do?

Appoint William Blume, the new Director of the Retirement Systems, as chairman of the South Carolina Deferred Compensation Commission.

5. What is recommendation of the Board division involved?

Appoint William Blume, the new Director of the Retirement Systems, as chairman of the South Carolina Deferred Compensation Commission.

6. Recommendation of other office (as required)?

Office Name _____ **Authorized Signature** _____

7. Supporting Documents:

List those attached:

SC Code of Laws Ann. 8-23-20

List those not attached but available:

SECTION 8-23-20. Deferred Compensation Commission established; investments. [SC ST SEC 8-23-20]

A **Deferred Compensation Commission** is established consisting of eight members including the director of the South Carolina Retirement System, chief investment officer of the State Retirement System Investment Commission, and the executive director of the State Employees' Association, each of whom serve ex officio, and five other public employees to be appointed by the State Budget and Control Board, at least two of whom must be state employees and one must be a retired public employee. The appointed members shall serve for terms of three years and until their successors are appointed and qualify. The State Budget and Control Board shall designate the chairman.

The commission shall establish such rules and regulations as it deems necessary to implement and administer the Deferred Compensation Program. The commission shall make such administrative appointments and contracts as are necessary to carry out the purpose and intent of this chapter and in the administration of account assets. For purposes of administering this program an individual account shall be maintained in the name of each employee.

The commission shall select, through competitive bidding and contracts, plans for purchase of fixed and variable annuities, savings, mutual funds, insurance and such other investments as the commission may approve which are not in conflict with the State Constitution and with the advice and approval of the State Treasurer.

Costs of administration may be paid from the interest earnings of the funds accrued as a result of deposits or as an assessment against each account.

STATE BUDGET AND CONTROL BOARD

Meeting of Monday, May 2, 2011 -- 9:30 A. M.

Room 252, Edgar A. Brown Building

AGENDA INDEX

Item	Agency	Subject
A.	ADOPTION OF PROPOSED AGENDA	
B.	MINUTES OF PREVIOUS MEETING	
C.	BLUE AGENDA	
1.	State Treasurer's Office	Bond Counsel Selection
2.	Division of General Services	Easement
3.	Division of General Services	Real Property Transactions
4.	Office of Local Government	Grant Request
5.	Division of Procurement Services	Procurement Audit of Trident Technical College Enterprise Campus Authority
6.	Division of Procurement Services	Request for Reauthorization of the Trident Technical College Enterprise Campus Authority's Procurement Policy
7.	Executive Director	South Carolina Deferred Compensation Commission Chairman Appointment
8.	Executive Director	Revenue Bonds
D.	REGULAR SESSION	
1.	Patriots Point Development Authority	Extension Request for Repayment of \$9,225,360 Loan
2.	Office of State Budget	Agency Deficit Update – Department of Health and Human Services
3.	Office of State Budget	Permanent Improvement Projects
4.	Division of General Services	College of Charleston Lease Amendment for Warren Place Apartments in Charleston
5.	Division of General Services	Horry-Georgetown Technical College Commission Lease to Horry County School District
6.	ARRA Advisory Committee	ARRA Volume Cap Recommendation
7.	Budget and Control Board	Future Meeting

AGENCY: Patriots Point Development Authority

SUBJECT: Extension Request for Repayment of \$9,225,360 Loan

The Patriots Point Development Authority requests the Board to approve an extension and repayment plan on the repayment of a \$9,225,360 intergovernmental loan the Board made to the Authority in June 2009. The purpose of the loan was to make emergency repairs to the destroyer *USS Laffey* (DD724). Repayment of the loan was due on December 1, 2010.

The Joint Bond Review Committee approved the Authority's request for the *Laffey* loan repayment on April 6, 2011, as follows:

- A \$500,000 principal payment upon final approval of the repayment by the Budget and Control Board.
- A two year extension of the loan balance from date of approval by the Board.
- Interest only payment as determined by the State Treasurer's Office during the two year extension.

The Board is asked to approve the Authority's request as approved by the Joint Bond Review Committee.

BOARD ACTION REQUESTED:

Consider approval of the Patriots Point Development Authority's extension request and repayment plan for repayment of its \$9,225,360 loan.

ATTACHMENTS:

Burdette 4/11/11 letter with attachments to Kitzman

PATRIOTS POINT

★HOME OF THE USS YORKTOWN★

April 11, 2011

Ms. Eleanor Kitzman
Executive Director
South Carolina Budget and Control Board
Box 12444
Columbia, SC 29211

Dear Ms. Kitzman,

I would like to respectfully request to be included on the Budget and Control Board agenda for May 2, 2011.

Please find enclosed:

- A letter from Senator Leatherman indicating approval from the Joint Bond Review Committee, dated April 6;
- A letter from Mac Burdette to Senator Leatherman, requesting the Committee's approval of the Patriots Point Development Authority Board loan repayment plan, dated March 22;
- A resolution from the Patriots Point Development Authority Board for the extension of the loan, dated February 24;
- An email from Mac Burdette to George Dorn regarding the extension of the loan; and
- A list of expenditures for the USS Laffey.

I have also sent this information via email to Mr. Delbert Singleton.

If there is anything else that you need please contact me and I will respond immediately.

Regards,



R. Mac Burdette
Executive Director
Patriots Point Development Authority

Capital Improvements
Joint Bond Review Committee

HUGH K. LEATHERMAN, SR.
SENATE
CHAIRMAN



DANIEL T. COOPER
HOUSE OF REPRESENTATIVES
VICE CHAIRMAN

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THOMAS C. ALEXANDER

GEORGE N. DORN
DIRECTOR OF RESEARCH
BUDGET AND CONTROL BOARD LIAISON
803-212-6688

HOUSE MEMBERS

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GILDA COBB-HUNTER
H.B. "Chip" LIMEHOUSE, III
LISTON D. BARFIELD
KENNETH A. BINGHAM

ADMINISTRATIVE ASSISTANT
803-212-6677
FAX- 803-212-6299

R. Mac Burdette
Executive Director
Patriots Point Development Authority
40 Patriots Point Road
Mt. Pleasant, SC 29464-4377

April 6, 2011

Dear Mr. Burdette:

At its meeting of April 6, 2011, the Joint Bond Review Committee approved the Authority's request for the LAFHEY loan repayment plan as follows:

- A \$500,000 principle payment upon final approval of the repayment plan by Budget and Control Board.
- A two year extension of the loan balance from date of approval by Board.
- Interest only payment as determined by the State Treasurer's Office during the two years extension.

During the extension the authority develop a comprehensive plan to utilize agency assets for

- 1) Repayment of loan
- 2) Deferred maintenance on the ships and facilities.

Cc: Delbert Singleton, B&CB
Rick Harmon, STO

With kindest regards, I am

Sincerely,

A handwritten signature in black ink, appearing to read "Hugh K. Leatherman, Sr.", written in a cursive style.

Senator Hugh K. Leatherman, Sr., Chairman
Joint Bond Review Committee

HKL/ec

PATRIOTS POINT

★HOME OF THE USS YORKTOWN★

March 22, 2011

The Honorable Hugh K. Leatherman, Sr.
Chairman, Joint Bond Review Committee
P.O. Box 142
Columbia, SC 29201

Dear Senator Leatherman,

On February 24, 2011, the Patriots Point Development Authority Board convened in a special meeting to formulate a proposal relative to the outstanding nine million two hundred thousand dollar loan for restoration of the USS Laffey. All members present voted to approve a resolution authorizing the Authority to negotiate an extension of the loan.

This letter is to request that the State of South Carolina accept a payment of five hundred thousand dollars on the loan principle with interest continuing at its current rate, and to further request that the Authority be given a two year extension from the date of approval by the Budget and Control Board. We understand that the Joint Bond Review Committee must first approve the request and that it would then go the Budget and Control Board.

The Authority Board believes, during that two year period, a plan to effectively utilize its real estate assets will be completed. Realistically it will require two years to consider a myriad of legal and land use issues regarding the sale and lease of property, for the purpose of satisfying the outstanding loan and deferred maintenance requirements for the Authority's ships and facilities. Critical to any plan employing the Authority's real estate value will be the development of a pricing model to ensure that the Authority (and State) receives fair market value for the sale and/or lease of the property.

The Authority Board is committed to a comprehensive approach to developing a long range plan to sustain the naval and maritime museum's mission without burdening the resources of the State. The Authority Board sincerely appreciates the consideration of the Chairman and members of the Joint Bond Review Committee.

Sincerely,



R. Mac Burdette
Executive Director
Patriots Point development Authority

CC: Representative Daniel T. Cooper, Vice Chairman, State Joint Bond Review Committee
Senator Glenn F. McConnell, Member, State Joint Bond Review Committee
Senator Harvey S. Peeler, Jr., Member, State Joint Bond Review Committee
Senator William H. O'Dell, Member, State Joint Bond Review Committee
Senator Thomas C. Alexander, Member, State Joint Bond Review Committee
Representative Daniel T. Cooper, Member, State Joint Bond Review Committee
Representative Gilda Cobb-Hunter, Member, State Joint Bond Review Committee
Representative H.B. "Chip" Limehouse, III, Member, State Joint Bond Review Committee
Representative Liston D. Barfield, Member, State Joint Bond Review Committee
Representative Kenneth A. Bingham, Member, State Joint Bond Review Committee
Ray Chandler, Chairman, Patriots Point Development Authority
Wayne Adams, Vice Chairman, Patriots Point Development Authority
Lin Bennett, Board Member, Patriots Point Development Authority
Susan C. Marlowe, Board Member, Patriots Point Development Authority
Lanneau H. Siegling, Board Member, Patriots Point Development Authority
Darwin Simpson, Board Member, Patriots Point Development Authority
Edwin S. Taylor, Board Member, Patriots Point Development Authority
Zeb C. Williams, Board Member, Patriots Point Development Authority
Mayor William D. Swails, Ex Officio Board Member, Patriots Point Development Authority
George Dorn

A RESOLUTION

AUTHORIZING THE CHAIRMAN OF THE PATRIOT'S POINT DEVELOPMENT AUTHORITY TO PETITION THE SOUTH CAROLINA STATE BUDGET AND CONTROL BOARD TO EXTEND THE INTERGOVERNMENTAL LOAN IN THE ORIGINAL AMOUNT OF \$9,200,000 TO THE PATRIOT'S POINT DEVELOPMENT AUTHORITY AND FURTHER AUTHORIZING THE EXECUTION THEREOF, AND OTHER MATTERS INCIDENT THERETO.

FINDINGS OF FACT AND INTENT OF RESOLUTION

As an incident to the adoption of this resolution and the petition for extension of the intergovernmental loan in an original amount of \$9,200,000 (the "**Loan**") provided for herein, the Patriot's Point Development Authority (the "**Authority**") finds, as a fact, that each of the statements hereinafter set forth is in all respects true and correct:

1. The Authority is a body politic and corporate existing under the provisions of Article 11, Chapter 13 of Title 51 of the Code of Laws of South Carolina 1976, as amended (the "**Enabling Legislation**").
2. The Authority consists and is governed by a nine member board, eight members appointed by the Governor, and the mayor of Mt. Pleasant, South Carolina, ex officio.
3. Pursuant to the Enabling Legislation, the Authority was created as an instrumentality of the State for the accomplishment of the following general purposes, all or any of them, which are intended to broaden and not to restrict any other powers given to it in the Enabling Legislation: to develop and improve the Patriot's Point area to provide a place of education and recreation to foster among the people pride and patriotism in our nation and its heritage; to establish and develop a National Naval Museum of ships, naval and maritime equipment, artifacts, books, manuscripts, art and historical materials for the education and enjoyment of the people of our nation and to instill in them a knowledge of our naval and maritime history; and of the importance of sea power to our economy and defense; to foster and stimulate national and international travel to and participation in the development of Patriot's Point, by acquiring, constructing, equipping and maintaining museum buildings, seaquariums and laboratories, public exhibits and entertainment facilities, historical monuments and sites; and providing lodging and accommodations for travelers by land or water to Patriot's Point; to cooperate with the State of South Carolina and the United States of America, and any agency or any department, corporation or instrumentality thereof, in the maintenance, development, improvement and use of Patriot's Point and all its functions; to accept funds, other assets and services from

Charleston County and municipalities located therein and the State of South Carolina, and to use them in such manner, within the purposes of the Authority, as shall be stipulated by the county or the State in any matter coming within the general purposes of the Authority; to act as agent for the United States of America, or any agency, department, corporation or instrumentality thereof, in any matter coming within the purposes of the Authority; and in general to do and perform any act or function which may tend to or be useful toward the development and improvement of Patriot's Point.

4. Following discovery of critical problems with the hull of the USS Laffey (DD 724) by the Patriots Point operations department in December, 2008, the Authority engaged marine engineers and surveyors to conduct comprehensive inspections on the condition of the hull of the Laffey.
5. In reliance on the findings of those inspections, the Authority determined that the Laffey could sink at the dock, thereby creating significant potential consequences of salvage costs, environmental and navigational impact on the historic Charleston Harbor, if significant hull repairs were not immediately undertaken.
6. The Authority borrowed from the State of South Carolina \$9,200,000 to repair the Laffey pursuant to documents that require the Loan to be repaid December 1, 2010.
7. The Authority did not repay the Loan on December 1, 2010, and desires to extend the Loan.
8. The Authority is a self-supporting enterprise that currently receives no regular or recurring State or Federal appropriations for its annual operations or other activities. Current revenues are sufficient to support the Authority's annual operations but are not sufficient to maintain three historic ships in a salt water environment, and particularly, revenues were not sufficient to fund repairs to the Laffey.
9. The Authority took action to request Federal funding for preservation and maintenance of the Patriot's Point ships; however, the Authority did not receive the requested funding.
10. Pursuant to Section 51-13-810 of the Code of Laws of South Carolina 1976, as amended, as a means of raising the funds needed in the acquisition, construction, equipment, maintenance, and operation of any facility, building, structure, or other matter or thing which the Authority is authorized to acquire, construct, equip, maintain, or operate, all or any of them, the Authority, subject to the approval of the the South Carolina State Budget and Control Board, The Authority is authorized to borrow money and make and issue negotiable notes, or other evidences of indebtedness and provide for their payment under terms and conditions the authority determines.
11. The Authority desires to extend the Loan.

NOW, THEREFORE, BE IT RESOLVED BY THE PATRIOT'S POINT DEVELOPMENT AUTHORITY, AS FOLLOWS:

1. The Chairman and the Secretary of the Authority are hereby authorized to request an extension of the Loan and to negotiate the terms and conditions and covenants of an extension of the Loan. The Chairman and the Secretary are authorized to seek the advice of the Authority's counsel in negotiating such provisions.

2. The Chairman and the Secretary of the Authority are hereby authorized deliver such studies, surveys, inspections, analyses and any other documents as the State Budget and Control Board shall reasonably require as a condition of its consideration and approval of extending the Loan.

3. The Chairman and the Secretary are hereby authorized to execute any promissory note, loan agreement and any evidence of indebtedness prescribed by the South Carolina State Budget and Control Board as a condition of its approval and execution of the extension of the Loan.

4. The Chairman and the Secretary of Authority are hereby authorized to deliver this resolution to the Secretary of the South Carolina State Budget and Control Board, executed in as many original counterparts as he shall prescribe.

5. All resolutions of the Authority, and any part of any resolution, inconsistent with this resolution are hereby repealed to the extent of such inconsistency.

7. This resolution is effective immediately.

Enacted in meeting duly assembled this 24th day of February, 2011.

PATRIOT'S POINT DEVELOPMENT AUTHORITY


John B. Hagerty, Chairman

Attest:


Robert M. Burdette, Secretary

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

CERTIFIED COPY OF RESOLUTION

I, the undersigned, Secretary to the Patriot's Point Development Authority, hereby certify that:

1. I am the duly elected Secretary to the Patriot's Point Development Authority and the recorder and custodian of its official records.

2. Attached hereto is a true and correct copy of a resolution duly adopted by the Patriot's Point Development Authority at a meeting of said Authority duly called and held on February 24, 2011, notice of which meeting was duly, timely and properly given and at which meeting a quorum of the members of the Authority was present and acting throughout.

3. (a) As required by Section 30-4-80 of the Code of Laws of South Carolina 1976, as amended, the notice of call for the February 24, 2011 meeting of the Patriot's Point Development Authority was posted on the bulletin board at the office of the Patriot's Point Development Authority at least 24 hours prior to the meeting and an effort was made on behalf of the Patriot's Point Development Authority to notify local news media and such other news media as may request official notification of the time, date, place and agenda of such meeting, and (b) as required by Section 30-4-60 of the Code, the meeting of the Patriot's Point Development Authority on February 24, 2011 was open to the public except those portions allowed to be held in closed session under Section 30-4-70 of the Code.

4. As of the date hereof, the resolution has not been amended, modified or revoked and remains in full force and effect.

In witness whereof, I have hereunto set my hand this 24 th day of Feb, 2011.



Robert M. Burdette,
Secretary to the Patriot's Point Development Authority

Mac Burdette

From: George Dorn [GeorgeDorn@scstatehouse.gov]
Sent: Wednesday, March 16, 2011 2:55 PM
To: Mac Burdette
Cc: Mike Shealy
Subject: RE: Loan Proposal

Thank you. I will get with Mike on a financing way to qualify. Thank you

From: Mac Burdette [mailto:MBurdette@patriotspoint.org]
Sent: Wednesday, March 16, 2011 2:28 PM
To: George Dorn
Cc: rchanatty6@aol.com; Dermody, Brandon; Bill Craver
Subject: Loan Proposal

George. Thank you for the time you have given to the above referenced subject. As we discussed via telephone today, The PPDA Board has verified that the draft proposal regarding the outstanding 9.2 million dollar loan, dated February 28, 2011, is their official submittal. The only request made by the Board was that, as stipulated in the original loan agreement, the Board could not be held personally responsible for the reimbursement of all or any part of the loan principle or interest. That issue may be automatically included should the JBRC approve the Board's proposal. I will transfer the February 28 draft to PPDA letterhead and send to Senator Leatherman through you. It is my understanding that it is anticipated that we will appear before the JBRC on April 6, 2011 at 9am, unless otherwise notified. Again thank you for your assistance

Mac Burdette
Executive Director

Expenditures Related to USS LAFFEY

Construction Management	\$	298,077.00
Design Services/surveys		166,541.58
Insurance		63,656.00
Marina opening/closing		769,743.48
Post shipyard(rent/engineering)		188,317.57
Dredging		111,651.55
Environmental Work		884,678.55
Hull repair/structural stability		341,236.36
Shipyard repairs		7,798,373.70
Tugs/pilots		27,326.18
Salaries		108,795.40
Supplies		<u>4,460.42</u>
Total LAFFEY Expenditures	\$	10,762,857.79

AGENCY: Office of State Budget

SUBJECT: Agency Deficit Update – Department of Health and Human Services

On February 8, 2011 the State Budget and Control Board considered the Department of Health and Human Services (DHHS) request to recognize an operating deficit within the Medicaid program estimated at \$227,786,198. At that meeting the Board determined that the operating deficit incurred by the Department was unavoidable and recognized the operating deficit not to exceed \$100,000,000. On March 22nd the Board subsequently increased the deficit recognition amount to a total of \$200,000,000. The Board further directed the Department to continue working with the Office of State Budget to reduce the projected deficit and report back at the next regularly scheduled Board meeting.

In February DHHS began implementing a package of service reductions and eliminations that are projected to reduce expenditures within the Medicaid program by \$2,775,432 during this fiscal year. In addition, the Department is implementing a reduction in Managed Care administrative allowance estimated to save \$1,558,680 during the final quarter of this fiscal year. The Department is awaiting final approval from the Centers for Medicare/Medicaid Services in order to realize additional savings resulting from a 3% provider rate reduction made possible through enactment of Senate Bill 434. Therefore, the balance of the operating deficit is estimated at no more than \$23,452,086.

BOARD ACTION REQUESTED:

The Office of State Budget recommends that pursuant to Section 1-11-495 of the S.C. Code of Laws:

- A. Recognize the balance of the operating deficit not to exceed the amount of \$23,452,086;
- B. Notify the presiding officers of the House and Senate; and
- C. Direct the Office of State Budget to continue working with the Department to reduce the deficit and further direct the Department to provide monthly financial status reports to the Budget and Control Board;

ATTACHMENTS:

Agenda item worksheet; April 25 letter from Anthony E. Keck – Director, Department of Health and Human Services concerning deficit status; Section 1-11-495 of the S.C. Code of Laws; Proviso 89.130 of the FY 2010-11 Appropriation Act

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

2011-10

For Meeting Scheduled for: May 2, 2011

Regular Agenda

1. Submitted By:

(a) Agency: Office of State Budget

(b) Authorized Official Signature: Les Boles

2. Subject:

Agency Deficit Update – Department of Health and Human Services

3. Summary:

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4. What is Board asked to do?

Pursuant to Section 1-11-495 of the S.C. Code of Laws, recognize the balance of the operating deficit not to exceed \$23,452,086. Direct the Office of State Budget to continue working with the Department to reduce the deficit and further direct the Department to provide monthly financial status reports to the Budget and Control Board.

5. What is recommendation of Board Office involved?

The Office of State Budget recommends that pursuant to Section 1-11-495 of the S.C. Code of Laws:

- A. Recognize the balance of the operating deficit not to exceed the amount of \$23,452,086.
- B. Notify the presiding officers of the House and Senate.
- C. Direct the Office of State Budget to continue working with the Department to reduce the deficit and further direct the Department to provide monthly financial status reports to the Budget and Control Board.

6. Recommendation of other office (as required)?

Authorized Signature: _____
Office Name: _____

Supporting Documents:

List those attached:

- April 25 letter from Anthony E. Keck – Director, Department of Health and Human Services concerning deficit status
- Section 1-11-495 of the S.C. Code of Laws
- Proviso 89.130 of the FY 2010-11 Appropriation Act

List those not attached but available:



April 25, 2011

Mr. Les Boles, Director
Office of State Budget
South Carolina Budget and Control Board
1205 Pendleton Street, Suite 529
Columbia, South Carolina 29201

Dear Mr. Boles:

As requested, I am writing to update you on the status of the projected budget deficit of the Department of Health and Human Services, in preparation for the May 2, 2011 meeting of the Budget and Control Board.

As you know, the Department in its Deficit Reduction Plan submitted to the Budget and Control Board in November, 2010, requested a projected deficit of \$227,786,198 be recognized. When I appeared before the Board on February 8, 2011, I reported that the Department was in the process of implementing service reductions and eliminations projected to produce savings of \$2,775,432, which would reduce the deficit to \$225,010,766. At that time, the Board took action to recognize \$100,000,000 of the deficit, leaving a remaining deficit of \$125,010,766. Also, as a result of the meeting, we were instructed to report back to the Board on March 22, 2011 with an update on our deficit situation. In reviewing all our weekly cash flow and expenditures, in conjunction with budget forecasts provided by our actuarial firm, the remaining projected deficit of \$125,010,766 was determined to be on target and we asked for the projected deficit amount to be recognized. The Board took action to recognize an additional \$100,000,000 of the deficit, leaving a remaining deficit balance of \$25,010,766.

There are two additional cost savings initiatives that the Department is implementing for State Fiscal Year 2011. The first is a reduction in the Managed Care administrative allowance which will generate a savings of \$1,558,680. The second is the implementation of Senate Bill 434. We are awaiting final approval of the Centers for Medicare/Medicaid Services in order to book the additional savings resulting from a 3% provider rate reduction this fiscal year made possible by passage of this bill.

We have continued to review our weekly expenditures and cash flow analysis along with our deficit projections. As we are working without cash reserves which most Medicaid programs typically maintain to avoid deficit spending, we continue our assessment that the department will need up to an additional \$23,452,086 for State Fiscal Year 2011 and ask that this amount be recognized.

I hope this update is helpful to you and to the Budget and Control Board in preparing for the May 2nd meeting. Please feel free to contact me if you have questions or need additional information.

Sincerely,

Anthony E. Keck
Director

AEK/hbh

South Carolina Code of Laws - Section 1-11-495 – As Amended

(A) The State Budget and Control Board is directed to survey the progress of the collection of revenue and the expenditure of funds by all agencies, departments, and institutions. If the board determines that a year-end aggregate deficit may occur by virtue of a projected shortfall in anticipated revenues, it shall utilize those funds as may be available and required to be used to avoid a year-end deficit and after that take action as necessary to restrict the rate of expenditure of all agencies, departments, and institutions consistent with the provisions of this section. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the board. A reduction of rate of expenditure by the board, under authority of this section, must be applied as uniformly as may be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government. This reduction is subject to any bill or resolution enacted by the General Assembly.

(B) As far as practicable, all agencies, departments, and institutions of the State are directed to budget and allocate appropriations as a quarterly allocation, so as to provide for operation on uniform standards throughout the fiscal year and in order to avoid an operating deficit for the fiscal year. It is recognized that academic year calendars of state institutions affect the uniformity of the receipt and distribution of funds during the year. The Comptroller General or the Office of State Budget shall make reports to the board as they consider advisable on an agency, department, or institution that is expending authorized appropriations at a rate which predicts or projects a general fund deficit for the agency, department, or institution. The board is directed to require the agency, department, or institution to file a quarterly allocations plan and is further authorized to restrict the rate of expenditures of the agency, department, or institution if the board determines that a deficit may occur. It is the responsibility of the agency, department, or institution to develop a plan, in consultation with the board, which eliminates or reduces a deficit. If the board makes a finding that the cause of, or likelihood of, a deficit is unavoidable due to factors which are outside the control of the agency, department, or institution, then the board may determine that the recognition of the agency, department, or institution is appropriate and shall notify the General Assembly of this action or the presiding officer of the House and Senate if the General Assembly is not in session. The board only may recognize a deficit by a vote of at least four members of the board."

(C) Upon receipt of the notification from the board, the General Assembly may authorize supplemental appropriations from any surplus revenues that existed at the close of the previous fiscal year. If the General Assembly fails to take action, then the finding of the board shall stand, and the actual deficit at the close of the fiscal year must be reduced as necessary from surplus revenues or surplus funds available at the close of the fiscal year in which the deficit occurs and from funds available in the Capital Reserve Fund and General Reserve Fund, as required by the Constitution of this State. If the board finds that the cause of or likelihood of a deficit is the result of the agency, department, or institution management, then the state officials responsible for management of the agency, department, or institution involved must be held liable for it and the board shall notify the Agency Head Salary Commission of this finding. In the case of a finding that a projected deficit is the result of the management of the agency, department, or institution, the board shall take steps immediately to curtail agency, department, or institution expenditures so as to bring expenditures in line with authorized appropriations and avoid a year-end operating deficit.

FY 2010-11 APPROPRIATION ACT

89.130. (GP: Deficit Monitoring) If at the end of each quarterly deficit monitoring review by the Office of State Budget, it is determined by either the Office of State Budget or an agency that the likelihood of a deficit for the current fiscal year exists, the agency shall submit to the Office of State Budget within fourteen days, a plan to minimize or eliminate the projected deficit. After submission of the plan, if it is determined that the deficit cannot be eliminated by the agency on its own, the agency is required to officially notify the State Budget and Control Board within thirty days of such determination that the agency is requesting that a deficit be recognized. Once a deficit has been recognized by the State Budget and Control Board, the agency shall limit travel and conference attendance to the minimum required to perform the core mission of the agency. In addition, the board when recognizing a deficit may direct that any pay increases and purchases of equipment and vehicles shall be approved by the Office of State Budget.



State of South Carolina Office of the Governor

NIKKI R. HALEY
GOVERNOR

1205 PENDLETON STREET
COLUMBIA 29201

April 27, 2011

The Honorable Kathleen Sebelius
Secretary, Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Madam Secretary,

I am writing to support the position set forth in the letter from the National Association of Medicaid Directors to Cindy Mann, Deputy Administrator and Director of the Center for Medicaid, CHIP and Survey & Certification dated April 4, 2011, relating to the anticipated release of proposed regulations concerning payment rates for providers in the Medicaid program. The proposed regulations would interpret section 1902(a)(30)(A) of the Social Security Act.

Under my administration our state Medicaid program's mission is to "purchase the most health for the least amount of money." We believe it is important to recognize that *health* is not interchangeable with *health services* and that "more is not always better." In its most recent roundtable *The Healthcare Imperative*, the Institute of Medicine estimates at least \$750 billion in excess annual cost in the US health care system due to waste and inefficiency – almost a third of all health care spending in 2009. Each dollar recovered from this staggering loss could be better spent on improving health for those still in need, lowering the cost of insurance for working families and reducing unnecessary tax burden on our citizens.

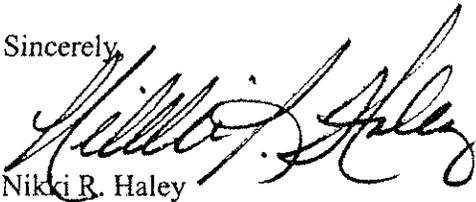
South Carolina strongly supports the National Association of Medicaid Directors view that states should be given maximum flexibility in the rate setting for Medicaid. We acknowledge the obligation to assure that our rates are sufficient to assure access to necessary care for Medicaid recipients. It must also be acknowledged that driving out even a fraction of the excess cost detailed by the Institute of Medicine is a complex process not simply of policy making, but negotiation between local purchasers and local providers. We cannot ignore that many individuals and organizations in our health care system are benefiting from that \$750 billion in waste and will not let go of it without a fight, regardless of the common good.

By imposing burdensome processes or regulations over these local negotiations CMS risks impeding states' efforts to control program costs and affords litigants a basis for seeking injunctions against necessary state rate modifications. As a former Governor, I know you are aware that rate setting must be made nimbly to reflect changing local market conditions and to meet the state's balanced budget obligations. This process is not suited to lengthy federal review and the uncertainty it entails.

Like other states, South Carolina is confronting budget shortfalls, rapidly growing Medicaid costs, and new limits in federal law on how the program can be brought under control. Unlike other states we have been prohibited by our state legislature for the past three years from reducing provider rates. I recently signed a law lifting this rate reduction restriction and as anticipated it has brought providers to the table looking to reduce waste and inefficiency in the delivery system as an alternative to rate reductions. Without this explicit authority, South Carolina would have faced a continuation of the status quo – rapidly increasing costs without appreciable gains in health status. Implementing similar de facto restrictions on other states through federal action should be avoided at all costs if we as a nation have any hope of controlling costs in Medicaid while improving outcomes. We hope that CMS will use the opportunity of its proposed regulation to assure states the flexibility they need in the rate setting area.

Thank you for your assistance on this issue of urgent importance.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikki R. Haley". The signature is fluid and cursive, with a large initial "N" and "H".

Nikki R. Haley

AGENCY: Office of State Budget

SUBJECT: Permanent Improvement Projects

Budget and Control Board approval is requested for the following permanent improvement project establishment requests and budget revisions which have been reviewed favorably by the Joint Bond Review Committee:

Establish Project for A&E Design

- (a) Summary 4-2011: JBRC Item 1. Clemson University
Project: 9893, Clemson Engineering Technology Lab Repair and Refurbishment
Request: Establish project and budget for \$15,000 (Other, Private funds) to begin design work to refurbish the Clemson Engineering Technology Lab at Clemson's Advanced Materials Research Center in Pendleton. The work will include refurbishing the mechanical systems, replacing both cooling towers, repairing or replacing a chiller and a boiler, replacing the roof, correcting window flashing problems, and upgrading the keying and card access system. The building was constructed in 1991 and the systems are original to the building. The roof leaks and damages building interiors. The mechanical components are corroded and some are non-functional.
- (b) Summary 4-2011: JBRC Item 2. Clemson University
Project: 9894, Indoor Football Practice Facility Construction
Request: Establish project and budget for \$150,000 (Other, Private funds) to begin design work to construct an indoor football practice facility at Clemson. The new facility will be approximately 80,000 square feet, will house a full-sized synthetic turf football field and will include a coaches' tower, training room, video recording platforms, proper lighting and suitable sound systems. The facility will be located adjacent to the football practice fields and the indoor track facility. The football program currently has no adequate indoor location for practice. The new facility will provide space to accomplish meaningful athletic work regardless of the weather. It will benefit the program by significantly improving efficiency in scheduling practices and will have a positive impact in attracting the best student-athletes. The building will also provide refuge for other sports teams, youth camps, and event attendees participating in outdoor activities when dangerous weather alerts are issued.
- (c) Summary 4-2011: JBRC Item 3. Medical University of South Carolina
Project: 9817, Hollings Cancer Center - Third Floor Mammography Clinic Renovation
Request: Establish project and budget for \$33,000 (Other, Hospital Revenue funds) to begin design work to renovate approximately 7,200 square feet in the Hollings Cancer Center at MUSC for the Mammography Clinic. The work will include demolishing existing walls and ceilings, reconfiguring space, installing new

AGENCY: Office of State Budget

SUBJECT: Permanent Improvement Projects

flooring, and reworking the HVAC and electrical systems for the space. The work is needed to expand and enhance the Mammography Clinic area of the Hollings Cancer Center in support of the new College of Medicine Dean and research in mammography imaging and breast thermography. It will allow the Mammography Department to consolidate on the third floor and the Radiation Oncology Department to consolidate on the first floor of the center.

- (d) Summary 4-2011: JBRC Item 4. State Board for Technical and Comprehensive Education
- Project: 6028, Greenville Tech - Industrial Building D Wing Renovation
- Request: Establish project and budget for \$13,178 (Other, Local County funds) to begin design work to renovate approximately 14,000 square feet in Greenville Tech's Industrial Building D for the Emergency Medical Technology (EMT) program. The work will include reconfiguring the space to include classrooms, labs, simulator rooms, specialty training rooms and offices, creating new ADA accessible restrooms, installing a new HVAC system, and making information technology upgrades. The EMT program located in the space after the Electronics Technology program relocated to the Brashier Campus in 1996. The area has been reconfigured multiple times as the EMT program expanded, resulting in accessibility issues for students, including students entering classrooms through other training areas and disrupting classes. The building was constructed in 1975 and, except for interior partition reconfigurations, has not been renovated since. The space will be reconfigured to better meet the needs of this academic program and to improve the flow of students throughout the area.
- (e) Summary 4-2011: JBRC Item 5. Governor's Office - OEPP
- Project: 9522, Dolly Cooper Veterans Cemetery Area J Expansion
- Request: Establish project and budget for \$18,825 (Other, Increased Enforcement Collections funds) to begin design work to expand burial spaces in the M.J. "Dolly" Cooper Veterans Cemetery in Anderson for the Governor's Office Department of Veterans Affairs. The work will include constructing approximately 500 double-depth in-ground burial crypts in Area J of the cemetery, providing up to 1,000 additional burial spaces. In-ground crypts expedite burials and make for more efficient use of available burial space. The 30-acre cemetery was opened in late 2007 and the existing supply of in-ground crypts is expected to be exhausted between February and June 2012.

AGENCY: Office of State Budget

SUBJECT: Permanent Improvement Projects

- (f) Summary 4-2011: JBRC Item 6. Budget and Control Board
Project: 9896, Brown Building Main Air Handler Replacement
Request: Establish project and budget for \$11,250 (Other, Depreciation Reserve funds) to begin design work to replace the main air handler that serves four floors in the Brown Building. The work will also include replacing the fans, dampers, filters, coils, and housing of the air handler. The existing air handler is 39 years old, original to the building, and beyond its expected life. The air handler and its related components are inefficient, difficult to repair, and replacement parts are not readily available. The new technology will be more energy efficient and will improve the indoor air quality of the building.
- (g) Summary 4-2011: JBRC Item 7. Department of Corrections
Project: 9699, Perry Correctional Institution Multi-Purpose Building Construction
Request: Establish project and budget for \$8,250 (Other, Donation funds) to begin design work to construct a multi-purpose building at the Perry Correctional Institution in Simpsonville. The approximately 6,000 square foot facility will be a site adaptation of the Department's prototypical multi-purpose building design, which is a prefabricated metal building structure. The facility will house administrative space, restrooms, a workroom and an open area for assemblies. Perry Correctional Institution does not currently have dedicated space in its facilities for chapel, counseling and small group assembly programs.

Establish Construction Budget

- (h) Summary 4-2011: JBRC Item 8. The Citadel
Project: 9605, Daniel Library Building Envelope Renovation
Request: Increase budget to \$906,748 (add \$883,516 - \$850,216 Other, Student Fees and \$33,300 Other, Gift funds) to address deferred maintenance and repair the building envelope on the Daniel Library at The Citadel. The project was established in December 2010 for pre-design work which is now complete. The work will include repairing the stucco building finish, applying a waterproof coating, replacing all window units, and making limited roof repairs. The building envelope has deteriorated over the 51-year life of the building and extensive cracking of the stucco finish is visible. The poor condition of the stucco allows moisture into the building, which causes deterioration of the building structure and increases the likelihood of mold, indoor air quality and health issues. The existing windows are not insulated, are not energy efficient, do not close properly, and allow air and moisture into

AGENCY: Office of State Budget

SUBJECT: Permanent Improvement Projects

the building. Energy savings and conservation measures will include replacing the non-insulated steel windows with new energy efficient units. The agency reports the total projected cost of this project is \$906,748 and annual operating cost savings of \$13,000 will result in the three years following project completion. The agency also reports the projected date for execution of the construction contract is June 2011 and for completion of construction is October 2011. The source of funds includes student fees, which are available as a result of the federal ARRA state stabilization funds available for education and government services and will not result in a student fee increase. (See Attachment 1 for annual operating cost savings.)

- (i) Summary 4-2011: JBRC Item 9. College of Charleston
Project: 9645, Grice Marine Lab Complex Structural and Envelope Repairs
Request: Increase budget to \$1,600,000 (add \$1,577,500 Other, College Fee funds) to make structural, building envelope and other repairs to the College of Charleston's Grice Marine Lab Complex at Fort Johnson. The project was established in December 2010 for pre-design work which is now complete. The work will include repairing the foundation columns, piers, beams, and girders, repairing exterior finishes and stucco, and replacing plumbing lines and electrical conduit. The work is needed to correct cracking and separation of surfaces, to replace lines that have rusted because of moisture intrusion through the cracks, and to prevent further rusting due to the harsh salt air environment. Most of the plumbing and conduit are original to the 1933 building. Energy savings and conservation measures will include restoring the building envelope, replacing failed window glazing gaskets, and installing new caulking to reduce energy loss. The agency reports the total projected cost of this project is \$1.6 million and no additional annual operating costs will result from the project. The agency also reports the projected date for execution of the construction contract is December 2011 and for completion of construction is June 2012. The source of funds is college fees, which are available as a result of the federal ARRA state stabilization funds available for education and government services and will not result in a student fee increase.
- (j) Summary 4-2011: JBRC Item 10. Medical University of South Carolina
Project: 9814, Institute of Psychiatry 30 Bathrooms Renovation
Request: Increase budget to \$750,000 (add \$738,750 Other, Hospital Revenue funds) to renovate 30 inpatient bathrooms in the Institute of Psychiatry Hospital at MUSC. The project was established in December 2010 for pre-design work which is now complete. The work will include installing new bathroom fixtures, upgrading the HVAC exhaust system, applying epoxy flooring, and

AGENCY: Office of State Budget

SUBJECT: Permanent Improvement Projects

making cosmetic repairs and improvements. The work is needed to decrease the chances of patient self harm and will also provide for better balancing the HVAC system. Energy savings and conservation measures will include the installation of energy efficient and low-flow bathroom fixtures. The agency reports the total projected cost of this project is \$750,000 and no additional annual operating costs will result from the project. The agency also reports the projected date for execution of the construction contract is September 2011 and for completion of construction is June 2012.

- (k) Summary 4-2011: JBRC Item 12. Department of Disabilities and Special Needs
Project: 9842, Whitten Center Electrical Power Grid Upgrade
Request: Increase budget to \$1,000,000 (add \$992,500 Excess Debt Service funds) to upgrade the electrical power grid at DDSN's Whitten Center in Clinton. The project was established in September 2010 for pre-design work which is now complete. The work will include replacing the electrical power poles, transformers, conductor units and underground units and converting the system from a low voltage system to a higher voltage system, consistent with the City of Clinton's utility infrastructure. The existing electrical power system is 50 years old, antiquated and inefficient. The majority of the poles are in deteriorated condition and pole mounted transformers and platforms are dangerous. Failure to replace the damaged poles, power lines and transformers will result in more frequent power outages on campus during high wind and storm events and possible power grid failure. Energy savings and conservation measures will include the installation of energy efficient transformers and power lines. The agency reports the total projected cost of this project is \$1 million and no additional annual operating costs will result from the project. The agency also reports the projected date for execution of the construction contract is June 2011 and for completion of construction is June 2012.

Increase Budget

- (l) Summary 4-2011: JBRC Item 13. South Carolina State University
Project: 9626, Chestnut Street Entry Construction
Request: Increase budget to \$1,470,414 (add \$70,414 - \$60,000 Other, SCDOT and \$10,414 Other, Tuition and Fee funds) to cover an expenditure overdraft and close SC State's project for construction of a new Chestnut Street entry to the campus. The project and construction budget were established in January 2006 to construct the new campus entry, a round-about, a bridge over a drainage canal and a new security house with funds from the SC Department of

AGENCY: Office of State Budget

SUBJECT: Permanent Improvement Projects

Transportation (DOT). As the project neared completion, DOT directed that two change orders be made for realigning the existing ditch and reengineering traffic pole foundations. In February 2008, DOT allocated the funds for the change orders. However, the expenditure of the additional funds resulted in the final project cost exceeding the originally approved budget. The source of funds for the increase includes tuition and fees spent in 2008, which did not result in a student fee increase. Ratification of the budget increase is needed to cover all project expenditures and to close the project on the state's project accounting system.

- (m) Summary 4-2011: JBRC Item 14. South Carolina State University
Project: 9631, Dawson Stadium - New Playing Field Turf Installation
Request: Increase budget to \$641,912 (add \$63,912 Other, Tuition and Fee funds) to cover an expenditure overdraft and close SC State's project for installing new playing field turf at Dawson Stadium. The project and construction budget were established in August 2006 to replace the existing natural grass playing field with a synthetic grass playing field over a drainage mat. Because the project was originally expected to be under the \$500,000 permanent improvement project level, work on the field had already begun when a primary subcontractor was found to be unacceptable. Finding a replacement subcontractor resulted in the estimated project cost going above the \$500,000 level, requiring approval of establishment of the project. Because the turf installation had to be completed by the start of the home football season in mid-September 2006, the project was quickly approved with cost information available at that time. However, as construction proceeded, four unforeseen change orders were required that resulted in the final cost exceeding the originally approved budget. The source of funds for the increase was tuition and fees spent in 2006, which did not result in a student fee increase. Ratification of the budget increase is needed to cover all project expenditures and to close the project on the state's project accounting system.
- (n) Summary 4-2011: JBRC Item 15. State Board for Technical and Comprehensive Education
Project: 6000, Northeastern Tech - Dillon Campus Construction
Request: Increase budget to \$1,236,809 (add \$110,389 - \$64,741 Appropriated State and \$45,648 Federal funds) to add a lab classroom to the scope of construction of a new Dillon Campus building for Northeastern Tech. The construction budget was established in December 2009 to construct a new, approximately 4,700 square foot building on the campus to house instructional classrooms and offices. When bids for the new building came in, they were lower than

AGENCY: Office of State Budget

SUBJECT: Permanent Improvement Projects

anticipated and the building, currently under construction, will now be expanded to include an approximately 1,300 square foot lab classroom for teaching lab sciences such as biology and microbiology. With the addition of the lab, students will be able to take lab sciences at this campus and complete an Associate in Science Degree in Dillon County, which has not been possible until now because the campus has no lab facility. The lab will also allow more students to pursue a pathway into the Northeastern Tech nursing program. The agency reports the total projected cost of this project is \$1,236,809 and additional annual operating costs of \$44,543 will result in the three years following project completion. The facility is expected to be completed this summer for use in Fall 2011. (See Attachment 2 for additional annual operating costs.)

- (o) Summary 4-2011: JBRC Item 16. Department of Corrections
Project: 9695, Broad River Correctional Institution Outdoor Lighting Upgrades
Request: Increase budget to \$394,000 (add \$145,770 Federal funds) to meet the current estimated cost for outdoor lighting upgrades at the Broad River Correctional Institution. The construction budget was established in November 2010 based on the utilization of in-house inmate labor to do most of the work. The work will include replacing 187 lighting fixtures with 72 lower wattage fixtures and installing 8 new retractable poles. Due to time constraints from other construction and maintenance projects and in order to meet the deadline for expenditure of energy stimulus grant funds, the department will competitively bid the work for contract, which increased the original projected construction estimate. In addition, the original cost estimate did not include the cost to furnish and install new concrete bases for the poles. The lighting upgrades will minimize existing shadowed areas on the compound and significantly reduce energy costs. Energy savings and conservation measures will include the installation of energy efficient lighting. The agency reports the total projected cost of this project is \$394,000 and annual operating cost savings of \$27,400 will result in the three years following project completion. The agency also reports the projected date for execution of the construction contract is July 2011 and for completion of construction is December 2011. (See Attachment 3 for annual operating cost savings.)
- (p) Summary 4-2011: JBRC Item 17. Department of Corrections
Project: 9696, Kirkland Correctional Institution Outdoor Lighting Upgrades
Request: Increase budget to \$358,000 (add \$74,540 Federal funds) to meet the current estimated cost for outdoor lighting upgrades at the Kirkland Correctional Institution. The construction budget was established in December 2010 based

AGENCY: Office of State Budget

SUBJECT: Permanent Improvement Projects

on the utilization of in-house inmate labor to do most of the work. The work will include replacing 96 lighting fixtures with 54 lower wattage fixtures and installing 7 new retractable poles. Due to time constraints from other construction and maintenance projects and in order to meet the deadline for expenditure of energy stimulus grant funds, the department will competitively bid the work for contract, which increased the original projected construction estimate. In addition, the original cost estimate did not include the cost to furnish and install new concrete bases for the poles. The lighting upgrades will minimize existing shadowed areas on the compound and significantly reduce energy costs. Energy savings and conservation measures will include the installation of energy efficient lighting. The agency reports the total projected cost of this project is \$358,000 and annual operating cost savings of \$15,250 will result in the three years following project completion. The agency also reports the projected date for execution of the construction contract is July 2011 and for completion of construction is December 2011. (See Attachment 4 for annual operating cost savings.)

Establish Project for Preliminary Land Studies

- (q) Summary 4-2011: JBRC Item 18. Department of Natural Resources
Project: 9922, Laurens - Reedy River/Boyd's Mill Pond Land Acquisition
Request: Establish project and budget for \$20,000 (Other, Reedy River Mitigation Trust funds) to procure the investigative studies required to adequately evaluate property prior to purchase. The Department of Natural Resources is considering the purchase of approximately 500 acres of land on the Reedy River near Boyd's Mill Pond in Laurens County. The acquisition will protect water quality, conserve wildlife habitat and provide recreational opportunities. The acquisition will also work toward fulfilling the goals of the Reedy River Final Restoration Plan for mitigation from the Colonial Pipeline oil spill in 1996. The agency will manage the property as part of the Wildlife Management Area Program with the intent of protecting the riparian corridor and increasing recreational access to the Reedy River as required by the Final Restoration Plan.

BOARD ACTION REQUESTED:

Approve permanent improvement project establishment requests and budget revisions. All items have been reviewed favorably by the Joint Bond Review Committee.

ATTACHMENTS: Attachments

**ADDITIONAL ANNUAL OPERATING COSTS/SAVINGS
RESULTING FROM PERMANENT IMPROVEMENT PROJECT**

1. AGENCY
Code HO9 Name THE CITADEL

2. PROJECT
Project # HO9-8605-PG Name Daniel Library - Building Envelope Renovation

3. ADDITIONAL ANNUAL OPERATING COSTS/SAVINGS. (Check whether reporting costs or savings.)

COSTS SAVINGS NO CHANGE

4. TOTAL ADDITIONAL OPERATING COSTS/SAVINGS

Projected Financing Sources				
(1)	(2)	(3)	(4)	(5)
Fiscal Year	General Funds	Federal	Other	Total
1) 2011-12	\$13,000.00	\$ -	\$ -	\$ 13,000.00
2) 2012-13	\$13,000.00	\$ -	\$ -	\$ 13,000.00
3) 2013-14	\$13,000.00	\$ -	\$ -	\$ 13,000.00

5. If "Other" sources are reported in Column 4 above, itemize and specify what the other sources are (revenues, fees, etc.).

6. Will the additional costs be absorbed into your existing budget? YES NO
If no, how will additional funds be provided?

N/A

7. Itemize below the cost factors that contribute to the total costs or savings reported above in Column 5 for the first fiscal year.

<u>COST FACTORS</u>	<u>AMOUNT</u>
1. Maintenance costs	\$13,000.00
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
TOTAL	_____

8. If personal services costs or savings are reported in 7 above, please indicate the number of additional positions required or positions saved. Not applicable

9. Submitted By: *James Openshaw*
Col. James Openshaw
Int. Vice President for Finance and Business Affairs

_____ Date

**ADDITIONAL ANNUAL OPERATING COSTS/SAVINGS
RESULTING FROM PERMANENT IMPROVEMENT PROJECT**

1. AGENCY
Code H59 Name Northeastern Technical College

2. PROJECT
Project # 6000 Name N.E.T.C. - Dillon Campus Construction

3. ADDITIONAL ANNUAL OPERATING COSTS/SAVINGS. (Check whether reporting costs or savings.)

COSTS SAVINGS NO CHANGE

4.

TOTAL ADDITIONAL OPERATING COSTS/SAVINGS				
Projected Financing Sources				
(1)	(2)	(3)	(4)	(5)
Fiscal Year	General Funds	Federal	Other	Total
1) 2011-12	\$	\$	\$44,543	\$44,543
2) 2012-13	\$	\$	\$44,543	\$44,543
3) 2013-14	\$	\$	\$44,543	\$44,543

5. If "Other" sources are reported in Column 4 above, itemize and specify what the other sources are (revenues, fees, etc.).

Tuition Revenues

6. Will the additional costs be absorbed into your existing budget? YES NO
If no, how will additional funds be provided?

7. Itemize below the cost factors that contribute to the total costs or savings reported above in Column 5 for the first fiscal year.

<u>COST FACTORS</u>	<u>AMOUNT</u>
1. <u>Utilities</u>	<u>\$10,000</u>
2. <u>Operations & Maintenance</u>	<u>\$15,943</u>
3. <u>Supplies</u>	<u>\$600</u>
4. <u>Part Time Employee</u>	<u>\$18,000</u>
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
TOTAL	<u>\$44,543</u>

8. If personal services costs or savings are reported in 7 above, please indicate the number of additional positions required or positions saved. .50

9. Submitted By: *Robbie Cheek* 3/1/11
Signature of Authorized Official and Title Date

ADDITIONAL ANNUAL OPERATING COSTS/SAVINGS
RESULTING FROM PERMANENT IMPROVEMENT PROJECT

1. AGENCY
Code NO4 Name South Carolina Department of Corrections

2. PROJECT
Project # 9695 Name Broad River Correctional Institution Outdoor Lighting Upgrades

3. ADDITIONAL ANNUAL OPERATING COSTS/SAVINGS. (Check whether reporting costs or savings.)

COSTS SAVINGS NO CHANGE

4. TOTAL ADDITIONAL OPERATING COSTS/SAVINGS
Projected Financing Sources

(1) Fiscal Year	(2) General Funds	(3) Federal	(4) Other	(5) Total
1) 2011 - 12	\$ 13,700.00	\$	\$	\$ 13,700.00*
2) 2012 - 13	\$ 27,400.00	\$	\$	\$ 27,400.00
3) 2013 - 14	\$ 27,400.00	\$	\$	\$ 27,400.00

5. If "Other" sources are reported in Column 4 above, itemize and specify what the other sources are (revenues, fees, etc.) *partial year

6. Will the additional costs be absorbed into your existing budget? Yes No
If no, how will additional funds be provided?

7. Itemize below the cost factors that contribute to the total costs or savings reported above in Column 5 for the first fiscal year.

<u>COST FACTORS</u>	<u>AMOUNT</u>
1. <u>Electric</u>	<u>\$ 27,400</u>
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
TOTAL	\$ 27,400

8. If personal services costs or savings are reported in 7 above, please indicate the number of additional positions required or positions saved.

9. Submitted By: *W.R. Byars Jr.* Director 3/25/11 Date
Signature of Authorized Official and Title

ADDITIONAL ANNUAL OPERATING COSTS/SAVINGS
RESULTING FROM PERMANENT IMPROVEMENT PROJECT

1. AGENCY
Code NO4 Name South Carolina Department of Corrections

2. PROJECT
Project # 9696 Name Kirkland Correctional Institution Outdoor Lighting Upgrades

3. ADDITIONAL ANNUAL OPERATING COSTS/SAVINGS. (Check whether reporting costs or savings.)

COSTS SAVINGS NO CHANGE

4.

TOTAL ADDITIONAL OPERATING COSTS/SAVINGS				
Projected Financing Sources				
(1)	(2)	(3)	(4)	(5)
Fiscal Year	General Funds	Federal	Other	Total
1) 2011 -12	\$ 7,625.00	\$	\$	\$ 7,625.00*
2) 2012 -13	\$ 15,250.00	\$	\$	\$ 15,250.00
3) 2013 -14	\$ 15,250.00	\$	\$	\$ 15,250.00

*partial year

5. If "Other" sources are reported in Column 4 above, itemize and specify what the other sources are (revenues, fees, etc.).

6. Will the additional costs be absorbed into your existing budget? Yes No
If no, how will additional funds be provided?

7. Itemize below the cost factors that contribute to the total costs or savings reported above in Column 5 for the first fiscal year.

<u>COST FACTORS</u>	<u>AMOUNT</u>
1. <u>Electric</u>	\$ 15,250.00
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
TOTAL	\$ 15,250.00

8. If personal services costs or savings are reported in 7 above, please indicate the number of additional positions required or positions saved.

9. Submitted By: *W.R. Byars Jr.* Director 3/25/11 Date
Signature of Authorized Official and Title

Permanent Improvement Project Information for May 2, 2011 B&CB Meeting

Agency/ Project No.	Agency/Project Name	Original Approved Budget	Date of Original Approval	Phase I Amount	Date of Phase I Approval	Included in CPIP	Total Projected Project Cost
H12-9893	Clemson University - Clemson Engineering Technology Lab Repair and Refurbishment	\$15,000 for pre-design	5/2/11	\$15,000	5/2/11	No	To Be Determined
H12-9894	Clemson University - Indoor Football Practice Facility Construction	\$150,000 for pre-design	5/2/11	\$150,000	5/2/11	No	To Be Determined
H51-9817	MUSC - Hollings Cancer Center - Third Floor Mammography Clinic Renovation	\$33,000 for pre-design	5/2/11	\$33,000	5/2/11	No	To Be Determined
H59-6028	Greenville Tech - Industrial Building D Wing Renovation	\$13,178 for pre-design	5/2/11	\$13,178	5/2/11	No	To Be Determined
D17-9522	Governor's Office-OEPP - Dolly Cooper Veterans Cemetery Area J Expansion	\$18,825 for pre-design	5/2/11	\$18,825	5/2/11	No	To Be Determined
F03-9896	Budget & Control Board - Brown Building Main Air Handler Replacement	\$11,250 for pre-design	5/2/11	\$11,250	5/2/11	No	To Be Determined
N04-9699	Corrections - Perry Correctional Institution Multi-Purpose Building Construction	\$8,250 for pre-design	5/2/11	\$8,250	5/2/11	No	To Be Determined
H09-9605	The Citadel - Daniel Library Building Envelope Renovation	\$23,232 for pre-design	12/14/10	\$23,232	12/14/10	2010 CPIP Year 1	\$906,748
H15-9645	College of Charleston - Grice Marine Lab Complex Structural and Envelope Repairs	\$22,500 for pre-design	12/14/10	\$22,500	12/14/10	2011 CPIP Year 1	\$1,600,000
H51-9814	MUSC - Institute of Psychiatry 30 Bathrooms Renovation	\$11,250 for pre-design	12/14/10	\$11,250	12/14/10	No	\$750,000
J16-9842	Disabilities and Special Needs - Whittier Center Electrical Power Grid Upgrade	\$7,500 for pre-design	9/29/10	\$7,500	9/29/10	2010 CPIP Year 1	\$1,000,000
H24-9626	SC State - Chestnut Street Entry Construction	\$1,400,000	1/24/06	N/A	N/A	No	\$1,470,414

Permanent Improvement Project Information for May 2, 2011 B&CB Meeting

Agency/ Project No.	Agency/Project Name	Original Approved Budget	Date of Original Approval	Phase I Amount	Date of Phase I Approval	Included in CIP	Total Projected Project Cost
H24-9631	SC State - Dawson Stadium - New Playing Field Turf Installation	\$578,000	8/4/06	N/A	N/A	No	\$641,912
H59-6000	Northeastern Tech - Dillon Campus Construction	\$16,091 for pre-design	6/29/09	\$16,091	6/29/09	2010 CIP Year 1	\$1,236,809
N04-9695	Corrections - Broad River Correctional Institution Outdoor Lighting Upgrades	\$3,723 for pre-design	5/13/10	\$3,723	5/13/10	No	\$394,000
N04-9696	Corrections - Kirkland Correctional Institution Outdoor Lighting Upgrades	\$4,252 for pre-design	6/30/10	\$4,252	6/30/10	No	\$358,000
P24-9922	Natural Resources - Laurens - Reedy River/Boyd's Mill Pond Land Acquisition	\$20,000 for preliminary studies	5/2/11	\$20,000	5/2/11	No	To Be Determined

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 2, 2011

Regular Agenda

1. Submitted By:

- (a) Agency: State Budget Division
(b) Authorized Official Signature:


Les Boles, Director

2. Subject: Permanent Improvement Projects

3. Summary Background Information:

Establish Project for A&E Design

(a) Summary 4-2011: JBRC Item 1. Clemson University

Project: 9893, Clemson Engineering Technology Lab Repair and Refurbishment

Request: Establish project and budget for \$15,000 (Other, Private funds) to begin design work to refurbish the Clemson Engineering Technology Lab at Clemson's Advanced Materials Research Center in Pendleton. The work will include refurbishing the mechanical systems, replacing both cooling towers, repairing or replacing a chiller and a boiler, replacing the roof, correcting window flashing problems, and upgrading the keying and card access system. The building was constructed in 1991 and the systems are original to the building. The roof leaks and damages building interiors. The mechanical components are corroded and some are non-functional.

(b) Summary 4-2011: JBRC Item 2. Clemson University

Project: 9894, Indoor Football Practice Facility Construction

Request: Establish project and budget for \$150,000 (Other, Private funds) to begin design work to construct an indoor football practice facility at Clemson. The new facility will be approximately 80,000 square feet, will house a full-sized synthetic turf football field and will include a coaches' tower, training room, video recording platforms, proper lighting and suitable sound systems. The facility will be located adjacent to the football practice fields and the indoor track facility. The football program currently has no adequate indoor location for practice. The new facility will provide space to accomplish meaningful athletic work regardless of the weather. It will benefit the program by significantly improving efficiency in scheduling practices and will have a positive impact in attracting the best student-athletes. The building will also provide refuge for other sports teams, youth camps, and event attendees participating in outdoor activities when dangerous weather alerts are issued.

(c) Summary 4-2011: JBRC Item 3. Medical University of South Carolina

Project: 9817, Hollings Cancer Center - Third Floor Mammography Clinic Renovation

Request: Establish project and budget for \$33,000 (Other, Hospital Revenue funds) to begin design work to renovate approximately 7,200 square feet in the Hollings Cancer Center at MUSC for the Mammography Clinic. The work will include demolishing existing walls and ceilings, reconfiguring space, installing new flooring, and reworking the HVAC and electrical systems for the space. The work is needed to expand and enhance the Mammography Clinic area of the Hollings Cancer Center in support of the new College of Medicine Dean and research in mammography imaging and breast thermography. It will allow the Mammography Department to consolidate on the third floor and the Radiation Oncology Department to consolidate on the first floor of the center.

- (d) Summary 4-2011: JBRC Item 4. State Board for Technical and Comprehensive Education
Project: 6028, Greenville Tech - Industrial Building D Wing Renovation
Request: Establish project and budget for \$13,178 (Other, Local County funds) to begin design work to renovate approximately 14,000 square feet in Greenville Tech's Industrial Building D for the Emergency Medical Technology (EMT) program. The work will include reconfiguring the space to include classrooms, labs, simulator rooms, specialty training rooms and offices, creating new ADA accessible restrooms, installing a new HVAC system, and making information technology upgrades. The EMT program located in the space after the Electronics Technology program relocated to the Brashier Campus in 1996. The area has been reconfigured multiple times as the EMT program expanded, resulting in accessibility issues for students, including students entering classrooms through other training areas and disrupting classes. The building was constructed in 1975 and, except for interior partition reconfigurations, has not been renovated since. The space will be reconfigured to better meet the needs of this academic program and to improve the flow of students throughout the area.
- (e) Summary 4-2011: JBRC Item 5. Governor's Office - OEPP
Project: 9522, Dolly Cooper Veterans Cemetery Area J Expansion
Request: Establish project and budget for \$18,825 (Other, Increased Enforcement Collections funds) to begin design work to expand burial spaces in the M.J. "Dolly" Cooper Veterans Cemetery in Anderson for the Governor's Office Department of Veterans Affairs. The work will include constructing approximately 500 double-depth in-ground burial crypts in Area J of the cemetery, providing up to 1,000 additional burial spaces. In-ground crypts expedite burials and make for more efficient use of available burial space. The 30-acre cemetery was opened in late 2007 and the existing supply of in-ground crypts is expected to be exhausted between February and June 2012.
- (f) Summary 4-2011: JBRC Item 6. Budget and Control Board
Project: 9896, Brown Building Main Air Handler Replacement
Request: Establish project and budget for \$11,250 (Other, Depreciation Reserve funds) to begin design work to replace the main air handler that serves four floors in the Brown Building. The work will also include replacing the fans, dampers, filters, coils, and housing of the air handler. The existing air handler is 39 years old, original to the building, and beyond its expected life. The air handler and its related components are inefficient, difficult to repair, and replacement parts are not readily available. The new technology will be more energy efficient and will improve the indoor air quality of the building.
- (g) Summary 4-2011: JBRC Item 7. Department of Corrections
Project: 9699, Perry Correctional Institution Multi-Purpose Building Construction
Request: Establish project and budget for \$8,250 (Other, Donation funds) to begin design work to construct a multi-purpose building at the Perry Correctional Institution in Simpsonville. The approximately 6,000 square foot facility will be a site adaptation of the Department's prototypical multi-purpose building design, which is a prefabricated metal building structure. The facility will house administrative space, restrooms, a workroom and an open area for assemblies. Perry Correctional Institution does not currently have dedicated space in its facilities for chapel, counseling and small group assembly programs.

Establish Construction Budget

- (h) Summary 4-2011: JBRC Item 8. The Citadel
Project: 9605, Daniel Library Building Envelope Renovation
Request: Increase budget to \$906,748 (add \$883,516 - \$850,216 Other, Student Fees and \$33,300 Other, Gift funds) to address deferred maintenance and repair the building envelope on the Daniel Library at The Citadel. The project was established in December 2010 for pre-design work which is now complete. The work will include repairing the stucco building finish, applying a waterproof coating, replacing all window units, and making limited roof repairs. The building envelope has deteriorated over the 51-year life of the building and extensive cracking of the stucco finish is visible. The poor condition of the stucco allows moisture into the building, which causes deterioration of the building structure and increases the likelihood of mold, indoor air quality and health issues. The existing windows are not insulated, are not energy efficient, do not close properly, and allow air and moisture into the building. Energy savings and conservation measures will include replacing the non-insulated steel windows with new energy efficient units. The agency reports the total projected cost of this project is \$906,748 and annual operating cost savings of \$13,000 will result in the three years following project completion. The agency also reports the projected date for execution of the construction contract is June 2011 and for completion of construction is October 2011. The source of funds includes student fees, which are available as a result of the federal ARRA state stabilization funds available for education and government services and will not result in a student fee increase. (See Attachment 1 for annual operating cost savings.)
- (i) Summary 4-2011: JBRC Item 9. College of Charleston
Project: 9645, Grice Marine Lab Complex Structural and Envelope Repairs
Request: Increase budget to \$1,600,000 (add \$1,577,500 Other, College Fee funds) to make structural, building envelope and other repairs to the College of Charleston's Grice Marine Lab Complex at Fort Johnson. The project was established in December 2010 for pre-design work which is now complete. The work will include repairing the foundation columns, piers, beams, and girders, repairing exterior finishes and stucco, and replacing plumbing lines and electrical conduit. The work is needed to correct cracking and separation of surfaces, to replace lines that have rusted because of moisture intrusion through the cracks, and to prevent further rusting due to the harsh salt air environment. Most of the plumbing and conduit are original to the 1933 building. Energy savings and conservation measures will include restoring the building envelope, replacing failed window glazing gaskets, and installing new caulking to reduce energy loss. The agency reports the total projected cost of this project is \$1.6 million and no additional annual operating costs will result from the project. The agency also reports the projected date for execution of the construction contract is December 2011 and for completion of construction is June 2012. The source of funds is college fees, which are available as a result of the federal ARRA state stabilization funds available for education and government services and will not result in a student fee increase.
- (j) Summary 4-2011: JBRC Item 10. Medical University of South Carolina
Project: 9814, Institute of Psychiatry 30 Bathrooms Renovation
Request: Increase budget to \$750,000 (add \$738,750 Other, Hospital Revenue funds) to renovate 30 inpatient bathrooms in the Institute of Psychiatry Hospital at MUSC. The project was established in December 2010 for pre-design work which is now complete. The work will include installing new bathroom fixtures, upgrading the HVAC exhaust system, applying epoxy flooring, and making cosmetic repairs and improvements. The work is needed to decrease the chances of patient self harm and will also provide for better balancing the HVAC system. Energy savings and conservation measures will include the installation of energy efficient and low-flow bathroom fixtures. The agency reports the total projected cost of this project is \$750,000 and no additional annual operating costs will result from the project. The agency also reports the projected date for execution of the construction contract is September 2011 and for completion of construction is June 2012.

- (k) Summary 4-2011: JBRC Item 12. Department of Disabilities and Special Needs
Project: 9842, Whitten Center Electrical Power Grid Upgrade
Request: Increase budget to \$1,000,000 (add \$992,500 Excess Debt Service funds) to upgrade the electrical power grid at DDSN's Whitten Center in Clinton. The project was established in September 2010 for pre-design work which is now complete. The work will include replacing the electrical power poles, transformers, conductor units and underground units and converting the system from a low voltage system to a higher voltage system, consistent with the City of Clinton's utility infrastructure. The existing electrical power system is 50 years old, antiquated and inefficient. The majority of the poles are in deteriorated condition and pole mounted transformers and platforms are dangerous. Failure to replace the damaged poles, power lines and transformers will result in more frequent power outages on campus during high wind and storm events and possible power grid failure. Energy savings and conservation measures will include the installation of energy efficient transformers and power lines. The agency reports the total projected cost of this project is \$1 million and no additional annual operating costs will result from the project. The agency also reports the projected date for execution of the construction contract is June 2011 and for completion of construction is June 2012.

Increase Budget

- (l) Summary 4-2011: JBRC Item 13. South Carolina State University
Project: 9626, Chestnut Street Entry Construction
Request: Increase budget to \$1,470,414 (add \$70,414 - \$60,000 Other, SCDOT and \$10,414 Other, Tuition and Fee funds) to cover an expenditure overdraft and close SC State's project for construction of a new Chestnut Street entry to the campus. The project and construction budget were established in January 2006 to construct the new campus entry, a round-about, a bridge over a drainage canal and a new security house with funds from the SC Department of Transportation (DOT). As the project neared completion, DOT directed that two change orders be made for realigning the existing ditch and reengineering traffic pole foundations. In February 2008, DOT allocated the funds for the change orders. However, the expenditure of the additional funds resulted in the final project cost exceeding the originally approved budget. The source of funds for the increase includes tuition and fees spent in 2008, which did not result in a student fee increase. Ratification of the budget increase is needed to cover all project expenditures and to close the project on the state's project accounting system.
- (m) Summary 4-2011: JBRC Item 14. South Carolina State University
Project: 9631, Dawson Stadium - New Playing Field Turf Installation
Request: Increase budget to \$641,912 (add \$63,912 Other, Tuition and Fee funds) to cover an expenditure overdraft and close SC State's project for installing new playing field turf at Dawson Stadium. The project and construction budget were established in August 2006 to replace the existing natural grass playing field with a synthetic grass playing field over a drainage mat. Because the project was originally expected to be under the \$500,000 permanent improvement project level, work on the field had already begun when a primary subcontractor was found to be unacceptable. Finding a replacement subcontractor resulted in the estimated project cost going above the \$500,000 level, requiring approval of establishment of the project. Because the turf installation had to be completed by the start of the home football season in mid-September 2006, the project was quickly approved with cost information available at that time. However, as construction proceeded, four unforeseen change orders were required that resulted in the final cost exceeding the originally approved budget. The source of funds for the increase was tuition and fees spent in 2006, which did not result in a student fee increase. Ratification of the budget increase is needed to cover all project expenditures and to close the project on the state's project accounting system.

- (n) Summary 4-2011: JBRC Item 15. State Board for Technical and Comprehensive Education
Project: 6000, Northeastern Tech - Dillon Campus Construction
Request: Increase budget to \$1,236,809 (add \$110,389 - \$64,741 Appropriated State and \$45,648 Federal funds) to add a lab classroom to the scope of construction of a new Dillon Campus building for Northeastern Tech. The construction budget was established in December 2009 to construct a new, approximately 4,700 square foot building on the campus to house instructional classrooms and offices. When bids for the new building came in, they were lower than anticipated and the building, currently under construction, will now be expanded to include an approximately 1,300 square foot lab classroom for teaching lab sciences such as biology and microbiology. With the addition of the lab, students will be able to take lab sciences at this campus and complete an Associate in Science Degree in Dillon County, which has not been possible until now because the campus has no lab facility. The lab will also allow more students to pursue a pathway into the Northeastern Tech nursing program. The agency reports the total projected cost of this project is \$1,236,809 and additional annual operating costs of \$44,543 will result in the three years following project completion. The facility is expected to be completed this summer for use in Fall 2011. (See Attachment 2 for additional annual operating costs.)
- (o) Summary 4-2011: JBRC Item 16. Department of Corrections
Project: 9695, Broad River Correctional Institution Outdoor Lighting Upgrades
Request: Increase budget to \$394,000 (add \$145,770 Federal funds) to meet the current estimated cost for outdoor lighting upgrades at the Broad River Correctional Institution. The construction budget was established in November 2010 based on the utilization of in-house inmate labor to do most of the work. The work will include replacing 187 lighting fixtures with 72 lower wattage fixtures and installing 8 new retractable poles. Due to time constraints from other construction and maintenance projects and in order to meet the deadline for expenditure of energy stimulus grant funds, the department will competitively bid the work for contract, which increased the original projected construction estimate. In addition, the original cost estimate did not include the cost to furnish and install new concrete bases for the poles. The lighting upgrades will minimize existing shadowed areas on the compound and significantly reduce energy costs. Energy savings and conservation measures will include the installation of energy efficient lighting. The agency reports the total projected cost of this project is \$394,000 and annual operating cost savings of \$27,400 will result in the three years following project completion. The agency also reports the projected date for execution of the construction contract is July 2011 and for completion of construction is December 2011. (See Attachment 3 for annual operating cost savings.)
- (p) Summary 4-2011: JBRC Item 17. Department of Corrections
Project: 9696, Kirkland Correctional Institution Outdoor Lighting Upgrades
Request: Increase budget to \$358,000 (add \$74,540 Federal funds) to meet the current estimated cost for outdoor lighting upgrades at the Kirkland Correctional Institution. The construction budget was established in December 2010 based on the utilization of in-house inmate labor to do most of the work. The work will include replacing 96 lighting fixtures with 54 lower wattage fixtures and installing 7 new retractable poles. Due to time constraints from other construction and maintenance projects and in order to meet the deadline for expenditure of energy stimulus grant funds, the department will competitively bid the work for contract, which increased the original projected construction estimate. In addition, the original cost estimate did not include the cost to furnish and install new concrete bases for the poles. The lighting upgrades will minimize existing shadowed areas on the compound and significantly reduce energy costs. Energy savings and conservation measures will include the installation of energy efficient lighting. The agency reports the total projected cost of this project is \$358,000 and annual operating cost savings of \$15,250 will result in the three years following project completion. The agency also reports the projected date for execution of the construction contract is July 2011 and for completion of construction is December 2011. (See Attachment 4 for annual operating cost savings.)

Establish Project for Preliminary Land Studies

- (q) Summary 4-2011: JBRC Item 18. Department of Natural Resources
Project: 9922, Laurens - Reedy River/Boyd's Mill Pond Land Acquisition
Request: Establish project and budget for \$20,000 (Other, Reedy River Mitigation Trust funds) to procure the investigative studies required to adequately evaluate property prior to purchase. The Department of Natural Resources is considering the purchase of approximately 500 acres of land on the Reedy River near Boyd's Mill Pond in Laurens County. The acquisition will protect water quality, conserve wildlife habitat and provide recreational opportunities. The acquisition will also work toward fulfilling the goals of the Reedy River Final Restoration Plan for mitigation from the Colonial Pipeline oil spill in 1996. The agency will manage the property as part of the Wildlife Management Area Program with the intent of protecting the riparian corridor and increasing recreational access to the Reedy River as required by the Final Restoration Plan.
-

4. What is the Board asked to do?

Approve permanent improvement project establishment requests and budget revisions. All items have been reviewed favorably by the Joint Bond Review Committee.

5. What is the recommendation of Board Division involved?

Recommend approval of permanent improvement establishment requests and budget revisions.

6. Recommendation of other Division/Agency (as required)?

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. List of Supporting Documents:

Attached:

1. The Citadel Daniel Library Building Envelope Renovation Annual Operating Cost Savings.
2. Northeastern Tech Dillon Campus Additional Annual Operating Costs.
3. Corrections Broad River Outdoor Lighting Annual Operating Cost Savings.
4. Corrections Kirkland Outdoor Lighting Annual Operating Cost Savings.
5. Permanent Improvement Project Information.

AGENCY: Division of General Services

SUBJECT: College of Charleston Lease Amendment for Warren Place Apartments in Charleston

The Joint Bond Review Committee approved on April 20, 2004 and the Budget and Control Board approved on May 4, 2004 a lease between the College of Charleston and Warren Place, a Joint Venture, which is owned by GWB Associates, L.L.C., a South Carolina Limited Liability Company, and Brumley Properties Limited Partnership, a South Carolina Limited Partnership, for space at Warren Place in Charleston for student housing. The leased space is two blocks from the main campus and consists of approximately 108,048 square feet in three buildings located at 1, 10 and 20 Warren Street as well as 121 parking spaces in the surface lot contiguous to the buildings. The College leases 24,107 SF on a portion of the 1st floor and the entire 2nd and 3rd floors of the three-story, 27,491 SF building located at 1 Warren Street. The College leases 47,941 square feet on a portion of the 1st floor and the entire 2nd, 3rd, 4th, and 5th floors of the five-story, 52,448 square foot building located at 10 Warren Street. The College also leases the entire four-story, 36,000 square foot building located at 20 Warren Street. The leased space provides 289 beds in 85 housing units to accommodate 287 students. A two bedroom apartment is reserved for a resident hall advisor.

The College currently leases the described space at Warren Place under a nine-year lease expiring August 14, 2013 at an annual cost of \$1,000,000 with annual adjustments made after the second year of the lease based on changes in the Residential Consumer Price Index (CPI). The total annual rent for the current period beginning August 15, 2010 and ending August 14, 2011 is \$1,161,330. In addition to rent, the College is responsible for all maintenance and operating costs, totaling approximately \$860,500 annually, and includes the cost of employees, maintenance and repairs, taxes, insurance and utilities. Including maintenance and operating costs, the average annual cost per bed is \$6,995.95. Assuming rent remains at its current rate and maintenance and operating costs remain constant, the total annual cost of the lease is \$2,021,830 (\$18.71 per square foot).

In order to secure the long-term continued use of the leased space for student housing, the College requests approval to amend the lease to extend the term ten years, which would change the termination date of the lease to August 14, 2023. In addition, rent will continue to adjust annually based on CPI fluctuations, if any; however, the lease amendment will limit rent increases by placing a 3% cap on annual increases of rent and a 3% floor on annual decreases over the immediately preceding rental year. No other terms of the lease will be modified.

AGENCY: Division of General Services

SUBJECT: College of Charleston Lease Amendment for Warren Place Apartments in Charleston

Assuming the cost of utilities per apartment are the same as at Warren Place, comparables of similar housing with parking leased in Downtown Charleston within five blocks of campus are as follows:

Location	Annual Cost per Individual Bed
145-B Coming Street	\$10,928.52
117-A Wentworth Street	\$11,924.52
65-J Vanderhorst Street	\$11,924.52
235-A St. Philip Street	\$14,780.52

The College has adequate funds for the lease according to a Budget Approval Form submitted January 12, 2011, which also includes a multi-year plan. Lease payments will be made from revenue received from student housing fees collected for Warren Place, which is \$8,944 per bed annually. Assuming the leased space is one hundred percent (100%) occupied with two beds reserved for staff and that rent has no CPI fluctuations, the College will realize a positive cash flow of \$545,098 annually. The College has the right of first negotiation for the purchase of the properties in the event of a sale. No environmental assessment has been performed on the subject properties.

The lease was approved by Stephen C. Osborne, Executive Vice President for Business Affairs on behalf of the College of Charleston and by Frank W. Brumley, Managing Partner of Warren Place, a Joint Venture. The lease was approved by the Commission on Higher Education on March 3, 2011 and by the Joint Bond Review Committee on April 6, 2011.

BOARD ACTION REQUESTED:

Approve the proposed amendment to extend the lease term ten years for the College of Charleston at 1, 10, and 20 Warren Street in Charleston.

ATTACHMENTS:

Agenda item worksheet; Letter from the College of Charleston dated January 19, 2011; SC Code of Laws Sections 1-11-55 and 1-11-56

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 2, 2011

Regular Agenda

1. Submitted by:

- (a) Agency: Division of General Services
- (b) Authorized Official Signature:



Charles R. Platt, Director

2. Subject: College of Charleston Lease Amendment for Warren Place Apartments in Charleston

3. Summary Background Information:

The Joint Bond Review Committee approved on April 20, 2004 and the Budget and Control Board approved on May 4, 2004 a lease between the College of Charleston and Warren Place, a Joint Venture, which is owned by GWB Associates, L.L.C., a South Carolina Limited Liability Company, and Brumley Properties Limited Partnership, a South Carolina Limited Partnership, for space at Warren Place in Charleston for student housing. The leased space is two blocks from the main campus and consists of approximately 108,048 square feet in three buildings located at 1, 10 and 20 Warren Street as well as 121 parking spaces in the surface lot contiguous to the buildings. The College leases 24,107 SF on a portion of the 1st floor and the entire 2nd and 3rd floors of the three-story, 27,491 SF building located at 1 Warren Street. The College leases 47,941 square feet on a portion of the 1st floor and the entire 2nd, 3rd, 4th, and 5th floors of the five-story, 52,448 square foot building located at 10 Warren Street. The College also leases the entire four-story, 36,000 square foot building located at 20 Warren Street. The leased space provides 289 beds in 85 housing units to accommodate 287 students. A two bedroom apartment is reserved for a resident hall advisor.

The College currently leases the described space at Warren Place under a nine-year lease expiring August 14, 2013 at an annual cost of \$1,000,000 with annual adjustments made after the second year of the lease based on changes in the Residential Consumer Price Index (CPI). The total annual rent for the current period beginning August 15, 2010 and ending August 14, 2011 is \$1,161,330. In addition to rent, the College is responsible for all maintenance and operating costs, totaling approximately \$860,500 annually, and includes the cost of employees, maintenance and repairs, taxes, insurance and utilities. Including maintenance and operating costs, the average annual cost per bed is \$6,995.95. Assuming rent remains at its current rate and maintenance and operating costs remain constant, the total annual cost of the lease is \$2,021,830 (\$18.71 per square foot).

In order to secure the long-term continued use of the leased space for student housing, the College requests approval to amend the lease to extend the term ten years, which would change the termination date of the lease to August 14, 2023. In addition, rent will continue to

adjust annually based on CPI fluctuations, if any; however, the lease amendment will limit rent increases by placing a 3% cap on annual increases of rent and a 3% floor on annual decreases over the immediately preceding rental year. No other terms of the lease will be modified.

Assuming the cost of utilities per apartment are the same as at Warren Place, comparables of similar housing with parking leased in Downtown Charleston within five blocks of campus are as follows:

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The lease was approved by Stephen C. Osborne, Executive Vice President for Business Affairs on behalf of the College of Charleston and by Frank W. Brumley, Managing Partner of Warren Place, a Joint Venture. The lease was approved by the Commission on Higher Education on March 3, 2011 and by the Joint Bond Review Committee on April 6, 2011.

4. What is the Board asked to do? Approve the proposed amendment to extend the lease term ten years for the College of Charleston at 1, 10 and 20 Warren Street in Charleston.

5. What is recommendation of the Division of General Services? Approval of the proposed amendment to extend the lease term ten years for the College of Charleston at 1, 10 and 20 Warren Street in Charleston.

6. List of Supporting Documents:

- (a) Letter from the College of Charleston dated January 19, 2011
- (b) SC Code of Laws Sections 1-11-55 and 1-11-56

AGENCY: Division of General Services

SUBJECT: Horry-Georgetown Technical College Commission Lease to Horry County School District

Horry-Georgetown Technical College (HGTC), requests approval to lease to Horry County School District approximately two acres of land on its Conway Campus at 2050 Highway 501 East in Conway for the construction and operation of a new 38,000 square foot building to house the School District's early college high school program. The early college high school program is an academic partnership between HGTC and the School District that currently consists of 400 students who, at the conclusion of four years, receive a high school diploma and up to a two-year associate degree from HGTC.

Currently, HGTC provides approximately 30,000 square feet of space in two of the college's buildings to the School District for the operation of the early college high school program and pays for all maintenance and operating costs associated with the program's use of the facilities.

The new facility, estimated to cost \$12,557,835, will be funded entirely by the School District. HGTC will be responsible for grading and leveling the land and installing erosion control sediments prior to construction, obtaining and maintaining all necessary utility easements, constructing a car loop, and constructing vehicular and pedestrian ingress to and egress from the facility. The estimated cost of these improvements is estimated to cost \$196,000. In addition, HGTC will be responsible for providing exterior security, landscaping and grounds maintenance at the facility once constructed, which services are not expected to cost HGTC any additional money. The School District will be solely responsible for all costs associated with operating and maintaining the facility once constructed.

The School District has requested a 50 year lease term with one optional renewal term of 25 years to justify the expense of the improvements and in accordance with the typical life expectancy of similar public buildings. Rent will be \$1.00 per year for the initial term and renewal term. The School District may terminate the lease at any time after five years. In accordance with the terms of the lease, HGTC will purchase the facility at the expiration or early termination of the lease for the appraised depreciated value of the building at the time of purchase, subject to the approval of the Joint Bond Review Committee, the Budget and Control Board and/or any other necessary approvals. HGTC will benefit from the School District's construction and operation of the new high school by reclaiming the space it has been providing for the program at an annual cost to HGTC of approximately \$299,000 for maintenance and operating expenses. In addition, HGTC will continue to receive tuition revenue of approximately \$480,000 annually for the 400 students in the program.

BOARD ACTION REQUESTED:

Approve the proposed 50 year lease and optional renewal term of 25 years from Horry-Georgetown Technical College Commission to Horry County School District at 2050 Highway 501 East in Conway.

ATTACHMENTS: Agenda item worksheet; Letter from Horry-Georgetown Technical College dated March 21, 2011; SC Code of Laws Sections 1-11-55 and 1-11-56

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 2, 2011

Regular Agenda

1. Submitted by:

- (a) Agency: Division of General Services
- (b) Authorized Official Signature:



Charles R. Platt, Director

2. Subject: Horry-Georgetown Technical College Commission Lease to Horry County School District

3. Summary Background Information:

Horry-Georgetown Technical College (HGTC), requests approval to lease to Horry County School District approximately two acres of land on its Conway Campus at 2050 Highway 501 East in Conway for the construction and operation of a new 38,000 square foot building to house the School District's early college high school program. The early college high school program is an academic partnership between HGTC and the School District that currently consists of 400 students who, at the conclusion of four years, receive a high school diploma and up to a two-year associate degree from HGTC.

Currently, HGTC provides approximately 30,000 square feet of space in two of the college's buildings to the School District for the operation of the early college high school program and pays for all maintenance and operating costs associated with the program's use of the facilities.

The new facility, estimated to cost \$12,557,835, will be funded entirely by the School District. HGTC will be responsible for grading and leveling the land and installing erosion control sediments prior to construction, obtaining and maintaining all necessary utility easements, constructing a car loop, and constructing vehicular and pedestrian ingress to and egress from the facility. The estimated cost of these improvements is estimated to cost \$196,000. In addition, HGTC will be responsible for providing exterior security, landscaping and grounds maintenance at the facility once constructed, which services are not expected to cost HGTC any additional money. The School District will be solely responsible for all costs associated with operating and maintaining the facility once constructed.

The School District has requested a 50 year lease term with one optional renewal term of 25 years to justify the expense of the improvements and in accordance with the typical life expectancy of similar public buildings. Rent will be \$1.00 per year for the initial term and renewal term. The School District may terminate the lease at any time after five years. In accordance with the terms of the lease, HGTC will purchase the facility at the expiration or early termination of the lease for the appraised depreciated value of the building at the time of purchase, subject to the approval of the Joint Bond Review Committee, the Budget & Control Board and/or any other necessary approvals. HGTC will benefit from the School District's construction and operation of the new high school by reclaiming the space it has been providing for the program at an annual cost to HGTC of approximately \$299,000 for maintenance and operating expenses. In addition, HGTC will continue to receive tuition

revenue of approximately \$480,000 annually for the 400 students in the program.

4. What is the Board asked to do? Approve the proposed 50 year lease and optional renewal term of 25 years from Horry-Georgetown Technical College Commission to Horry County School District at 2050 Highway 501 East in Conway.

5. What is recommendation of the Division of General Services? Approval of the proposed 50 year lease and optional renewal term of 25 years from Horry-Georgetown Technical College Commission to Horry County School District at 2050 Highway 501 East in Conway.

6. List of Supporting Documents:

- (a) Letter from Horry-Georgetown Technical College dated March 21, 2011
- (b) SC Code of Laws Sections 1-11-55 and 1-11-56



Office of the President

H. Neyle Wilson

March 21, 2011

Ms. Lisa H. Catalonotto
State Budget and Control Board - General Services Division
Real Property Management - Program Manager/Attorney
1200 Senate Street, Suite 460
Columbia, SC 29201

Re: Horry-Georgetown Technical College Lease at 2050 Highway 501 East, Conway, SC

Dear Ms. Catalonotto:

Since 2006, Horry-Georgetown Technical College (HGTC) has been in an academic partnership with Horry County Schools (HCS) for the purpose of operating an Early College High School (ECHS) program on the College's Conway Campus. The ECHS program consists of 400 high school students who take all of their high school classes, from freshmen through their senior year, at HGTC. During their four years in the ECHS program, the students also enroll in college classes. At the conclusion of their senior year, students receive a high school diploma and up to a two-year associate degree from HGTC.

The success of this program has exceeded all expectations, achieving a graduation rate of 100%. Equally important is that most of the graduating seniors continue their academic careers. Moreover, through a strategic partnership with the private sector, scholarships toward a baccalaureate degree are made available to many of these students who otherwise could not afford completion of their four-year degree.

With the proven success of the program, Horry County Schools desires to construct a stand-alone building on the HGTC Campus located at 2050 Highway 501 East, Conway, South Carolina, that will be dedicated to the ECHS program. The proposed 38,000 square foot building will be funded entirely by HCS and all ongoing operating costs will be the sole responsibility of the school district. The College desires to lease approximately 2.0 acres of land to HCS for the purpose of allowing the school district to construct a new high school. This acreage will also accommodate necessary vehicular access, pedestrian traffic, and parking.

The benefits of the proposed lease arrangement to HGTC are several. First, the College will reclaim approximately 30,000 square feet of academic and support space currently dedicated to the ECHS program. When compared to the cost of new construction, reclaiming 30,000 square feet of

Horry-Georgetown Technical College

P.O. Box 261966 / Conway, SC / 29528-6066 / www.hgtc.edu

Conway Campus: 843-347-3186 / Fax 843-347-4207 / Georgetown Campus: 843-546-8406 / Grand Strand Campus: 843-477-0808

Ms. Lisa H. Catalonotto
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March 21, 2011

existing space at no cost is an economic windfall for the College. Second, the College will continue to receive tuition revenue for the additional 400 students, yet will have no (zero) construction, maintenance, or operating costs associated with this new building. Today, the College is responsible for all operating costs associated with the ECHS occupied space. Last, construction of the new building will ensure the continuity of this highly successful academic program into the future.

The Budget and Control Board's Division of General Services, Real Property Services Office has worked with HGTC to develop a ground lease agreement that we believe fully complies with all South Carolina codes of law, and that reflects the operating needs of both the College and Horry County Schools. The proposed ground lease has an initial term of 50 years, with a renewal clause for an additional 25 years. Should the ECHS program ever be terminated, HGTC will contractually have the first right of refusal to acquire the building at or below market rates. In consideration of the economic advantages to HGTC, the College desires to lease the land to HCS at the rate of \$1 per year.

We are immensely sensitive to the budget crisis facing our agency and the State as a whole in negotiating the terms for this lease. Simply stated, our primary goal was to achieve an agreement that holistically provided the greatest economic advantages to South Carolina and our agency, while balancing the financial and legal requirements of HCS and the academic components that have led to the success of this program. Given the terms and conditions of the proposed lease agreement, we feel we have clearly achieved our desired goal.

On behalf of Horry-Georgetown Technical College and its Area Commission, we respectfully request the approval of the proposed lease between Horry-Georgetown Technical College and Horry County Schools.

Sincerely,



H. Neyle Wilson
President

SECTION 1-11-55. Leasing of real property for governmental bodies.

(1) "Governmental body" means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branches of this State. Governmental body excludes the General Assembly, Legislative Council, the Office of Legislative Printing, Information and Technology Systems, and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts.

(2) The Budget and Control Board is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section.

(3) When any governmental body needs to acquire real property for its operations or any part thereof and state-owned property is not available, it shall notify the Office of General Services of its requirement on rental request forms prepared by the office. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as General Services may require. Upon receipt of any such request, General Services shall conduct an investigation of available rental space which would adequately meet the governmental body's requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been located which the governmental body and the office agree meets necessary requirements and standards for state leasing as prescribed in procedures of the board as provided for in subsection (5) of this section, General Services shall give its written approval to the governmental body to enter into a lease agreement. All proposed lease renewals shall be submitted to General Services by the time specified by General Services.

(4) The board shall adopt procedures to be used for governmental bodies to apply for rental space, for acquiring leased space, and for leasing state-owned space to nonstate lessees.

(5) Any participant in a property transaction proposed to be entered who maintains that a procedure provided for in this section has not been properly followed, may request review of the transaction by the Director of the Office of General Services or his designee.

SECTION 1-11-56. Program to manage leasing; procedures.

The State Budget and Control Board, in an effort to ensure that funds authorized and appropriated for rent are used in the most efficient manner, is directed to develop a program to manage the leasing of all public and private space of state agencies. The board's regulations, upon General Assembly approval, shall include procedures for:

- (1) assessing and evaluating agency needs, including the authority to require agency justification for any request to lease public or private space;
- (2) establishing standards for the quality and quantity of space to be leased by a requesting agency;
- (3) devising and requiring the use of a standard lease form (approved by the Attorney General) with provisions which assert and protect the state's prerogatives including, but not limited to, a right of cancellation in the event of:
 - (a) a nonappropriation for the renting agency,
 - (b) a dissolution of the agency, and
 - (c) the availability of public space in substitution for private space being leased by the agency;
- (4) rejecting an agency's request for additional space or space at a specific location, or both;
- (5) directing agencies to be located in public space, when available, before private space can be leased;
- (6) requiring the agency to submit a multi-year financial plan for review by the board's budget office with copies sent to Ways and Means Committee and Senate Finance Committee, before any new lease for space is entered into; and requiring prior review by the Joint Bond Review Committee and the requirement of Budget and Control Board approval before the adoption of any new lease that commits more than one million dollars in a five-year period; and
- (7) requiring prior review by the Joint Bond Review Committee and the requirement of Budget and Control Board approval before the adoption of any new lease that commits more than one million dollars in a five-year period.

AGENCY: ARRA Advisory Committee

SUBJECT: ARRA Volume Cap Recommendation

The American Recovery and Reinvestment Act (ARRA) of 2009 provided or expanded authority for certain types of entities to borrow funds with favorable tax treatment in two areas: recovery zone bonds (economic development and facilities bonds) or qualified energy conservation bonds.

Act 290 of 2010 created the South Carolina Volume Cap Allocation Act (the Act) which designated the Budget and Control Board as the entity responsible for managing the reallocation of certain unused ARRA Bond volume cap allocations. As defined in the Act, ARRA Bonds include Qualified Energy Conservation Bonds as described in ARRA. The Act delegated to the Board the authority to allocate or reallocate the volume cap authorized for South Carolina in ARRA. As prescribed by this law, on June 30, 2010, the Board created an Advisory Committee to make recommendations for allocation or reallocation of volume cap. The Committee consists of the Executive Director of the Budget and Control Board or her designee, the Secretary of Commerce or his designee, the Executive Director of the Association of Counties or his designee, the Executive Director of the South Carolina Jobs-Economic Development Authority or his designee, the Director of the Office of Local Government of the Budget and Control Board, and the Director of the Energy Office of the Budget and Control Board or her designee.

At its meeting on April 7, 2011, the Advisory Committee met to consider a Qualified Energy Conservation Bond request for allocation or reallocation. The Advisory Committee makes the following recommendation for reallocation:

APPLICANT	RECOMMENDATION	PROJECT DESCRIPTION
South Carolina Jobs-Economic Development Authority (on behalf of Abundant Power Solutions, LLC)	\$10,000,000—QECB	Implementation of a green community program in Charleston and surrounding communities

BOARD ACTION REQUESTED:

Approve the ARRA Advisory Committee's recommendation for reallocation for South Carolina Jobs-Economic Development Authority (on behalf of Abundant Power Solutions, LLC/Charleston Clean Energy Bond Finance Corp.) in the amount of \$10,000,000.

ATTACHMENTS:

Act 290 of 2010; Energy Office Agenda Item Worksheet; Abundant Power QECB Bond Application

Volume Cap Allocation Act

SECTION 15. A. Title 11 of the 1976 Code is amended by adding:

"CHAPTER 18
South Carolina Volume Cap Allocation Act

Section 11-18-5. This chapter shall be known as the 'South Carolina Volume Cap Allocation Act'.

Section 11-18-10. The General Assembly finds and determines that:

(a) Sections 1400U-2 and 1400U-3 of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5.123 Stat. 115 (2009) (codified at Section 1400U-2 and -3 of the Internal Revenue Code) ('ARRA') added two new types of bonds as recovery zone bonds:

(1) a new type of exempt facility bonds called 'recovery zone facility bonds' to be used to finance construction, renovation, and equipping of recovery zone property for use in any trade or business in a recovery zone, all as defined in ARRA; and

(2) a new type of governmental bond called 'recovery zone economic development bonds.'

(b) The provisions of ARRA provide a formula for allocation of authority to issue recovery zone facility bonds and recovery zone economic development bonds to the states and by the states to the counties and large municipalities within the states. The United States Department of the Treasury, Internal Revenue Service provided for recovery zone bond volume cap allocations in IRS Notice 2009-50 and provided calculations for individual counties and large municipalities on that same date. The notice made specific provision for reallocation of the volume cap allocations that are waived or deemed waived by a county or municipality by giving the state in which such county or municipality is located the authority to reallocate the waived volume cap in any reasonable manner as it shall determine in good faith in its discretion.

(c) Section 1112 of ARRA amended Section 54D(d) of the Internal Revenue Code to increase the volume cap authorization for qualified energy conservation bonds, which were created by Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. 110-343.122 Stat. 1365 (2008). The United States Department of the Treasury, Internal Revenue Service provided for qualified energy conservation bond volume cap allocations to the states in IRS Notice 2009-29 and authorized the states to allocate such volume cap allocations.

(d) Because of several factors, including the relatively small amounts of some of the allocations, limitations on legal borrowing capacity affecting counties and large municipalities and the lack of access to borrowing by possible beneficiaries of the bonds described above, very little of the allocations of bonds described herein have been utilized in connection with the issuance of these bonds in South Carolina.

(e) These bonds are a valuable resource to South Carolina in its efforts to revitalize its economy and to provide additional employment, all to the promotion of the health and welfare of the citizens of South Carolina.

(f) Because recovery zone bonds must be issued before January 1, 2011, it is in the best interests of the State to provide a procedure for determining as to when counties or large municipalities have waived their allocations of these bonds and to provide for the reallocation of such waived allocations.

(g) Recovery zone facility bonds are bonds with substantially all of the proceeds of which are used for 'recovery zone property, as defined in the ARRA. The definition of 'recovery zone property' includes facilities that may not currently be authorized under the State's private activity bond enabling statutes. These projects will provide much needed employment, thus it is the best interest of the health and welfare of the citizens of the State to provide authorization for bonds to finance recovery zone property.

(h) The purposes of this chapter is to provide the procedures for the reallocation of recovery zone bonds as well as provide the authorization for the allocation of Qualified Energy Conservation Bonds and Other Federal Bonds as defined below.

Section 11-18-20. (a) 'ARRA bonds' mean:

(1) recovery zone bonds authorized under Section 1401 of ARRA; and

(2) Qualified Energy Conservation Bonds authorized under Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. 110-343, 122 Stat. 1365 (2008) as amended by Section 112 of ARRA.

(b) 'Board' means the South Carolina Budget and Control Board.

(c) 'Code' means the Internal Revenue Code of 1986, as amended.

(d) 'Local Government' means each county and municipality that received an allocation of Volume Cap pursuant to the Code and IRS Notice 2009-50.

(e) 'Other federal bonds' mean any such bond, whether tax - exempt, taxable or tax credit, created after the date hereof whereby a volume cap limitation is proscribed under the Code.

(f) 'Qualified energy conservation bond' means the term as defined in Section 54D(a) of the Code.

(g) 'Recovery zone' means the term as defined in Section 1400U-1(b) of the Code.

(h) 'Recovery zone economic development bond' means the term as defined in Section 1400U-2 of the Code.

- (i) 'Recovery zone facility bond' means the term as defined in Section 1400U-3 of the Code.
- (j) 'State' means the State of South Carolina.
- (k) 'Volume Cap' means the amount or other limitation of ARRA Bonds allocated to each state and to counties and large municipalities within each state in accordance with Section 1400U-1(a)(4) of the Code, with respect to Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds, Section 54D(e)(1) of the Code, with respect to Qualified Energy Conservation Bonds, and any other section of the Code which imposes a volume cap limitation on any other Federal Bonds.

Section 11-18-30. For any Volume Cap allocation of Qualified Energy Conservation Bonds and any other Volume Cap allocation for Other Federal Bonds, which has not been or shall not be further suballocated by the Code, the Internal Revenue Service or the United States Department of the Treasury, the board is authorized to suballocate such Volume Cap allocation.

Section 11-18-40. (A) In accordance with the provisions of this chapter, the board shall establish a method for determining when a Local Government has waived all or part of its Volume Cap allocation and shall manage the reallocation of such Volume Cap. All allocations and reallocations made pursuant to this chapter shall be made by the board with the advice and recommendation of an advisory committee which the board may from time to time appoint and which shall be comprised of members who are, in the sole determination of the board, familiar with the subject matter germane to the specific federal bond program.

(B) When appropriate, the board shall provide written notice of Volume Cap allocations of ARRA Bonds and Other Federal Bonds to Local Governments by United States registered or certified mail. Written notice shall be effective on the date shown on the return receipt. Such notice may include a deadline by which ARRA Bonds and Other Federal Bonds must be issued.

(C) A Local Government may waive its Volume Cap allocation by providing written notice of such waiver to the board within thirty days of the written notice provided in subsection (b).

(D) In determining when a Local Government has waived all or part of its Volume Cap, the board shall provide that if it has not received from a Local Government a notice of intent to use its Volume Cap allocation within a designated number of days of the written notice provided in subsection (B), the Local Government shall be deemed to have waived its Volume Cap allocation. The form of the notice of intent to use a Local Government's Volume Cap allocation shall be determined by the board. Each notice of intent to use its Volume Cap allocation submitted by a Local Government must contain evidence satisfactory to the board, in its sole discretion, that the allocation will in fact be used. This evidence may consist of:

- (1) resolution or otherwise of the designation of a Recovery Zone, if such designation is required;
- (2) the form of the resolution or ordinance in substantially final form authorizing the issuance of bonds or approving such other financing as may be done accompanied by a written opinion of

legal counsel that the Local Government has the legal ability to effect such issuance or borrowing;

(3) a written opinion of legal counsel that the ARRA Bonds or Other Federal Bonds that the Local Government intends to issue will qualify, based on information available at that time to such legal counsel, as such ARRA Bonds or Other Federal Bonds when issued;

(4) a schedule for the closing of the issue which must not be later than a date determined by the board; and

(5) other documentation as the board deems appropriate.

(E) Failure to issue ARRA Bonds or Other Federal Bonds by any deadline established by the board shall constitute a waiver of Volume Cap allocation unless the board extends such deadline.

Section 11-18-50. (A) Within thirty days of the effective date of this chapter, the board shall develop a form for use by any eligible issuer in applying for reallocation of any waived Volume Cap allocation. Applications for reallocation may be accepted by the board at times prescribed by the board. The board may make reallocations as soon as it determines that there is an actual or deemed waiver of any Volume Cap allocation.

(B) In making reallocations, the board may consider the following factors:

(1) the likelihood of successful completion of such financing;

(2) the number of jobs to be created or preserved and the wages for such jobs;

(3) relative economic need and benefit to the applicant and any other entity benefiting from the proposed issue; and

(4) the overall best interest of the State and the people of the State.

(C) Upon making any reallocation, the board shall provide written notice of the reallocation of Volume Cap to the eligible issuer by United States registered or certified mail.

Section 11-18-60. Local Governments allocated Volume Cap pursuant to this chapter may, by order or resolution of its governing body, suballocate such allocation to any other eligible issuers authorized to issue ARRA Bonds or Other Federal Bonds pursuant to the Code or any related pronouncements made by the Internal Revenue Service or the United States Treasury Department. Each Local Government that suballocates Volume Cap shall attach a copy of the order, ordinance or resolution authorizing the suballocation to its notice of intent to use Volume Cap required by Section 11-18-40. Local Governments shall be authorized to take any other action required by the Code or related pronouncements made by the Internal Revenue Service or the Treasury Department to issue ARRA Bonds or Other Federal Bonds.

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 2, 2011

Agenda: Blue

1. Submitted By:

(a) Agency: *B&C Bd. – Energy Office*

(b) Authorized Official Signature: _____



2. Subject:

Qualified Energy Conservation bond reallocation to JEDA for Abundant Power/City of Charleston Green Community Program.

3. Summary and Background Information:

Reallocation to: JEDA

Reallocation Amount: \$10,000,000

Purpose/Description: Recommendation to reallocate \$10MM of the volume cap QECB allocations to the South Carolina Jobs-Economic Development Authority (SC JEDA) for the benefit of Abundant Power Solutions, LLC, to implement a green community program in Charleston.

Project Impact: Completion of this project will create approximately 96 jobs and save businesses and residents over \$2,000,000/year in energy costs.

Cost of Project: \$ 10,000,000

SCEO recommendation: \$10,000,000 authority reallocation.

4. What is Board asked to do?

Approve reallocation request in the amount of \$10,000,000.00.

5. What is recommendation of Board Division involved?

Approve request in the amount of \$10,000,000.00

6. Recommendation of other Division/agency (as required)?

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. Supporting Documents

(a) List Those Attached:

Abundant Power QECB Bond Application

(b) List Those Not Attached But Available From Submitter:

Qualified Energy Conservation Bonds
Allocation Application
South Carolina Energy Office
408 Wade Hampton Building
1200 Senate Street
Columbia, South Carolina 29201
Phone (803) 737-8030/ Fax (803) 737-9846

I. Applicant Information:

Please print or type clearly.

Name of Institution: Abundant Power Solutions, LLC, on behalf
of SC non-profit corporation to be named

Street Address: 1355 Greenwood Cliff, Suite 300
Charlotte, NC 28204

Mailing Address: Same

Federal Tax ID#: 26-4092146

Contact Person: Lawrence L. Ostema

Telephone #: 704-271-9887

Signatory Official: Lawrence L. Ostema

Position: Manager

Telephone #: 704-271-9887

Fax #: 704-271-9891

II. Type of Institution:

Please mark appropriate description:

Public School District: _____

County / City: _____

Municipality: _____

State Agency: _____

501(c)(3) Corporation: _____

Other: Specify

SC nonprofit corporation to be formed
(see VI. below)

III. Bond Purpose (Type of Project):

Description of Project: (Attach additional pages as needed. Refer to 26 USC § 54D for eligible measures)

See attached.

Project Estimated Start Date: Second quarter 2011
 Project Estimated Completion Date: December 2012
 Estimated Number of Jobs Created: 96 (see attached)

IV. Location of Project:

Name of Building(s) Numerous commercial, multi-family,
 Building Ownership affordable and, potentially residential
 Address: properties throughout the City of
Charleston

County of Improvements: Charleston

V. Technical Analysis (Name of person or firm who completed either):

Energy Audit: N/a
 Or
 Architect/Engineer design: Derek McGarry, Abundant Power

VI. Project Cost Summary:

<u>Type of</u> <u>Energy Measures</u>	<u>Estimated</u> <u>Cost</u>	<u>Projected</u> <u>Annual Savings</u>
<u>See attached.</u>		

Total Project Cost: \$10,000,000 Total Savings: See attached

Bond Issuer: SC Jobs Economic Development Authority

Bond Counsel: McGuire Woods LLP

Financing Mechanism: Private placement

VII. Allocation Information:

Requested Allocation Amount: \$10,000,000
Percentage Private Activity Bonds: 0%

VIII. Accompanying Documents & Signature(s):

Note: The documents noted below must be submitted and approved prior to allocation approval.

1. Copy of Technical Analysis See attached.
 2. Current Financial Statement
 3. Financial Summaries For Last 3 years
 4. In addition, successful projects may be required to certify compliance with Davis-Bacon, Buy American, and NEPA as appropriate.
-

Applicant's Signatory Official or Chief Financial Officer:

Name: Lawrence L. Ostema

Title: Manager

Signature: 

Date: February 24, 2011



Supplement to:

Qualified Energy Conservation Bonds
Allocation Application
South Carolina Energy Office
408 Wade Hampton Building
1200 Senate Street
Columbia, South Carolina 29201
Phone (803) 737-8030/Fax (803) 737-9846

Response to Section III. Bond Purpose (Type of Project):

Applicant proposes to issue the Qualified Energy Conservation Bond (the “Bond”) as a conduit issuance through the South Carolina Jobs-Economic Development Authority (“JEDA”) for the benefit of the City of Charleston (the “City”) as the initial capital for the commercial, affordable multi-family and related properties (“Commercial Properties”) and, potentially, residential properties of its Clean Energy Loan Program, known as CharlestonWISE (the “Program”). CharlestonWISE (Worthwhile Investments Save Energy) is a program being administered by the Applicant in partnership with the City of Charleston and the Sustainability Institute of South Carolina. The Program is a qualifying “Green Community Program” under 26 USC Section 54D.

The proceeds of the sale of the Bond will be used to finance energy efficiency assessments as well as energy efficiency and renewable energy improvements (“Energy Improvements”) to Commercial Properties and, potentially, residential properties throughout the City. Project Approval, Performance Measurement & Verification and Vendor Approval and Management criteria to be performed by Applicant for the Program are attached.

At least \$8 million of the Bond proceeds will be used specifically to finance Energy Improvements to Commercial Properties, participating in the Program and located within the City of Charleston.

It is the intent of the Program to include up to \$2 million of the Bond proceeds to finance Energy Improvements to privately owned residential properties; provided, however, that sufficient options are available for a pooled structure potentially attractive to capital market investors. Specifically, two potential opportunities exist to include residential property improvements in this offering. First, HUD is launching a pilot energy efficiency financing program entitled “PowerSaver” through which FHA will guarantee up to 90% of qualifying energy efficiency loans. Second, the City is launching an additional residential property revolving loan fund. Loans from a PowerSaver program in the City or the revolving loan fund may be available for pooling and sale into this offering. In the event that such loan pools are not available, all

proceeds from the sale of the bonds of this offering will be used for Energy Improvements to Commercial Properties. The Bond will be secured by the promissory note and any and all related security instruments of the loans to each borrower pursuant to the Program. In addition, the Program will coordinate the commercial property assessments and improvements through an energy services company selected from the Department of Energy's Qualified List of Energy Service Companies (an "ESCO"). The Bond will be additionally credit enhanced by a financial guarantee from the ESCO. This credit enhancement is critical to attracting bond purchasers to the offering and is not otherwise currently available to the Program. Without the credit enhancement from the ESCO, the Program will not be able to take advantage of this source of capital. In addition, Applicant believes this structure will allow the ESCO to serve smaller Commercial Properties than might otherwise typically be eligible for an energy services performance contract.

This structure will not only help support individual property owners save energy and reduce energy costs, it will propel job growth and economic development of the energy efficiency sector both locally (i.e., through every assessment and improvement performed) and across the state (i.e., as the Program reaches a larger pool of property owners than currently served by the ESCOs or Weatherization Assistance Providers).

Applicant proposes to organize the Charleston Clean Energy Bond Finance Corp., a South Carolina not-for-profit corporation, formed to be the obligor of the conduit issuance with JEDA and to serve as the lender of funds to all Bond financed property owners in the City pursuant to the Program.

Please see attached a Statement of Qualifications of Applicant.

Response to Section VIII. Accompanying Documents:

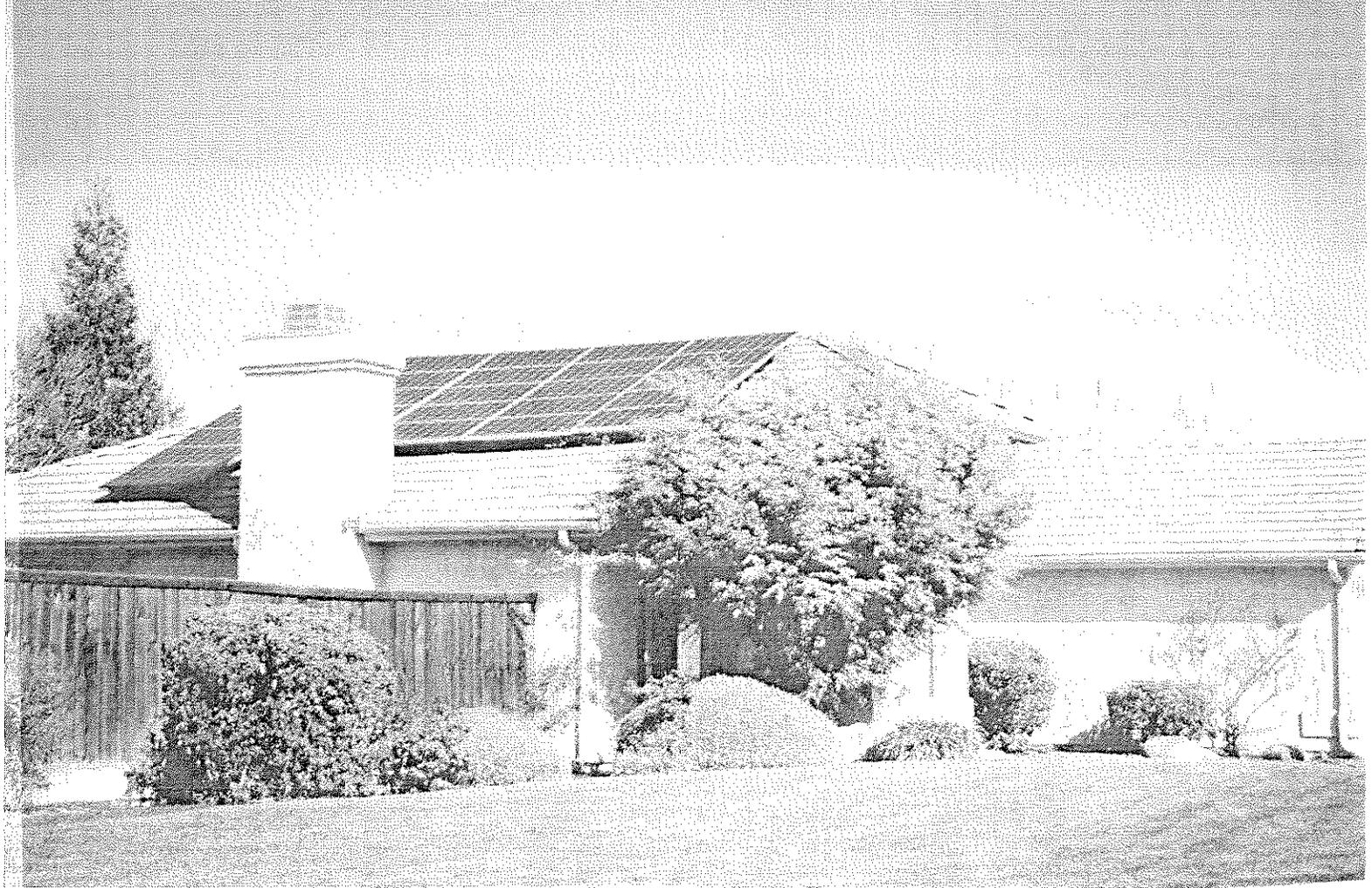
1. Not applicable as review of the applications for individual projects will commence on or about March 1, 2011, with an estimated closing of the Bond and the funding of those properties to occur by the end of the second quarter of 2011.
2. Not applicable as the obligor does not have an operating history.
3. Not applicable as the obligor does not have an operating history.
4. Obligor and Applicant will comply with all Davis-Bacon, Buy American, NEPA and related obligations as issuer of the Bond and administrator of the Program.

Please attached:

- A. Statement of Qualifications of Abundant Power
- B. Project Approval and M&V Policy
- C. Vendor Approval and Management
- D. Estimated Job and Energy/Cost Impacts

ATTACHMENT A

Statement of Qualifications of Abundant Power



STATEMENT OF QUALIFICATIONS

THIRD PARTY SOLUTIONS FOR CLEAN ENERGY FINANCING PROGRAMS

February 2012

Abundant Power Solutions, LLC
1355 Greenwood Cliff, Suite 300
Charlotte, NC 28204
Main: 704-271-9890
www.abundantpower.com

ABUNDANT
 POWER

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INTRODUCTION TO ABUNDANT POWER

Abundant Power Solutions, a division of Abundant Power Group, LLC, provides comprehensive and innovative capital and program solutions to public entities throughout the country seeking to implement and promote renewable energy, energy efficiency or carbon reduction strategies within their jurisdictions. Headquartered in Charlotte, North Carolina, Abundant Power's mission is to facilitate the transformation of the United States into a low carbon, clean energy economy.

As a result of our mission, we have a dedicated staff of professionals that have focused since inception on energy efficiency financing programs. Energy financing programs are one of the most powerful tools to stimulate green collar jobs. Public-private partnerships enable participating governments to stimulate projects that create sustainable and verifiable energy savings for their constituents.

Utilizing our core *SAVESTM* (*Sustainable and Verifiable Energy Savings*) platform, Abundant Power facilitates the launch of a new program or scale-up of an existing program. As third party administrators and financiers, we streamline and simplify the process, leverage economies of scale across multiple political jurisdictions when appropriate, and make the experience smooth for your community's property owners. Below is a quick overview of the services we provide to you:

Abundant Power – SAVES™ (Sustainable and Verifiable Energy Savings)

Our technology platform, *SAVES™ (Sustainable and Verifiable Energy Savings)*, enables you to deploy programs quickly and includes a web portal for consumers and contractors, educational resources and tools, virtual utility benchmarking, automated underwriting functions, and industry leading QA/QC protocols.

Program Design Services:

- Goals Assessment
- Information Gathering
- Demand Analysis
- Multi-Variable Optimization
- Financial Structure
- The *SAVES™* Chassis

Program Administration and Marketing:

- Web Portal
- Contractor Management and Oversight
- Workforce Development and Training Support
- Payment Management and Loan Servicing
- Program Validation and Quality Assurance
- Dedicated Team and Staffing

Financing Capacity and Services:

- Leveraged Public and Private Resources
- Financial Enhancements
- Innovative Aggregation Strategies
- Loan Origination, Underwriting, and Purchase





1.0 PROGRAM DESIGN SERVICES

To support a wide variety of delivery models, we have designed a core energy financing platform called *SAVES™*. The *SAVES™* chassis enables local and state governments to rapidly develop full-scale initiatives while elevating public accountability of program effectiveness.

The platform design integrates nationally recognized standards and protocols to instill consumer trust and provide a level of conformance across all loan portfolios. Using proprietary optimization techniques, we customize each program design to best align with the energy and economic development goals of a particular community.

As part of program design, Abundant Power provides a comprehensive report with options and their impacts to help local leaders and elected officials make informed decisions.

Program Design Services

- Goals Assessment
- Information Gathering
- Demand Analysis
- Multi-Variable Optimization
- Financial Structure
- The *SAVES™* Chassis

1.1 GOALS ASSESSMENT

Emissions reductions, energy savings, economic stimulation and job creation are a few of the goals and focus items often desired by program hosts. Abundant Power works with local stakeholders to identify metrics and targeted outcomes that are most important.

1.2 INFORMATION GATHERING

History and Lessons Learned

There are a number of property assessment type programs that have been launched across the country over the past two years, and even more on-bill financing programs over the past two decades. Abundant Power has reviewed each of these in detail, interviewed administrators and studied the rationale behind design decisions to inform the *SAVES™* platform. Additionally, the *SAVES™* chassis collects and analyzes data for the life of each and every loan, looking for ways to continually improve the program.

Stakeholder Development

Many existing and newly developed not-for-profit and for-profit organizations provide significant opportunities for collaboration and synergies. Local workforce development, community based marketing initiatives and partnering opportunities for economic development are activities best handled in a local context. Abundant Power is accustomed to welcoming any interested stakeholder to collaborate and participate in making a program successful.

Community Input

As part of any program design process, Abundant Power can lead “town hall” style meetings to educate potential stakeholders and program participants of the general benefits of a program and seek community input vital to widespread adoption.

1.3 DEMAND ANALYSIS

Overall program market size is highly dependent on the design, administration and financing characteristics of the Program. Abundant Power works with local agencies to identify building types and customer constituencies that would benefit most from 100% financing solutions. The *SAVES™* chassis can be applied to residential, commercial and industrial project types, both for energy efficiency and renewable energy installations.

1.4 MULTI-VARIABLE OPTIMIZATION

Human nature is to simplify complex problems in order to rationalize “optimum” solutions. However, rather than justify a pre-determined financing solution, Abundant Power’s unique and proprietary *DesignSolutions* tool allows us to analyze multiple program objectives in unison and show visually how and why chosen parameters are best for your locality.

1.5 LEGAL STRUCTURE

Abundant Power partners with experienced local law firms to offer solutions that comply with existing pertinent legislation. We provide political jurisdictions with an evaluation of legal issues arising from a Program’s structure as well as ways to resolve potential concerns.

1.6 FINANCIAL STRUCTURE

The underlying nature of financial assets created through clean energy financing programs is that they provide energy and cost savings for the consumer. Abundant Power’s *SAVESTM* chassis is designed to document performance over time and to provide the data required to support healthy credit ratings for secondary loan pools. We also are in continuous dialogue with regional banks and larger financial institutions to ensure our programs are suited for low-cost institutional capital. Public and private resources are often leveraged for program start-up and capitalization to keep costs low for initial loan applicants, but credit ratings of participating local governments are not impacted.

1.7 THE *SAVESTM* CHASSIS

Abundant Power understands that a sustainable efficiency retrofit and distributed renewable energy market depends on proven and documented results. The owners and tenants of residential, commercial and industrial facilities must experience positive outcomes starting at program entry and carrying through to the end of the financing term. We have thus developed a platform that provides the necessary functionality to ensure a seamless experience for the consumer. A public/private partnership with Abundant Power utilizing the *SAVESTM* platform results in high quality, scalable results for loan programs. Economies of scale are passed through to consumers through lower costs and greater value.

An energy usage baseline, or “benchmark”, is established at the very beginning of the process based on historical utility costs. From this point forward, until the end of the loan term, energy usage is tracked and analyzed to evaluate and document the results of energy upgrades. The basic diagram of the consumer process is outlined below. Abundant Power provides the oversight and structure to ensure quality contractor installations and reasonable expectations of savings:

SAVES™ (Sustainable and Verifiable Energy Savings)

The Abundant Power platform, *SAVES™*, serves as the chassis for rapid creation of energy financing programs, enabling local governments to save money for participating constituents, generate significant job growth and greatly reduce environmental impacts of buildings.

- Automated Energy Savings Assessment
- Simple Application
- Fast Pre-Approval/Underwriting
- Professional Audit and Installation
- Vendor Payment Management
- Measure, Analyze and Report Performance
- Loan/Assessment Repaid on Bill



2.0 PROGRAM ADMINISTRATION AND MARKETING

Program Administration and Marketing:

- Web Portal
- Contractor Management and Oversight
- Workforce Development and Training Support
- Payment Management and Loan Servicing
- Program Validation and Quality Assurance
- Dedicated Team and Staffing

2.1 WEB PORTAL

The *SAVES™* web portal is designed to enable rapid program launch in any local, regional or statewide area, with the following major components provided for every program:

- Public portal for prospective participants, participating customers, and program reporting.
- Pre-application engine that integrates the customer/building data capture with energy analysis, peer comparison, and loan origination functions.

- Contractor portal for program resources, job outcome reporting, and work tracking, supporting quality assurance and quality control (“QA/QC”).

Local branding with distinct visual design and content can be rapidly applied. Contractors, auditors and vendors are provided secure password protected access to project tracking, contractor specific performance metrics, scheduling tools and other resources. Participating property owners and tenants are provided secure password protected access to the performance of their property and how it compares to estimates they were given.

2.2 CONTRACTOR MANAGEMENT AND OVERSIGHT

To ensure quality workmanship and positive consumer experiences, every business that wishes to participate in a program must document proof of proper qualifications and licenses, participate in a program-specific orientation, and submit to ongoing reporting and quality assurance standards. Abundant Power leverages established national credentialing and licensing programs to make selection of pre-qualified vendors a transparent and open process.

Local contractors, vendors, consultants, engineers and auditors serve as the implementation and marketing “engine” of a program’s initiatives. Job growth and economic development are one of the most attractive aspects for most communities. Abundant Power’s *SAVESTM* platform helps participating contractors grow their businesses by providing 100% financing for their customers. Each contractor will be provided with training on how best to navigate through the program. Customized marketing materials that co-brand their images alongside program branding give local businesses the opportunity to originate and complete projects on their own.

The *SAVESTM* web portal automatically generates pre-qualified leads and connects auditors and contractors with program participants. Over time, successful outcomes are highlighted through proven results documented by the *SAVESTM* data platform. Competition and innovation is highly encouraged and stimulated through independent metrics and documented consumer feedback.

2.3 WORKFORCE DEVELOPMENT AND TRAINING

Abundant Power builds an inventory of relevant local and regional resources that can support program growth. Partnerships are established and cultivated to ensure a steady supply of qualified employee candidates. Communication protocols are developed to connect existing contracting firms with training providers. Pre-qualification criteria are typically aligned with federal standards as promoted through Home Performance with Energy Star, a workforce development platform supported by the Environmental Protection Agency.

2.4 PAYMENT MANAGEMENT AND LOAN SERVICING

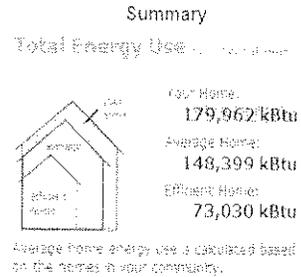
The *SAVESTM* loan origination system backend functionality ensures loan set-up, cashiering, collections, customer relations, satisfaction, assumption and lien release (if any) are straightforward and controlled. Abundant Power integrates loan set-up, collection and payment processing within the framework of whichever repayment mechanism is selected. We can integrate repayment through municipal utility bill assessments, electric or gas bill tariffs, property tax assessments (subject to lien status) or coupons, depending on local legal frameworks and market factors.

Abundant Power will handle the establishment of the accounts between construction, loan funds, and other collections due. Recording and document management also will be managed by Abundant Power through best practice loan closing and servicing processes.

2.5 PROGRAM VALIDATION AND QUALITY ASSURANCE

An energy usage baseline, or “benchmark”, is established for every property that seeks an energy loan. The *SAVESTM* software engine collects property data from GIS databases, utility providers, the local MLS, and accepts data files from most commonly used energy auditing software. Through the end of the loan term, actual energy usage is tracked and analyzed to evaluate and document the results of energy upgrades. The metrics we create ensure accountability and encourage high quality installations and service.

- **Program Level.** Reporting on climate and economic development goals
- **District Level.** Targeted campaign impact analysis
- **Building Level.** Peer comparisons locally and nationally
- **Contractor Level.** Track performance of auditors, contractors, specific measures and products



2.6 DEDICATED TEAM AND STAFFING

Abundant Power will provide dedicated staff throughout the life of programs when engaged to administer local programs. We maintain offices in existing governmental office space (sublease) or in local business incubator facilities if and when possible.



3.0 FINANCING CAPACITY AND SERVICES

One of the most important aspects of well-structured and designed clean energy financing programs comes from the ability to attract institutional capital at scale. Abundant Power's *SAVES*TM platform is designed to provide consistency and data analysis in a way that enables originators such as local banks and secondary capital markets to evaluate pooled fund structures accurately.

Sophisticated financial structures enable us to pool loans from multiple political jurisdictions and various program types. The *SAVES*TM backend functionality is designed to enable origination and servicing of multiple programs. Abundant Power can facilitate local and regional financing sources or we can raise capital to purchase loans from our proprietary financing sources.

Financing Capacity and Services:

- Leveraged Public and Private Resources
- Financial Enhancements
- Loan Loss Reserve Management
- Loan Origination, Underwriting, and Purchase

3.1 LEVERAGED PUBLIC AND PRIVATE RESOURCES

Abundant Power provides a bridge between individual consumer loans and secondary financial markets. Interest rates for consumers are based on a complex and sophisticated analysis of risks in any particular program. In other programs throughout the country, public resources are being leveraged to lower these rates to consumers. Abundant Power has developed a proprietary pricing matrix to model the impacts of structuring decisions and determine the best way to leverage available resources. Additionally, we have identified innovative sponsorship structures to attract building material retailers and other organizations seeking strategic marketing opportunities.

3.2 FINANCIAL ENHANCEMENTS

Abundant Power arranges and integrates the following financial enhancement mechanisms to lower the costs to the consumer. We have extensive experience in designing credit enhancement mechanisms for utilities, municipalities, and states. Key enhancements include the following:

- Credit enhancements in the form of loan loss reserves, interest rate buy-downs, subordinated debt, bond insurance, portfolio structuring, or other similar mechanisms are critical and powerful mechanisms to develop partnerships with financial institutions. We have experience structuring and negotiating credit enhancements that can leverage program sponsor capital up to ten times the amount of the credit enhancement.
- Utility rebates and incentives factored into loan applications in partnership with participating local utilities.
- Alignment with federal Home Star and Building Star rebate programs (pending legislation and appropriation).
- Integration with smart grid initiatives to take advantage of alternate tariff schedules and promote advanced control of energy systems.
- Partnerships with local Weatherization Assistance Program providers to offer supplemental financing for deeper retrofits and renewable energy overlays in tandem with tax credit monetization strategies.
- Exploration of the availability and applicability of Qualified Energy Conservation Bonds (“QECCBs”) as a low-cost, supplemental capital source.
- Introduction of New Markets Tax Credits investors to facilitate solutions for qualified businesses and non-profits serving and located within low-income communities.
- Aggregation and sale of tax incentives on behalf of program participants who may not have the ability to monetize their value. This is particularly applicable to low-income participants and non-tax paying entities such as not-for-profit organizations (and even government participants in on-bill financing and revolving loan programs)
- Use of performance contracting through energy service companies (“ESCOs”) to provide commercial, industrial, and institutional borrowers with energy savings performance guaranties.

Qualified Energy Conservation Bonds: CharlestonSAVES™

Abundant Power is working with the City of Charleston to issue a \$10 million QECB that will be used to provide loan capital for a commercial and non-profit component of its clean energy financing program. Abundant Power has secured an allocation, identified a conduit issuer (South Carolina Jobs Economic Development Authority), and is working with counsel to formalize structuring, including organizing a non-profit organization to be the obligor via a funding agreement with the conduit issuer, and corporate credit enhancement. This likely would be the first QECB in the country used to finance a Green Community Program through a conduit issuance structure.

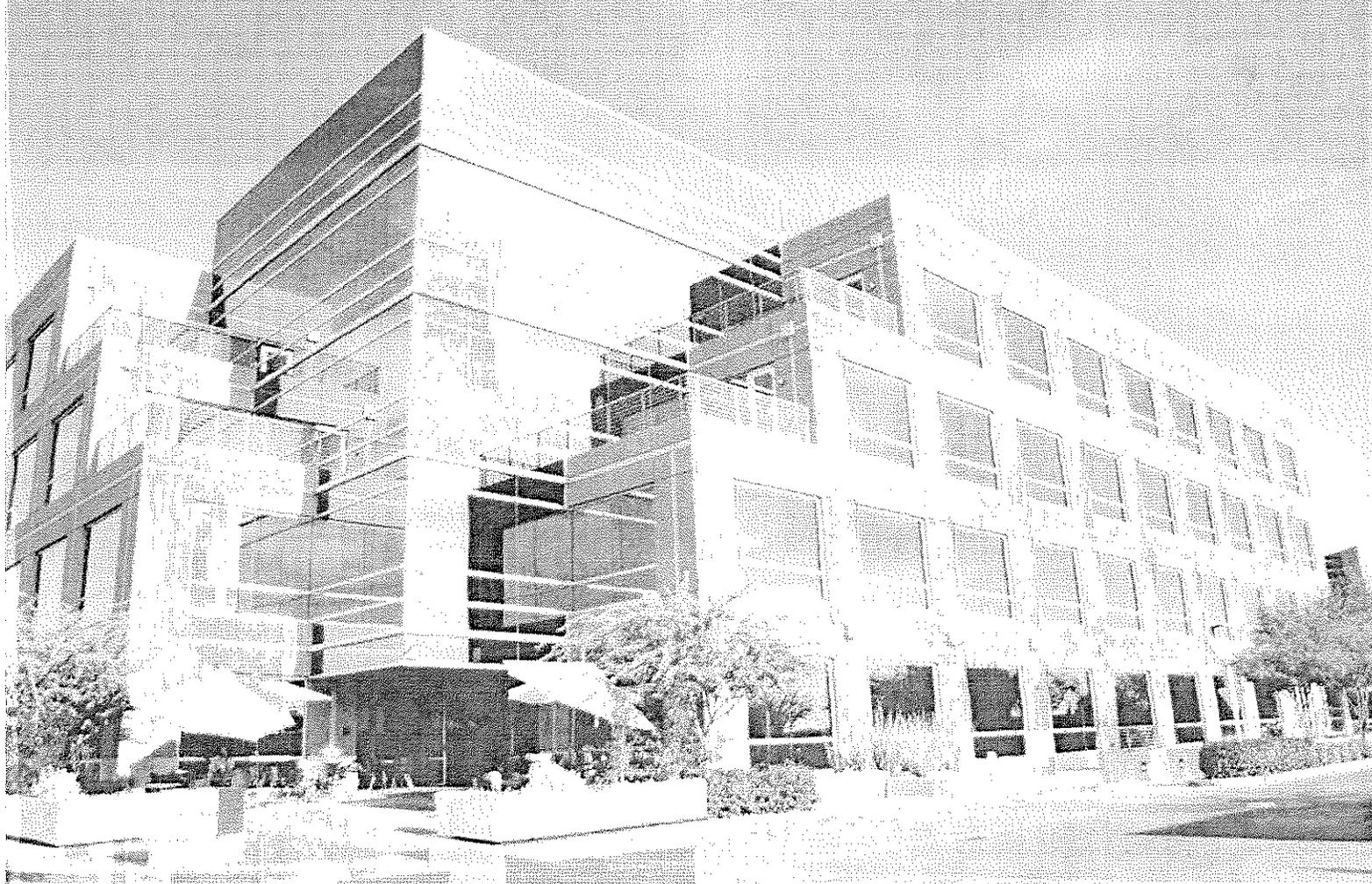
3.3 LOAN LOSS RESERVE MANAGEMENT

Abundant Power's Credit Enhancement Program will accept and manage Sponsors' Department of Energy grant money during the program design phase in anticipation of program deployment (Credit Enhancement Acceptance Agreement). Loan loss reserves are held with an escrow trustee and are allocated to specific loans based on a predetermined basis (typically at 5-10% of the total loan value). Abundant Power works with the Sponsor to develop a loan loss reserve agreement for originators participating in the program.

3.4 LOAN ORIGINATION, UNDERWRITING, AND PURCHASE

Abundant Power underwrites loans in order to assure cash-flow positive engineering, appropriate documentation and compliance, and qualified borrower profiles. We are then able to work with local banks, credit unions, and other capital sources to arrange placements or warehouse loan functions.

In addition to third party capital sources, Abundant Power will purchase loans with its own proprietary credit sources. Abundant Power's Fifth Fuel Fund ("FFF") serves as a vehicle for financing and aggregating residential energy efficiency and renewable energy loans for programs that are consistent with the SAVES™ platform. Sponsors can engage Abundant Power to design their programs in order to ensure they qualify for FFF purchase through a Design/Purchase Agreement. The FFF will price and purchase loans from other programs not utilizing Abundant Power for design purposes based on how these programs align with the fundamental standards of the SAVES™ protocols. Abundant Power will train local lenders on the SAVES™ platform and co-underwrite the energy portion of loans to enable local origination and participation.



4.0 ABUNDANT POWER TEAM

Abundant Power Solutions (“Abundant Power”), a division of Abundant Power Group, LLC, along with its partners, provides comprehensive and innovative capital and program solutions to public entities throughout the country seeking to implement and promote renewable energy and energy efficiency strategies within their jurisdictions. Headquartered in Charlotte, North Carolina, Abundant Power’s mission is to facilitate the transformation of the United States to a low carbon, clean energy economy, through smart deployment of capital at scale.

As a result of our mission, we have a dedicated staff of professionals that have focused since inception on clean energy financing programs. Such programs are one of the most powerful tools available to local and state governments to stimulate green collar jobs. Public-private partnerships enable participating governmental entities to encourage projects that create sustainable and verifiable energy savings for their constituents.

Abundant Power has an unmatched combination of financial, legal and engineering experience. We have drawn from the best talent in parallel industries and combined them with superior energy efficiency engineering, Measurement & Verification (M&V) protocols, and Quality Assurance expertise. We then integrate critical aspects of clean energy project development to ensure efficiency of resources and successful outcomes. Our rich financial structuring expertise enables Abundant Power to assess and

mitigate financial and technical risks, leverage public and private resources and bridge the gap between property owners and secondary financial markets.

4.1 SENIOR LEADERSHIP TEAM

Background overviews of the Abundant Power executive team are below. The organizational chart that follows this outlines our corporate structure to illustrate how we efficiently accommodate the spread of innovative programs across the country. We have identified many nationally recognized and highly qualified leaders and we are continually seeking additional talent to support our program growth. We anticipate bringing on additional program managers as programs are ramped up. Our Statement of Qualifications, including full biographies of all members, representative experience and relevant references are attached as Exhibit A.

Shannon Smith
CEO/Managing Partner



- 20 years of corporate finance experience, including project and corporate finance.
- Led the Charlotte office of private equity firm, Blue Point Capital, for 10 years.
- Partner, Bowles Hollowell Conner & Company (1990-1998), Charlotte NC. Managed over \$1.0 billion of complex capital placement programs.
- Engaged in national and state-level energy policy development around innovative clean energy financing models.
- Board member, Environmental Defense Fund, Southeast Region.
- MBA from Darden Business School at the University of Virginia.
- Rotary Scholar at the Universite De Lille in Lille, France, BA in Philosophy and Economics from Wheaton College.

Larry Ostema, JD, LEED AP
President/Managing Partner



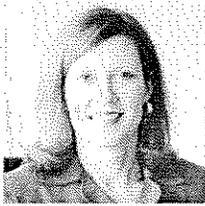
- Former Partner at Baker & Hostetler and recognized expert in renewable energy and carbon credits.
- 17 years representing energy companies domestically and internationally.
- Advisor to the City of Charlotte and the Fayetteville Public Works Commission on renewable energy and methane to power projects.
- JD from the Marshall-Wythe School of Law, College of William and Mary; Managing Editor of the William & Mary Law Review.
- BA from Amherst College.

Dank Pinckney
Managing Director



- Extensive experience in the mortgage and consumer finance industry in both the origination and servicing/default channels of the business.
- Served as an Executive Vice President for HSBC Holdings, PLC on the executive management team that oversaw all aspects of managing the HSBC owned and third party mortgage loan portfolios.
- Direct management responsibility for compliance risk, quality assurance and counter-party risk for HSBC Holdings, PLC.
- Former partner is the national law firm of Katten Muchin and Rosenman and specialized in the practice areas of mortgage, consumer finance, and counter party risk.
- JD from University of South Carolina and undergraduate degree from Washington & Lee University

Lori Collins, LEED AP
Managing Director



- 20 years consumer financial services experience – sales, marketing, product development.
- LendingTree General Manager - grew revenues from \$7MM to \$496MM.
- SVP Marketing at Bank of America.
- VP Marketing at Fidelity Investments; grew new business line from zero to \$9billion in assets.
- Director of Marketing – American Express.
- MBA from Kellogg; BA from UNC – Chapel Hill.
- Finance & Incentives Committee Chair, Efficiency First, a national trade association focused on reducing costs in the home performance sector.
- Board Member, Home Performance Resource Center, the research arm of Efficiency First.

Derek McGarry, PE, LEED AP
Director of M&V and Data



- 10 years of experience in HVAC engineering, Retro-Commissioning and Energy Efficiency Retrofits.
- Managed and designed mechanical, electrical and plumbing systems for commercial, municipal and institutional projects, including central utility plants.
- Original mechanical designer and energy analyst for Clemson University's LEED Silver Fraternity Quad as well as several other LEED projects in SC/NC.
- Mechanical designer and energy analyst for USC-Columbia's Green Quad, including design of the then-largest solar thermal array in the U.S. as well as a demonstration fuel cell installation.
- BS in Mechanical Engineering from Cornell University.

Scott Pearson
Principal



- 9 years experience in private equity, M&A investment banking, real estate and project finance.
- Most recently worked with a real estate firm specializing in the sustainable redevelopment of brownfield properties.
- MBA from the Harvard Business School.
- BA in Economics with Concentration in Finance at the University of Virginia.

4.2 CORPORATE STRUCTURE

The legal name of Abundant Power is Abundant Power Solutions, LLC, which is a North Carolina limited liability company that was formed on July 5, 2009. Abundant Power is wholly owned by Abundant Power Group, LLC, a North Carolina limited liability company (“Abundant Power Group”).

The following individuals are the Managers of Abundant Power and each of its affiliates:

- Shannon G. Smith, Charlotte, North Carolina
- W. Gregory Montgomery, Gastonia, North Carolina

- Lawrence L. Ostema, Concord, North Carolina

Abundant Power's corporate offices are located at:
1355 Greenwood Cliff, Suite 300
Charlotte, NC 28204



5.0 ABUNDANT POWER ADVANTAGES

Abundant Power Solutions – A Unique Value Proposition

Turnkey partnership. We advise on financing alternatives for all types of energy savings initiatives nationwide and allow you to launch successful programs quickly and efficiently.

Optimization. We have proprietary software solutions to ensure public goals are accomplished in an open and transparent process.

Engineering for cash-flow. Our engineering proficiency allows us to enable cash-flow positive outcomes, minimizing default rates and maximizing participation and local economic impact.

Quality assurance. Our monitoring and verification protocols ensure public accountability and successful program outcomes, leading to lower cost of capital.

Flexibility. We customize programs to fit each community's unique needs and can efficiently adapt to take advantage of federal, state and utility incentive structures. Our web portal provides information to consumers and program stakeholders in an intuitive manner.

Comprehensive expertise. Our management team provides a unique combination of expertise in consumer finance, capital markets, loan administration, legal and policy issues, and renewable energy and energy efficiency project development.

EXHIBIT A – PROJECTS AND BIOGRAPHIES

Abundant Power – General

Each managing partner of Abundant Power has over 20 years of sophisticated financial and legal experience in all aspects of corporate and project finance. Shannon Smith, CEO, Founder and Managing Partner, is engaged in policy development to support market based clean energy initiatives at the national and state levels. Larry Ostema, President and Managing Partner, is a widely known expert on transactions involving renewable energy certificates, energy efficiency certificates and carbon credits. Lori Collins, our Director of Program Strategy, has driven successful consumer financial services operations nationwide, including Fidelity, Bank of America, and Lending Tree. Our Director of M&V and Data, Derek McGarry, has spent his career on energy efficiency engineering and has launched successful initiatives throughout the country, including leadership in Refresco, an engineering consultancy he previously founded.

Current Energy Efficiency and Renewable Energy Initiatives

Abundant Power and its strategic partners have considerable experience designing and implementing financial solutions for residential and commercial clean energy financing programs on behalf of municipalities, state governments and utilities throughout the United States. We bring a diverse set of backgrounds in corporate finance, project finance, private equity, energy policy and consulting, secondary institutional markets and corporate law to create innovative financial products that leverage public and private capital sources and credit enhancements. We are experts in negotiating mutually beneficial partnerships with financial institutions. Selected clean efficiency financing program experiences include:

Alabama Department of Economic and Community Affairs (“ADECA”) Statewide Clean Energy Revolving Loan Fund: Abundant Power Solutions has designed and is currently managing a statewide revolving loan fund in Alabama based on its proprietary SAVES™ (*Sustainable and Verifiable Energy Savings*) platform. The fund was initially capitalized with \$25 million through a federally funded State Energy Program grant. We have structured the program to bring in additional private capital such that over \$60 million is available to lend at a 2% rate. The scope includes demand creation, vendor management, front-end credit and energy underwriting, and back-end loan servicing and M&V validation.

Alabama SAVES™ funds large commercial and industrial energy efficiency and renewable energy projects (\$250,000-\$4,000,000 project sizes).

This program is designed with a minimum requirement for project savings to exceed debt service within term of loan (cash-flow positive to the borrower), validated through IPMVP Option C (utility bill tracking and normalization) through the full term of each loan.

District of Columbia, Commercial PACE Program: Abundant Power is acting as the exclusive Financial Advisor for a bidding consortium selected by Washington, DC (Executive Branch of the Government of the District of Columbia, District Department of Environment, and Office of the Deputy Mayor of Planning and Economic Development) to negotiate a contract for a commercial PACE program targeted to reach up to \$200 million in financing. We should be able to share further details of this program over the course of the next month.

Charleston, South Carolina Energy Efficiency Financing Program: Abundant Power Solutions has designed and is preparing to launch a municipal scale energy efficiency and renewable energy financing

initiative for the City of Charleston, South Carolina, based on its proprietary *SAVES™ (Sustainable and Verifiable Energy Savings)* platform. An initial pre-pilot revolving loan fund will launch in March 2011, to be followed by a \$10 million program funded through a unique Qualified Energy Conservation Bond structure. \$8 million is allocated for commercial and industrial loans, while \$2 million is allocated for residential retrofits based on the *SAVES™* platform.

Charleston*SAVES™* funds residential retrofits as small as \$2,500 up to large commercial and industrial energy efficiency and renewable energy projects.

This program is designed with a minimum requirement for project savings to exceed debt service within term of loan (cash-flow positive to the borrower), validated through IPMVP Option C (utility bill tracking and normalization) through the full term of each loan.

Current Advisory Roles

Abundant Power currently advises the City of Charlotte on three renewable energy projects and the installation of one or more heat and power units powered by wastewater methane. We also advise the City of Fayetteville – Public Works Commission on the installation of one or more heat and power units powered by wastewater methane.

References for those projects include:

Jacqueline A. Jarrell, PE
City of Charlotte
Environmental Management Superintendent
Charlotte-Mecklenburg Utilities
422 Westmont Drive
Charlotte, NC 28217
Office: 704-336-4460

Robert J. Phocas, Esq.
City of Charlotte
Assistant City Attorney – Environmental Law and Policy
600 East Fourth Street
Charlotte, NC 28202
Office: 704-336-7558

Keith Lynch
Fayetteville Public Works Commission
Contract Resources and Power Trading Manager
955 Old Wilmington Rd.
Fayetteville, NC 28301
Office: 910-223-4815

Significantly, Abundant Power has recently been awarded the contract for a city in Florida to perform an evaluation of the City's current energy efficiency projects and provide recommendations of comprehensive strategy to address energy and conservation alternatives of public facilities and the development of an energy efficiency and conservation financing plan in an effort to obtain federal funds for the plan's implementation. The contract is currently being negotiated and subject to confidentiality. Upon execution of the contract, Abundant Power will provide additional information.

Representative Transactional Experience

Management of Abundant Power has completed the following representative transactions/engagements:

Managing Partners, Larry Ostema and Roger Bredder – CR3's C&I program success will depend on deep understanding of the energy business. Abundant Power has a unique depth of knowledge and experience in renewable energy project development, utility demand-side management and related energy efficiency initiatives and regulatory policies, including:

- Advising Cities of Charlotte and Fayetteville in renewable energy and waste-to-methane projects, including development and sale of renewable energy credits and carbon offsets.
- Advise U.S. subsidiary of European solar project developer in utility scale solar developments.
- Developed and deployed first "virtual power plant," commercial/utility scale business model with demand-side energy management company.
- Structuring and financing renewable energy project for nation's first net zero energy school;
- Developing equity structure to apply New Markets Tax Credits to renewable energy projects in certain qualifying census tracts.
- Arranged over \$10 Billion in financing for the construction and acquisition of power generation assets in the US over the past 20 years.
- Financed the construction of the largest privately owned transmission line in the US that was named deal of the year.
- Significant experience structuring and arranging bank and institutional debt across a broad spectrum of thermal and renewable power assets.
- Member of the Project Finance teams at two institutions that were named Project Finance houses of the year by leading industry publications.

Managing Director, Dank Pinckney – In serving on the executive management team and reporting directly to the CEO of the HSBC mortgage businesses, the relevant experience and responsibilities of Managing Director, Dank Pinckney, included the following:

- Served as one of four voting members of the Servicing/Default Operations Governance Committee that overall saw all aspects of \$100+ billion portfolio management, including servicing, collections, loan modification and loss mitigation treatments and strategies, quantitative analysis and modeling of asset and customer behavior, asset and customer segmentation, management of distressed assets, REO, acquisition due diligence, insurance indemnification/recovery, corporate and legal entity structure, licensing, vendor management, off-shore migrations, scorecard development, and policy/procedure development and implementation
- Directed and restructured management of large loss recovery and liability management for problem and distressed mortgage assets and related counter party risk, Senior strategic and operational role in the management and disposition, in bulk, of distressed and problem assets from closed origination channels, acquired and sold portfolios, and related transactions including

assessment, evaluation and implementation of strategy around large loss recoveries and liabilities. Developed and implemented comprehensive strategy and process improvements to increase recoveries for disposition of problem assets by \$150+ million annually; led highly successful effort to manage down and extinguish repurchase liabilities in excess of \$500 million; streamlined processes and operations, introduced decisioning supported by modeling and analytics, developed comprehensive reporting.

- Direct management of regulatory compliance function within all servicing platforms, ensuring compliance with all federal, state, and municipal requirements, in particular RESPA, FHA, ECOA, TiLA, SCRA, FACTA/FCRA, Tenant Foreclosure Protection Act, AML/Privacy, Fair Lending/HMDA compliance, and state UDTPA, foreclosure statutes and municipal ordinances.
- Senior liaison role and relationship management for primary federal and state regulatory authorities. Strategic and tactical exam and regulatory relationship management for all aspects of mortgage platform. Senior business liaison for national trade organizations and federal government relations, including member of Executive Committee for the Housing Policy Counsel/Financial Services Roundtable that included meetings with the Federal Reserve Chairman, Secretary of the Treasury and various Congressional members. Executive member of various trade organizations and conference host/speaker.
- Senior business audit liaison and various other roles related to risk and asset management.
- Senior leadership role in formulating and executing on significant business restructuring(s) and right sizing initiatives for mortgage lending and servicing platform of over 12k fte; consolidation of business lines, channels, products, and facilities with overall expense and fte reductions in excess of 70%.

Recent Engagements

Our principal, Derek McGarry, was directly responsible for the following two representative matters:

Union County Portfolio Energy Efficiency Initiative and Revolving Loan Fund



Client Name: Mr. Barry Wyatt
General Services Director
Purchasing, Fleet and Property Management
Union County
500 North Main Street, Suite 8
Monroe, North Carolina 28112
704-283-3868
BW Wyatt@co.union.nc.us

Project Location: Monroe, NC (Union County)
Project Completion Date: June 2009 - Benchmarking and Opportunity Assessment Phase Complete
Ongoing - Implementation Phase

Project Size: 600,000 Square Feet, 17 buildings
 Project Budget: \$750,000 Energy Efficiency Investment Budget
 Project Description: Derek McGarry, Director of Operations for Abundant Power, formerly as President of Refresco, developed a straightforward process for identifying and executing energy efficiency strategies. It begins with maximizing the performance of the systems that exist within a facility, the preferred version of an energy audit which drawing from ASHRAE Level III audit experience, energy analysis experience and extensive research on best practices. Mr. McGarry evaluated 600,000 square feet of facilities and identified a way for those facilities to reduce their portfolio energy costs by 16% with an approximate one-year payback (the first bundle of recommendations). The largest bundle of opportunities equated to \$1.8 MM with less than 6 years simple payback, which included a major HVAC replacement. Complete recommendations ranged from low/no-cost O&M improvements, short payback items, as well as longer term capital upgrade opportunities that reduced energy consumption, enhanced IAQ and increased water efficiency. The recommendations culminated with the creation of an Energy Revolving Loan Fund to perpetually improve their existing facility portfolio and expand the reach into the 6 MM Square Foot public school portfolio.

Mecklenburg County Real Estate Services – Energy Upgrades/Condition Assessments/Strategic Planning (including ASHRAE Level III Assessments)



Client Name: Thomas F. Crow, PE, LEED AP
 Senior Project Manager, Buildings and Grounds
 3205 Freedom Drive, Suite 101
 Charlotte, North Carolina 28208
 704-432-0624
Thomas.Crow@mecklenburgcountync.gov

Project Location: Charlotte, NC (Mecklenburg County)
 Project Completion Date: September 2008 – Studies Complete
 Project Size: 213,000 Square Feet, 6 buildings
 Project Budget: TBD (Implementation Ongoing)
 Project Description: Conducted energy analyses and HVAC equipment condition assessments at six existing facilities. The purpose of the study was to provide the Real Estate Services Department with suggested courses of action for decreasing the annual energy consumption of its portfolio, increasing

employee productivity, and for the replacement of equipment that has reached or is nearing its useful lifecycle.

Derek McGarry, when President of Refresco, PLLC, combined comprehensive building survey and investigation with interviews with facility managers and owners to determine the current operational condition of major mechanical, lighting and plumbing systems. Computer-based energy simulations were conducted and correlated to existing utility bills, providing a template for modeling proposed efficiency upgrades. Strategic Planning, using the results of the energy analysis, allowed the owner to choose an appropriate course of action for the future of the facility and how best to spend maintenance and capital budgets

Below is a sampling of some additional efforts Mr. McGarry has provided:

Clemson University, Fraternity Renovations/Additions; Clemson, SC

Mechanical Designer/Energy Analyst for this 5-building/\$22M historic renovation. Collectively designed for a LEED Silver Rating, 30-40% energy cost reduction below the ASHRAE baseline, dedicated outdoor air system, ECM fan coil unit fan motors, occupancy controlled HVAC, window sash monitors and high ventilation effectiveness.

Pfizer Campus Building 10 Renovation; San Diego, CA

Served as Mechanical Designer to transform an acquired laboratory building into a world-class office building. Mechanical design consisted of transforming 100% outdoor air laboratory systems into energy efficient mixed air systems serving primarily office space. With an outdated Vivarium on the basement level slated for possible renovation, it was critical to put a plan in place for meeting Pfizer's stringent Vivarium standards in the future.

University of South Carolina at Columbia, South Campus Housing – Phase III, “Living Learning Center”; Columbia, SC

Mechanical Designer/Energy Analyst for this 500-bed/\$24M residence complex. Earned a LEED Silver Rating based on 35% energy cost reduction below the ASHRAE baseline, solar hot water heating (evacuated tube technology), dedicated outdoor air system with heat recovery, daylighting, 5kW demonstration fuel cell with heat recovery and within a “non-green” original budget.

409 and 499 Illinois; San Francisco, CA

Mechanical Designer for this 700,000 sq ft speculative research and development facility. It is sited along the San Francisco Bay on a brownfield site. The cooling plant consists of 4,800tons capacity with the ability to phase installation as tenants come on board. The distribution of chilled water as well as hot water is designed to be variable primary flow, a super-efficient method. With 1.5MillionCFM of custom designed air handling equipment also included with phasing in mind, this project illustrates super-technical capabilities under tight restraints of a developer's budget, schedule and flexibility needs.

Children's Learning Center (“Imaginon”); Charlotte, NC

Energy Analyst/ Systems Specialist for this prominent facility partnership between the Public Library and the Children's Theatre of Charlotte-Mecklenburg. Collectively designed for a LEED Silver Rating, 40% energy cost reduction below the ASHRAE baseline, demand controlled ventilation (per

CO2 monitors), daylighting and sun control, high/steady ventilation effectiveness, low temperature hydronic system (41°F), and a low temperature air system (48°F).

Furman University, Herman N. Hipp Classroom Building; Greenville, SC

Energy Analyst/Systems Specialist for this \$5M administrative/classroom building. Completed in December 2002, this facility attained a LEED Gold Rating, having been designed for a 40% energy cost reduction below the ASHRAE baseline, high performance lighting design, demand controlled ventilation (per CO2 monitors), occupancy sensor controlled HVAC and lighting and enthalpy wheel heat recovery.

Abundant Power Biographies

The following represents the extensive experience and deep expertise that Abundant Power provides through its internal resources:

Shannon Smith, CEO, Founder and Managing Partner

Shannon is the Founder and President of Abundant Power Group, headquartered in Charlotte, North Carolina. Shannon founded Abundant Power Group in 2008 after over 20 years in the financial service and private equity industries. Prior to Abundant Power, he was Managing Partner and founder of Blue Point Capital Partners (1998-2008). Blue Point is a private equity company that has made over \$1.0 billion in investments. Blue Point's focus is control investments in closely held enterprises. Shannon supervised offices in Charlotte, Cleveland, Seattle and Shanghai, China, and was also responsible for the fund's investments in the Southeast. He invested across numerous industries in companies ranging from \$25 million to \$500 million in revenue. From 1990 to 1998, Shannon was a principal at Bowles Hollowell Conner & Co, a leading investment bank serving middle market companies in Charlotte, NC.

Shannon is a board member of the Southeast Board of Environmental Defense Fund, a member of the North Carolina Sustainable Energy Association and a member of the Leadership Council of the American Council on Renewable Energy. He has served on numerous corporate boards. Currently Shannon serves on the Operating Executive Committee of Blue Point Capital, as well as William M. Bird Company and McCoy Sales.

Shannon holds a BA in Philosophy and Economics from Wheaton College. He was a Rotary Scholar at the Universite De Lille in Lille, France in French language and History. He received his MBA in 1990 from the Darden School of Business Administration at the University of Virginia.

Larry Ostema, Esq., LEED AP, President and Managing Partner

Larry is a Managing Partner of Abundant Power Group, and is the President of Abundant Power Solutions. He has over seventeen years of experience advising and representing domestic and international energy technology, renewable energy, high-tech, emerging growth and sustainable real estate entities. Formerly, Larry was the outside counsel for London Stock Exchange listed carbon offset developer under the Clean Development Mechanism of the Kyoto Protocol. Prior to joining Abundant Power Solutions, he was the head of the Green Initiatives Group at a Charlotte-region law firm focusing on transactions generating renewable energy certificates, energy efficiency credits and carbon offsets. Larry spent 13 years in Colorado, where he was a Partner in the Colorado office of Baker & Hostetler LLP, a 600+ attorney national law firm, focusing on renewable energy and clean technology transactions.

Larry was the 18th attorney in the country and the first attorney in North Carolina to receive the designation of LEED Accredited Professional from the US Green Building Council (USGBC). He

currently serves on the Board of Directors of the USGBC, Charlotte Region Chapter. He received his BA from Amherst College and his JD from the Marshall-Wythe School of Law, College of William and Mary, where he was the Managing Editor of the *William & Mary Law Review*.

Roger Bredder, Managing Director

Roger joined Abundant Power Group as a Managing Partner, principally focusing on its Abundant Power Capital asset management business. He has 20 years of investment banking experience advising and arranging financing for power and infrastructure projects. Prior to joining Abundant Power, Roger most recently served as Head of North American Project Finance for Wachovia Securities and Societe Generale. He has raised over \$5 Billion of financing for several of the most successful developers in the independent power sector. Roger has extensive experience in structuring debt and equity investments in power projects including syndicated bank loans, private placements, capital market offerings, leveraged leases and tax equity placements.

Roger graduated from Bucknell University with a BS in Chemical Engineering and earned an MBA in Finance with honors from the Simon School at the University of Rochester.

Dank Pinckney, Managing Director

Francis “Dank” Pinckney has extensive experience in the mortgage and consumer finance industry in both the origination and servicing/default channels of the business. He served as an Executive Vice President for HSBC Holdings, PLC on the executive management team that oversaw all aspects of managing the HSBC owned and third party mortgage loan portfolios. He had direct management responsibility for compliance risk, quality assurance and counter-party risk for the organization. Mr. Pinckney is a former partner in the national law firm of Katten Muchin and Rosenman, and specialized in the practice areas of mortgage, consumer finance, and counter party risk.

Mr. Pinckney is a licensed attorney in the state of North Carolina. He received his JD from University of South Carolina and undergraduate degree from Washington & Lee University.

Lori Collins, LEED AP, Managing Director

Lori Collins is responsible for building out environmental financing programs for consumer and commercial needs. She has over 20 years experience in financial services marketing and product development, particularly in building new businesses. Lori was a member of the original Executive Team at LendingTree that grew the company from \$7 million to \$476 million in revenue over seven years. As SVP and General Manager, she led sales, product management, client relations, and areas of marketing and technology for the core business.

Prior to LendingTree, Lori was head of marketing for Bank of America’s mutual fund business, which grew assets from \$28 to \$68 billion during her tenure. Lori also served as VP at Fidelity Investments in Boston, where she launched the first mutual fund marketplace and drove assets from zero to more than \$9 billion in three years. Previously she was a director of marketing at American Express Company in New York. Lori earned her MBA from Kellogg at Northwestern University, and graduated Phi Beta Kappa from UNC-Chapel Hill.

Lori is Chairman of Environmental Grants for the Women’s Impact Fund in Charlotte and is a LEED Accredited Professional.

Derek D. McGarry, PE, LEED AP, Director of M&V and Data

Derek has extensive experience working with engineering firms in North Carolina and California. Prior to joining Abundant Power as a Principal, he was the President and founder of Refresco, a

Charlotte-based engineering consulting firm, which targeted energy efficiency projects in the existing buildings sector. Over the past 10 years, he has successfully managed and designed mechanical, electrical and plumbing systems for commercial, municipal, institutional and multifamily projects, including district energy plants. The first engineer in North and South Carolina to become a LEED Accredited Professional (since 2001), he has designed systems and performed energy/economic analysis for multiple LEED certified projects, including many 'firsts' in the Carolinas.

Project highlights include the recommendation and design of the then-largest solar thermal array in the United States at the University of South Carolina (Green Quad), the mechanical design concepts for a flex-space 700,000SF R&D facility in San Francisco, and the recommendation and creation of a Revolving Loan Fund in Union County, NC, to upgrade existing municipal buildings.

Derek has served on the Boards of the Southern Piedmont Chapter of ASHRAE (American Society of Heating, Refrigerating and Air-Conditioning Engineers) as well as the Charlotte Region Chapter of the US Green Building Council. He received his BS in Mechanical Engineering from Cornell University.

Scott M. Pearson, Director

Scott Pearson is a Principal with Abundant Power Group. Scott has extensive experience conducting corporate and real estate transaction due diligence, making private equity investments, monitoring portfolio companies and properties and restructuring non-performing assets. Prior to joining Abundant Power Group, Scott worked with Cherokee Investment Partners, a private equity firm focused on the acquisition, remediation and sustainable redevelopment of brownfield properties throughout North America. Scott began his career as an investment banking analyst within the mergers & acquisitions group of First Union Securities, Inc. and subsequently worked for Wind Point Partners, a private equity firm that acquires middle-market businesses across a broad range of industries. Scott also spent a year in Kigali, Rwanda working with World Relief, an international aid and development organization. While in Rwanda, he helped transition a small agricultural pilot program into Ikirezi Natural Products, a community interest company that partners with farmers' cooperatives to pioneer the production of organic essential oils in Rwanda.

Scott graduated with distinction from the University of Virginia with a BA in Economics (concentration in Finance) where he was an Echols Scholar and earned an MBA from the Harvard Business School.

ATTACHMENT B

Project Approval and M&V Policy



Project Approval and M&V Policy (DRAFT 09-13-2010)

Charleston SAVES™ (*Sustainable and Verifiable Energy Savings*) is structured to promote renewable energy, carbon reduction and energy efficiency strategies in the most cost effective manner. National standards and certifications are incorporated for quality control, while ongoing monitoring of project results ensures accountability. The basic principle for engaging the widest spectrum of market participants is hinged on a framework of “good, better, best”. Driving homeowners and businesses to the “best” approach in a mature market requires robust data collection and analysis to prove and highlight successful outcomes. The specifics for Project Approval and M&V (Measurement and Verification) that reflect these qualities are contained herein.

Following the good, better, best framework, three tiers of project development and execution are accommodated, with the highest tier (Tier 3) providing the greatest confidence in desired outcomes. Tier 1, the lowest, provides a simple way for contractors and vendors to participate, primarily through direct sales and installation of equipment to customers. Tiers 2 and 3 are designed to result in cash-flow positive outcomes, requiring savings estimates from certified auditors or consultants who are well-trained and pre-qualified. Each Tier has specific financing criteria associated with it, along with varying levels of federal, state and utility incentives.

APS will have on-going review and updates to this policy, including eligible measures, with full circle feedback and monitoring.

Tiered Project Approach

The SAVES™ approach to project development and approval favors process over prescriptions. The best outcomes are known to be associated with an audit-based process using building-science principles. As there are so many variations in the construction of homes and businesses, and even more variations in how they are used, each project deserves the expertise and experience of qualified professionals to ensure the best opportunities for improvement are identified. SAVES™ programs are designed to acknowledge the value of sound process, while addressing a variety of customer needs, under the framework of good, better, best. An additional layer of third party oversight and data intensive checks and balances is provided for quality assurance and quality control.

Tier 1 Projects: Designed for contractor/vendor direct sales and installation of high-efficiency equipment, appliances, and renewable energy systems. There is no suggestion or warranty provided for energy savings and installations are not assumed to result in cash-flow positive financing. Tier 1 customers will be educated on and encouraged to transition into a Tier 2 or 3 approach.

Tier 2 Projects: An audit-based process for identifying and testing improvements using building-science principles. Recommendations for improvements, along with savings estimates, are provided by certified auditors and consultants who see the project from inception through to completion.

Tier 3 Projects: Designed for the most confident and comprehensive outcomes using an audit-based process AND a calibrated computerized energy simulation. A certified auditor or consultant produces a baseline energy simulation that closely matches the historical performance of the



home or business, and then evaluates recommended improvements in the model in order to generate savings estimates.

Many federal, state, and utility incentive programs provide greater support to Tier 2 and/or Tier 3 projects. Additionally, financial underwriting criteria acknowledge positive cash-flow impacts on the borrower for projects that execute a Tier 2 or 3 process.

Eligible Measures

An Eligible Measures List (as included in Appendix B) is continuously updated to reflect available technologies.

In general, Projects must utilize energy efficiency, demand management and/or renewable energy measures to lower monthly costs. Only commercially available technologies, proven and tested to be reliable, are eligible.

Tier 1 Details

Tier 1 projects are designed to accommodate direct sales by pre-qualified vendors and contractors, providing consumers an easy way to finance high-efficiency equipment, appliances and renewable energy systems (refer to Appendix B, Eligible Measures List). Often, this Tier applies to reactive consumer needs such as when an air conditioning system abruptly stops working and a new system is desired as quickly as possible. Financing is provided at Tier 1 interest rates with strict underwriting guidelines.

Scarcity of Program Funds, the goals of the Program Sponsor, and market pressures all potentially create a need for stronger underwriting requirements for Tier 1 projects:

- a. Tier 1 consumers may be required to provide a [x%] [deposit or fee] (self-funded loan loss reserve or interest rate buy-down) as a condition for loan approval.
- b. Eligibility may be limited to low-performing properties (as identified through an EPA Home Energy Yardstick Score of [x or lower] or Commercial Portfolio Manager Score of [xx or lower], adjustable for Program priorities).

Tier 2/3 Details

Favorable results for Tier 2 and 3 projects are heavily dependent on the professional judgment of pre-qualified auditors and energy consultants, as well as quantifiable metrics pre and post installation to ensure quality installation. Industry certifications, national standards, and licensing requirements are leveraged to provide consistent pre-qualification of these service providers. The professional auditor is responsible for guiding projects from inception through to completion. For residential projects, standard Building Performance Institute procedures are required for test-in, test-out, and combustion safety review.

Tier 2 and 3 projects can include any investment that results in cash-flow positive financing for the borrower, as long as the recommendations are pre-approved or already included in the Eligible Measures List (Appendix B).



Calculations, notes, and assumptions made by an auditor, as well as electronic computer energy simulation files (Tier 3 projects), and any other documentation, will be collected and retained for the term of each loan.

Historic Properties

Historic properties, as defined by homes over 50 years old, may require special consideration or review according to federal and local requirements.

Project Development Process

One of the primary barriers to energy efficiency retrofits is the consumer having confidence there is an opportunity for significant savings. In response to this, applicable to all Tiers, an Energy Benchmark will be established up front, based on a minimum of 12 months of historical energy consumption for the property being considered for a loan. The results of the Benchmark typically illustrate the magnitude of opportunity available to any particular property. Additionally, this Benchmark is used to compare future consumption of participating properties in order to evaluate the cost-effectiveness of each loan. Below is an outline of the typical retrofit process for each Tier, as well as for residential, commercial and industrial properties:

Tier 1 Projects

- Step 1: Pre-Qualify a property for eligibility and/or opportunity for savings as identified through an EPA Home Energy Yardstick Score of [x or lower] or Commercial Portfolio Manager Score of [xx or lower], adjustable for each program (Commercial and Industrial properties need to engage a pre-qualified energy consultant to perform this benchmarking).
- Step 2: Pre-Qualify for credit to establish financial eligibility and project budget limitations.
- Step 3: Select a pre-qualified contractor to facilitate the project development and approval process. This selection is often driven by a pre-determined need or desire for a particular eligible measure (see Appendix B for Eligible Measures List).
- Step 4: Submit final application with cost proposal for review and approval.
- Step 5: Upon approval of final application, contractor performs installation of selected measures/equipment and secures certification from customer that work was performed as agreed and approved.
- Step 6: Upon final QA/QC protocols executed and certified as acceptable by the Program, the contractor is issued a check directly from the Program.
- Step 7: Consumer may choose to proceed, within [xx days], with a Tier 2 or 3 process to gain additional savings, incentives and/or better financial terms.

Residential Tier 2/3 Projects

- Step 1: Pre-Qualify a residential property for eligibility and/or opportunity for savings as identified through an EPA Home Energy Yardstick Score of [x or lower], adjustable for each program.



- Step 2: Pre-Apply for credit to establish financial eligibility and project budget limitations.
- Step 3: Select a pre-qualified residential energy auditor to facilitate the project development and approval process. Schedule an in-home audit (including BPI or equivalent test-in procedures for infiltration, duct leakage and combustion safety) to evaluate potential opportunities for energy efficiency improvements and/or renewable energy installations.
- Step 4: Based on the results of the professional audit and selection of desired measures by the consumer, select applicable contractors and prepare a cost proposal for each measure.
- Step 5: Submit final application with cost proposal for review and approval.
- Step 6: Upon approval of final application, auditor and/or contractor(s) perform installation of selected measures/equipment, test-out and combustion safety procedures, and secure certification from customer that work was performed as agreed and approved.
- Step 7: Upon final QA/QC protocols executed and certified as acceptable by the Program, the auditor and contractor(s) are issued checks directly from the Program.

Commercial/Industrial Tier 2/3 Projects

- Step 1: Preliminary Technical and Credit Assessment – The borrower has the option of moving directly to Step 2 at risk of non-approval. The preliminary assessments of technical and credit characteristics of a proposed project enables the borrower to minimize expenses prior to a full commitment to a project.

The borrower will provide a preliminary technical assessment performed by a pre-qualified energy engineer or consultant (the consultant can apply for pre-qualification in parallel with this step). The consultant shall document and review energy use metrics and conduct physical site surveys to generate a draft list of energy efficiency and renewable energy opportunities that reflect traditional capital planning needs of a facility or portfolio of facilities. A proposed list of measures should be presented with cost estimates and estimated savings. All projects must submit this information for Abundant Power's review.

At minimum, or to reduce initial consulting costs, a Level I Analysis as defined by ASHRAE (American Society of Heating, Refrigerating and Air-Conditioning Engineers) shall be provided. Most measures beyond low-cost improvements will require a Level II Analysis. Abundant Power will review each Preliminary Assessment and provide feedback to the energy consultant and borrower on the next steps.

Even though cogeneration or renewable energy projects may not have an impact on facility operations, it is a condition for receiving a loan that facility efficiencies be addressed prior to or in parallel with generation projects. Without this requirement, capital expenditures are exposed to additional risks associated with oversized equipment and/or inflated savings estimates.

From this point through the life of the loan, the historical energy costs provided in the Preliminary Technical Analysis will be utilized to establish the energy performance benchmark upon which future performance will be tracked against.

- Step 2: Full Technical and Credit Assessment – Many energy savings recommendations may skip more in-depth analysis if they are low-cost improvements or measures known to have a statistically relevant outcome through simple calculations. However, a fully developed

retro-commissioning scope or capital intensive HVAC replacement, for example, would require further calculation of benefits, design and permitting services, additional review and testing, and/or further development of cost estimates.

Typical Full Assessments will be a combination of Level II and Level III analyses as defined by ASHRAE. Abundant Power will review these assessments and must approve them prior to proceeding to loan closing. Borrower costs associated with the preliminary and full technical assessments may be included in the final loan amount.

Step 3: Construction and Implementation Phase – During construction, compliance with original goals and intent will be monitored by the borrower’s energy consultant as well as Abundant Power. The original energy consultant must perform inspections throughout the construction phase and provide Observation Reports and Final Construction Approval to Abundant Power. Upon final sign-off from energy consultant, the Program, and the project host, final checks are issued to all participating vendors.

Step 4: Ongoing Measurement & Verification (M&V) – Through in-house resources or a third party contract, the borrower should conduct persistence strategies and continuously seek further improvements through O&M adjustments. A third party contract will be optional for the borrower, but allowed as an eligible loan cost. Many contractors and consultants offer performance based service contracts that can ensure persistence of savings (performance contracting overlay, which can improve underwriting characteristics of a particular project).

It is common for energy systems to degrade in performance over time due to maintenance issues, operational adjustments or changes in use or occupancy. Performance focused O&M contracts can help borrowers address issues before they significantly impact energy cost savings or cause premature equipment degradation.

Step 5: Independent Energy Dashboard – Abundant Power will track and update energy use through the full term of each loan, generating performance metrics to document the impact of energy efficiency and renewable energy measures.

Measurement & Verification (M&V)

Independent Measurement & Verification (M&V) protocols ensure three primary benefits:

1. **Accountability** – Contractors, auditors and other consultants are motivated to provide quality outcomes knowing that performance metrics are being independently collected and analyzed to track the success of projects they are associated with.
2. **Satisfied Customers** – Consumers must see independently verified and undeniable energy savings in order to accept participation in a SAVES™ program as a fully positive experience.
3. **Market Growth** – Widespread acceptance of energy efficiency and renewable energy installations as cost-effective will never happen without undeniable proof of savings.

There is limited data publically available and independently verified that provides undeniable proof of energy savings associated with retrofits. In order to address this market barrier, the SAVES™ platform collects a variety of data associated with each loan, including actual energy consumption of a property for the full term of the loan, compared against historical energy consumption. Not only does this allow

evaluation of project performance, but it also enables full-circle feedback and accountability to participating vendors.

The baseline M&V approach for SAVES™ programs is designed to match the International Performance Measurement and Verification Protocol (IPMVP), Option C, Utility Bill Comparison. This entails collection of previous 12-month utility histories, statistically normalized using regression analysis for variables that drive energy consumption (typically weather and occupancy). Renewable energy systems and some special situations require dedicated metering or other options available within the IPMVP.

Other Considerations

Other considerations for project approval and M&V will be reviewed and updated periodically.

Exceptions

The [Director of M&V] can approve reasonable exceptions to the written policy on a loan-by-loan basis.

Reporting

Consistent and meaningful monitoring, trending and reporting are instrumental to refining energy underwriting criteria and project development processes. A heavy emphasis will be put on knowing not only the performance metrics, but understanding the factors that impact adoption rates of customers. This will allow APS to optimize the program penetration and achieve high customer satisfaction.

Daily: TBD

Weekly: TBD

Monthly: TBD

Appendix B

Eligible Measures List¹ - Residential (updated 08-19-2010)

Measure Description	Details	Useful Life
HVAC (Heating, Ventilating and Air Conditioning) Products		
Furnaces - Gas and Propane	95 AFUE	15
Furnaces - Oil	90 AFUE	15
Boilers	90 AFUE	15
Central Air Conditioners - Split	SEER 16 or higher; EER 13 or higher	15
Central Air Conditioners - Packaged	SEER 14 or higher; EER 12 or higher	15
Air-Source Heat Pumps - Split	SEER 15 or higher; EER 12.5 or higher; HSPF 8.5 or higher	15
Air-Source Heat Pumps - Packaged	SEER 14 or higher; EER 12.0 or higher; HSPF 8.0 or higher	15
Ground-Source Heat Pumps		15
Controls - Programmable Thermostats		20
Small Motors	Type - ECM	15
Water Heating		
Electric	Minimum 2.0 EF; or thermal efficiency minimum of 90%	10
Gas and Oil	Minimum 0.82 EF; or thermal efficiency minimum of 90%	10
Renewable Energy Systems		
Solar Thermal	SRCC Certified; 0.50 SF	25
Solar PV		25
Small Wind		20
Biomass - Pellet Stoves	Thermal efficiency of 75% as measured using a lower heating	15
Biomass - Pellet Furnaces		15
Biomass - District Heating Boilers		25
Biomass - District CHP		25
Geothermal - Ground Loop		30
Insulation and Air/Duct Sealing		
Air Sealing	Upgrade to meet 2009 IECC & Supplements; blower door test-in/test-out required	10
Attic Insulation	Upgrade to meet 2009 IECC & Supplements	15
Wall Insulation	Upgrade to meet 2009 IECC & Supplements	15
Crawl Space Insulation	Upgrade to meet 2009 IECC & Supplements	15
Duct Sealing	Upgrade to meet 2009 IECC & Supplements; duct pressure test-in/test-out required	10
Duct Replacement	Replacement to meet 2009 IECC & Supplements	15
Duct/Pipe Insulation	Upgrade to meet 2009 IECC & Supplements	15
Attic Door Insulated Cover	Upgrade to meet 2009 IECC & Supplements	10
Doors, Windows and Roofing		
Doors	Replacement less than or equal to 0.30 U-Factor and 0.30 SHGC	20
Windows	Replacement less than or equal to 0.30 U-Factor and 0.30 SHGC	25
Skylights	Replacement less than or equal to 0.30 U-Factor and 0.30 SHGC	15
Storm Windows	Upgraded system less than or equal to 0.30 U-Factor and 0.30 SHGC	15
Roofing	Meeting Energy Star specifications for metal roofing with pigmented coatings or asphalt roofing with cooling granules	10
Lighting and Fans²		
Toilet Exhaust Fans	Energy Star listed; includes new installations	10
Ceiling Fans	Energy Star listed; includes new installations	10
Appliances²		
Refrigerators	At least 25% more efficient than federal standard (NAECA)	10
Clothes Washers	At least 2.0 MEF (Modified Energy Factor); no more than 6.0 WCF (Water Consumption Factor)	10
Dishwashers	Must use no more than 307 kWh/year and 5.0 gal/cycle	10
Health & Safety Improvements		
As determined and recommended by Tier 2/3 audit		

Notes:

1. Abundant Power is willing to evaluate alternative products and systems that are not already covered within this list of eligible measures, provided they include commercially available technologies that are proven and tested to be reliable.
2. Loans that include removable fixtures such as lighting, ceiling fans, and appliances are subject to special underwriting limitations

ATTACHMENT C

Vendor Approval and Management

Vendor Approval and Management (DRAFT 09-13-2010)

Local contractors, vendors, consultants, engineers and auditors serve as the “engine” of the APS SAVES™ platform (*Sustainable and Verifiable Energy Savings*). As job growth and economic development are one of the most attractive aspects for most communities and Program Sponsors, the SAVES™ platform makes it easy for participating contractors to grow their business by providing 100% financing for their customers. Each contractor will be provided with training on how best to navigate through the program. Customized marketing materials that co-brand their image alongside program branding give local businesses the opportunity to originate and complete projects on their own.

Unleashing the expertise of energy efficiency and renewable energy experts in a trustworthy and transparent manner is of utmost importance to the success of a Program. Established national credentialing and licensing programs are leveraged to make selection of pre-qualified vendors a transparent and open process. Whether seasoned local entities or regional players looking to establish local offices, all vendors, consultants and contractors who wish to participate in the SAVES™ Program must document proof of proper qualifications and licenses, participate in a program orientation, and submit to ongoing reporting and quality assurance standards as contained herein.

APS will provide approved vendors with full circle feedback and monitoring to assure high quality work and maintain a reputable contractor base.

In general, a SAVES™ Program provides financing for energy efficiency and renewable energy measures that offer quantifiable borrower value. Measures typically include building envelope improvements (insulation and air sealing, windows, doors), HVAC system replacements and upgrades, water heater replacements and upgrades, and renewable energy systems such as solar PV, solar thermal, small wind, and qualifying biomass projects.

Overview

APS will monitor approved contractors and other third party vendors as part of a comprehensive lending program. The Program is designed to drive a higher understanding of the value of the specific improvements. Vendors will be approved for levels of participation according to qualifications, licensing and background check. To maintain a particular level of participation, the contractor must satisfy periodic reviews of licensing requirements, customer satisfaction results and validity of estimated efficiency gains.

Notice of Solicitation

APS has determined specific qualification standards for the SAVES™ Program. APS will work with program Sponsors (city, county, state or utility) to execute an appropriate public solicitation for providers based on these qualifications (Request for Qualifications). (For more information on the program levels, see Project Approval and M&V policy)



Licensing and Professional Requirements

Tier 1: Widely accessible to any relevant business operating in compliance with all applicable local, state and federal rules and laws. Tier 1 projects consist of direct sales of HVAC, water heating, and renewable energy systems to applicants made by vendors or contractors not qualified (or desiring) to follow Tier 2 or 3 protocols.

- a. State Business License
- b. Worker's Compensation
- c. General Liability Insurance (\$1,000,000/occurrence; \$1,000,000 aggregate)
- d. Applicable Trade License(s), with no pending actions
- e. Federal Lead-Safe Certification (<http://www.epa.gov/lead/pubs/renovation.htm>)
- f. SAVES™ Orientation, as provided by [Local Provider]
- g. Solar Thermal/PV providers only – NABCEP (North American Board of Certified Energy Practitioners) Certified for applicable technology.

Tier 2: A Tier 2 project consists of a comprehensive energy audit performed by certified auditors who oversee complete project installation. Auditors must be able to facilitate contractor selection and review bids with the applicant to ensure adherence to the energy and financial parameters of the Program. Installation is performed by certified contractors.

All Tier 1 requirements must be satisfied, along with below.

Residential Auditor: BPI (Building Performance Institute) Building Analyst Professional, RESNET (Residential Energy Services Network) Certified Auditor/Rater, or equivalent. [Participating contractors in a Home Performance with Energy Star Program are generally eligible, subject to review and approval]

- a. Optionally, some programs will utilize an existing BPI or RESNET Providership (or equivalent) to perform quality assurance and quality control functions in a particular market. If so, participating auditors must maintain proof of membership within such an organization in order to qualify for the program.
- b. Optionally, some programs may require audits and installation be performed by independent entities.

Multi-Family Auditor: BPI Multifamily Building Analyst Professional, RESNET Certified Multi-Family Specialist, or equivalent.

- a. Optionally, some programs will utilize an existing BPI or RESNET Providership (or equivalent) to perform quality assurance and quality control functions in a particular market. If so, participating auditors must maintain proof of membership within such an organization in order to qualify for the program.
- a. Optionally, some programs may require audits and installation be performed by independent entities.

Commercial/Industrial(C&I) Auditor/Consultant: CEM (Certified Energy Manager), licensed PE (Professional Engineer), or equivalent, in addition to below, subject to committee review and approval of application.



- a. Provide proof of experience in energy conservation in building construction, mechanical systems and/or manufacturing processes;
- b. The Auditor/Consultant is allowed to provide construction management services and commissioning (Cx) services (with additional qualifications) to an approved applicant.
- c. Note that the Auditor/Consultant must have neither financial interest in the commercial business, non-profit institution, local government institution, or industrial business nor in the sale and installation of any proposed energy conservation measure, other than for construction management services and/or Cx services.

Residential Installation:

- a. Envelope (insulation, weatherproofing, windows and doors) – Led by BPI Envelope Professional or Building Analyst Professional, with a minimum of 50% of crew comprised of IAST Weatherization Technicians.
- b. HVAC (Heating and Cooling Systems) – Based on current workforce availability in the region, no further HVAC certifications are required for Tier 2 participation. [In future, BPI A/C and/or Heating Professional may be required, or qualifications as defined through NREL's proposed Retrofit Guidelines]
- c. Solar Thermal/PV – NABCEP (North American Board of Certified Energy Practitioners) Certified for applicable technology.

Multifamily Installation: BPI Multifamily Certification and below.

- a. Envelope (insulation, weatherproofing, windows and doors) – Led by BPI Envelope Professional, Multifamily or Building Analyst Professional, with a minimum of 50% of crew comprised of IAST Weatherization Technicians.
- b. HVAC (Heating and Cooling Systems) – Based on current workforce availability in the region, no further HVAC certifications are required for Tier 2 participation. [In future, BPI A/C and/or Heating Professional may be required, or qualifications as defined through NREL's proposed Retrofit Guidelines]
- c. Solar Thermal/PV – NABCEP (North American Board of Certified Energy Practitioners) Certified for applicable technology.

C&I Installation: Licensed for applicable trade(s) and below.

- a. Commissioning Services – Certified Commissioning Agent (CxA) as earned through ACG (AABC Commissioning Group), ASHRAE (American Society of Heating, Refrigerating and Air-Conditioning Engineers), University of Wisconsin at Madison, NEBB (National Environmental Balancing Bureau), or BCA (Building Commissioning Association). Note that the CxA must have neither financial interest in the commercial business, non-profit institution, local government institution, or industrial business nor in the sale and installation of any proposed energy conservation measure, other than for construction management services and/or Cx services.

Tier 3: In addition to the comprehensive audit provided by a certified auditor, a project is eligible for Tier 3 status when a computerized energy simulation is performed to calculate estimated savings.

All Tier 2 requirements must be satisfied, along with below.



C&I Auditor/Consultant: Provide proof of experience in software analysis of energy efficiency measures using simulation program approved for use by ASHRAE Standard 90.1, Appendix G, Performance Rating Method, subject to committee approval of application.

Vendor Application

For consideration, each prospective contractor/auditor must submit an application (and \$xxx fee) to be considered for approval to participate in the SAVES™ Program. The application must include, at a minimum:

- Name
- DBA
- Tax ID
- Ownership structure
- Principal(s)
- Mailing address
- Other address
- Business phone
- Primary contact
- Mobile phone
- Email address
- Website
- Company size
- Years in business
- Certification of accuracy
- Permission for verification

Additional Tier 1 Items:

- Submit licensing information (License number and business type)
- Provide Insurance Certificates with Charleston SAVES™ listed as Additional Insured***
- Submit Applicable Trade License(s)
- Attend Program Orientation (xx hours)***
- Sign acknowledgement of Project Approval, QA/QC protocols and M&V Policy as well as financing mechanics.

*** certain items are not required at time of application, but will be required prior to being listed as a pre-qualified service provider

Additional Tier 2 items: all Tier 1 approval and licensing requirements, and

- Provide documentation of all certifications for which pre-qualification is desired, organized by employee name
- C&I Auditor/Consultant applicants must provide PE license number and/or proof of CEM/CEA status, as well as supplemental statement of qualifications, including resumes for relevant employees.
- C&I Auditors/Consultants must provide a summary of three retrofit projects for which your firm (or key employees) has completed installation of energy conservation measures. Each project narrative, a maximum of one page in length, should describe application of your firm's overall abilities, including a summary of estimated energy, comfort and operational impacts.



Additional Tier 3 items: all Tier 2 approval and licensing requirements, and

- C&I Auditor/Consultant applicants must provide additional statement of qualifications for energy simulation experience

Review Process

Abundant Power will review all applications for administrative correctness and thoroughness prior to final review and approval by a review committee, according to the basic description as follows:

- APS Verification of application data
- APS background check and due diligence (see verification process below)
- APS issues administrative approval and submits to review committee
- A CharlestonSAVES™ review committee will perform a final review and determination of approval
- APS uploads information into data warehouse
- APS provides borrower with direct access to contractor through program materials and website.

Contractor Certificate of Understanding

The contractor must execute a Certificate of Understanding certifying the contractor's understanding and willingness to adhere to Program rules, including QA/QC protocols, customer surveys, and ongoing monitoring of performance metrics and other metrics as required for reporting to the program Sponsor.

Program Orientation

Program Orientation is required for participation of all contractors/auditors/consultants to be eligible for direct marketing of Program to potential applicants (home and business owners). The Orientation includes the following basic components:

- [1-2] hours of Process training to ensure ability to process required documents and guide consumers through the Program.
- [1-3] hours of Technical training to provide a basic review of building science principles
- [1-2] hours of Financial training to ensure the ability to help consumers determine the most appropriate options to meet their needs.
- [1-2] hours of Historic Preservation primer.

Certifications, along with associated professional development or continuing education requirements, are the direct responsibility of contractors/auditors to obtain and maintain. The SAVES™ Program will assist in identifying appropriate resources for interested contractors.

Verification

APS will verify licensing, insurance and contact information. Additionally, APS may review any or all of the following on the company and principals:

- Better Business Bureau reports: satisfactory or 'no record' rating
- Credit reports: explanations of derogatory findings needed for review
- Bankruptcy: no personal or business bankruptcy (5 year look-back)



Personal or business liens or judgments: not to exceed \$10k (5 year look-back)
 Personal or business law suits pending: explanation required
 Financial statements
 Criminal records related to offenses of a sexual or violent nature
 References

Process for verification and documentation:

Verify license
 Verify insurance
 Verify contact information including email and website
 Check Better Business Bureau
 Check credit
 Check bankruptcy
 Check financials
 Check criminal
 Check references

Documentation

APS will maintain electronic and hard copies of all documentation pertaining to approval and monitoring of contractors. This includes contractors declined for participation. All files used in determining contractor approval will be housed in an application extender and tied to the contractor specific data record in the APS data warehouse.

The contractor database will also be tied directly to current and completed projects. At any time, and on a periodic basis, APS will monitor, among other things, contractor approval rates, completion rates, days to completion by contractor, customer feedback, and company size.

Contractor trending will be instrumental to improvement in approval process and training.

Quality Control

A primary purpose of SAVES™ Programs is to attract and approve projects that result in *Sustainable and Verifiable Energy Savings*. Based on the anticipated energy savings, the borrower benefit applicable to all loans [assessments] should be such that energy savings outweigh the costs of installation. Except for Tier 1 projects, the expected savings will be more than the monthly cost of the loan including all fees and interest. Contractors must certify their understanding of these metrics and be monitored accordingly. A guarantee is not being provided, but every project is monitored for the full term of the loan [assessment] and analyzed against historical and estimated savings. Project Approval policies are continuously evaluated for improvement.

The following are metrics that are continuously collected to assess contractor/auditor performance:

- Number of jobs
- Customer feedback on quality
- Customer feedback on relations



- Anticipated savings compared to actual (using EPA's Portfolio Manager)
- Number of complaints
- Frequency of measure types
- Certification levels
- Employee levels (for ARRA reporting requirements)
- Verification of licensing

Quality Assurance

The SAVES™ Program requires that contractors and auditors be subject to minimum levels of third party oversight, as provided by Abundant Power staff and the Sustainability Institute.

All contractors:

- First [5] projects require on-site 3rd party review
- Random and adverse selection for 3rd party on-site review:
 - [5%] of Tier 1 projects;
 - [10-20%] of Tier 2/3 projects
- Random and adverse selection for paperwork/audit and energy analysis review:
 - [Not applicable] for Tier 1 projects;
 - [30-100%] of Tier 2/3 projects
- Periodic customer surveys and telephone interviews

Additionally, contractors approved for Tier 2 and 3 projects:

- Verification of compliance with BPI's Quality Assurance Program: BPI will use a combination of periodic surveys of customers, telephone interviews as well as field and file reviews on a percentage of BPI Accredited organizations' projects to evaluate conformance with BPI National Standards. Under the terms of the BPI Accreditation Agreement, BPI is responsible for evaluating conformance of the BPI Accredited organization to BPI National Standards and other obligations and for providing feedback.

Quality Control - Customer Feedback

Customer feedback is encouraged from all borrowers, and in some cases will be solicited directly by the program. All records of customer feedback will be collected and stored in the electronic record of every contractor/auditor who it relates to. Contractors and auditors will be provided this information for their benefit and derogatory feedback will require additional steps as detailed in the Termination/Probation procedures outlined below.

Prior to payment for services, customers must certify approval of all work that is funded through the program. In cases of unresolved disputes, voluntary mediation will be attempted by [a neutral third party designated by Abundant Power]. If disputes are still not resolved, cases will be turned over [for legal enforcement of claims].

- Target conversion rate: [80%]
 - Acceptable conversion rate: [60%]
 - Unsatisfactory conversion rate: [<40%]
- Estimates versus actual savings rate divergence:
 - Estimated savings is a metric required for all Tier 2 and 3 projects. On-going monitoring of energy usage as compared to 12 month trailing pre-project usage will be monitored by Abundant Power, utilizing IPMVP, Option C, as provided through the EPA Portfolio Manager application..
 - Corrective actions will be determined by the APS Director of M&V

Annual summary reports will be provided to vendors that include benchmarking, specific customer and distributor feedback and estimated versus actual savings rate on a portfolio basis.

Other Considerations

Other characteristics considered for vendor approval will be reviewed periodically.

Exceptions

The APS Director of M&V is allowed to approve reasonable exceptions to the written policy on a case-by-case basis and written documentation of rationale will be retained for program records.

Reporting

A contractor scoreboard will be maintained and distributed to help the contractors understand their position with respect to service and quality.

Consistent and meaningful monitoring, trending and reporting are instrumental to refining the vendor management. A heavy emphasis will be put on knowing not only the performance metrics, but understanding the factors that affect adoption. This will allow APS to optimize the program penetration and achieve high customer satisfaction.

Daily: TBD
 Weekly: TBD
 Monthly: TBD

All participating vendors will be given electronic access to the performance of their projects.



Termination/Probation

Vendors will be reviewed monthly for continued participation in the SAVES™ program. Upon derogatory findings as listed below, corrective actions will be made.

Prior to any probationary period and/or termination, the vendor will be notified as to the pending action and asked to provide written explanations for unsatisfactory work.

- Failure to complete training requirements:
 - immediate probationary period in which new referrals are deferred
 - after 6 months of non-compliance, termination
- Failure to provide licensing or insurance documentation:
 - immediate probationary period in which new referrals are deferred and current jobs are reallocated
 - after 6 months of non-compliance, termination
- Unsatisfactory on-site, paperwork/audit or energy analysis review
 - Corrective actions and training requirements will be determined by the APS Director of M&V.
- Unsatisfactory work is not acceptable and corrective action will be undertaken upon an unacceptable number of findings
 - Findings: unsatisfactory job completion feedback, unsatisfactory timely project implementation, customer complaints (quality or service), distributor feedback
 - Notification:
 - Upon 2nd instance of findings, vendor will be notified and asked to provide explanation
 - Upon 3rd instance of findings, vendor will be notified of forthcoming action, asked to provide explanation, and provide direction on corrective actions including available training
 - Upon forthcoming action, vendor will be notified of forthcoming action, asked to provide explanation, and provide direction on corrective actions including available training
 - Corrective action:
 - 3 incidences or greater than 20% of projects (upon completing 15th project): immediate probationary period
 - 4 incidences or greater than 30% of projects (upon completing 15th project): immediate termination
 - Lying on submissions to APS: immediate at APS discretion
 - Probationary period will continue until satisfactory rate is below threshold
- Auditor/Consultant Conversion Rate (Tier 2 and Tier 3 projects):
 - Referrals vs projects engaged is a metric that we will be monitoring closely. Upon low conversion rates, we will provide access to training on sales, financing and/or customer service.

ATTACHMENT D

Estimated Job and Energy/Costs Impacts

Energy/Cost Impacts - \$10 million QECB Fund

Total Project Volume (\$)		\$10,000,000
Residential (\$)	20%	\$2,000,000
Commercial (\$)	80%	\$8,000,000

Average Residential Project (\$)	Avg. Size (\$)	\$7,500
Water Conservation, Air Sealing,	# Loans	267
Duct Sealing, Roof Insulation,	Average Savings (\$/Yr)	\$1,500
Smart Home Upgrade, Lighting,	Simple Payback	5
Water Heater Upgrade, Wall	Loan Term	7
Insulation, HVAC Upgrade, Solar	Natural Gas Savings (CCF)	20
Thermal	Electricity Savings (KWh)	11,407

Typical Commercial Project (\$)	Avg. Size (\$)	\$100,000
Retro-Commissioning, HVAC	# Loans	80
Controls, Lighting and Lighting	Average Savings (\$/Yr)	\$20,000
Controls, Weatherization, HVAC	Simple Payback	5
Upgrades or Replacement, Solar	Loan Term	7
Thermal	Natural Gas Savings (CCF)	281
	Electricity Savings (KWh)	176,796

Total Yearly Energy Cost Savings	\$2,000,000
Total Natural Gas Savings (CCF)	27,697
Total Electricity Savings (kWh)	17,185,472

Job Impacts - \$10 million QECB Fund

Total Project Volume (\$)		\$10,000,000
Residential (\$)	20%	\$2,000,000
Commercial (\$)	80%	\$8,000,000
Average Residential Project (\$)	Avg. Loan Size (\$)	\$7,500
Water Conservation, Air Sealing,	# Loans	267
Duct Sealing, Roof Insulation,		
Smart Home Upgrade, Lighting,		
Water Heater Upgrade, Wall		
Insulation, HVAC Upgrade, Solar		
Thermal		
Typical Commercial Project (\$)	Avg. Size (\$)	\$100,000
Retro-Commissioning, HVAC	# Loans	80
Controls, Lighting and Lighting		
Controls, Weatherization, HVAC		
Upgrades or Replacement, Solar		
Thermal		
Percent of Funds for Labor		60%
Percent of Funds for Equipment		40%
Total Labor Expenditure		\$6,000,000
1 Full Time Equivalent (FTE) Labor Hours		2,080
Average Labor Rate (all-in)		\$30 /hour

Total Labor Hours	200,000
Total FTE Job Impact	96

AGENCY: Comptroller General

SUBJECT: System Valuations as of July 1, 2010

The laws governing the operation of the South Carolina Retirement Systems provide that actuarial valuations of the assets and liabilities of the System shall be made annually (Sections 9-1-260, 9-8-30, 9-9-30, 9-10-20, 9-11-30).

Each year a valuation is conducted on the five defined benefit plans administered by the Retirement Division. These valuations, in the opinion of the consulting actuary, correctly present the condition of the South Carolina Retirement Systems as to those benefits that are funded on an actuarial reserve basis.

BOARD ACTION REQUESTED:

Accept as information the annual actuarial valuations and the recommendations contained therein submitted by the actuary of the South Carolina Retirement Systems and consider making recommendations on the funding of the Systems.

ATTACHMENTS:

SCRS Valuation; PORS Valuation; GARS Valuation; JSRS Valuation; NGRS Valuation; Summary of Results; Copy of Statute

SECTION 9-1-260. Annual valuation by actuary.

On the basis of regular interest and tables last adopted by the Board the actuary shall make an annual valuation of the contingent assets and liabilities of the System.

SECTION 9 8 30. Administration of System; actuary; salaries and expenses.

- (1) The administration and responsibility for the operation of the System and for making effective the provisions of this chapter are vested in the State Budget and Control Board.
- (2) The Board shall engage such actuarial and other services as shall be required to transact the business of the System.
- (3) The Board shall designate an actuary who shall be the technical advisor of the Board on matters regarding the operation of the System and who shall perform such other duties as are required in connection therewith.
- (4) At least once in each five year period following the date of establishment, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the System and shall make a valuation of the contingent assets and liabilities of the System. The Board, after taking into account the results of the investigations and valuations, shall adopt for the System such mortality, service and other tables as shall be deemed necessary.
- (5) On the basis of regular interest and tables last adopted by the Board, for purposes of actuarial valuations, the actuary shall make a valuation of the contingent assets and liabilities of the system at least every other year.
- (6) The Board shall keep in convenient form such data as shall be necessary for the actuarial valuation of the contingent assets and liabilities of the System and for checking the experience of the System.
- (7) The Board shall determine from time to time the rates of regular interest for use in calculations, with the rate of four percent per annum applicable for all purposes other than for actuarial valuations unless changed by the Board.
- (8) Subject to the limitations hereof, the Board shall, from time to time, establish regulations for the administration of the System and for the transaction of business.
- (9) The Board shall keep a record of all its proceedings under this chapter which shall be open to public inspection. Notwithstanding any other provisions of law governing the System, all persons employed by the Board and the expenses of the Board to carry out the provisions of this chapter shall be paid from the interest earnings of the System.

SECTION 9-9-30. Administration of and responsibility for System vested in State Budget and Control Board; powers and duties of Board; actuary; salaries of employees and expenses.

- (1) The general administration and responsibility for the proper operation of the System and for making effective the provisions hereof are hereby vested in the State Budget and Control Board.
- (2) The Board shall engage such actuarial and other services as shall be required to transact the business of the System.
- (3) The Board shall designate an actuary who shall be the technical advisor of the Board on

matters regarding the operation of the System and shall perform such other duties as are required in connection therewith.

(4) At least once in each five-year period following the date of establishment, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the System and shall make a valuation of the contingent assets and liabilities of the System. The Board, after taking into account the results of such investigations and valuations, shall adopt for the System such mortality, service and other tables as shall be deemed necessary.

(5) On the basis of regular interest and tables last adopted by the Board, the actuary shall make a valuation of the contingent assets and liabilities of the system at least every other year.

(6) The Board shall keep in convenient form such data as shall be necessary for the actuarial valuation of the contingent assets and liabilities of the System and for checking the experience of the System.

(7) The Board shall determine from time to time the rate of regular interest for use in all calculations, with the rate of four percent per annum applicable unless changed by the Board.

(8) Subject to the limitations hereof, the Board shall, from time to time, establish rules and regulations for the administration of the System and for the transaction of business.

(9) The Board shall keep a record of all its proceedings under this chapter which shall be open to public inspection. Notwithstanding any other provisions of law governing the System, all persons employed by the Board and the expenses of the Board to carry out the provisions of this chapter shall be paid from the interest earnings of the System.

SECTION 9-10-20. Retirement system established; administration; Director; actuarial investigations; public records.

(A) A retirement system is established to provide pension benefits for members of the National Guard of South Carolina who became members of the National Guard of South Carolina before July 1, 1993. This retirement system has the powers and privileges of a corporation and must be known as the National Guard Retirement System. By this name all of its business must be transacted, all of its funds invested, and all of its cash, securities, and other property held.

(B) The general administration and responsibility for the proper operation of the system and for making effective the provisions of this chapter are vested in the board.

(C) There is created an office of Director of the National Guard Retirement System. The Director of the South Carolina Retirement System shall serve as director.

(D) The board shall engage the actuarial and other services as required to transact the business of the system.

(E) The board shall designate an actuary to be the technical advisor of the board on matters regarding the operation of the system and who shall perform other duties as are required in connection with the system.

(F) At least once in each five year period following July 1, 2006, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the participants of the system and make a valuation of the contingent assets and liabilities of the system. The board, after taking into account the results of these investigations and valuations, shall adopt for the system the mortality, service, and other tables as are necessary.

- (G) On the basis of regular interest and tables last adopted by the board, the actuary shall make a valuation of the contingent assets and liabilities of the system at least every other year.
- (H) The board shall keep in convenient form the data as necessary for the actuarial valuation of the contingent assets and liabilities of the system and for checking the experience of the system.
- (I) Subject to the limitations of this chapter, the board shall establish regulations for the administration of the system and for the transaction of business.
- (J) The board shall keep a record of all its proceedings under this chapter, which must be open to public inspection. Notwithstanding any other provisions of law governing the system, all persons employed by the board and the expenses of the board to carry out the provisions of this chapter must be paid from the interest earnings of the system.

SECTION 9-11-30. State Budget and Control Board shall administer System; powers and duties.

- (1) The general administration and responsibility for the proper operation of the System and for making effective the provisions hereof are hereby vested in the State Budget and Control Board.
- (2) [Reserved]
- (3) The Board shall engage such actuarial and other services as shall be required to transact the business of the System.
- (4) The Board shall designate an actuary who shall be the technical adviser of the Board on matters regarding the operation of the System and shall perform such other duties as are required in connection therewith and shall be a member of the American Academy of Actuaries.
- (5) At least once in each five-year period following the date of establishment, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the System and shall make a valuation of the contingent assets and liabilities of the System and the Board, after taking into account the results of such investigations and valuations, shall adopt for the System such mortality, service and other tables as shall be deemed necessary.
- (6) On the basis of regular interest and tables last adopted by the Board the actuary shall make an annual valuation of the contingent assets and liabilities of the System.
- (7) The Board shall keep in convenient form such data as shall be necessary for the actuarial valuation of the contingent assets and liabilities of the System and for checking the experience of the System.
- (8) The Board shall determine from time to time the rate or rates of regular interest for use in all calculations.
- (9) Subject to the limitations hereof, the Board shall, from time to time, establish rules and regulations for the administration of the System and for the transaction of business.
- (10) The Board shall keep a record of all its proceedings under this article which shall be open to public inspection. It shall publish an annual report showing the fiscal transactions of the System for the preceding year, the amount of the accumulated cash and securities of the System and the last balance sheet showing the financial condition of the System by means of an actuarial valuation of the contingent assets and liabilities of the System. Notwithstanding any other provisions of law governing the System, all persons employed by the Board and the expenses of the Board to carry out the provisions of this chapter shall be paid from the interest earnings of the System.

STATE BUDGET AND CONTROL BOARD

REGULAR SESSION

MEETING OF May 2, 2011

ITEM NUMBER 7

AGENCY: Budget and Control Board

SUBJECT: Future Meeting

The next regular meeting of the Budget and Control Board will be held at 10:00 a.m. on Tuesday, June 14, 2011, in Room 252, Edgar A. Brown Building.

Schedule of Meetings in 2011

August 9
October 18
December 13

BOARD ACTION REQUESTED:

Agree to meet at 10:00 a.m. on Tuesday, June 14, 2011, in Room 252, Edgar A. Brown Building.

ATTACHMENTS: