

STATE FISCAL ACCOUNTABILITY AUTHORITY

Meeting of Tuesday, June 28, 2022 -- 10:00 A. M.

Room 252, Edgar A. Brown Building

AGENDA INDEX

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4.	Department of Administration, Facilities Management and Property Services	SC Department of Revenue Lease at 300 Outlet Pointe Boulevard in Columbia
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AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

- (a) **Project:** JBRC Item 1: Coastal Carolina University
H17.9624: Indoor Practice Facility Construction
- Request:** Establish Phase I Pre-Design Budget to construct an approximately 90,000 square foot indoor practice facility.
- Included in CPIP:** Yes – 2021 CPIP Priority 4 of 5 in FY22 (estimated at \$15,000,000)
- CHE Approval:** 06/02/22

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Auxiliary Reserves				375,000	375,000
All Sources				<u>375,000</u>	<u>375,000</u>

Summary of Work: The project will construct an indoor practice facility that will include a full-sized synthetic turf football field, a coach's tower, a training room, video recording platforms, lighting and sound systems, restrooms, and storage space. High ceilings will allow for special teams' work. The building will not be conditioned.

Rationale: Per the university, the football program currently has no adequate indoor practice location. An indoor practice facility will assist with alleviating conflicts among multiple sports for practice space which promotes student-athlete welfare by allowing more flexibility around student-athlete academic schedules. In inclement weather, this facility will enable consistency with practices and provide enhanced safety allowing practices to continue during inclement weather. Practice time is highly regulated by NCAA rules and is largely perishable. A lost practice cannot be made up without special waivers to rules. During off-peak usage it can be utilized by other athletic programs, club sports, as a campus gathering place for special events, and in extreme cases, provide another large scale local/regional asset for potential emergency management use.

Facility Characteristics: The new approximately 90,000 square foot indoor practice facility will be used by approximately 100 football players and 30 coaching and support staff.

Financial Impact: The project will be funded from Auxiliary Reserve Funds (uncommitted balance \$6.77 million at June 23, 2022). Revenue to this fund is discretionary funds derived from food service, vending and bookstore commissions. The project is expected to result in an increase of \$261,760 (years 1 thru 3), in annual operating expenses. No student fees or tuition will be increased because of the project. A portion of tuition is designated for capital improvements, currently \$505 per student per semester, and has decreased from \$595 to \$505 for the academic years 2014-2015 to 2021-2022.

Full Project Estimate: \$15,000,000 (internal) funded by Auxiliary Reserves and Donor Gift Funds. Phase II will be funded by \$5,000,000 in Auxiliary Reserves, and \$10,000,000 in secured private donor gifts funded through the Chanticleer Athletic Foundation.

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

- (b) **Project:** JBRC Item 2: University of South Carolina - Columbia
H27.6143: Swearingen Infrastructure Replacement Renovation
- Request:** Establish Phase I Pre-Design Budget to replace aged mechanical HVAC and electrical infrastructure at Swearingen Engineering Center.
- Included in CPIP:** Yes – 2021 CPIP Priority 12 of 15 in FY22 (estimated at \$9,000,000)
- CHE Approval:** 06/02/22

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Institutional Capital Project				135,000	135,000
All Sources				<u>135,000</u>	<u>135,000</u>

Summary of Work: This project will replace the main mechanical air handling units, replace portions of the ductwork that are fiber board (non-metallic), replace variable air volume units, replace pneumatic mechanical controls with digital controls, install a sprinkler system, remove existing aged acoustical ceilings to install mechanical and sprinkler work, replace the fire alarm system, install new LED lighting, and abate asbestos as required.

Rationale: The mechanical HVAC and electrical infrastructure are original to the building and have exceeded their useful lives. The absence of a sprinkler system and an aged fire alarm system render the building non-compliant with current life safety codes.

Facility Characteristics: Swearingen Engineering Center is 217,466 gross square feet and was constructed in 1987 (35 years old). Approximately 4,070 students, faculty, staff, and clients utilize the facility.

Financial Impact: This project will be funded from Other, Institutional Capital Project Fund (uncommitted balance \$27.1 million at January 31, 2022). Revenue to the fund is generated from the portion of tuition and fees designated for Bond and Renovation Reserve. These funds pay debt service first and the remainder is used for capital improvements. The project is expected to result in a decrease of annual operating costs, but those amounts have not yet been determined. No student fees or tuition will be increased because of the project. A portion of tuition is designated for capital improvements, currently \$40 per student per semester, and has not changed since FY14-15.

Full Project Estimate: \$9,000,000 (internal) funded by Institutional Capital Project Funds.

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

- (c) **Project:** JBRC Item 3: University of South Carolina - Columbia
H27.6131: Thornwell College Maintenance Renovation
- Request:** Establish Phase II Full Construction Budget to renovate the residential portion of the building.
- Included in CPIP:** Yes – 2021 CPIP Priority 9 of 13 in FY22 (estimated at \$12,000,000)
- Phase I Approval:** August 2019 (estimated at \$12,000,000) (SFAA)
- CHE Approval:** 06/02/22

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Housing Maintenance Reserve	165,000		165,000	12,425,000	12,590,000
All Sources	<u>165,000</u>		<u>165,000</u>	<u>12,425,000</u>	<u>12,590,000</u>

Summary of Work: This project will gut and reconfigure the interior student residence areas. The reconfiguration will convert the apartment-style units to suite-style units and add approximately 18 beds within the existing building footprint. The renovation will replace all mechanical, plumbing, and electrical infrastructure. Additionally, a new generator will be provided to power life safety and emergency systems in Thornwell and the adjacent Maxcy College. Electronic access door hardware will be added to unit entrances to match university housing standards. The roof was surveyed and was determined to be in salvageable condition requiring only localized repairs. A modestly scaled expansion (approximately 1,500 square feet) will be constructed at the south façade to serve a new main entrance and create public space at each floor level. Other public spaces include new corridors, kitchens, egress stairs and a laundry. Exterior improvements will be executed at the south courtyard to remove the non-historic and unattractive fire escape balconies and enhance accessibility. Patios will be created for exterior study and social space.

Rationale: The residence hall has not been renovated in decades and requires systems replacements to enhance functionality and student comfort. The reconfiguration will update the unit style to suites that are deemed to be most beneficial to students. Removing the fire escape balconies will improve building aesthetics, reduce maintenance, and align with the building's historic architectural character. The replacement of aged mechanical and electrical systems will reduce energy consumption and save utility cost, per the agency.

Facility Characteristics: Thornwell College is 38,421 gross square feet and was constructed in 1913 (109 years old). Only 21,000 square feet of the building dedicated to university housing will be renovated. The East Office Annex portion will not be renovated as part of this project. 78 students will reside in the building.

Financial Impact: This project will be funded from Other, Housing Maintenance Reserve Fund (uncommitted balance \$27.1 million at January 31, 2022). Revenue to the fund is generated from housing fees and revenues generated by laundry operations, conferences, and interest. The building will be designed to meet Two Green Globes certification standards with anticipated energy savings of \$483,606 over

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30 years. The project is expected to result in a decrease of \$17,806 (years 1 thru 3), in annual operating expenses. No student fees or tuition will be increased because of the project. A portion of tuition is designated for capital improvements, currently \$40 per student per semester, and has not changed since FY14-15.

Full Project Estimate: \$12,590,000 (internal) funded by Housing Maintenance Reserve Funds. Contract execution is expected in April 2023 and completion of construction in July 2024.

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

- (d) Project: JBRC Item 4: Horry Georgetown Technical College
H59.6192: Diesel Engine Training Facility Expansion – Building and Land
- Request: Establish Final Land Acquisition to purchase approximately 1.5 acres of land and a 13,700 square foot building in Horry County.
- Included in CPIP: Yes – 2021 CPIP Priority 1 of 1 in FY22 (estimated at \$2,000,000)
Phase I Approval: April 2022 (estimated at \$1,580,000) (SFAA)
CHE Approval: 06/02/22

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, College Plant	20,000		20,000	1,560,000	1,580,000
All Sources	<u>20,000</u>		<u>20,000</u>	<u>1,560,000</u>	<u>1,580,000</u>

Rationale: In response to workforce needs, state-wide labor shortages, and increased student demand, the college desires to acquire light industrial/commercial space that can accommodate both classroom and lab training for its Diesel Engine Technician Program. The existing training facility is only 5,000 square feet and cannot accommodate additional student enrollment. Through acquiring additional instructional and lab training space, the college can more than double enrollment in the Diesel Engine Technician program and use the added space to better support the training, vehicle maintenance and equipment storage needs of its Electrical Lineman and Golf Course Management programs. Enrollment in the Diesel Training Program is currently 20 students with a waiting list of more than 2 semesters. With this project and the additional space, the college plans to increase the enrollment to a capacity of 55 students.

Characteristics: The 13,700 square foot light industrial/commercial (warehouse type) building, on 1.5 acres of land, is in a Business Park directly across from the college's Conway campus (within 1.5 miles). The proposed building was constructed in 2005 (17 years old), includes 3 dock high (garage) doors that are 12 feet in height, and has 2 loading docks along with parking to support 45 vehicles. The total number of students, faculty, and staff that will occupy or use the added space is expected to be 104 per semester, or 208 per academic year.

Financial Impact: The property is offered by the Horry Georgetown Technical College Foundation for \$1,560,000. The acquisition will be funded from College Plant Funds (uncommitted balance \$6.67 million at April 27, 2022). Revenue to this fund is the cumulative excess of revenues over expenses that are set aside to fund capital projects and major renovations. The project is expected to result in an increase of \$34,250 (years 1 thru 3), in annual operating expenses. No student fees or tuition will be increased because of the project. Furthermore, the college has no debt and does not impose any capital related fee. If acquired, the College anticipates some renovations of the building to include supplementing the existing HVAC system, modifying the loading docks, and possibly expanding electrical service. They anticipate the costs of these renovations to be less than \$400,000. These costs will be paid for with College Plant Funds. An appraisal was completed in September 2021 and valued the property at \$1,560,000. A Phase I Environmental Site Assessment was completed in September 2021 and revealed one Historical

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Recognized Environmental Condition (HREC), in connection with the property due to the past industrial and regulatory history originally connected with the former GMC property. No vapor encroachment conditions (VEC), exists on the property currently. A Building Condition Assessment was completed September 2021 and determined that the building is in good condition and required repairs/upgrades seem minimal. Letters of support have been received from Horry County and Horry County School District authorizing the property to be removed from the tax rolls.

Full Project Estimate: \$1,580,000 (internal) funded by College Plant Funds.

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SUBJECT: Permanent Improvement Projects

- (e) Project: JBRC Item 9: Office of the Adjutant General
E24.9797: McEntire AASF Runway Centerline Improvement
- Request: Increase Phase II Full Construction Budget to cover a change order for additional asphalt milling and replacement for the taxi-way repairs.
- Included in CPIP: Yes – 2021 CPIP Priority 13 of 23 in FY22 (estimated at \$971,260)
- Phase I Approval: January 2017 (estimated at \$214,000) (JBRC Staff)
- Phase II Approval: August 2017 (estimated at \$214,000) (JBRC Staff)
- Phase II Increase Approval: July 2019 (estimated at \$485,630) (JBRC)
- Phase II Increase Approval: August 2021 (estimated at \$671,288) (JBRC)
- Phase II Increase Approval: January 2022 (estimated at \$1,581,744) (SFAA)
- CHE Approval: N/A

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Federal, National Guard Bureau	22,916	1,558,828	1,581,744	411,243	1,992,987
All Sources	<u>22,916</u>	<u>1,558,828</u>	<u>1,581,744</u>	<u>411,243</u>	<u>1,992,987</u>

Summary of Work: The initial project was established and funded specifically to evaluate and repair cracks along centerline of Runway 05-23, 18-inches on both side of the centerline, in addition to repairs to a portion of the taxiway located next to the main runway utilized by the SC Air National Guard. An evaluation by the SC Air National Guard has shown significant damage from the taxiway to the main runway. The runway is approximately 3,420 linear feet long.

Rationale: The agency received one bid for the proposed work due to the limited number of contractors available to do this type of work, along with the small scope of the work planned. These repairs are needed to reduce foreign object debris being drawn into the aircraft engines. An evaluation of Runway 05-23 indicates severe cracking of the concrete along the centerline of the runway for approximately 18-inches, on both sides. As the centerline of the runway receives most of the impact by both fixed-wing and rotary aircraft, this area of the runway needs to be repaired to prevent the dislodging of broken materials and possible damage to aircraft.

Facility Characteristics: The runway is approximately 3,420 linear feet and is over 50 years old. Over 300 aviation personnel utilize the runway.

Financial Impact: The project will be funded from National Guard Bureau Funds (uncommitted balance \$3 million at April 28, 2022). Revenue to the fund is identified as part of the Construction and Facilities Management Office's Master Cooperative Agreement through the Office of the Adjutant General and from the National Guard Bureau. The project is not expected to result in any change in annual operating expenditures.

Full Project Estimate: \$1,992,987 (internal) funded by National Guard Bureau Funds. Construction completion is anticipated in August 2022.

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- (f) Project: JBRC Item 10: Department of Health & Environmental Control
J04.9539: Hayne Lab Modular Building
- Request: Establish Phase II Full Construction Budget to purchase a modular office building and place it next to the Hayne Lab.
- Included in CPIP: Yes – 2021 CPIP Priority 1 of 4 in FY22 (estimated at \$1,350,000)
Phase I Approval: October 2021 (estimated at \$1,600,000) (SFAA)
CHE Approval: N/A

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Federal, Enhancing Laboratory Capacity Grant	24,000		24,000	1,576,000	1,600,000
All Sources	<u>24,000</u>		<u>24,000</u>	<u>1,576,000</u>	<u>1,600,000</u>

Summary of Work: The 5,760 square foot building will be built similar to a school modular that will be built in sections and brought onto the property and assembled. The building will either have metal siding or a concrete board with a metal roof to minimize maintenance. The building will include offices with some storage and meeting space. The modular will be connected to utilities that exist on the property and will operate independent of the Hayne Lab. The project will include renovations to the lab space that is vacated by staff moving to the modular building. This work will involve demolishing the existing office space and installing casework for a laboratory, flooring, power as needed for equipment and possibly new vent fans.

Rationale: The space will allow for administrative staff to move from the main building into the modular building, thus freeing up space that can be converted back into laboratory space. Per the agency, lab space in the current building is pushed to the limit. A feasibility study was performed in 2018 to study the possibility of renovating some of the labs to allow for more productivity and concluded that the existing building did not allow for efficient renovations and that the existing building is approximately 53% undersized.

Facility Characteristics: The existing Hayne Lab Annex is 90,500 gross square feet and was constructed in 1975 (47 years old). The new modular building to be constructed will be 5,760 square feet and will house approximately 180 Hayne Lab Administrative staff. The Public Health and Environmental Health programs would backfill into the renovated lab space in the main building.

Financial Impact: The project will be funded from Enhancing Laboratory Capacity (ELC) Enhancing Detection Expansion Grant Funds (uncommitted balance \$62.98 million on April 28, 2022). Revenue to this fund is from the Federal Coronavirus Response Relief Supplemental Appropriations Act of 2021. The project is expected to result in an increase of \$24,000 (years 1 thru 3), in annual operating expenses.

Full Project Estimate: \$1,600,000 (internal) funded by ELC Enhancing Detection Expansion Grant Funds. Contract execution is expected in June 2022 and completion of construction in July 2023.

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- (g) Project: JBRC Item 13: Department of Mental Health
J12.9757: Roof and Sprinkler Replacement at Orangeburg Mental Health Center
- Request: Increase Phase II Full Construction Budget to cover higher than anticipated costs to replace the entire sprinkler system at the Orangeburg Mental Health Center in Orangeburg.
- Included in CPIP: No – The agency did not anticipate the problems with the project or contractor at the time the 2021 CPIP was submitted.
- Phase I Approval: August 2017 (estimated at \$500,000) (JBRC)
- Phase II Approval: December 2017 (estimated at \$575,000) (JBRC)
- Revise Scope Approval: May 2019 (estimated at \$575,000) (Admin)
- Phase II Increase &
Revise Scope Approval: December 2019 (estimated at \$900,000)
- Phase II Increase,
Revise Scope, &
Change Project Name
- Approval: January 2022 (estimated at \$1,575,000) (SFAA)
- CHE Approval: N/A

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Capital Improvement & Maintenance	7,500	1,567,500	1,575,000	260,091	1,835,091
All Sources	<u>7,500</u>	<u>1,567,500</u>	<u>1,575,000</u>	<u>260,091</u>	<u>1,835,091</u>

Summary of Work: This project was established to replace the existing 20-year-old asphalt shingle roof over a plywood deck. The roof was replaced with 50-year shingles and included a 20-year manufacturer's warranty. Additionally, a previous scope revision was approved in May 2019 to include the removal and repair of several areas where there were sheetrock ceiling stains and to make repairs to specific trunk lines and sprinkler leaks. During the investigation there were other areas identified where sprinkler leaks have occurred increasing the quantity originally thought to address the problem. Subsequently the project was revisited, and it was decided that the entire sprinkler system needs to be replaced. Because of the issues with the contractor and several unknowns, like the unstable market, a new contractor taking ownership for previous work and equipment and unidentified issues above the ceiling remaining to be found, this project will have a 20% contingency.

Rationale: Due to issues with the contractor the agency canceled the project for convenience at Phase 1 of 4. This request will increase the project budget to cover increased costs and add additional contingency to the project budget. The project will replace the entire system and fix what the contractor did not complete or properly complete.

Facility Characteristics: The facility is 25,595 square feet and was constructed in 1998 (23 years old). It houses the general administration for all facilities and the following support services: Child, Adolescent and Family Clinic Based Services, School Based Services when out of school; ACT Like Teams; Crisis Intervention, Diversion

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and After Hours Teams; Clinical Intake Team; Adult Short Term Outpatient; Adult Assertive Case Management; Peer Support Team; State Care Coordination Team; Vocational Rehabilitation Representative; TLC, Residential and Homeshare Teams; Medication Clinic with Nurses; Psychiatric Clinic with Doctors and Tele-psychiatry. There is a total of 59 staff members who provide a total of 30,774 services to 1,096 clients on average a year.

Financial Impact: The project will be funded from Capital Improvement & Maintenance Funds (uncommitted balance \$15 million at March 11, 2022). Revenue to this fund is authorized by Proviso 35.7 (Act 97 of 2017) permitting deposit of amounts appropriated for deferred maintenance and other one-time funds from any source into an interest-bearing fund held by the State Treasurer for, among other purposes and subject to required approvals, capital projects and ordinary repair and maintenance. The project is expected to result in a decrease of \$10,000 (years 1 thru 3).

Full Project Estimate: \$1,835,091 (internal) funded by Capital Improvement & Maintenance Funds. Contract execution is expected in August 2022 with construction completion in November 2022.

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

- (h) Project: JBRC Item 14: Department of Disabilities & Special Needs
J16.9913: Midland Center – Electrical Power Grid Conversion
- Request: Establish Phase II Full Construction Budget for the high voltage electrical distribution grid conversion at Midlands Center.
- Included in CPIP: Yes - 2021 CPIP Priority 1 of 6 in FY22 (estimated at \$1,280,500)
Phase I Approval: June 2017 (estimated at \$1,300,000) (SFAA)
CHE Approval: N/A

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Excess Debt Service	19,500		19,500	1,280,500	1,300,000
All Sources	<u>19,500</u>		<u>19,500</u>	<u>1,280,500</u>	<u>1,300,000</u>

Summary of Work: Dominion Energy/SCE&G will rebuild the overhead facilities and replace the underground primary and all three phase transformers currently feeding the facility. DDSN's existing 8 KV system will be converted to 23 KV, requiring the current 15 KV underground cable to be upgraded to 25 KV cable. All transformers will be converted to dual wound transformers to accommodate the new voltage. When work is complete all primary facilities will meet Dominion Energy/SCE&G specifications at 23 KV system voltage, standard.

Rationale: The system needs major upgrade to avert catastrophic failure and to turn over of ownership to Dominion Energy, formerly South Carolina Electric & Gas. DDSN currently owns the Midland Center campus wide electrical power distribution grid. However, DDSN has no staff with required expertise to maintain the high voltage system. The overhead facilities and underground cable are beyond useful life expectancy. Several partial failures on underground cable have occurred, as well as downed overhead lines due to storms in recent years. Per the agency, they recognize the safety and reliability needs for Dominion Energy/SCE&G to take ownership of the Midlands Center electrical distribution grid.

Facility Characteristics: The Midlands Center campus is 215.51 acres, and approximately 9,387,616 square feet and was deeded to DDSN from DMH in 1971 (51 years ago). The power grid was existing. The last major upgrade of the system was in 1974 (48 years ago), when SCE&G added the substation, and the department added switch gear, pad mounted transformers, duct banks, switches, and overhead primaries; however, this was not a completely new system. Since 1974 only minor maintenance has been done, with cleaning of transformers, painting of equipment, added new labels, and minor component replacements. This work was performed in 2007 (15 years ago). Underground failures have occurred on several occasions in recent years requiring emergency response to replace underground cables. More failures are anticipated, as the system is well beyond life expectancy. Approximately 150 residents plus 380 staff for the Midlands Center utilize this system.

Financial Impact: The project will be funded from Excess Debt Service Funds (uncommitted

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balance \$4.78 million at March 31, 2022). Revenue to the fund is invested and held by the State Treasurer's Office on behalf of SCDDSN and is comprised of revenues of the commission that exceed the payment due or to become due during the then current fiscal year and an additional sum equal to the maximum annual debt service requirement of the obligations for a succeeding fiscal year. The project is not expected to result in any change in annual operating expenditures.

Full Project Estimate: \$1,300,000 (internal) funded by Excess Debt Service Funds. Contract execution is expected in July 2022 with construction completion in July 2025.

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

- (i) **Project:** JBRC Item 16: Department of Corrections
N04.9775: Statewide – Add Air Conditioning to 256 Bed Housing Units
- Request:** Establish Phase II Full Construction Budget to add air conditioning to the housing units located at Lee Correctional Institution and Evans Correctional Institution.
- Included in CPIP:** No – This project was not included in the 2021 CPIP submission because repairs of existing building systems had priority at that time.
- Phase I Approval:** January 2022 (estimated at \$9,600,000) (SFAA)
- CHE Approval:** N/A

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Appropriated State, FY21 Carryforward	144,000		144,000	6,856,000	7,000,000
All Sources	<u>144,000</u>		<u>144,000</u>	<u>6,856,000</u>	<u>7,000,000</u>

- Summary of Work:** The project scope will add air conditioning to both buildings and will include the addition of a chiller, new air handlers, duct work and electrical upgrades to run the new equipment.
- Rationale:** The housing units were designed and constructed with heat and ventilation only.
- Facility Characteristics:** Each of the 256 bed housing units is 29,470 square feet and were constructed in 2003 (18 years old). Each housing unit accommodates 256 inmates and 3 staff.
- Financial Impact:** The project will be funded from Appropriated State, FY21 Carryforward Funds (uncommitted balance \$10.4 million on April 28, 2022). The project is expected to result in an increase of \$72,876 (years 1 thru 3), in annual operating expenses.
- Full Project Estimate:** \$7,000,000 (internal) funded by Appropriated State, FY21 Carryforward Funds. Contract execution is expected in November 2022 with construction completion in December 2026.

AUTHORITY ACTION REQUESTED:

Approve permanent improvement project establishment requests and budget revisions as requested by the Department of Administration, Executive Budget Office. All items have been reviewed favorably by the Joint Bond Review Committee.

ATTACHMENTS:

Agenda item worksheet and attachments

Project List: SFAA Items - June 28, 2022

SFAA Items - June 28, 2022

SFAA Item	JBRC Item2	Agency Code	Agency Name	Project ID	Project Name	Action Proposed	Included in CIP?	Current Budget	Requested Change	Phase I	Total Phase II Budget	SOF (excludes proposed Phase II if currently seeking Phase I)
(a)	1	H17	Coastal Carolina University	9624	Indoor Practice Facility Construction	Establish Phase I	Yes	-	375,000	375,000	15,000,000	Other - Auxiliary Reserves
(b)	2	H27	University of South Carolina - Columbia	6143	Swearingin Infrastructure Replacement Renovation	Establish Phase I	Yes	-	135,000	135,000	9,000,000	Other - Institutional Capital Project
(c)	3	H27	University of South Carolina - Columbia	6131	Thornwell College Maintenance Renovation	Establish Phase II	Yes	165,000	12,425,000	165,000	12,590,000	Other - Housing Maintenance Reserve
(d)	4	H59	Horry Georgetown Technical College	6192	Diesel Engine Training Facility Expansion - Building and Land	Final Land Acquisition	Yes	20,000	1,560,000	20,000	1,580,000	Other - College Plant
(e)	9	E24	Office of the Adjutant General	9797	McEntire AASF Runway Centerline Improvement	Phase II Increase	Yes	1,581,744	411,243	22,916	1,992,987	Federal - National Guard Bureau
(f)	10	J04	Department of Health & Environmental Control	9539	Hayne Lab Modular Building	Establish Phase II	Yes	24,000	1,576,000	24,000	1,600,000	Federal - Enhancing Laboratory Capacity Grant
(g)	13	J12	Department of Mental Health	9757	Roof and Sprinkler Replacement at Orangeburg Mental Health Center	Phase II Increase	No	1,575,000	260,091	7,500	1,835,091	Other - Capital Improvement & Maintenance
(h)	14	J16	Department of Disabilities & Special Needs	9913	Midland Center - Electrical Power Grid Conversion	Establish Phase II	Yes	19,500	1,280,500	19,500	1,300,000	Excess Debt Service
(i)	16	N04	Department of Corrections	9775	Statewide - Add Air Conditioning to 256 Bed Housing Units	Establish Phase II	No	144,000	6,856,000	144,000	7,000,000	Appropriated State - FY21 Carryforward

AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: Easements

The Department of Administration requests approval of the following easements in accordance with SC Code of Laws:

- a. County Location: Horry
From: Department of Administration on behalf of South Carolina
Department of Parks, Recreation & Tourism
To: DC BLOX, Inc.
Consideration: \$54,600
Description/Purpose: To grant a 0.29± acre (HDD) non-exclusive easement and a 1.05± acre (Fronthaul) non-exclusive easement for the construction, installation, operation and maintenance of a fiber optic cable system on property of Myrtle Beach State Park. Google is in the process of building the Firmina subsea cable that will run from the eastern United States to Argentina. Firmina will improve access to Google services and provide more reliable connectivity. The easements are needed for the continuation of fiber optics by connecting the cable landing site at the State Park to the cable landing station and multi-tenant data center to be located in Myrtle Beach. The easements will contain the State's standard termination language that if the easement holder abandons the easement, is in breach, or ceases to use the easement for its intended purpose, it will terminate. The terms of the easements will be fifty (50) years. The easement will be assignable only in the event of change of ownership or control of the Grantee subject to the easement restrictions. Consideration is the appraised value plus \$500 administrative fee for each easement. PRT has determined that, in accordance with the requirement of the statute, the easement does not appear to materially impair the utility of the property or damage it. There are no exceptions requested with regard to the 2003 easement policy.
- b. County Location: Richland
From: University of South Carolina
To: City of Columbia
Consideration: \$1 each for 2 separate easements

AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: Easements

Description/Purpose: To grant a 0.13± acre non-exclusive easement and a 0.16± acre non-exclusive easement for the purpose of constructing, operating, reconstructing and maintaining a sanitary sewer main across property owned by the University of South Carolina. The easements are part of the City's East Rock Branch Sanitary Sewer Improvements Project to enhance the capacity and improve the overall sewer system. The term of the easements will be fifty (50) years. The easement will contain the State's standard termination language that if the easement holder abandons the easement, is in breach, or ceases to use the easement for its intended purpose, it will terminate. The University has indicated that the easements will be of mutual benefit to the University and the City and, as such, has requested that the easements be granted for nominal consideration. The University has also determined that, in accordance with the requirement of the statute, the easements do not appear to materially impair the utility of the property or damage it. There are no exceptions requested with regard to the 2003 easement policy.

- c. County Location: Richland
From: University of South Carolina
To: City of Columbia
Consideration: \$1
Description/Purpose: To grant a 451 square foot non-exclusive easement for the purpose of access, ingress, egress, construction, operation, reconstruction and maintenance of water lines, vault and appurtenances serving the University's LeConte College. The term of the easement will be fifty (50) years. The easement will contain the State's standard termination language that if the easement holder abandons the easement, is in breach, or ceases to use the easement for its intended purpose, it will terminate. The easement is being sought by the University to provide water service to the newly renovated LeConte College and, as such, has

AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: Easements

requested that the easement be granted for nominal consideration. The University has also determined that, in accordance with the requirement of the statute, the easement does not appear to materially impair the utility of the property or damage it. There are no exceptions requested with regard to the 2003 easement policy.

AUTHORITY ACTION REQUESTED:

Approve granting the referenced easements as recommended by the Department of Administration, Facilities Management and Property Services.

ATTACHMENTS:

Agenda item worksheet and attachments

**STATE FISCAL ACCOUNTABILITY AUTHORITY
AGENDA ITEM WORKSHEET**

Meeting Scheduled for: June 28, 2022

Regular Agenda

1. Submitted by:

- (a) Agency: Department of Administration
(b) Authorized Official Signature:

Ashlie Lancaster
Ashlie Lancaster, Director

2. Subject: Easements

3. Summary and Background Information:

- (a) County Location: Horry
From: Department of Administration on behalf of South Carolina
Department of Parks, Recreation & Tourism
To: DC BLOX, Inc.
Consideration: \$54,600
Description/Purpose: To grant a 0.29± acre (HDD) non-exclusive easement and a 1.05± acre (Fronthaul) non-exclusive easement for the construction, installation, operation and maintenance of a fiber optic cable system on property of Myrtle Beach State Park. Google is in the process of building the Firmina subsea cable that will run from the eastern United States to Argentina. Firmina will improve access to Google services and provide more reliable connectivity. The easements are needed for the continuation of fiber optics by connecting the cable landing site at the State Park to the cable landing station and multi-tenant data center to be located in Myrtle Beach. The easements will contain the State's standard termination language that if the easement holder abandons the easement, is in breach, or ceases to use the easement for its intended purpose, it will terminate. The terms of the easements will be fifty (50) years. The easement will be assignable only in the event of change of ownership or control of the Grantee subject to the easement restrictions. Consideration is the appraised value plus \$500 administrative fee for each easement. PRT has determined that, in accordance with the requirement of the statute, the easement does not appear to materially impair the utility of the property or damage it. There are no exceptions requested with regard to the 2003 easement policy.
- (b) County Location: Richland
From: University of South Carolina
To: City of Columbia
Consideration: \$1 each for 2 separate easements
Description/Purpose: To grant a 0.13± acre non-exclusive easement and a 0.16± acre non-exclusive easement for the purpose of constructing, operating, reconstructing and maintaining a sanitary sewer main across property owned by the University of South Carolina. The easements are part of the City's East Rock Branch Sanitary Sewer Improvements Project to enhance the capacity and improve the overall sewer system. The term of the easements will be fifty (50) years. The easement will contain the State's standard termination language that if the easement holder

abandons the easement, is in breach, or ceases to use the easement for its intended purpose, it will terminate. The University has indicated that the easements will be of mutual benefit to the University and the City and, as such, has requested that the easements be granted for nominal consideration. The University has also determined that, in accordance with the requirement of the statute, the easements do not appear to materially impair the utility of the property or damage it. There are no exceptions requested with regard to the 2003 easement policy.

- (c) County Location: Richland
From: University of South Carolina
To: City of Columbia
Consideration: \$1
Description/Purpose: To grant a 451 square foot non-exclusive easement for the purpose of access, ingress, egress, construction, operation, reconstruction and maintenance of water lines, vault and appurtenances serving the University's LeConte College. The term of the easement will be fifty (50) years. The easement will contain the State's standard termination language that if the easement holder abandons the easement, is in breach, or ceases to use the easement for its intended purpose, it will terminate. The easement is being sought by the University to provide water service to the newly renovated LeConte College and, as such, has requested that the easement be granted for nominal consideration. The University has also determined that, in accordance with the requirement of the statute, the easement does not appear to materially impair the utility of the property or damage it. There are no exceptions requested with regard to the 2003 easement policy.

4. **What is the Authority asked to do?** Approve the referenced easements.

5. **What is recommendation of the submitting agency involved?** Approve the referenced easements.

6. **Private Participant Disclosure – Check one:**

☐ No private participants will be known at the time the Authority considers this agenda item.

☒ A Private Participant Disclosure form has been attached for each private participant.

As referenced on the Disclosure forms, a private participant is a natural person or non-governmental legal entity which may directly benefit from, and is participating in or directly associated with, the requested approval.

7. **Recommendation of other office (as required)?**

- (a) Authorized Signature: _____
(b) Office Name: Click or tap here to enter text.
-

8. **List of Supporting Documents:**

- (a) SC Code of Laws Sections 1-11-70, 1-11-80, 1-11-100 and 10-1-130
(b) Exhibits (plats, maps, etc.)
a. DC BLOX, Inc.

- b. City of Columbia – East Rocky Branch Addition
- c. City of Columbia – USC's LeConte College

SOUTH CAROLINA CODE OF LAWS

SECTION 1-11-70. Lands subject to Department's control.

All vacant lands and lands purchased by the former land commissioners of the State are subject to the directions of the Department of Administration.

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

The Department of Administration, upon approval of the State Fiscal Accountability Authority, 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 1-11-100. 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 the Department of Administration, upon approval of the State Fiscal Accountability Authority, 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 Director of the Department of Administration and the State Fiscal Accountability Authority.

SECTION 10-1-130. Grant of easements and rights of way.

The trustees or governing bodies of state institutions and agencies may grant easements and rights of way over any property under their control, upon the recommendation of the Department of Administration and approval of the State Fiscal Accountability Authority, whenever it appears that such easements do not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any amounts must be placed in the State Treasury to the credit of the institution or agency having control of the property involved.

(a-1)

NEXSEN PRUET

Mary D. Shahid
Member
Admitted in SC

Originally Delivered April 14, 2022
Revised May June 1, 2022

BY HAND DELIVERY TO LINDA GORDON AT THE ADDRESS BELOW

Ashlie Lancaster, Director
Division of Facilities Management & Property Services
The South Carolina Department of Administration
1200 Senate Street
Sixth Floor
Columbia, SC 29201

Re: Easement Applications - DC BLOX, Inc.

Dear Ms. Lancaster:

This office represents DC BLOX, Inc ("DC BLOX") in matters related to the installation of a proposed continuation of a submarine fiber optic cable structure connecting the cable landing site at the Myrtle Beach State Park to the cable landing station and multi-tenant data center to be located in Myrtle Beach. DC BLOX was selected by Google and its wholly-owned subsidiary GU Holdings LLC to build the cable landing station and multi-tenant data center in Myrtle Beach, S. C. to serve as the U.S landing location of the Firmina Cable System. DC BLOX has authorized this firm to serve as its agent for purposes of submitting the enclosed applications. As noted in the applications, Chris Gatch is the primary point of contact for matters related to these submittals.

The Firmina Cable System necessitates application for two easements - one for purposes of bringing the cable onto the beach from the Atlantic Ocean (HDD Easement) and the other for access through the Myrtle Beach State Park to the data center (Fronthaul Easement). We are submitting the applications together as they are interdependent and collectively represent the entire project.

Austin
Charleston
Charlotte
Columbia
Greensboro
Greenville
Bluffton / Hilton Head
Myrtle Beach
Raleigh

205 King Street
Suite 400 (29401)
PO Box 486
Charleston, SC 29402
www.nexsenpruet.com
T (843) 720-1788
F 843.414.8242
E MShahid@nexsenpruet.com
Nexsen Pruet, PLLC
Attorneys and Counselors at Law

(a-1)

Ashlie Lancaster
Originally Delivered April 14, 2022
Revised June 1, 2022
Page 2

Along with the applications, I am enclosing draft Easements which reflect the difference between the two applications, as the HDD Easement seeks authorization to directionally bore under high ground located between the "Pavilion" / "Asphalt Parking Lot" and the "Restrictive Dune Area." The installation continues through the Restrictive Dune Area and into the Atlantic Ocean, subject to a permit from the Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management. The Fronthaul Easement seeks authorization to directionally bore the cable underneath public park property. Copies of the related surveys identifying the location of the Easements are also attached.

Should you have any questions regarding these applications, please do not hesitate to contact Chris Gatch at 877-590-1684.

Very truly yours,

s/Mary D. Shahid

Member

cc: Chris Gatch, DC BLOX, Inc.

(a-2)

DISCOVER

South Carolina

South Carolina Department of
Parks, Recreation & Tourism

Henry McMaster
Governor

Duane N. Parrish
Director

May 4, 2022

Ashlie Lancaster , Director
Division of Facilities Management and Property Services
The South Carolina Department of Administration
1200 Senate Street
Sixth Floor
Columbia, SC 29201

RE: Easement Application – Myrtle Beach State Park

Dear Ms. Lancaster,

DC BLOX recently submitted an easement request for the proposed Google-Firmina fiber optic cable installation at Myrtle Beach State Park. As the responsible management agency, the South Carolina Department of Parks, Recreation & Tourism (SCPRT) has conducted the due diligence required by S.C. Code §10-1-135 and confirms the following.

SCPRT believes that there is an important public necessity for the easement at the state park due to internet growth and the increasing need for more bandwidth. In addition to providing faster, more reliable connectivity between North and South America and adding diversity for Google's network and routing, the project will also increase connectivity across South Carolina and other states on the east coast. Additionally, the subsea cable landing at Myrtle Beach State Park essentially creates an "internet traffic hub" which may serve as a magnet for other tech-related businesses and bring economic opportunity to the region.

When weighing all of the factors involved in locating the cable landing site, Google determined that the topography on the coast of South Carolina was amenable to the cables and offered a viable route. The proximity of Myrtle Beach State Park to the data centers as well as the low likelihood of later development on the property make the park the most feasible alternative.

Once the project is complete, the cable system will be below the surface of the easement and essentially remain an invisible network. The intended use and installation of the fiber optic infrastructure will not materially alter the area and should not impact the intended use of the Park. According to Google, the land will look untouched and remain unharmed as the cables are "environmentally benign" throughout their lifecycle.

(a-2)

Given the nominal impact of the project, the probability that mitigation will be needed is low. However, the easement submitted by DC BLOX states that if they disturb the surface for maintenance, repair, or replacement of the fiber optic infrastructure, they will restore the surface to the prior condition.

In conclusion, SCPRT has determined that the Google-Firmina project has met the statutory conditions for our approval. We look forward to working with DC BLOX to bring this valuable infrastructure to South Carolina.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane Parrish". The signature is fluid and cursive, with the first name "Duane" and last name "Parrish" clearly distinguishable.

Duane Parrish, Director

South Carolina Department of Parks, Recreation & Tourism

(a-4)

Easement Line and Curve Table

Line #/Curve #	Length	Bearing/Date	Radius
1.1	11.99	N48° 06' 17.11"E	
1.2	31.55	S41° 53' 40.89"W	
1.3	15.00	N48° 06' 17.11"E	
1.4	50.00	N48° 06' 17.11"E	
1.5	16.00	S48° 06' 17.11"E	
1.6	10.45	S48° 06' 17.11"E	
1.7	10.84	S48° 06' 17.11"E	
1.8	84.50	N48° 06' 17.11"E	
1.9	10.45	N23° 00' 33.30"E	
1.10	88.49	N23° 00' 33.30"E	
1.11	154.92	N38° 28' 49.92"E	
1.12	207.16	N18° 43' 18.14"E	
1.13	27.41	N22° 47' 59.45"E	
1.14	20.50	N23° 00' 33.30"E	
1.15	37.87	N33° 38' 00.22"E	
1.16	222.01	N17° 41' 09.82"E	
1.17	100.10	N33° 11' 49.53"E	
1.18	180.16	N23° 00' 33.30"E	
1.19	400.00	N45° 03' 20.19"E	

Easement Line and Curve Table

Line #/Curve #	Length	Bearing/Date	Radius
1.20	248.93	N37° 29' 44.36"E	
1.21	1365.58	N47° 24' 30.34"E	
1.22	12.55	N88° 00' 00.00"E	
1.23	1388.88	S47° 14' 22.50"E	
1.24	258.84	S31° 30' 39.96"E	
1.25	400.32	S45° 02' 54.28"E	
1.26	179.61	S25° 11' 56.08"E	
1.27	188.83	S29° 11' 40.50"E	
1.28	302.64	S37° 40' 52.45"E	
1.29	37.24	S35° 38' 33.05"E	
1.30	19.25	S28° 08' 29.89"E	
1.31	79.22	S22° 47' 59.45"E	
1.32	308.53	S18° 45' 56.17"E	
1.33	152.86	S16° 24' 11.97"E	
1.34	199.06	S2° 18' 24.80"E	
1.35	51.00	S21° 54' 30.30"E	
1.36	38.13	N66° 58' 27.70"E	
1.37	27.30	S21° 54' 30.30"E	
1.38	27.30	S86° 58' 27.70"E	
1.39	18.00	S23° 00' 33.30"E	
1.40	60.00	N66° 58' 27.70"E	
1.41	16.00	N23° 00' 33.30"E	
1.42	12.70	S46° 59' 27.70"E	
1.43	35.40	N23° 00' 33.30"E	
1.44	100.52	S86° 54' 56.08"E	

EASEMENT LINE AND CURVE TABLE

Line #/Curve #	Length	Bearing/Date	Radius
1.1	12.54	S70° 27' 49.82"E	
1.2	102.88	S78° 40' 12.87"E	

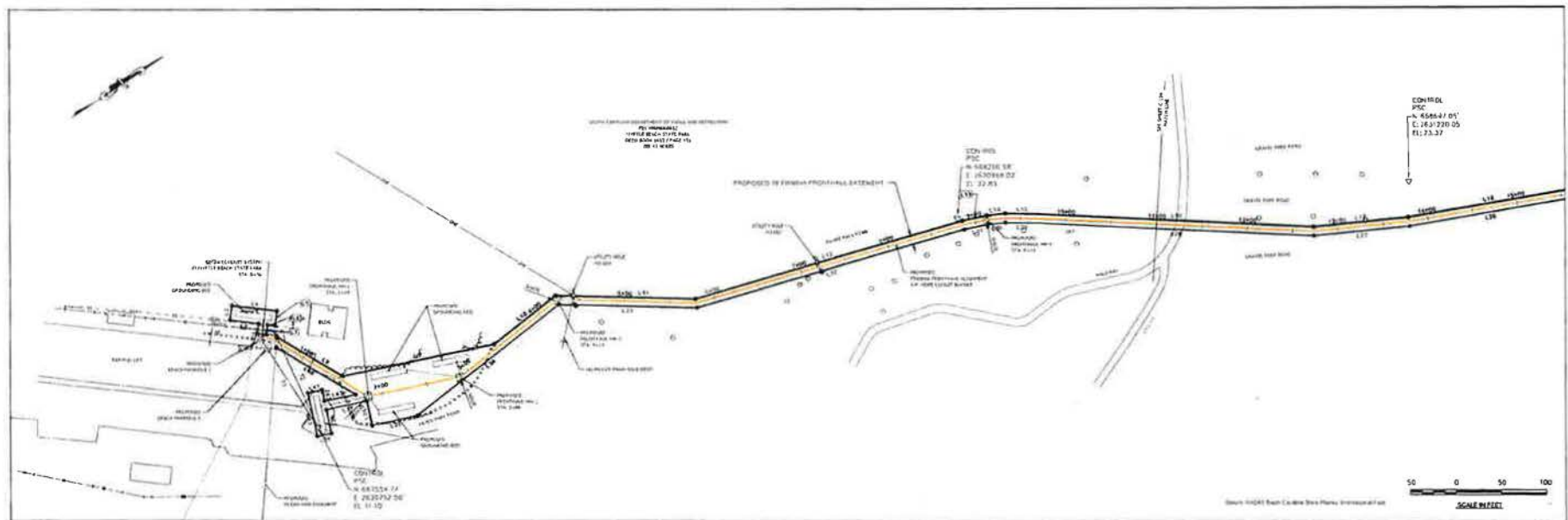
PROPOSED MANHOLE COORDINATE TABLE

POINT	NORTH	EAST	SL
1.1	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.2	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.3	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.4	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.5	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.6	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.7	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.8	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.9	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.10	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.11	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.12	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.13	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.14	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.15	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.16	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.17	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.18	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.19	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20
1.20	N 48° 06' 17.11"E	E 283° 08' 14.14"	11.20

LEGEND

1/4"	1/4" POLE
1/2"	1/2" POLE
3/4"	3/4" POLE
1"	1" POLE
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906"	906" POLE
912"	912" POLE
918"	918" POLE
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930"	930" POLE
936"	936" POLE
942"	942" POLE
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960"	960" POLE
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972"	972" POLE
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1086"	1086" POLE
1092"	1092" POLE
1098"	1098" POLE
1104"	1104" POLE
1110"	1110" POLE
1116"	1116" POLE
1122"	1122" POLE
1128"	1128" POLE
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1170"	1170" POLE
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1200"	1200" POLE
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1296"	1296" POLE
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(a-5)



Line #/Curve #	Length	Bearing/Delta	Radius
1.1	18.08	N44° 06' 43.63"W	
1.2	31.55	S41° 53' 42.88"W	
1.3	48.00	N44° 06' 43.63"E	
1.4	50.00	N41° 33' 42.88"E	
1.5	18.00	S40° 06' 43.63"E	
1.6	8.45	S41° 53' 42.88"W	
1.7	11.64	S48° 05' 29.66"E	

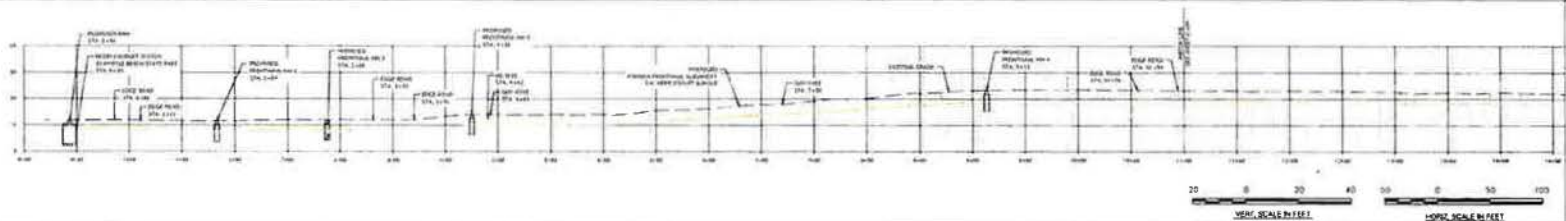
Line #/Curve #	Length	Bearing/Delta	Radius
1.1	18.08	S40° 27' 45.55"W	
1.2	108.88	S78° 04' 13.27"E	

Line #/Curve #	Length	Bearing/Delta	Radius
1.8	84.50	N44° 06' 43.63"E	
1.9	171.47	N23° 00' 32.30"E	
1.10	88.48	N42° 28' 22.58"W	
1.11	154.83	N30° 30' 49.87"E	
1.12	209.18	N48° 42' 58.14"E	
1.13	27.11	N20° 43' 58.45"E	
1.14	20.58	N28° 09' 28.89"E	
1.15	37.87	N30° 08' 00.17"E	

Line #/Curve #	Length	Bearing/Delta	Radius
1.16	307.68	S27° 49' 33.45"W	
1.17	37.39	S35° 58' 23.05"W	
1.18	19.39	S25° 05' 29.84"W	
1.19	26.33	S22° 47' 58.45"W	
1.20	308.53	S18° 42' 58.17"W	
1.21	133.88	S36° 34' 11.83"W	
1.22	189.08	S1° 16' 34.63"E	
1.23	51.09	S21° 54' 30.33"W	
1.24	28.12	N48° 58' 27.90"W	

Line #/Curve #	Length	Bearing/Delta	Radius
1.25	27.30	S21° 54' 30.30"W	
1.26	27.30	S44° 38' 27.10"E	
1.27	18.00	S21° 00' 32.30"W	
1.28	53.00	N68° 10' 27.10"E	
1.29	18.00	N23° 00' 32.30"E	
1.30	12.10	S66° 10' 31.10"E	
1.31	35.40	N23° 00' 32.30"E	
1.32	102.32	S44° 04' 50.18"W	

POINT	NORTH	EAST	EL.
1.1	N 66751.3 82	E 263008.114	EL. 12.01
1.2	N 667218.80	E 263008.771	EL. 11.91
1.3	N 66714.19	E 263005.553	EL. 11.91
1.4	N 66715.64	E 263009.381	EL. 12.00
1.5	N 667352.70	E 263008.841	EL. 14.00
1.6	N 667352.70	E 263008.841	EL. 14.00



Scale: 1/4" = 10' (Horizontal), 1" = 10' (Vertical)

DESIGNED	DATE
DRAWN	DATE
CHECKED	DATE
REVIEWED	DATE

DESIGNED	DATE
DRAWN	DATE
CHECKED	DATE
REVIEWED	DATE



DC BLOX INC.
6 W. DRUID HILLS DR.
ATLANTA, GA 30329

Michael Baker International
MICHAEL BAKER INTERNATIONAL INC.
CONSULTING ENGINEERS
MOON TOWNSHIP, PENNSYLVANIA

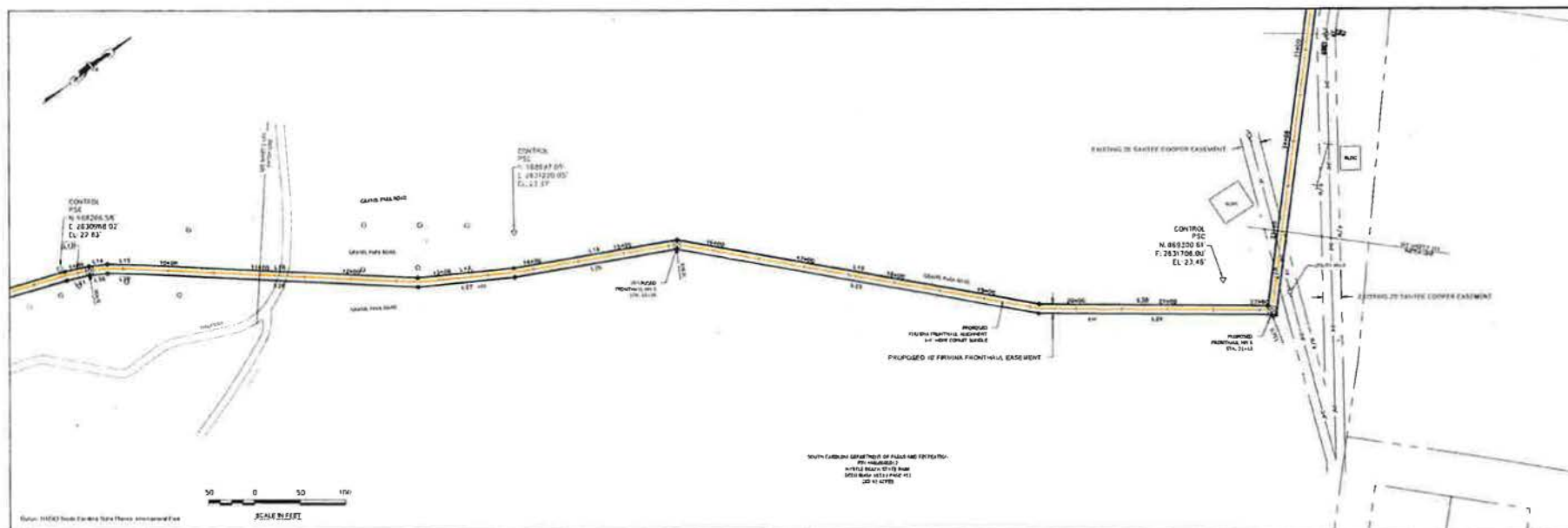


FIRMING SUBSEA CABLE FRONTHAU CONDUIT SYSTEM
ALIGNMENT AND EASEMENT PLAN / PROFILE
CITY OF MYRTLE BEACH, MYRTLE BEACH, SOUTH CAROLINA

SCALE: AS SHOWN DATE: APRIL, 2012

SHEET NO.
C-103

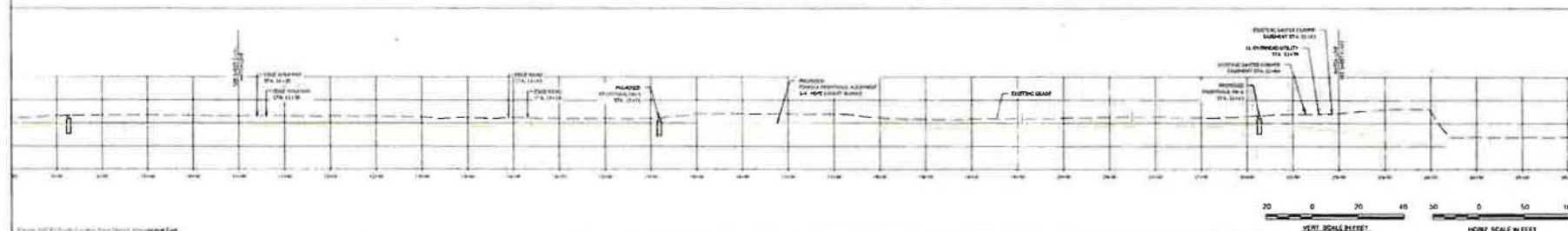
(a-b)



Easement Line and Curve Table				
Line #/Curve #	Length	Bearing/Angle	Radius	
1+15	302.07	N 87° 41' 05.93\"E		
1+17	109.10	N 89° 11' 43.52\"E		
1+18	181.16	N 85° 11' 56.08\"E		
1+19	451.05	N 45° 23' 20.76\"E		
1+20	245.62	N 35° 25' 44.36\"E		

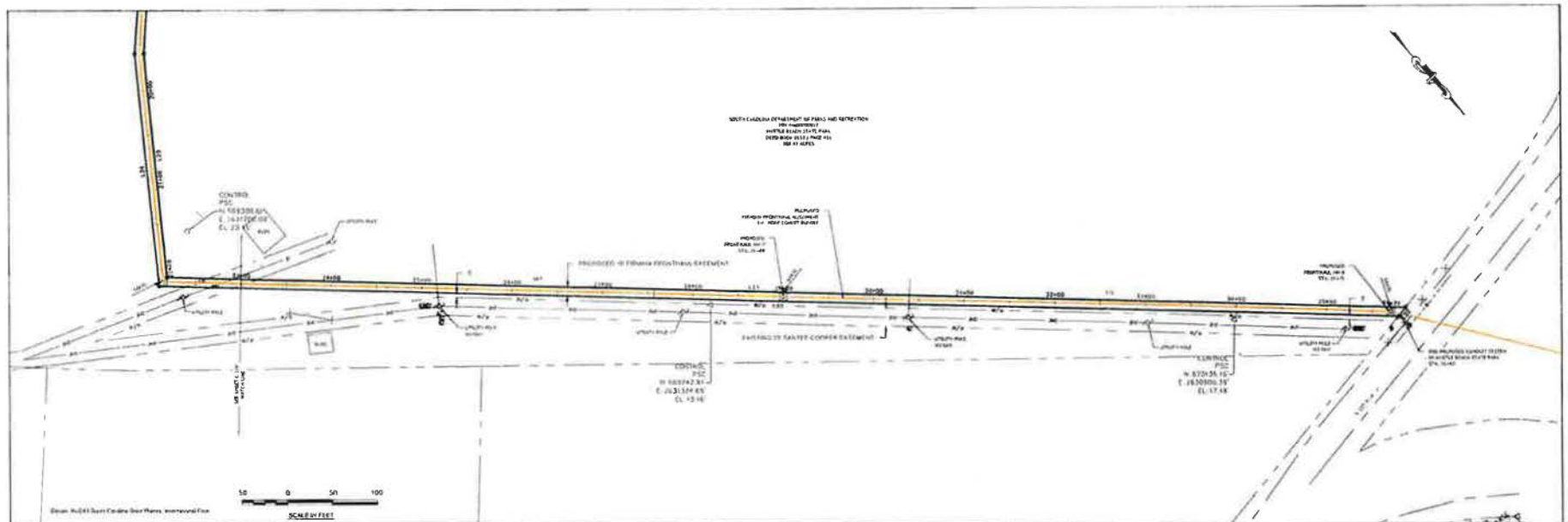
Easement Line and Curve Table				
Line #/Curve #	Length	Bearing/Angle	Radius	
1+21	256.64	S 37° 20' 29.86\"W		
1+22	100.32	S 45° 00' 54.26\"W		
1+23	138.61	S 29° 11' 56.08\"W		
1+24	408.03	S 29° 11' 43.52\"W		
1+25	302.46	S 27° 40' 53.45\"W		

PROPOSED MARKER COORDINATE TABLE				
POINT	NORTH	EAST	EL.	
1+15	74,144.82	1,262,323.52	27.25	
1+25	74,145,324.75	1,262,323.52	27.25	



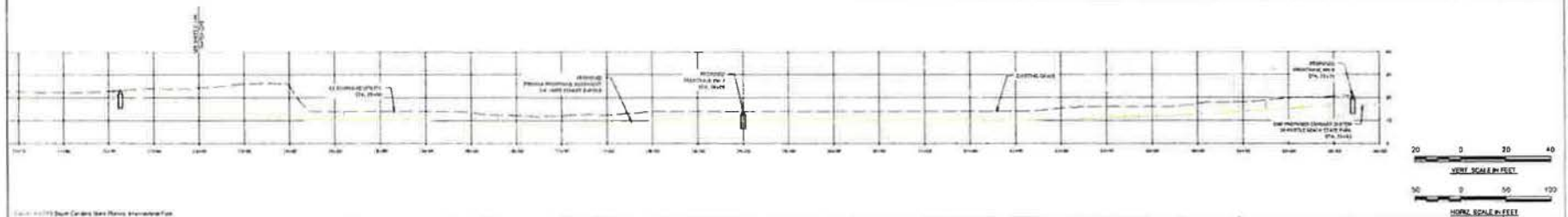
DESIGNED BY: J. BLOX	CHECKED BY: J. BLOX	REVIEWED BY: J. BLOX	DATE: APRIL 2022

(a-7)



Easement Line and Curve Table			
Line #/Curve #	Length	Bearing/Date	Radius
L101	1385.00	N 87° 24' 30.00\"	
L102	12.50	N 88° 00' 00.00\"	
L103	1389.88	S 47° 24' 35.90\"	

PROPOSED MANHOLE COORDINATE TABLE			
POINT	NORTHING	EASTING	EL.
Manhole 1	N 645386.84	E 283034.87	EL. 18.50
Manhole 2	N 645386.84	E 283034.87	EL. 18.50



DESIGNED DRAWN CHECKED REVIEWED S.D.	10/21 10/21 10/21 10/21 10/21	  	 DC BLOX INC. 6 W. DRUID HILLS DR. ATLANTA, GA 30329  Michael Baker International	  	FIRMINA SUBSEA CABLE FRONTHAUL CONDUIT SYSTEM MYRTLE BEACH STATE PARK ALIGNMENT AND EASEMENT PLAN / PROFILE CITY OF MYRTLE BEACH, HORRY COUNTY, SOUTH CAROLINA SCALE: AS SHOWN DATE: APRIL 2022	SHEET NO. C-105
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(b-1)



May 27, 2022

Facilities Planning Design and Construction

Linda M. Gordon
Real Property Services
Division of Facilities Management and Property Services
The South Carolina Department of Administration
1200 Senate Street, Room 612
Columbia, SC 29201

Re: Request for an easement on state property owned and occupied by the University of South Carolina
For new sanitary sewer piping adjacent to Rocky Branch Creek in the 1200 Block of Catawba Street

Dear Ms. Gordon,

The University of South Carolina requests your attention in a matter that requires the conveyance of two easements on state/university property to the City of Columbia for a new sanitary sewer pipe to be installed below grade adjacent to Rocky Branch Creek. We are aware you have been communicating with Gale Nash of the City of Columbia and are familiar with the location and boundaries of these requested easements.

The sewer pipe will be installed immediately adjacent to Rocky Branch Creek in a location that the university would not develop for a building in the future due to the vulnerability of flooding from the nearby creek. Existing paving at the easement areas, currently used for parking, would be replaced by the city following installation and backfill of the pipe. Therefore, the easements will not impair the utilization of state and university property now or in the future. The enhanced sewer capacity will benefit development in this district of the city. Since the University has a significant amount of developed and underdeveloped land in this area, improved sanitary sewer service has a direct benefit to the university and the state. For these reasons, we believe it is appropriate to not charge a cost to the city for the granting of this easement.

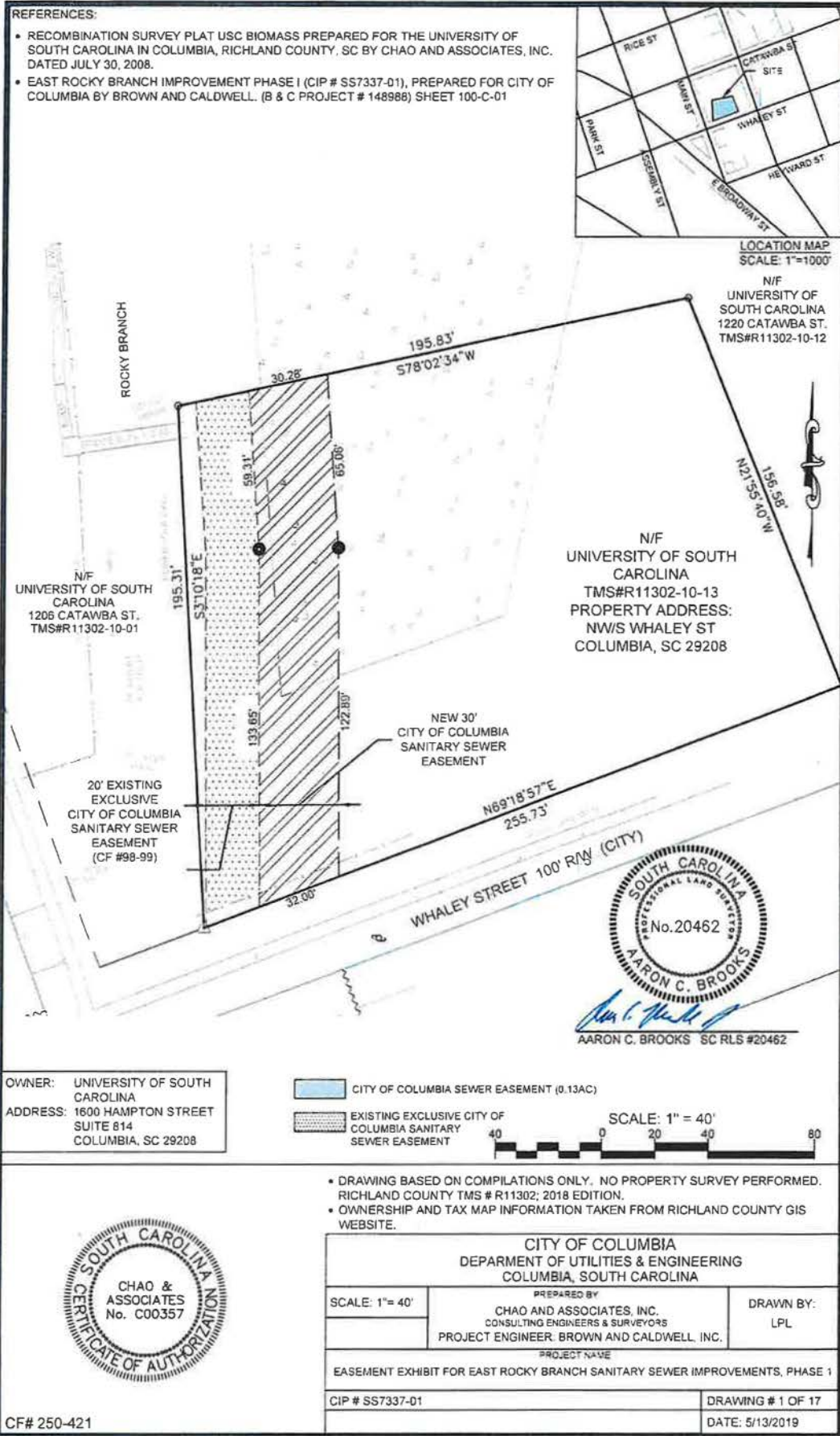
In consideration of the information above, the university respectfully requests approval of these easements. If we can address any questions you may have, please do not hesitate to contact my office.

With kind regards,

Derek Gruner
University Architect
Facilities Planning Design and Construction
1300 Pickens Street
Columbia SC, 29208

Cc: Tom Opal
Emily Jones

(b-2)



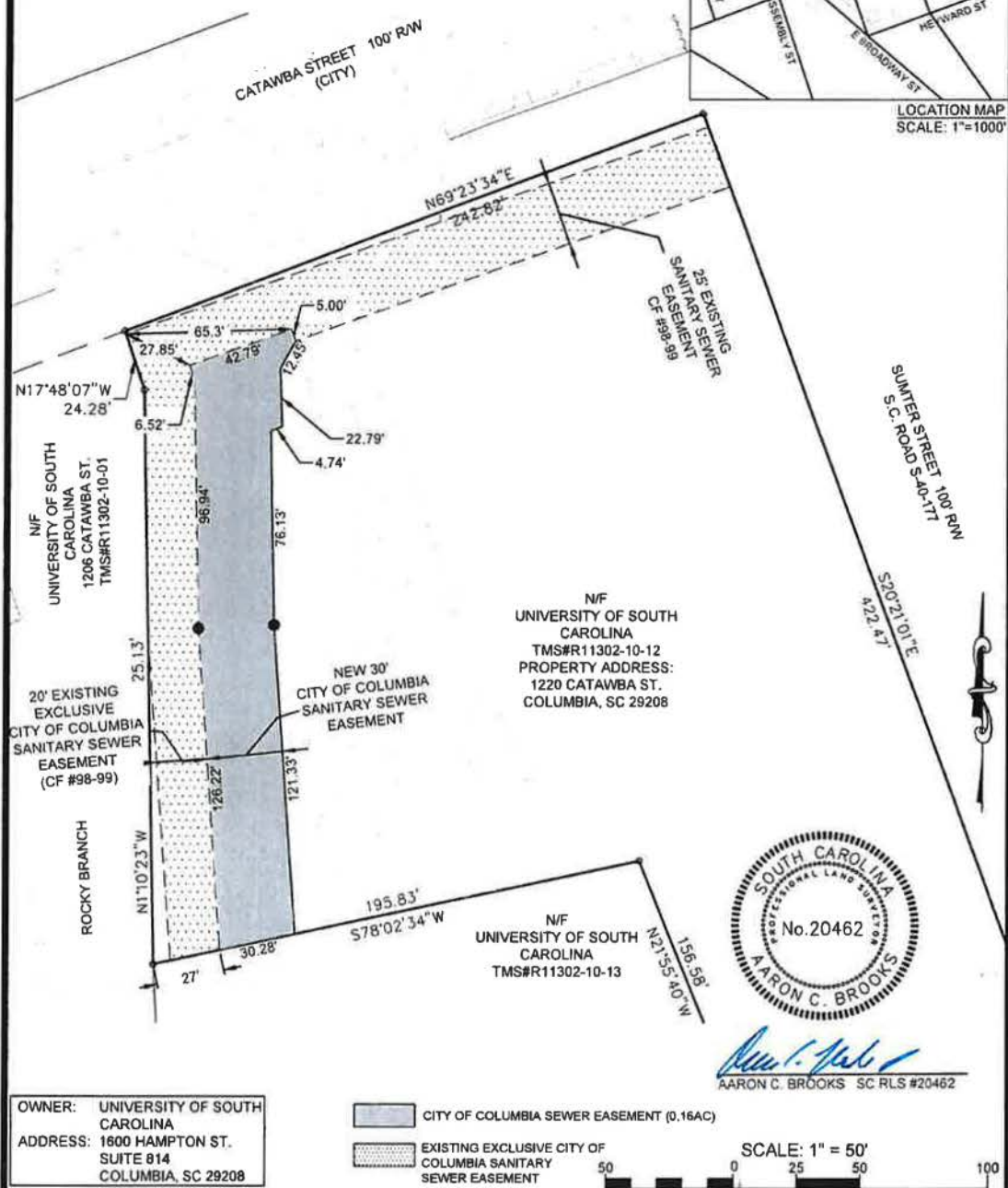
(b-3)

REFERENCES:

- RECOMBINATION SURVEY PLAT USC BIOMASS PREPARED FOR THE UNIVERSITY OF SOUTH CAROLINA IN COLUMBIA, RICHLAND COUNTY, SC BY CHAO AND ASSOCIATES, INC. DATED JULY 30, 2008.
- EAST ROCKY BRANCH IMPROVEMENT PHASE I (CIP # SS7337-01), PREPARED FOR CITY OF COLUMBIA BY BROWN AND CALDWELL. (B & C PROJECT # 148988) SHEET 100-C-02



LOCATION MAP
SCALE: 1"=1000'



OWNER: UNIVERSITY OF SOUTH CAROLINA
ADDRESS: 1600 HAMPTON ST.
SUITE 814
COLUMBIA, SC 29208

- CITY OF COLUMBIA SEWER EASEMENT (0.16AC)
- EXISTING EXCLUSIVE CITY OF COLUMBIA SANITARY SEWER EASEMENT

SCALE: 1" = 50'
0 25 50 100

- DRAWING BASED ON COMPILATIONS ONLY. NO PROPERTY SURVEY PERFORMED. RICHLAND COUNTY TMS # R11302; 2018 EDITION.
- OWNERSHIP AND TAX MAP INFORMATION TAKEN FROM RICHLAND COUNTY GIS WEBSITE.



CITY OF COLUMBIA DEPARTMENT OF UTILITIES & ENGINEERING COLUMBIA, SOUTH CAROLINA		
SCALE: 1" = 50'	PREPARED BY CHAO AND ASSOCIATES, INC. CONSULTING ENGINEERS & SURVEYORS PROJECT ENGINEER: BROWN AND CALDWELL, INC.	DRAWN BY: LPL
	PROJECT NAME EASEMENT EXHIBIT FOR EAST ROCKY BRANCH SANITARY SEWER IMPROVEMENTS PHASE I	
CIP # SS7337-01	DRAWING # 2 OF 17	
		DATE: 5/13/2019

CF# 250-421

(C-1)



May 27, 2022

Facilities Planning Design and Construction

Linda M. Gordon
Real Property Services
Division of Facilities Management and Property Services
The South Carolina Department of Administration
1200 Senate Street, Room 612
Columbia, SC 29201

Re: Request for an easement on state property owned and occupied by the University of South Carolina
LeConte College Renovation

Dear Ms. Gordon,

The University of South Carolina requests your attention in a matter that requires the conveyance of an easement on state/university property to the City of Columbia for new water service to support a new sprinkler system at LeConte College.

The proposed easement will accommodate a new city water service line and a vault to support the new fire sprinkler system which was incorporated into the building in the renovation project. The new water piping is tapped to a main pipe in Pickens Street, extends to a new vault, and exits the vault to directly enter the building. This new service is essential to the life safety system and code compliance of the building. For purposes of general understanding a drawing of the proposed easement is attached with this letter.

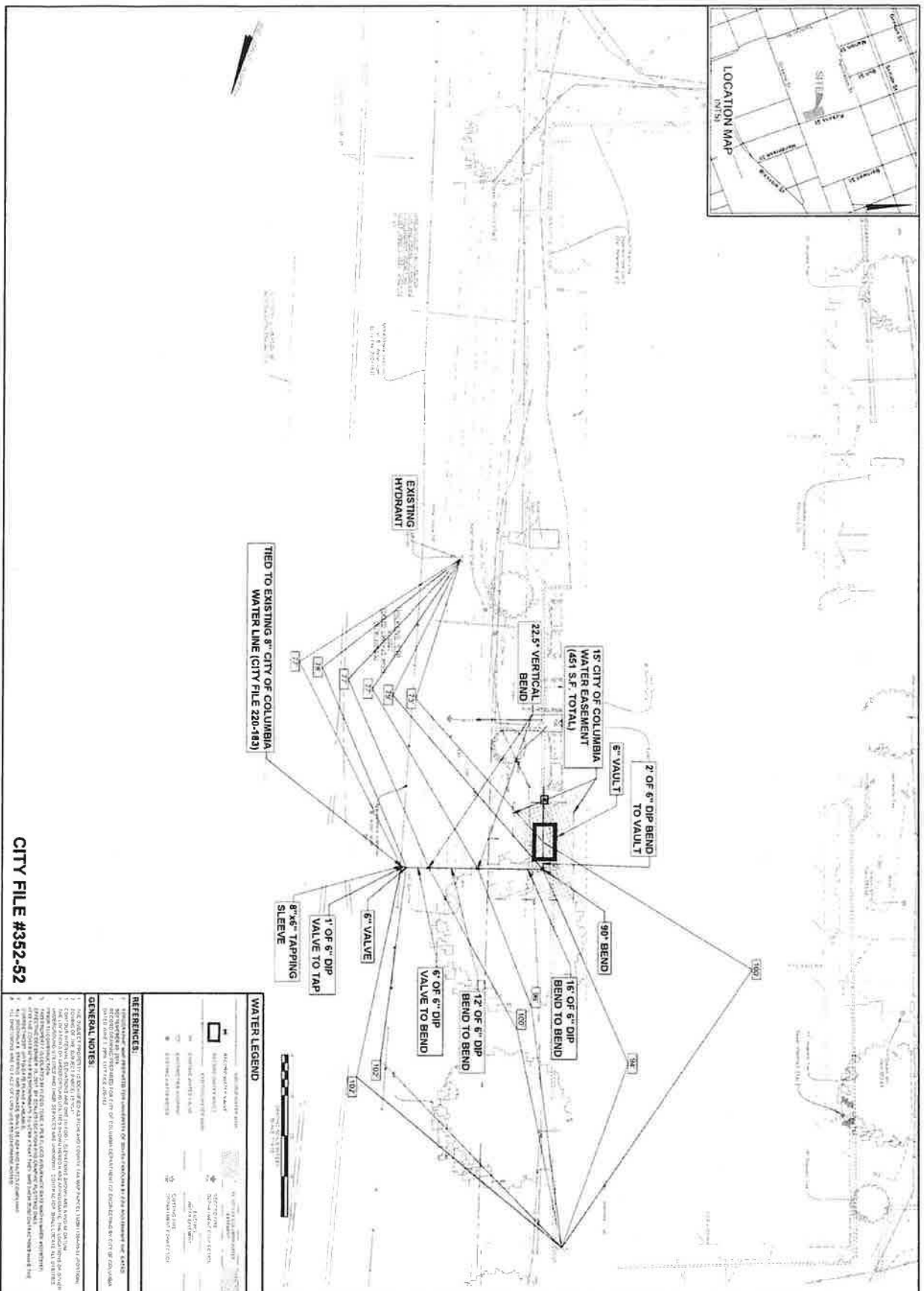
The easement, the vault, and the water line are for the sole benefit of the university and for LeConte College more specifically. The easement will not impair the utilization of state and university property. For these reasons, we believe it is appropriate to not charge a cost to the city for the granting of this easement.

In consideration of the information above, the university respectfully requests approval of this easement. If we can address any questions you may have, please do not hesitate to contact my office.

With kind regards,

Derek Gruner
University Architect
Facilities Planning Design and Construction
1300 Pickens Street
Columbia SC, 29208

Cc: Tom Opal
Suzanne Dunn
Al Lindsay



CITY FILE #352-52

[illegible]

AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: State Fiscal Accountability Authority Easement Policy

At its meeting of December 9, 2003, the Budget and Control Board adopted the attached Policy concerning the granting of easements over State lands and navigable waterways under the purview of the Budget and Control Board. In an effort to clarify the application of that policy, to incorporate best practices in the valuation of easements, and to update the fee structure, the SC Department of Administration ("Admin") requests approval of the following proposed revised Policy for the approval and granting of easements. The proposed Policy provides for an update to the fee structures and clarification of easement terms and valuation requirements not contemplated in the prior policy and becomes effective for each easement application submitted after approval of this Policy.

1. Except as otherwise provided herein, fair market value will be charged for easements (Easement Value), and fair market value will be the difference in the value of the remaining state land subject to the easement (the Servient Estate) before and after the easement was granted.
2. After Applicant and Admin have come to an agreement on the easement terms, the Easement Value shall be determined. Except as provided below, the Easement Value must be determined by an appraisal conforming to all applicable and then-current standards known as the Uniform Standards of Professional Appraisal Practice (USPAP) and performed by a qualified Real Estate Appraiser. To be qualified a real estate appraiser must (1) be licensed in South Carolina; (2) have previously issued appraisals of easements; (3) have previously issued appraisals of government property; and (4) hold an MAI, SRPA, SRA, AI-GRS or AI-RRS designation. The Applicant shall secure the required appraisal at Applicant's expense. Prior to conducting the appraisal, the Appraiser must (1) provide Admin with a signed statement evidencing they meet the above qualifications and (2) obtain directly from Admin the proposed terms of the easement involved clearly delineating what rights the State will retain in the Servient Estate. The appraisal must state that Admin and the State of South Carolina may rely upon the appraisal for its intended use. Absent written justification from the Applicant and approved by Admin, the appraisal must be without special assumptions or client conditions.

AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: State Fiscal Accountability Authority Easement Policy

3. If an Applicant documents that the cost of an appraisal is anticipated to be excessive in relationship to the diminution in value to the Servient Estate, then, upon approval by the Authority as recommended by Admin, an appraisal will not be required, and the Easement Value will be determined instead by contacting the County Tax Assessor to obtain an estimate of the value of real property in the area of the county where the easement is to be located.
4. If the easement is solely for construction and maintenance of power lines, pipe lines, water and sewer lines, railroad facilities, roads, streets or highways, or other utilities such as telecommunications lines and is to be approved pursuant to S.C. Code Sections 1-11-80 or 1-11-90, an appraisal will not be required and the State will use the most recent average selling price per acre of unimproved agricultural land in the county where the easement is to be located based on Department of Revenue data as fair market value for that portion of the easement that lies across navigable waterways or submerged lands.
5. An easement may be granted for nominal value (and without appraisal) only if the easement is used primarily to benefit either State government or the State entity that uses the property and the easement terminates if the easement is no longer used primarily to benefit the Servient Estate, State government or the State entity that uses the property.
6. Other than those easements approved pursuant to S.C. Code Sections 1-11-80 or 1-11-90, a request for an easement to be granted to a private individual or private entity must be accompanied by a written justification explaining what alternatives to an easement were considered (e.g., lease or license) and why those alternatives were determined insufficient.
7. Every easement request must be accompanied by a written explanation that justifies the proposed duration of the easement. The duration of easements will be limited to no more than fifty years absent exceptional and compelling circumstances.
8. For all easements, the Applicant will be charged a \$700 administrative fee (Administrative Fee) and the Easement Value as determined in accordance with this policy. The Administrative Fee will increase annually by the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) South Region from July of the prior fiscal year.

AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: State Fiscal Accountability Authority Easement Policy

9. Political subdivisions will be charged in the same manner as any other Applicant for any easement requested to be approved by the Authority, regardless of the location.
10. Nothing herein should be considered an interpretation as to the scope of the Authority's approval authority, and Applicant shall be advised that no approval by Admin shall guarantee approval of any easement request by the Authority.

AUTHORITY ACTION REQUESTED:

Approve the proposed Policy for the approval and granting of easements.

ATTACHMENTS:

Agenda item worksheet and attachments


**STATE FISCAL ACCOUNTABILITY AUTHORITY
AGENDA ITEM WORKSHEET**

Meeting Scheduled for: June 28, 2022

Regular Agenda

1. Submitted by:

- (a) Agency: Department of Administration
- (b) Authorized Official Signature:


Ashlie Lancaster, Director

2. Subject: State Fiscal Accountability Authority Easement Policy

3. Summary and Background Information:

At its meeting of December 9, 2003, the Budget and Control Board adopted the attached Policy concerning the granting of easements over State lands and navigable waterways under the purview of the Budget and Control Board. In an effort to clarify the application of that policy, to incorporate best practices in the valuation of easements, and to update the fee structure, the SC Department of Administration ("Admin") requests approval of the following proposed revised Policy for the approval and granting of easements. The proposed Policy provides for an update to the fee structures and clarification of easement terms and valuation requirements not contemplated in the prior policy and becomes effective for each easement application submitted after approval of this Policy.

1. Except as otherwise provided herein, fair market value will be charged for easements (Easement Value), and fair market value will be the difference in the value of the remaining state land subject to the easement (the Servient Estate) before and after the easement was granted.
2. After Applicant and Admin have come to an agreement on the easement terms, the Easement Value shall be determined. Except as provided below, the Easement Value must be determined by an appraisal conforming to all applicable and then-current standards known as the Uniform Standards of Professional Appraisal Practice (USPAP) and performed by a qualified Real Estate Appraiser. To be qualified a real estate appraiser must (1) be licensed in South Carolina; (2) have previously issued appraisals of easements; (3) have previously issued appraisals of government property; and (4) hold an MAI, SRPA, SRA, AI-GRS or AI-RRS designation. The Applicant shall secure the required appraisal at Applicant's expense. Prior to conducting the appraisal, the Appraiser must (1) provide Admin with a signed statement evidencing they meet the above qualifications and (2) obtain directly from Admin the proposed terms of the easement involved clearly delineating what rights the State will retain in the Servient Estate. The appraisal must state that Admin and the State of South Carolina may rely upon the appraisal for its intended use. Absent written justification from the Applicant and approved by Admin, the appraisal must be without special assumptions or client conditions.
3. If an Applicant documents that the cost of an appraisal is anticipated to be excessive in relationship to the diminution in value to the Servient Estate, then, upon approval by the Authority as recommended by Admin, an appraisal will not be required, and the Easement Value will be determined instead by contacting the County Tax Assessor to obtain an estimate of the value of real property in the area of the county where the easement is to be located.

4. If the easement is solely for construction and maintenance of power lines, pipe lines, water and sewer lines, railroad facilities, roads, streets or highways, or other utilities such as telecommunications lines and is to be approved pursuant to S.C. Code Sections 1-11-80 or 1-11-90, an appraisal will not be required and the State will use the most recent average selling price per acre of unimproved agricultural land in the county where the easement is to be located based on Department of Revenue data as fair market value for that portion of the easement that lies across navigable waterways or submerged lands.
5. An easement may be granted for nominal value (and without appraisal) only if the easement is used primarily to benefit either State government or the State entity that uses the property and the easement terminates if the easement is no longer used primarily to benefit the Servient Estate, State government or the State entity that uses the property.
6. Other than those easements approved pursuant to S.C. Code Sections 1-11-80 or 1-11-90, a request for an easement to be granted to a private individual or private entity must be accompanied by a written justification explaining what alternatives to an easement were considered (e.g., lease or license) and why those alternatives were determined insufficient.
7. Every easement request must be accompanied by a written explanation that justifies the proposed duration of the easement. The duration of easements will be limited to no more than fifty years absent exceptional and compelling circumstances.
8. For all easements, the Applicant will be charged a \$700 administrative fee (Administrative Fee) and the Easement Value as determined in accordance with this policy. The Administrative Fee will increase annually by the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) South Region from July of the prior fiscal year.
9. Political subdivisions will be charged in the same manner as any other Applicant for any easement requested to be approved by the Authority, regardless of the location.
10. Nothing herein should be considered an interpretation as to the scope of the Authority's approval authority, and Applicant shall be advised that no approval by Admin shall guarantee approval of any easement request by the Authority.

4. What is the Authority asked to do? Approve the proposed Policy for the approval and granting of easements.

5. What is recommendation of the division of Facilities Management and Property Services? Approve the proposed Policy for the approval and granting of easements.

6. Private Participant Disclosure – Check one:

☒ No private participants will be known at the time the Authority considers this agenda item. Landlord is an exempt governmental entity.

☐ A Private Participant Disclosure form has been attached for each private participant. As referenced on the Disclosure forms, a private participant is a natural person or non-governmental legal entity which may directly benefit from, and is participating in or directly associated with, the requested approval.

7. Recommendation of other office (as required)?

- (a) Authorized Signature: _____
 - (b) Office Name: Click or tap here to enter text.
-

8. List of Supporting Documents:

- (a) 2003 Budget and Control Board Easement Policy
- (b) SC Code of Laws Sections 1-11-70, 1-11-80, 1-11-100 and 10-1-130

Code of Laws of South Carolina 1976 Annotated

Title 1. Administration of the Government

Chapter 11. Department of Administration
--

Article 1. General Provisions (Refs & Annos)
--

Code 1976 § 1-11-100

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

Effective: July 1, 2015

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 the Department of Administration, upon approval of the State Fiscal Accountability Authority, 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 Director of the Department of Administration and the State Fiscal Accountability Authority.

Code of Laws of South Carolina 1976 Annotated

Title 1. Administration of the Government

Chapter 11. Department of Administration
--

Article 1. General Provisions (Refs & Annos)
--

Code 1976 § 1-11-80

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

Effective: July 1, 2015

The Department of Administration, upon approval of the State Fiscal Accountability Authority, 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.

Code of Laws of South Carolina 1976 Annotated

Title 1. Administration of the Government

Chapter 11. Department of Administration
--

Article 1. General Provisions (Refs & Annos)
--

Code 1976 § **1-11-70**

§ **1-11-70**. Lands subject to Department's control.

Effective: July 1, 2015

All vacant lands and lands purchased by the former land commissioners of the State are subject to the directions of the Department of Administration.

Code of Laws of South Carolina 1976 Annotated

Title 10. Public Buildings and Property

Chapter 1. General Provisions

Code 1976 § **10-1-130**

§ **10-1-130**. Grant of easements and rights of way.

Effective: July 1, 2015

The trustees or governing bodies of state institutions and agencies may grant easements and rights of way over any property under their control, upon the recommendation of the Department of Administration and approval of the State Fiscal Accountability Authority, whenever it appears that such easements do not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any amounts must be placed in the State Treasury to the credit of the institution or agency having control of the property involved.

STATE BUDGET AND CONTROL BOARD
MEETING OF December 9, 2003

REGULAR SESSION
ITEM NUMBER 1

AGENCY: General Services Division

SUBJECT: Proposed Policy for Easements

Currently, consideration charged for easements granted by the Budget and Control Board is at a rate of \$200 per acre with a minimum charge of \$200. Private entities are charged but political subdivisions of the state are granted easements without charge.

This consideration amount was derived around 1990, from the lowest county average sales price per acre for agricultural land based on Department of Revenue data. As Board easements are usually granted over marshlands and submerged lands, it was thought that the value of an acre of these lands would not exceed the lowest average price paid for agricultural land.

Recommended Policy

1. For each easement granted by the Budget and Control Board across navigable waterways and submerged lands \$500 and \$200 per acre will be charged.
2. For those easements over state-owned real property under the purview of the Budget and Control Board \$500 will be charged in addition to the fair market value of the easement area as determined by the General Services Division. In the discretion of General Services, fair market value will be determined by contacting the County Tax Assessor to obtain the estimate of the value of real property in the area of the county where the easement is to be located or by requiring an appraisal of the value of the easement.
3. Political subdivisions will also be charged in the same manner as any other applicant for any easement granted by the Budget and Control Board, regardless of the location.
4. Easements be granted for a fifty-year duration with renewal at the State's discretion for an appropriate additional charge.
5. Agencies which grant easements for which the Budget and Control Board concurs and acquiesces should determine their easement consideration in a manner that is consistent with the policy of the Board.

BOARD ACTION REQUESTED:

Adopt the proposed policy concerning changes for easements granted by the Budget and Control Board to become effective January 1, 2004.

ATTACHMENTS:
Agenda item worksheet

EXHIBIT

DEC 9 2003

14

STATE BUDGET & CONTROL BOARD

BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

Meeting Scheduled for: December 9, 2003

Regular Agenda

1. Submitted by:

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


Joseph O. Rogers III, Director

2. Subject: Proposed Policy for Easements

3. Summary Background Information:

Currently, consideration charged for easements granted by the Budget and Control Board is at a rate of \$200 per acre with a minimum charge of \$200. Private entities are charged but political subdivisions of the state are granted easements without charge.

This consideration amount was derived around 1990, from the lowest county average sales price per acre for agricultural land based on Department of Revenue data. As Board easements are usually granted over marshlands and submerged lands, it was thought that the value of an acre of these lands would not exceed the lowest average price paid for agricultural land.

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4. Easements be granted for a fifty-year duration with renewal at the State's discretion for an appropriate additional charge.
5. Agencies which grant easements for which the Budget and Control Board concurs and acquiesces should determine their easement consideration in a manner that is consistent with the policy of the Board.

EXHIBIT

DEC 9 2003

14

STATE BUDGET & CONTROL BOARD

4. What is Board asked to do? Adopt the proposed policy.

5. What is recommendation of Board Division involved? Same as above.

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

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. List of Supporting Documents:

EXHIBIT

DEC 9 2003 14

STATE BUDGET & CONTROL BOARD

AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: SC Department of Revenue Lease at 300 Outlet Pointe Boulevard in Columbia

The SC Department of Revenue ("DOR") requests approval to continue leasing 158,988 rentable square feet of space at 300 Outlet Pointe Boulevard in Columbia from Columbia SC I SGF, LLC ("Landlord"). DOR's current lease at this location expires on December 31, 2022. The agency has leased space at this location since 2007.

After contacting state agencies to verify no adequate state space was available, the Department of Administration conducted a solicitation for 3, 5, 7, and 10-year terms. Four proposals were received. One proposal was deemed non-responsive because the space was too small with only 102,608 SF and had insufficient parking. A second proposal was deemed non-responsive because the Landlord's offer indicated they would conduct a test fit at no cost to the State and then propose a cost per square foot based on the results of that test fit but when asked to do the test fit, the Landlord declined and withdrew the offer. Of the two responsive proposals received, the selected location is the lowest offer.

The requested lease term is ten (10) years commencing January 1, 2023. The agency desires the longer lease term due to the significant cost of moving and because the longer term provides for a much lower rate (Note: rent for the 3-year term would have started at \$21.61 per square foot with annual increases thereafter).

Rent for the first year will be \$16.20/SF, which is an annual rate of \$2,575,605.60. Thereafter the rental rate will escalate by 2% annually with 11 months of free rent in year five as shown in the chart below. This is a full gross lease and includes all operating expenses. As such, the total rent over the ten (10) year term will be \$25,645,059.28.

<u>TERM</u>	<u>PERIOD: FROM - TO</u>	<u>ANNUAL RENT</u>	<u>RENT PER SF</u>
1	1/01/2023 - 12/31/2023	\$2,575,605.60	\$16.20
2	1/01/2024 - 12/31/2024	\$2,626,481.76	\$16.52
3	1/01/2025 - 12/31/2025	\$2,678,947.80	\$16.85
4	1/01/2026 - 12/31/2026	\$2,733,033.72	\$17.19
5	1/01/2027 - 12/31/2027	\$232,387.46	\$17.54
6	1/01/2028 - 12/31/2028	\$2,844,295.32	\$17.89
7	1/01/2029 - 12/31/2029	\$2,899,941.12	\$18.24
8	1/01/2030 - 12/31/2030	\$2,958,766.58	\$18.61
9	1/01/2031 - 12/31/2031	\$3,017,592.24	\$18.98
10	1/01/2032 - 12/31/2032	\$3,078,007.68	\$19.36

AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: SC Department of Revenue Lease at 300 Outlet Pointe Boulevard in Columbia

The space will meet the state standard of 210 RSF/person with a density of 123 RSF/person. The lease also provides for 737 free parking spaces in the adjacent surface parking lot. The following chart represents comparable lease rates of similar space in the Columbia area:

Tenant	Location	Rate per SF
Vacant	565 Spears Creek Church Rd.* **	\$17.25
Vacant	1600 Williams St.**	\$17.50
Vacant	400 Laurel St.**	\$17.00

*Submitted in response to solicitation.

**Subject to base rent escalations.

Agency has adequate funds for the lease according to a Budget Approval Form submitted April 19, 2022. Lease payments will be funded through state appropriations. No option to purchase the property is included in the lease. The lease was approved by JBRC at its June 21, 2022 meeting.

AUTHORITY ACTION REQUESTED:

Approve the proposed ten-year lease by Department of Revenue for 158,988 rentable square feet of space at 300 Outlet Pointe Boulevard in Columbia from Columbia SC I SGF, LLC, as recommended by the Department of Administration, Facilities Management and Property Services.

ATTACHMENTS:

Agenda item worksheet and attachments

**STATE FISCAL ACCOUNTABILITY AUTHORITY
AGENDA ITEM WORKSHEET**

Meeting Scheduled for: June 28, 2022

Regular Agenda

1. Submitted by:

- (a) Agency: Department of Administration
(b) Authorized Official Signature:

Ashlie Lancaster
Ashlie Lancaster, Director

2. Subject: SC Department of Revenue Lease at 300 Outlet Pointe Boulevard in Columbia

3. Summary and Background Information:

The SC Department of Revenue ("DOR") requests approval to continue leasing 158,988 rentable square feet of space at 300 Outlet Pointe Boulevard in Columbia from Columbia SC I SGF, LLC ("Landlord"). DOR's current lease at this location expires on December 31, 2022. The agency has leased space at this location since 2007.

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4. What is the Authority asked to do? Approve the proposed ten-year lease by DOR for 158,988 rentable square feet of space at 300 Outlet Pointe Boulevard in Columbia from Columbia SC I SGF, LLC.

5. What is recommendation of the Division of Facilities Management and Property Services? Approve the proposed ten-year lease by DOR for 158,988 rentable square feet of space at 300 Outlet Pointe Boulevard in Columbia from Columbia SC I SGF, LLC.

6. Recommendation of other office (as required)?

- (a) Authorized Signature: _____
- (b) Office Name: Click or tap here to enter text.
-

7. List of Supporting Documents:

- (a) Letter from Agency

State of South Carolina
Department of Revenue



HENRY D. MCMASTER
Governor

W. HARTLEY POWELL
Director

300A OUTLET POINTE BOULEVARD
POST OFFICE BOX 125
COLUMBIA, SOUTH CAROLINA 29214
Telephone: (803) 898-5040
Facsimile : (803) 896-0023
Director@dor.sc.gov

April 27, 2022

Ms. Ashlie Lancaster
Director, Division of Facilities Management and Property Services
South Carolina Department of Administration
1200 Senate Street, Suite 460
Columbia, SC 29201

RE: Lease for 300A Outlet Pointe Boulevard

Dear Ms. Lancaster:

The South Carolina Department of Revenue (SCDOR) requests approval by the Joint Bond Review Committee and the State Fiscal Accountability Authority of a 10-year lease from Columbia SC I SGF, LLC (Landlord) for approximately 158,988 square feet of office space at 300A Outlet Pointe Boulevard, Columbia, South Carolina 29210. This space has been leased by the Department of Revenue since 2012, and the Department has made significant improvements over the years to customize this space to achieve efficient tax processing and the highest security standards.

SCDOR solicited for similar office space in Richland or Lexington Counties. We received two responsive proposals to our solicitation and conducted site visits to view each location. We selected the Outlet Pointe location because of the significant cost savings and convenient location for taxpayers. This option is the least disruptive for our employees and taxpayers. We considered the following factors in our decision-making process: security, cost, proximity to the interstate, interior office design, and building accessibility for the taxpayers.

SCDOR's security program requires on-site security officers, security cameras, metal detectors, and other security equipment to ensure all taxpayers and SCDOR employees are protected and safe. In addition, SCDOR protects both State and Federal Taxpayer Information with a highly sophisticated badge access and camera surveillance system, an Intruder Detection System, and a state-of-the-art tax processing system with the most current security technology. Since SCDOR already occupies the space, our location is fully equipped to meet these requirements. To date we

Ms. Lancaster
April 27, 2022
Page Two

have invested approximately 7 million dollars to achieve and maintain these high security standards.

We request the maximum lease period of 10-years in order to maintain a highly secure site to protect taxpayers, employees, and sensitive taxpayer information from intruders and fraudsters. A longer lease provides a consistent location for taxpayers and minimizes the cost of more frequent office re-locations. This also allows the Agency to make more long-term investments in the space to better assist taxpayers and employees.

As a result of our negotiations, Landlord will upgrade our Taxpayer Assistance area, replace aging HVAC equipment in IT closets, and install additional projectors in several areas. While the lease has an annual 2% escalation rate, Landlord agreed to provide 11 months of free rent in the 5th year and the payment of all utilities, which makes the total negotiated cost savings exceed 5 million over the lease term.

Thank you for your assistance in this process and for your consideration of our request.

Sincerely,

A handwritten signature in blue ink that reads "W. Hartley Powell". The signature is fluid and cursive, with a long horizontal stroke at the end.

W. Hartley Powell
Director

AGENCY: Division of Procurement Services

SUBJECT: Procurement Audit and Certification – Francis Marion University

The S.C. Consolidated Procurement Code and Regulations (Code) authorize agencies to make direct procurements up to \$50,000 and to enter sole source and emergency procurement contracts with no dollar limitation. S.C. Codes §§11-35-1210(1), 1560, and 1570, and Regulation 19-445.2000C (1). The Code authorizes the Authority to delegate additional procurement authority by assigning dollar limits below which an agency may make direct procurements. On December 13, 2016, the Authority delegated additional procurement authority to Francis Marion University as follows:

		<u>Certification Limits</u>
I.	Supplies and Services	\$ 275,000 per commitment
II.	Consultant Services	\$ 150,000 per commitment
III.	Information Technology	\$ 175,000 per commitment
IV.	Construction Contract Award	\$ 175,000 per commitment
V.	Construction Contract Change Order	\$ 75,000 per change order
VI.	Architect/Engineer Contract Amendment	\$ 50,000 per amendment

In accordance with S.C. Code Ann. § 11-35-1230, the Division of Procurement Services audited the procurement operating policies and procedures of Francis Marion University to determine whether the internal controls of the Agency's procurement system were adequate to ensure compliance, in all material respects, with the S.C. Consolidated Procurement Code and ensuing regulations (Code and Regulation). With the implementation of the recommended corrective action, the internal controls of Francis Marion University's procurement system are adequate to ensure compliance with the Code and Regulations as described in the audit report.

Per S.C. Code Ann. §11-35-1210, Francis Marion University requests that the Authority reauthorize it to make direct procurements and increase the certification limits for supplies and services and information technology. Due to the nature of the findings, the Division of Procurement Services recommends a reduction in limits for direct procurements of construction, construction change orders, and architect/engineer contract amendments

AGENCY: Division of Procurement Services

SUBJECT: Procurement Audit and Certification – Francis Marion University

AUTHORITY ACTION REQUESTED:

In accord with Section 11-35-1210, authorize Francis Marion University to make direct procurements at the following limits:

	<u>Certification Limits</u>
Supplies and Services ¹	*\$ 325,000 per commitment
Information Technology ²	*\$ 200,000 per commitment
Construction Contract Award	\$ 50,000 per commitment
Construction Contract Change Order	\$ 25,000 per change order
Architect/Engineer Contract Amendment	\$ 25,000 per amendment

*Total potential purchase commitment whether single year or multi-term contracts are used.

¹ Supplies and Services includes non-IT consulting services.

² Information Technology includes consultant assistance for any aspect of information technology, systems and networks

ATTACHMENTS:

Agenda item worksheets and attachments

**STATE FISCAL ACCOUNTABILITY AUTHORITY
AGENDA ITEM WORKSHEET**

Meeting Scheduled for: June 28, 2022

Regular Agenda

1. Submitted by:

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


John St. C. White, Materials Management Officer

2. Subject: Audit and Certification

3. Summary and Background Information:

The S.C. Consolidated Procurement Code and Regulations (Code) authorize agencies to make direct procurements up to \$50,000 and to enter sole source and emergency procurement contracts with no dollar limitation. S.C. Codes §§11-35-1210(1), 1560, and 1570, and Regulation 19-445.2000C (1). The Code authorizes the Authority to delegate additional procurement authority by assigning dollar limits below which an agency may make direct procurements. On December 13, 2016, the Authority delegated additional procurement authority to Francis Marion University as follows:

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Per S.C. Code Ann. §11-35-1210, Francis Marion University requests that the Authority reauthorize it to make direct procurements and increase the certification limits for supplies and services and information technology. Due to the nature of the findings, the Division of Procurement Services recommends a reduction in limits for direct procurements of construction, construction change orders, and architect/engineer contract amendments.

4. What is Authority asked to do?

Authorize Francis Marion University to make direct procurements at the following limits:

	<u>Certification Limits</u>
Supplies and Services ¹	*\$ 325,000 per commitment
Information Technology ²	*\$ 200,000 per commitment
Construction Contract Award	\$ 50,000 per commitment
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* Total potential purchase commitment whether single year or multi-term contracts are used.

¹ Supplies and Services includes non-IT consulting services.

² Information Technology includes consultant assistance for any aspect of information technology, systems and networks.

5. What is recommendation of the submitting agency involved?

Authorize Francis Marion University to make direct procurements at the limits set forth above.

**STATE FISCAL ACCOUNTABILITY AUTHORITY
AGENDA ITEM WORKSHEET**

6. Private Participant Disclosure – Check one:

- ☒ No private participants will be known at the time the Authority considers this agenda item.
☐ A Private Participant Disclosure form has been attached for each private participant.
As referenced on the Disclosure forms, a private participant is a natural person or non-governmental legal entity which may directly benefit from, and is participating in or directly associated with, the requested approval.
-

7. Recommendation of other office (as required)?

(a) Authorized Signature: _____

(b) Office Name: _____

8. List of Supporting Documents:

- (a) S.C. Code Ann. § 11-35-1230
(b) S.C. Code Ann. § 11-35-1210
(c) Certification Comparison
-

9. Upload Agenda Item Worksheet and supporting documentation in PDF and native format to the SFAA Authority File Drop.

HENRY MCMASTER, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



THE DIVISION OF PROCUREMENT SERVICES

DELBERT H. SINGLETON, JR.
DIVISION DIRECTOR

(803) 734-8018

JOHN ST. C. WHITE
MATERIALS MANAGEMENT OFFICER

(803) 737-0600

FAX: (803) 737-0639

HARVEY S. PEELER, JR.
CHAIRMAN, SENATE FINANCE COMMITTEE

J. GARY SIMRILL
CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE
EXECUTIVE DIRECTOR

June 1, 2022

Mr. Delbert H. Singleton Jr.
Director
Division of Procurement Services
6th Floor-Wade Hampton Building
Columbia, South Carolina 29201

Subject: Francis Marion University
Procurement Audit Report

Delbert:

I have attached Francis Marion University's procurement audit report issued by the Office of Audit and Certification. I concur with the report and its recommendation that the State Fiscal Accountability Authority approve a three-year procurement certification for Francis Marion University.

Sincerely,

John St. C. White
Materials Management Officer

Attachment

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June 1, 2022

Mr. John St. C. White
Materials Management Officer
Division of Procurement Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Subject: Francis Marion University
Procurement Audit Report

John:

We have audited the internal procurement operating policies and procedures of Francis Marion University (FMU), for the period of January 1, 2018 to December 31, 2020, to determine whether the internal controls of FMU's procurement system were adequate to ensure compliance, in all material respects, with the South Carolina Consolidated Procurement Code and ensuing regulations (Code).

The audit disclosed conditions, as explained in the report, which we believe require corrective action or improvement. Corrective action by FMU based on the recommendations described in the report will, in all material respects, place the agency in compliance with the Code.

Sincerely,

Crawford Milling
Director, Audit and Certification

Attachment



Francis Marion University

INDEPENDENT PROCUREMENT AUDIT REPORT

for the Audit Period:
January 1, 2018 to December 31, 2020

Office of Audit & Certification
Division of Procurement Services
August 27, 2021

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INTRODUCTION

The Division of Procurement Services (DPS) audited Francis Marion University's (FMU) internal procurement operating policies and procedures, as outlined in their internal Procurement Operating Procedures Manual, under § 11-35-1230 of the South Carolina Consolidated Procurement Code (Code) and Reg. 19-445.2020ⁱ of the ensuing regulations.

The primary objective of our audit was to determine whether, in all material respects, the internal controls of FMU's procurement system were adequate to ensure compliance with the Code and ensuing regulations.

The management of FMU is responsible for the university's compliance with the Code. Those responsibilities include the following:

- Identifying the university's procurement activities and understanding and complying with the Code
- Establishing and maintaining effective controls over procurement activities that provide reasonable assurance that the university administers its procurement programs in compliance with the Code
- Evaluating and monitoring the university's compliance with the Code
- Taking corrective action when instances of noncompliance are identified, including corrective action on audit findings of this audit

Because of inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected. Projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Our review and evaluation of the system of internal control over procurement transactions, as well as our overall audit of procurement policies and procedures, was conducted with professional care. However, because of the nature of audit testing, they would not necessarily disclose all weaknesses in the system.

INTRODUCTION

Our audit was also performed to determine if recertification under SC Code Ann. § 11-35-1210 is warranted.

On December 13, 2016 the State Fiscal Accountability Authority (SFAA) granted FMU the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 275,000 per commitment
Information Technology	*\$ 175,000 per commitment
Consultant Services	*\$ 150,000 per commitment
Construction Contract Award	\$ 175,000 per commitment
Construction Contract Change Order	\$ 75,000 per change order
Architect/Engineer Contract Amendment	\$ 50,000 per amendment

During the audit FMU requested the following increases in its certification limits.

<u>PROCUREMENT AREAS</u>	<u>REQUESTED CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 325,000 per commitment
Information Technology	*\$ 200,000 per commitment
Consultant Services	*\$ 150,000 per commitment
Construction Contract Award	\$ 175,000 per commitment
Construction Contract Change Order	\$ 75,000 per change order
Architect/Engineer Contract Amendment	\$ 50,000 per amendment

*Total potential purchase commitment whether single year or multi-term contracts are used.

Total Expenditures

During the audit period, the university conducted procurements as follows:

<u>\$ Amount (000s)</u>	
POs	17,863
DEV	<u>133,734</u>
Total Spend	<u>151,597</u>

SCOPE

We conducted our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Our audit included testing, on a sample basis, evidence about FMU's compliance with the Code for the period January 1, 2018 through December 31, 2020, the audit period, and performing other procedures that we considered necessary in the circumstances. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The scope of our audit included, but was not limited to, a review of the following:

- (1) Internal procurement and purchasing card (P-Card) procedure manuals
- (2) Written determinations for all sole source and emergency procurements. The following sole source and emergency procurement activity was reported to DPS during the audit period:

Fiscal Year	Count	Sole Source		Emergency	
		\$ Amount	Count	\$ Amount	
Q3;4 2018	6	187,025	-	-0-	
2019	22	512,997	-	-0-	
2020	24	481,785	6	101,869	
Q1;2 2021	15	310,815	8	135,118	

- (3) Procurement transactions for the audit period as follows:
 - a) Seventy-four payments, each exceeding \$10,000, for a total of \$3.5M
 - b) Thirty-one direct payments totaling \$4.9M
 - c) A block of sequential expenditures over a two-month period reviewed for order splitting or the use of or favored vendors
 - d) Twenty-eight P-Card transactions for two judgmentally selected months for compliance with the South Carolina Purchasing Card Policy and Procedures (State P-Card Policy). During the audit period FMU had 92 cardholders that made P-Card expenditures as follows:

Fiscal Year	Transactions	\$ Amount
Q3,4 2018	3,293	1,093,457
2019	6,053	1,853,641
2020	5,679	1,737,374
Q1,2 2021	2,497	680,304

- (4) Three construction projects totaling \$16.7M, four Indefinite Delivery Contracts totaling approximately \$600k, and one Architect/Engineer Related Professional Service Contract totaling \$500k for compliance with the Manual for Planning and Execution of State Permanent Improvements (Manual).
- (5) Disposition of unauthorized procurements. No unauthorized procurement activity was reported to DPS.
- (6) Reporting of surplus property dispositions, and approval of trade-ins in excess of \$5,000

SCOPE

- (7) Small and Minority Business utilization plans and reports. The following activity was reported to the Division of Small and Minority Business Contracting and Certification (SMBCC):

<u>Fiscal Year</u>	<u>\$ Goal</u>	<u>\$ Actual</u>
Q3, 4 2018	115,177	8,777
2019	433,561	26,011
2020	412,656	240,696
Q1, 2 2021	421,989	97,618

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RESULTS OF AUDIT

I. Construction Projects

A. Construction Project Inappropriately Treated as Exempt from the Code

Sometime before 2004 the FMU Development Foundation created FMU Student Housing, LLC (the LLC), a 501(c)(3) organization. The Foundation is the only member of the LLC. As part of a complex transaction in 2003, FMU leased its existing student housing facilities and some unimproved real property to the LLC. The LLC assumed operation of the then-existing facilities and constructed new housing. In 2009 the LLC terminated its agreement with the company operating the facilities and contracted with the University for those services. Pursuant to the current contract FMU manages student housing facilities comprising nearly 1400 beds. Village Apartments, included in those facilities, is a thirteen-building complex completed in 1980.¹

On August 22, 2019, FMU contracted with Quality Service Company to replace HVAC systems in fourteen units at Village Apartments for \$77,000. On September 3, 2019, FMU hired Quality to replace the HVAC system in a single unit at Village Apartments for \$6000. On October 21, 2019, FMU awarded a competitively-bid contract to Quality to replace HVAC systems in approximately 64 additional apartments for \$397,200.² FMU—not the LLC nor the Foundation—paid the contractor for all the HVAC work.

Management stated all three purchases were exempt from the Procurement Code (Code) because they were procured on behalf of the LLC. Nothing in the purchase orders or contract between FMU and Quality, however, indicates FMU was acting as the LLC's agent or otherwise on its behalf. Rather, the services were acquired by FMU to fulfill its contractual obligation to the LLC and the contracts were in FMU's name.³

¹ The facts described in this paragraph are recited in a memorandum dated May 29, 2013, from the University's private counsel, except for information FMU's management furnished about Village Apartments. We have not examined the circumstances of the 2003 arrangement nor subsequent dealings between the University and its Foundation or the LLC. Accordingly, we express no opinion whether those dealings are subject to the Consolidated Procurement Code or whether they complied with the Code. The 2013 memorandum argues for various reasons that the Code does not apply. In two previous audits we have found that certain transactions between institutions and their related foundations were in fact subject to the Code. *Audit of Coastal Carolina University's Agreements Regarding University Place and Campus Edge* (April 11, 2012), available at <https://procurement.sc.gov/files/CCU04-11-12.pdf> (last viewed September 17, 2021) and *Winthrop University Procurement Audit Report January 1, 2007 – December 31, 2010* (October 15, 2012), available at <https://procurement.sc.gov/files/Winthrop10.pdf> (last viewed September 17, 2021). To the extent the 2013 memorandum disagrees with the findings of these previous audit reports we stand by our previous findings.

² To the extent any of these acquisitions are properly classified as a routine repair or routine maintenance, they may be acquisitions of services rather than acquisitions of construction using the Code's definitions. For purposes of determining whether the Code applies to the acquisition, this is a distinction without a difference.

³ Were an institution determined to avoid the Procurement Code, the obvious next question is whether an agency can serve as an agent to bid and administer a contract executed solely by the third-party and where only the third-party makes direct payment with their own funds. The answer may depend on many other facts, and we need not address that question today. Nevertheless, it bears remembering that our courts have instructed that the Code must be liberally

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Section 11-35-40(2) provides that the Code “applies to every procurement ... by this State under contract acting through a governmental body....” The term “contract” is defined to mean “all types of state agreements, regardless of what they may be called, for the procurement [of] construction.” § 11-35-310(8). In pertinent part, the term “procurement” is defined to mean “buying, purchasing, renting, leasing, or otherwise acquiring any ... construction.” § 11-35-310(25). The term “construction” means “the process of building, altering, repairing, remodeling, improving, or demolishing ... *public*⁴ improvements *of any kind* to real property.” § 11-35-310(7). Read together, and absent an exemption,⁵ the Code applies to every acquisition by a governmental body pursuant to an agreement for the process of building. Here, FMU acquired construction—nearly a half-million dollars’ worth of installed HVAC equipment—and all such acquisitions are subject to the Consolidated Procurement Code.⁶

Management also stated these transactions were exempt from the Code because they were paid for with “agency, trust, and fiduciary funds” it held for the LLC.⁷

As noted above, any acquisition of construction is subject to the Code. An actual expenditure is not required. See S.C. Code Ann. Reg. 19-445.2000E(4) (“[T]he Procurement Code applies to every acquisition of the process of improving real property by a governmental body, whether or not the acquisition involves an expenditure of money....”). Even revenue generating contracts are subject to the Code. See S.C. Code Ann. Reg. 19-445.2000E(3) (“[T]he Procurement Code applies even though the governmental body does not make a payment of money. Without limitation,

construed. *Sloan v. Greenville County*, 356 S.C. 531, 590 S.E.2d 338 (Ct. App. 2003) (“The County’s procurement code is remedial in nature, and its provisions should be construed liberally to carry out its purposes.”).

⁴ Public improvements include improvements made by a public entity regardless of who owns the property. To conclude otherwise, the Procurement Code would not apply to any improvements made to a leased facility, no matter how extensive. Regardless, in the matter under review, Village Apartments predated the University’s ground lease by two decades. There is no doubt that Village Apartments was a “public building” prior to the 2003 transaction with the LLC, and that transaction did nothing to change its character as a public building. Moreover, the University continues to operate Village Apartments as student housing; it owns the property, subject to a ground lease in favor of the LLC; it is effectively obligated by the management agreement to treat the property as its own; it refers its students to the property; and it limits the use of the property to the University’s faculty, employees, and students.

⁵ See, e.g., S.C. Code Ann. § 11-35-710. One example of a board-granted exemption is the “expenditure of funds at State institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations and from the operation of canteens and bookstores....” The Board explicitly excluded acquisitions of construction from this exemption even if it were otherwise applicable.

⁶ The University’s outside counsel agrees with this conclusion:

Of course any expenditures the University makes itself in providing services to the LLC are subject to the Procurement Code. Therefore, any University contracts made with suppliers, vendors or subcontractors made to assist the University fulfilling its duties to the LLC under the management agreement would need to comply with the Procurement Code unless an exception applied.

Memorandum dated May 29, 2013, at 19 (described in note 1 above).

⁷ As indicated previously, its lawyer disagreed.

RESULTS OF AUDIT

examples of such contracts include revenue-generating contracts, concession agreements, and contracts structured as a design-build-finance-operate-maintain project.” (citation omitted))

Even if an expenditure were required, the Code’s application is not tied to where FMU obtained the monies it used to pay for the contracts. To the contrary, the Code applies “irrespective of the source of funds.” § 11-35-40(2). Whether or not the funds used by the University to pay its contractor ultimately belonged to it is not determinative. Monies do not need to be “state” funds or “public” funds to trigger application of the Code—it applies no matter the source of the funds.

There are additional issues with the University’s acquisition of the HVAC systems.

- FMU issued the first purchase order on August 22, 2019. However, the contractor claimed the work was complete and invoiced FMU on August 14, 2019. FMU Facilities Management signed off its approval of the work on August 16, 2019. Both performance and acceptance of the work preceded the date of the purchase order. The contractor should not have been allowed to begin work until the PO had been approved and issued.
- On September 26, 2019, FMU advertised a Request for Proposal (RFP-2322) for approximately 64 HVAC installations at the Village Apartments. RFP-2322 contains language pursuant to the Code, including a right to protest clause. It was advertised in SCBO September 26, 2019 referencing FMU. However, the Statement of Award posted October 21, 2019 stated a bidder’s right to protest did not apply to the award, inconsistent with the solicitation and the Code.⁸
- RFP-2322 stated the term of the contract was for up to two years, but there was no required multi-term determination.
- All three purchases (two purchase orders and the RFP) should have been solicited as a single project.
- RFP-2322, as well as the total purchase, exceeded the University’s certification level and required oversight by the Office of State Engineer.

Recommendation: FMU’s acquisition of replacement HVAC systems for the Village Apartments was an unauthorized or illegal procurement and FMU must make any determination required by S.C. Code Ann. Reg. 19-445.2015.

⁸ The University advertised the RFP in South Carolina Business Opportunities, the official state government publication which is generally limited to notice of “proposed procurements required by regulations.” S.C. Code Ann. Reg. 19-445.2040. It drafted and issued the RFP, which expressly references the Code. It chose the competitive sealed proposal method of the Code as the form by which it would accept offers. Neither the SCBO advertisement nor the RFP mention the LLC. Not until FMU posted the award statement did it indicate its belief the Code did not apply. As the Panel announced in *In Re Protest of Wometco Food Services, Inc.*, Panel Case No. 1991-14, it is not fair to vendors to allow the State to deny applicability of the Code after the competition is over.

RESULTS OF AUDIT

University Response

The University acknowledges the issues associated with this procurement. Because the 2015 procurement audit implied that University expenditures made on behalf of another entity were exempt from the code, the University subsequently treated this procurement as exempt while awarding the contract to the lowest of multiple quotes. The University acknowledges that capital improvements on University facilities are subject to the procurement code. Future University procurements on behalf of Student Housing, LLC will follow all regulations of the Procurement Code. University officials responsible for initiating and completing subsequent procurements similar to this one have been counselled and instructed to follow Procurement Code guidelines for such procurements in the future. The University will submit a request for ratification by June 15.

B. Retention Exceeded Amount Allowed by the Code

One construction project required retainage of 10% for six out of 13 Application and Certifications for Payment, which exceeds the 3.5% allowed by Code.

SC Code Ann. § 11-35-3030(4)(a) states, ... “the retained amount of each progress payment or installment must be no more than three and one-half percent.”

Recommendation: We recommend FMU develop and implement procedures to ensure compliance with the Code’s construction retention requirements.

University Response

The University agrees with the finding regarding the University accepting retainage greater than the 3.5% maximum as indicated in the code. The University project manager identified the 10% retainage offered by the contractor as beneficial to the state, therefore the project manager accepted the 10% rate. The PM misunderstood the code to believe that 3.5% retainage was the minimum retainage, not the maximum retainage. The University identified and corrected this problem during the course of the project. Seven of the thirteen applications and certifications for payment did meet the 3.5% retainage amount as identified by the code. The University is developing and implementing a more comprehensive construction checklist to ensure compliance with the code. All PMs will be extensively educated in the application of this checklist. The University will implement this procedure by June 30.

RESULTS OF AUDIT

II. Construction Indefinite Delivery Projects

A. Two Completed IDC Projects Were Not Properly Closed Out

Two IDC projects exceeded the agency's certification. Neither project received final approval of OSE before the final payment and retained funds were released and the project closed as required by the Manual for Planning and Execution of State Permanent Improvements (Manual).

According to the Manual, SE 685 General Conditions to Construction Services Indefinite Delivery Contract (4.4) Delivery Order Completion and Closeout, "...Projects exceeding the Agency's construction procurement certification level shall require an inspection by the OSE and the State Engineer's issuance of a Certificate of Occupancy..."

University Response

The University agrees with the finding regarding Indefinite Delivery Projects not properly closed out. We acknowledge that construction procurements valued greater than our construction procurement certification require inspection from the OSE and the State Engineer's issuance of a Certificate of Occupancy. The University is developing and implementing a more comprehensive construction checklist to ensure compliance with the code. All PMs will be extensively educated in the application of this checklist. The University will implement this procedure by June 30.

B. Performance and Payment Bonds Were Not Provided by the Contractor

The university did not obtain performance and payment bonds for two IDC projects as required for delivery orders (DO) over \$50,000. Total dollar amount for both projects was approximately \$285k.

SC Code Ann. § 11-35-3030(2)(a) requires performance bonds and payment bonds for construction contracts exceeding \$50k. Manual (2018) Section 9.5.3 (E)(1) states, "The agency must obtain Performance Bonds and Labor and Material Payment Bonds in the amount of 100% of the delivery order amount for all delivery orders exceeding \$50,000."

Recommendation: We recommend FMU develop and implement procedures to comply with the Code and the Manual pertaining to Construction IDCs. Refresher training should be provided for personnel responsible for procuring construction projects in accordance with the Manual.

University Response

The University agrees with the finding that performance and payment bonds were not provided by the contractor for two projects. We acknowledge that construction procurements valued \$50,000 or greater require that performance bonds and payment bonds be provided by the contractor in advance of the initiation of the work. The University is developing and implementing

RESULTS OF AUDIT

a more comprehensive construction checklist to ensure compliance with the code. All PMs will be extensively educated in the application of this checklist. The University will implement this procedure by June 30.

III. Construction Sole Source Procurement

One construction project totaling approximately \$100k was awarded as a sole source without required approval or public notice and was not reported to DPS. In addition, the agency did not obtain payment and performance bonds from the contractor.

Per SC Code Ann. § 11-35-1560 (A), A contract may be awarded for a supply, service, information technology, or construction item without competition if, under regulations promulgated by the board, the chief procurement officer, the head of a purchasing agency, or a designee of either officer, above the level of the procurement officer, determines in writing that there is only one source for the required supply, service, information technology, or construction item. Except for contracts with a total potential value of \$50,000 or less, adequate public notice of the intent to award without competition must be posted in South Carolina Business Opportunities.

Per SC Code Ann. § 11-35-3030 (a), Bid security is required for all competitive sealed bidding for construction contracts in a design-bid-build procurement in excess of one hundred thousand dollars and other contracts as may be prescribed by the State Engineer's Office."

Manual Section 8.4.5 (A) states "The Agency must require the Contractor to provide a performance bond and labor and material payment bond when the sole source procurement is for construction greater than \$50,000.

Recommendation: We recommend that FMU develop and implement procedures to ensure construction personnel follow the Code and regulations as outlined in SC Code Ann. § 11-35-1560 and reiterated in Manual Section 8.4, which outlines a step-by-step process for compliance.

University Response

The University agrees with the finding that this sole source procurement was not completed with required approval or public notice and not reported. Project manager followed the direction from the OSE to complete the sole source document, but did not complete additional requirements related to the sole source documentation. To ensure compliance with the OSE manual section 8.4, the University is developing and implementing a more comprehensive construction checklist to ensure compliance with the code. All PMs will be extensively educated in the application of this checklist. The University will implement this procedure by June 30.

IV. Small Construction Projects Between \$50k and \$100k

Required documentation for a construction project totaling \$67,271, including an SE 377 (Minor Construction Contract), SE 375 (Posting Notice of Award), and SE 580 (Building

RESULTS OF AUDIT

Construction Permit), was not provided. Without these documents we are unable to determine whether the procurement was conducted according to the Code and the Manual.

Manual 8.3.4 (D) (4) Posting Notice of Award, states, "After determining the lowest responsive and responsible source, the Agency will post the SE 375 at the location indicated in the Invitation and send a copy of the SE-375 and the Quote Tabulation electronically to all those who submitted a quote.". (5) "Before starting work the Agency must complete an SE 580, sign the Agency Certification and Approval, and provide a copy to the Contractor..." (E) "The Agency will complete and sign the Minor Construction Contract (SE 377) and send it to the Contractor for execution and securing bonds". (F)) "The Agency shall obtain along with the executed contract, Performance and Payment Bonds...."

Recommendation: We recommend additional training be provided for construction personnel pertaining to small construction project procurements to ensure compliance with Manual Section 8.3.4(D), which addresses projects within the agency's construction certification level. Management oversight should include proper review of small construction projects for compliance with the procurement steps as outlined in the Manual.

University Response

The University agrees with the finding regarding this small construction project. While three quotations were initially obtained, the solicitation of the project should have been redone when the estimates exceeded \$50,000. The University will provide additional training for construction personnel related to small construction projects to ensure compliance with OSE manual Section 8.3.4(D). Associate Vice President for Facilities Management shall review small construction projects for compliance with procurement steps as outlined in the OSE manual. The University will complete this by June 30.

V. Small Construction Projects Between \$10k and \$50k

A. Small Construction Project Executed Without Competition

One construction project worth \$25,540, was improperly executed as exempt from the procurement code. Additionally, the invoice was dated before the purchase order (PO). This resulted in an unauthorized or illegal procurement.

SC Code Ann. § 11-35-40(2) states, "This code applies to every procurement or expenditure of funds by the state under contract acting through a governmental body as herein defined irrespective of the source of funds..."

RESULTS OF AUDIT

Recommendation: We recommend that this procurement be reported as unauthorized or illegal as required by regulation.

University Response

The University acknowledges the issues associated with this procurement. Because the 2015 procurement audit implied that University expenditures made on behalf of another entity were exempt from the code, the University subsequently treated this procurement as exempt. Future University purchases on behalf of Student Housing, LLC will follow all regulations of the Procurement Code. University officials responsible for initiating and completing subsequent purchases similar to this one have been counselled to follow Procurement Code guidelines for such purchases going forward. The University will complete the ratification document and report to DPS by June 15.

B. Written Solicitations and Written Determinations Were Not Provided

The university did not provide written solicitations and written determinations for three projects totaling \$52,027.

Per Manual 8.3.3(B)4, "The Agency should make the purchase on a purchase requisition form with the following attached in the Agency file: (a) A copy of the written solicitation and written quotes; and (b) A statement documenting that the procurement is to the advantage of the State (price and other factors considered), including the administrative cost of the purchase."

Recommendation: We recommend a management review of small construction project procurements to ensure compliance with the Manual, specifically Section 8.3.3(B)4.

University Response

The University agrees with the finding regarding these three projects. In each case, the University acquired at least three quotations for each job, but did not properly document the method for obtaining these quotes, and did not provide written statements for each documenting that the procurement was to the advantage of the State (price and other factors considered), including the administrative cost. The Associate Vice President for Facilities Management will review subsequent small construction project procurements to ensure compliance with the OSE manual, specifically Section 8.3.3(B)4. The University will complete these actions by June 30.

VI. Sole Source Procurements

Sole source and emergency procurements made pursuant to SC Code Ann. §§ 11-35-1560 and 1570, were evaluated to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports submitted to the chief procurement officers as required by § 11-35-2440.

RESULTS OF AUDIT

A. Required Written Determinations Lacked Authorization

One sole source determination totaling \$13,671 was not properly approved by an authorized official. Approvals for twelve sole source determinations totaling approximately \$346k were not dated. Dating the determination is an integral part of compliance documenting that the authorization occurred prior to contract execution and without which we can only conclude that they were unauthorized or illegal.

Reg. 19-445.2105 C. (2) requires that, ...”The determination must be authorized prior to contract execution.”

Reg. 19-445.2015 (A) requires that, “upon finding after award that a State employee has made an unauthorized award of a contract or that it is otherwise in violation of law, the appropriate official may ratify or affirm the contract or terminate it in accordance with this section.... If the value of the contract exceeds \$100,000, the CPO must concur in the written determination before any action is taken on the decision.”

Recommendation: We recommend that these procurements be reported as unauthorized or illegal as required by regulation.

University Response

The University agrees with the finding regarding the sole source determination totaling \$13,671 not properly approved by an authorized official. The University obtained authorizations for twelve sole source justifications prior to execution, however dates were not documented with the signed authorizations. The University will report these procurements to DPS as unauthorized. The University will be diligent to assure that sole source justifications are authorized and dated appropriately. The University will complete the ratification document and report to DPS by June 15.

B. Written Determinations Were Inadequate

Required written determinations for two sole source procurements were inadequate.

One sole source procurement determination in the amount of \$20,948 relied on a letter from the vendor declaring they were the only vendor to supply the product to justify the procurement without competition. No other documentation of market research was provided.

The other sole source procurement in the amount of \$28,473 was approved after the work had been done. In addition, the individual that made the purchase did not have authorization.

The result is that both procurements were unauthorized or illegal and should be reported to DPS as required.

RESULTS OF AUDIT

Recommendation: We recommend that both procurements be reported as unauthorized or illegal as required by regulation. We also recommend procedures be developed and implemented to ensure that purchase requisitions are channeled through the Agency's procurement department for final approval before any work is performed by the vendor.

University Response

The University agrees with the finding regarding the written determination for the sole source valued at \$20,948 being inadequate. The University researched this item and found no other alternatives, however that research should have been documented and included with the sole source justification per the code. The University acknowledges the finding regarding the sole source procurement valued at \$28,473. The vendor continued work beyond the initial quoted amount for fire alarm service without permission from the University due to the proprietary nature of the service and life safety issue related to the service. Had the vendor immediately notified the University of the additional necessary work, the University would have then promptly completed an Emergency Procurement. In good faith, the University identified the additional work as a sole source due to the proprietary nature of the service provided. Rather than documenting this as a sole source, the University should have treated the purchase as an unauthorized purchase and reported to DPS. The University has consulted with the vendor to assure that when additional service is required, the vendor shall contact the University in advance prior to approval of the work. The University will complete the ratification document and report to DPS by June 15.

VII. Supplies and Services

Our review of supplies and services for the audit period identified the following issue:

Unauthorized and Illegal Procurements

One procurement totaling \$12,247 was made by someone not authorized to make purchases for the agency. Although the Procurement Director acknowledged the purchase was unauthorized, no written determination was prepared nor was it reported to DPS as required.

Recommendation: We recommend this unauthorized procurements be reported to DPS as required by Reg. 19-445.2015.

University Response

The University agrees with the finding for the procurement totaling \$12,247 as an unauthorized purchase. This purchase was ratified and allowed and was reported to DPS on 9/23/21.

RESULTS OF AUDIT

VIII. Revenue Generating Contracts

We tested five revenue generating contracts.

Contract files for three out of five contracts lacked important information. The vendor's bid documents (complete proposals) were not provided, which should have included the vendor's expected revenue over the course of the contract. Without documentation, we were unable to determine if the university complied with the procurement code regarding source selection method, proper postings of intent to award, and whether or not the contracts were within the agency's certification level. In addition, one Request for Proposal (RFP) was not advertised in SCBO as required by the procurement code.

Reg. 19-445.2000 (E) (3) Revenue Generating Contracts, states "The Procurement Code applies even though the governmental body does not make a payment of money. Without limitation, examples of such contracts include revenue-generating contracts, concession agreements..."

SC Code Ann. § 11-35-1210(2) states, "Authorizations granted by the board or the Director of the Division of Procurement Services to a governmental body are subject to the following:

- (a) adherence to the provisions of this code and the ensuing regulations, particularly concerning competitive procurement methods;
- (b) responsiveness to user needs;
- (c) obtaining the best prices for value received."

§ 11-35-1520(3) states, "Adequate notice of the invitation for bids must be given at a reasonable time before the date set forth in it for the opening of bids. The notice must include publications in 'South Carolina Business Opportunities'..."

Recommendation: We recommend FMU update its internal procedures related to revenue generating procurements to ensure compliance with Reg. 19-445.2000 (E) (3) and aid in determining the proper source selection method. We also recommend updating internal policies to include proper organization and retention of complete contract files.

University Response

The University acknowledges that two revenue contracts did not include estimated contract values on their respective Statements of Award. Each of these contracts have estimated values for the lengths of their contracts of well below \$100,000 therefore the Statement of Award was the proper document for notification of award. However, the University accepts that the value of the award is necessary for auditors to assess proper procurement methods. The University agrees with the finding regarding one revenue contract not having been advertised in SCBO. While multiple

RESULTS OF AUDIT

vendors were contacted to be invited to provide a proposal, the University recognizes that all requests for proposals are required to be advertised in SCBO. The University will review its internal procedures related to revenue generating procurements to ensure compliance with the code and regulations, and will update internal policies to properly maintain complete contract files. The University has reviewed the internal procedures and will submit an updated internal procurement manual to MMO for consideration by June 9.

IX. Purchasing Cards (P-Cards)

FMU had 92 P-Cards in use during the audit period and spent \$5,364,775 in approximately 17,522 transactions. Based on the volume of usage, there is increased risk that misuse, or abuse of P-Cards will not be prevented or detected without adequate management oversight.

Program Administration

We reviewed FMU's P-Card policies and procedures for compliance with the State P-Card Policy and identified areas of non-compliance.

A. Roles and Responsibilities

Twenty-one cardholders were the liaisons of their own card. In addition, the agency's internal P-Card policies allows cardholders to be the liaison of their own card.

Per State P-Card Policy, V. (A) states, "Each Agency's internal P-Card policy must establish an internal control process and structure that ensures compliance with the Code and State P-Card Policy. Internal controls shall include: (1) Appropriate separation of duties between transactions (Cardholders), review and approval of transactions for payment (approving officials), and payment of the cardholder monthly bank statements (Accounts Payable)...(3) Appropriate hierarchical review and approval of purchases by someone with supervisory authority over the Cardholder and/or with authority to question purchases if needed."

Recommendation: We recommend FMU revise its internal P-Card policies and procedures to include roles and responsibilities of P-Card personnel, including liaisons, and provide for adequate separation of cardholder, supervisor, and liaison duties.

University Response

The University agrees with the findings regarding the University's Purchasing Card roles and responsibilities. The University will revise its internal P-Card policies and procedures to provide greater detail on the roles and responsibilities of P-Card personnel including liaisons, and will provide for adequate separation of cardholder, supervisor, and liaison duties as specified by the State of SC Purchasing Card Policy and Procedures. This revision will be completed by June 9.

RESULTS OF AUDIT

B. Bank Statements Lacked Timely Management and Cardholder Signatures

The Agency did not follow its internal procedures pertaining to timely management and cardholder signatures on P-Card statements.

There were three P-Card statements out of 26 tested that were not signed timely by the manager/approver. In addition, two P-Card statements were signed by the manager but not dated. Therefore, compliance with the State P-Card policy could not be determined.

Three P-Card statements were not signed in a timely manner by the cardholder.

FMU's P-Card Manual states "P-Card forms and other documents had to be approved by the 15th of the month".

Recommendation: We recommend FMU provide refresher training for cardholders and managers who have oversight responsibility for P-Cards, and develop and implement procedures requiring timely approvals evidenced by dating signatures on cardholder statements.

University Response

The University acknowledges the issues related to the finding of bank statements lacking timely management and cardholder signature. Specific cited statements lacking timeliness of signatures were due to two factors. The University closed prior to Thanksgiving in November 2020 and re-opened later than normal in January 2021 due to the COVID pandemic. Also, the regularly scheduled semester break took place during that period. The University will revise the Internal P-Card manual with processes to assure that statements are signed or alternate verification is obtained by the University's deadline of the 15th of the month after the receipt of the prior month's statement. This revision will be completed by June 9.

X. Limitations of the Expenditure List Provided

FMU's expenditure list provided appeared to have more direct pays than purchase orders (PO). Total direct pay expenditures were 14,457-line items, but there were multiple expenditures listed within one line item. There were 1,616 PO line items that also listed multiple expenditures within one line item. The listing also was in a text format, which made it difficult to work with or sort. When we asked management to provide us a workable expenditure report, a second report was provided, with the same issues. We were not able to determine total spend per fiscal year.

Management provided a separate list of 303 blanket POs during the audit period, none of which were included on the expenditure list provided.

We tested 31 direct pays. Out of the 31 tested, ten blanket POs were provided as back up documentation, indicating these were not direct pays.

RESULTS OF AUDIT

The end result is the expenditure list provided could not be relied on to determine the number of expenditures or line items or the correct number and dollar amount of POs or direct pays.

Recommendation: We recommend FMU evaluate its ERP system's reporting capabilities, and its workflow procedures to ensure key information such as PO numbers, including blanket POs, are captured and reportable.

University Response

The University acknowledges that the format of the excel spreadsheets provided did not foster ease in manipulation of provided data. All data points requested by the auditor in the Audit Planning Memo were provided in the second report. The University will continue to work toward improved communication with auditors in the future such that subsequent audits yield the data necessary for a more efficient audit. The FMU VP for Finance and Facilities and the Director of Audits from MMO have discussed this issue extensively to better understand the information sent and received in order to avoid these issues in the future.

XI. Minority Business Reports Filed Late

FMU did not submit required MBE annual utilization plans, along with four out of 12 quarterly progress reports, in a timely manner.

Recommendation: We recommend FMU develop and implement procedures, including management review and approval, to require annual MBE utilization plans and quarterly progress reports be submitted to the SMBCC in a timely manner as required by SC Code Ann. § 11-35-5240 (2).

University Response

The University agrees with the finding that the University did not submit required MBE annual plans, along with four of the twelve quarterly progress reports, in a timely manner. The University representative responsible for these reports is no longer employed in a procurement role at the institution. The University presently employs procedures for completion of these reports, and will implement review and approval by the Director of Purchasing to assure the timeliness of the submittal of these reports. This is currently underway and will be completed immediately.

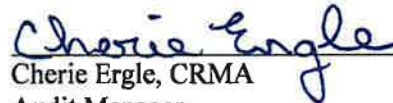
CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations in this report will make Francis Marion University's internal procurement operations consistent with the South Carolina Consolidated Procurement Code and ensuing regulations.

As provided in SC Code Ann. § 11-35-1210, we recommend that the Francis Marion University's procurement authority to make direct university procurements be re-certified/increased/reduced up to the following limits for three years:

<u>PROCUREMENT AREAS</u>	<u>RECOMMENDED CERTIFICATION LIMITS</u>
Supplies and Services ⁹	*\$ 325,000 per commitment
Information Technology ¹⁰	*\$ 200,000 per commitment
Construction Contract Award	\$ 50,000 per commitment
Construction Contract Change Order	\$ 25,000 per change order
Architect/Engineer Contract Amendment	\$ 25,000 per amendment

* Total potential purchase commitment whether single year or multi-term contracts are used.



Cherie Ergle, CRMA
Audit Manager,
Audit & Certification



Crawford Milling, CPA, CGMA
Director, Audit & Certification

⁹ Supplies and Services includes non-IT consulting services

¹⁰ Information Technology includes consulting services for any aspect of information technology, systems and networks

End Notes

ⁱ Regulation 19-445.2020 Certification

(A) Review Procedures.

(2) The Materials Management Officer shall review and report on the particular government body's entire internal procurement operation to include, but not be limited to the following:

- (a) Adherence to provisions of the Code and these Regulations;
- (b) Procurement staff and training;
- (c) Adequate audit trails and purchase order register;
- (d) Evidence of competition;
- (e) Small purchase provisions and purchase order confirmation;
- (f) Emergency and sole source procurements;
- (g) Source selection;
- (h) File documentation of procurements;
- (i) Decisions and determinations made pursuant to section 2015;
- (j) Adherence to any mandatory policies, procedures, or guidelines established by the appropriate chief procurement officers;
- (k) Adequacy of written determinations required by the Code and these Regulations;
- (l) Contract administrations;
- (m) Adequacy of the governmental body's system of internal controls in order to ensure compliance with applicable requirements.

(3) The report required by item A(2) shall be submitted to the board.



FRANCIS MARION UNIVERSITY

May 31, 2022

Mr. D. Crawford Milling
Director, Audit and Certification
Office of Audit and Certification
1201 Main Street, Suite 600
Columbia, SC 29201

Dear Mr. Milling:

Thank you for providing the Francis Marion University Independent Procurement Audit for the period January 1, 2018 – December 31, 2020. The Procurement Audit provides Francis Marion University with the opportunity to amend our procedures to ensure compliance with the guidelines of the procurement code and best serve the State of South Carolina. Several of those changes have already been implemented. Additionally, I appreciated the opportunity to meet with you and discuss the audit report and various manners to address the included items.

The University has worked over the past few months to address issues raised during the audit process, especially those involving construction procurements. We are developing a more comprehensive checklist to be implemented by June 30 to ensure that construction procurements are compliant with the code. Furthermore, members of the facilities management department with procurement responsibilities will complete additional training (including a thorough review of the OSE manual), especially regarding small construction projects. Members of the FMU Facilities staff will also review and reference OSE Presentations provided at the Department of Procurement Services website. The facilities team will complete the training by June 30.

The University also has initiated updates to general procurement procedures and procurement card management. The University's Internal Procurement manual will be updated and provided to the Office of Audit and Certification for consideration by June 9. Management of the procurement card program is being refined to ensure timely signoff of statements and to assure that all cardholders, liaisons, and other P-Card administrators are thoroughly trained regarding their role. The University's P-Card Manual will be updated no later than June 9; refresher training for P-Card responsibilities will begin immediately following the completion of the P-Card manual.

We will continue to refine procurement policies and procedures when necessary and welcome input at any time. We appreciate your recommendation for the requested increases to certification levels for supplies and services, and for information technology. Thank you for your assistance and support.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darryl L. Bridges".

Darryl L. Bridges
Vice President for Finance and Facilities
dbridges@fmarion.edu
(843)661-1201

SECTION 11-35-1230. Auditing and fiscal reporting.

(1) The Division of Procurement Services, through consultation with the chief procurement officers, shall develop written plans for the auditing of state procurements.

(2) In procurement audits of governmental bodies thereafter, the auditors from the Division of Procurement Services shall review the adequacy of the governmental body's internal controls in order to ensure compliance with the requirement of this code and the ensuing regulations. A noncompliance discovered through audit must be transmitted in management letters to the audited governmental body and the board. The Division of Procurement Services shall provide in writing proposed corrective action to governmental bodies. Based upon audit recommendations, the board may revoke certification as provided in Section 11-35-1210 and require the governmental body to make all procurements through the appropriate chief procurement officer above a dollar limit set by the board, until such time as the board is assured of compliance with this code and its regulations by that governmental body.

SECTION 11-35-1210. Certification.

(1) Authority. In an amount up to fifty thousand dollars in actual or potential value, individual governmental bodies may make direct procurements not under term contracts. Subject to the following and subject to any ensuing regulations:

(a) the board may assign differential dollar limits below which individual governmental bodies may make direct procurements not under term contracts. The Division of Procurement Services shall review the respective governmental body's internal procurement operation, shall certify in writing that it is consistent with the provisions of this code and the ensuing regulations, and recommend to the board those dollar limits for the respective governmental body's procurement not under term contract; and

(b) the Director of the Division of Procurement Services may authorize an individual governmental body to make direct procurements not under term contracts in an amount up to one hundred fifty thousand dollars. All authority granted pursuant to this item must be in writing, and the director shall advise the board in writing of all such authorizations.

(2) Policy. Authorizations granted by the board or the Director of the Division of Procurement Services to a governmental body are subject to the following:

(a) adherence to the provisions of this code and the ensuing regulations, particularly concerning competitive procurement methods;

(b) responsiveness to user needs;

(c) obtaining the best prices for value received.

(3) Adherence to Provisions of the Code. All procurements shall be subject to all the appropriate provisions of this code, especially regarding competitive procurement methods and nonrestrictive specifications.

(4) Subject to subsection (1), the State Board for Technical and Comprehensive Education, in coordination with the appropriate chief procurement officer, may approve a cumulative total of up to fifty thousand dollars in additional procurement authority for technical colleges, provided that the Division of Procurement Services makes no material audit findings concerning procurement. As provided by regulation, any authority granted pursuant to this paragraph is effective when certified in writing by the Division of Procurement Services.

Colleges & Universities
CERTIFICATION \$ AMOUNT

June 28, 2022

PROCUREMENT AREA

Institution	CERTIFICATION DATE	Supplies and Services	Information Technology	Consultant Services	Revenue Generating Contracts	Construction Contract Award	Construction Contract Change Order	Architect/ Engineer Contract Amendment
CITADEL, THE	5/2/2017	500,000	500,000	500,000		500,000	150,000	25,000
CLEMSON UNIVERSITY	10/23/2018	3,000,000	3,000,000	3,000,000	15,000,000	4,000,000	500,000	100,000
COASTAL CAROLINA UNIVERSITY	12/10/2019	400,000	150,000		1,500,000	300,000	200,000	75,000
COLLEGE OF CHARLESTON	5/14/2019	500,000	200,000			100,000	100,000	15,000
FRANCIS MARION UNIVERSITY	12/13/2016	275,000	175,000	150,000		175,000	75,000	50,000
	Recommended	325,000	200,000			50,000	25,000	25,000
LANDER UNIVERSITY	6/27/2018	200,000	150,000	200,000		200,000	75,000	50,000
MEDICAL UNIVERSITY OF SOUTH CAROLINA	6/29/2021	2,000,000	2,000,000			1,000,000	500,000	100,000
SOUTH CAROLINA, UNIVERSITY OF	10/23/2018	3,000,000	3,000,000	3,000,000	15,000,000	4,000,000	500,000	100,000
WINTHROP UNIVERSITY	10/23/2018	250,000	250,000	250,000		200,000	50,000	25,000

AGENCY: Executive Director

SUBJECT: South Carolina State Ceiling Allocation Plan - 2022

Act 202 of 2022 is effective for allocations of state ceiling beginning January 1, 2022, and thereafter. As a condition of allocating state ceiling, the Act directs the Authority to adopt an annual State Ceiling Allocation Plan, subject to review and comment by the Joint Bond Review Committee. The State Ceiling Allocation Plan must (1) assign percentages to private activity bond purposes prescribed by the Internal Revenue Code; (2) provide a process of periodic allocations equally divided among the periods in the year; and (3) establish competitive criteria for allocation of state ceiling to authorized requests.

In compliance with Act 202, a proposed 2022 State Ceiling Allocation Plan has been developed which assigns percentages of state ceiling to categories of private activity bonds and establishes a process for its periodic allocation. Competitive criteria included in the plan will be supplemented with further details that will be submitted for consideration at the August 30, 2022, meeting of the State Authority. Final approval and implementation of 2022 State Ceiling Allocation Plan will be contingent on future approval of the competitive criteria. Approval of the competitive criteria is anticipated to occur at the meeting scheduled for August 30, 2022, following review and comment by JBRC.

The proposed Allocation Plan was reviewed by the Joint Bond Review Committee at its meeting of June 21, 2022. The Committee provided comments to the Authority on June 24, 2022. The comments are attached.

AUTHORITY ACTION REQUESTED:

- (a) Approve the 2022 State Ceiling Allocation Plan, contingent upon future approval of the competitive criteria required by Act 202.
- (b) Rescind the policy regarding Allocation and Management of Volume Cap adopted at the meeting on January 25, 2022.
- (c) Rescind the designations to the state pool and the local pool adopted at the meeting on January 25, 2022.
- (d) Direct the Executive Director to prepare a proposed State Ceiling Allocation Plan for 2023, present the draft to the Joint Bond Review Committee for review and comment, and submit the draft to this Authority for approval at its meeting scheduled for August 30, 2022.

ATTACHMENTS:

- 1. Comments provided by Joint Bond Review Committee
- 2. Proposed 2022 South Carolina State Ceiling Allocation Plan
- 3. 2022 Act 202 (H. 5075)

**Capital Improvements
Joint Bond Review Committee**

HARVEY S. PEELER, JR.
SENATE
CHAIRMAN

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HOUSE OF REPRESENTATIVES
VICE CHAIRMAN

F. RICHARD HARMON, JR.
DIRECTOR OF RESEARCH
SFAA LIAISON
803-212-6682

JESSA WIGINGTON
ADMINISTRATIVE ASSISTANT
803-212-6677
FAX: 803-212-6690

June 21, 2022

Mr. Grant Gillespie
Executive Director
State Fiscal Accountability Authority
Post Office Box 12444
Columbia, South Carolina 29211

Re: Proposed Ceiling Allocation Plan Pursuant to Act 202 of 2022

Dear Mr. Gillespie:

At its meeting today, the Joint Bond Review Committee reviewed the proposed State Ceiling Allocation Plan for Calendar Year 2022 submitted on behalf of the State Fiscal Accountability Authority for consideration by the Committee pursuant to the provisions of Act 202 of 2022, which provides for among other things publication by the Authority of a State Ceiling Allocation Plan, subject to the review and comment by the Committee.

The proposed Plan assigns percentages to private activity bond purposes permitted by the Internal Revenue Code, subject to certain limitations; provides for periodic allocations equally divided among the periods during the year in which allocations are to be made; provides for competitive criteria to achieve highest value and greatest public benefit; provides for allocation of the private activity bond limit for all issuing authorities in response to authorized requests; and provides for limitations on amounts assigned to authorized requests; all in accordance with the Act. In addition to the foregoing, the Plan establishes policies and procedures for submission of authorized requests, and provides for special procedures during the first year of implementation.

The provisions of the Plan apply to allocations of state ceiling beginning January 1, 2022, as required by the Act. The plan also focuses on the statutory requirement that awards of limited state resources are made to projects demonstrating highest value and greatest public benefit, as measured by the relationship of the state resources to the measurable benefit of the project. The Plan further provides for recommendations by the South Carolina Department of Commerce and the South Carolina State Housing Finance and Development Authority, as applicable, to the State Fiscal Accountability Authority, which has ultimate discretion and accountability for approval of the allocation of state ceiling to permitted categories and authorized requests.

Capital Improvements Joint Bond Review Committee

Mr. Grant Gillespie
State Fiscal Accountability Authority
June 21, 2022
Page 2

Act 202 further permits the State Fiscal Accountability Authority to adopt policies and procedures to effect the purposes of the Act, and the Plan includes numerous such provisions, among them:

The Plan requires applications to be complete at the time of submission so that the State Fiscal Accountability Authority is positioned to make an informed decision that considers all aspects of the request, including as applicable, any commitment to and amount of state incentives; the ceiling allocation request; and the bonds to be issued pursuant to the allocation. The plan appropriately relies extensively on the professional expertise of the Department of Commerce and the State Housing Authority, and recognizes the unique characteristics of each category for which requests for state ceiling may be made.

The Plan recognizes that complete submissions for allocations of state ceiling to multi-family housing projects will include a statutory determination by the State Housing Authority for federal and state housing tax credits in conjunction with its recommendations for allocation of state ceiling to authorized requests. The Plan also recognizes that the State Housing Authority, as the historical recipient of unused state ceiling, holds an important resource in managing and preserving the state's federally limited state ceiling allocation, and provides for preferential utilization of this resource before making allocations from current year state ceiling.

The Committee determined that the Plan as presented complies with the provisions of the Act, subject to finalizing certain matters requiring further review by the Committee, and careful consideration by the State Fiscal Accountability Authority of the recommendations included herein.

The Committee was advised that two distinct submission channels for multi-family housing ceiling allocation requests evolved during the 2021 calendar year, with proposals submitted in some cases through the State Housing Authority, and others submitted by local housing authorities, with the latter potentially having by-passed the more rigorous and robust financial and underwriting standards utilized by the State Housing Authority.

The provisions of Act 202 requiring establishment of uniform competitive criteria dictate careful consideration of the submission process, which must be standardized through a common administrative channel that produces a single list of submissions that have been uniformly and competitively scored and ranked in accordance with the value and benefit provisions of the Act. For these reasons, the Committee recommends that the State Fiscal Accountability Authority carefully consider a requirement that submissions for multi-family projects requesting state ceiling must be made only through the State Housing Authority.

**Capital Improvements
Joint Bond Review Committee**

Mr. Grant Gillespie
State Fiscal Accountability Authority
June 21, 2022
Page 3

The Committee acknowledges that the Plan contemplates further refinement, particularly development and inclusion of detailed competitive criteria, for further consideration by the Committee and the State Fiscal Accountability Authority at their meetings scheduled in August 2022. Accordingly, the Committee reserves final comment until the Plan is finalized, and recommends that no allocations of Calendar Year 2022 state ceiling be made pursuant to the Plan until the Committee has made further review and provided comment on the final version thereof.

Please advise if you have any questions or need clarification.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'F. Harmon', is positioned above the printed name.

F. Richard Harmon, Jr.
Director of Research

2022 South Carolina State Ceiling Allocation Plan

SECTION A. BACKGROUND AND PURPOSE

Among other things, Act 202 of 2022 amended the provisions of Article 3 of Chapter 11, Title 1 of the 1976 Code, which provides for the allocation of state ceiling necessary for the issuance of private activity bonds. The Act requires allocation of the private activity bond limit by the State Fiscal Accountability Authority (the State Authority) for all issuing authorities in response to authorized requests. The Act further requires that the State Authority publish a State Ceiling Allocation Plan that assigns percentages to the purposes permitted by the Internal Revenue Code, subject to certain limitations. The Allocation Plan must provide for a process of periodic allocations of state ceiling equally divided among the periods during the year in which allocations are to be made, with certain exceptions. The Allocation Plan must establish competitive criteria for the allocation of state ceiling, which may be unique to each category but must be uniform within each category and established to achieve highest value and greatest public benefit. The Act provides limitations on amounts assigned to authorized requests, with certain exceptions. The State Authority is permitted to utilize the services of the South Carolina Department of Commerce, the South Carolina State Housing Finance and Development Authority, other state agencies, and public or private resources, to establish and inform development of the allocation plan, competitive criteria, and periodic evaluation of authorized requests.

The provisions of the Act are effective for allocations of state ceiling beginning January 1, 2022, and thereafter. For the first year of implementation, the State Authority is authorized to adopt such special procedures as may be necessary to effect the requirements of the Act.

The purpose of this plan is to establish the State Ceiling Allocation Plan for calendar year 2022, as well as any special procedures applicable thereto; to otherwise establish policies and procedures in accordance with the provisions of the Act; and to provide for a coordinated effort to prepare and publish an allocation plan for 2023.

SECTION B. DETERMINATION OF STATE CEILING

Pursuant to Section 1-11-500 of the 1976 Code, the Secretary of the State Authority certified that the state ceiling on the issuance of private activity bonds for calendar year 2022 is \$570,977,550.

SECTION C. DETERMINATION OF LIMITS ON STATE CEILING FOR AUTHORIZED REQUESTS

Pursuant to Section 1-11-520(D), the amount of state ceiling that may be allocated to an authorized request may not exceed 10% (\$57,097,755.00) in the case of an industrial or economic development project, or 5% (\$28,548,877.50) for any other authorized request.

The State Authority may approve an amount exceeding these limitations only upon justification and substantial findings of significance. Requests for such approval must be made to the Authority in writing and adequately supported. The State Authority reserves the right to seek any additional information from an applicant necessary to support a substantial finding of significance.

2022 South Carolina State Ceiling Allocation Plan

SECTION D. DETERMINATION OF AMOUNTS SUBJECT TO THIS ALLOCATION PLAN

In addition to the amount determined pursuant to Section 1-11-500, certain amounts available from carryforward and other adjustments are subject to the provisions of this Allocation Plan, as follows:

Amount determined pursuant to Section 1-11-500	\$570,977,550
Less amounts previously allocated	(0)
Plus amounts expired, relinquished, revoked, or otherwise not utilized for issuance as of (insert date)	0
Plus amounts carried forward from prior calendar years:	
Allocated to Single-Family Housing (2019; expires 2022)	374,998,335
Allocated to Multi-Family Housing (2020; expires 2023)	316,453,232
Allocated to Multi-Family Housing (2021; expires 2024)	<u>2,839,401</u>
Total	\$1,265,268,518

SECTION E. AVAILABILITY OF AMOUNTS; PERIODIC ALLOCATION

Pursuant to Section 1-11-520(A), and subject to the special provisions below, the State Authority hereby makes an initial assignment of the state ceiling applicable to calendar year 2022 pursuant to Section 1-11-500 to the following categories of permitted purposes¹ prescribed by the Internal Revenue Code:

Industrial and Economic Development (40%) ²	\$ 228,391,020
Single-family Housing (40%) ³	228,391,020
Multi-family Housing (0%) ⁴	0
Other Qualified Purposes (20%) ⁵	114,195,510

SECTION F. PERIODIC ALLOCATION

Pursuant to Section 1-11-520(B), the State Authority hereby provides for two (2) allocation periods for 2022, and hereby designates February 1 and August 1 as allocation dates, on which 50% of the state ceiling assigned to each category is made available for subsequent allocation to authorized requests and on which dates issuance approval for use of carryforward will be made. Allocations to authorized requests and issuance approval for carryforward use will be made only at the meeting of the State Authority immediately following each allocation date; provided, **for 2022, the August allocation will be effected at the Authority's regularly scheduled October meeting.**

The following table summarizes these provisions.

¹ Generally, see IRS Publication 4078 (Rev. 9-2019) for a complete list of permitted purposes prescribed by the IRC.

² Facilities for the furnishing of water; sewage facilities; privately owned solid waste disposal facilities; facilities for the local furnishing of electric energy or gas; local district heating or cooling; qualified hazardous waste facilities; qualified enterprise zone facilities; qualified small issue bonds.

³ Qualified mortgage bonds.

⁴ Qualified residential rental projects.

⁵ Mass commuting facilities; privately owned high-speed intercity rail facilities; qualified redevelopment bond; and qualified student loan bonds.

2022 South Carolina State Ceiling Allocation Plan

Category	Category Percentage	Category Amount	Amount Available for Allocation to Authorized Requests on or after February 1, 2022	Amount Available for Allocation to Authorized Requests on or after August 1, 2022
Industrial and Economic Development	40%	\$228,391,020	\$114,195,510	\$114,195,510
Multi-Family Housing	0%	\$0.00	\$0.00	\$0.00
Single-Family Housing	40%	\$228,391,020	\$114,195,510	\$114,195,510
Other Qualified Purposes	20%	\$114,195,510	\$ 57,097,755	\$ 57,097,755
Totals	100%	\$570,977,550	\$ 285,488,775	\$ 285,488,775

The amount available for allocation to authorized requests on February 1, 2022 has not been allocated to any authorized requests as of the date of adoption of this plan. Section 1-11-520(C) expressly provides that "the state authority may but need not reassign any state ceiling unused in prior periods as a supplement to and means to address demand for ceiling allocation in a subsequent period. Such reassignment may be made for any allocation category, notwithstanding its original assignment." Such reassignment, if made, will be determined on or after the August 1, 2022, allocation date.

If an authorized request cannot be approved pursuant to the then-current plan even with a reassignment pursuant to Section 1-11-520(C), the Authority's Secretary is authorized to not place the request on the Authority's agenda. In such an event, Authority's Secretary will notify the Authority's members well in advance of the scheduled meeting date.

SECTION G. PERIODIC ALLOCATION FOR INDUSTRIAL AND ECONOMIC DEVELOPMENT

The amount of state ceiling available for this category for each allocation date is \$114,195,510. The amount available for the February 1 allocation date has not been allocated to any authorized requests as of the date of adoption of this plan.

SECTION H. PERIODIC ALLOCATION FOR SINGLE-FAMILY HOUSING

The amount of state ceiling available for this category for each allocation date is \$114,195,510. The amount available for the February 1 allocation date has not been allocated to any authorized requests as of the date of adoption of this plan.

As noted above, there is available \$374,998,335 carried forward from calendar year 2019 that will expire in calendar year 2022 unless otherwise utilized. On May 31, 2022, the Authority approved the issuance and sale by the State Housing Finance and Development Authority of not exceeding \$375,000,000 in mortgage revenue bonds and short-term notes to preserve this allocation.

2022 South Carolina State Ceiling Allocation Plan

SECTION I. PERIODIC ALLOCATION FOR MULTI-FAMILY HOUSING

No amount of state ceiling for the 2022 calendar year is designated for allocation to Multi-family Housing, and no assignment of state ceiling is contemplated for this category until the available carryforward is exhausted. As noted above, there is carryforward available that will expire in calendar year 2023 unless otherwise utilized. The State Housing Finance and Development Authority shall endeavor to utilize this carryforward.

In addition to the determination made above, the State Authority recognizes that authorized requests and issuance approval requests made through local housing authorities will be further impacted by other aspects of this policy. Act 202 contemplates that State Housing will perform the periodic evaluation and ranking of authorized requests for state ceiling, and requires State Housing to administer the allocation of the state housing tax credit. Both requirements involve the use of a competitive process that must be applied uniformly as to any multi-family bond issuance request whether seeking use of current-year ceiling allocation or issuance approval for use of carryforward. In addition, the statutory standard for the competitive criteria required for both state ceiling and the state tax credit is "highest value and greatest public benefit."

Accordingly, prior to submission to the State Authority, authorized requests for state ceiling or requests for issuance approval of bonds using carryforward associated with Multi-family Housing Bonds must, as a practical matter, be submitted to State Housing for underwriting and evaluation for state ceiling allocation and/or issuance approval, for compliance with the corresponding federal low-income housing tax credit, and, as applicable, for the scoring and ranking associated with allocation of the state housing tax credit. For additional guidance regarding the submission of authorized requests for ceiling allocation or for issuance approval for use of carryforward for multifamily housing, see the Submission Criteria for Authorized Requests section below.

SECTION J. PERIODIC ALLOCATION FOR OTHER QUALIFIED PURPOSES

The amount of state ceiling available for this category for each allocation date is \$57,097,755. The amount available for the February 1 allocation date has not been allocated to any authorized requests as of the date of adoption of this plan.

SECTION K. REASSIGNMENT OF UNUSED STATE CEILING AND PLAN AMENDMENTS

The amounts not allocated to authorized requests for the 2022 calendar year may be reassigned by the State Authority on or after August 1, 2022, in accordance with the provisions of Section 1-11-520(C), following the process of canvassing described below. Any change to the amount of state ceiling allocated to a category that cannot be accomplished by a reassignment pursuant to Section 1-11-520(C) requires an amendment to the annual allocation plan in accordance with Section 1-11-520(B) following review and comment by the Joint Bond Review Committee.

2022 South Carolina State Ceiling Allocation Plan

SECTION L. SUBMISSION FOR 2022 RANKING AND CANVASSING FOR NECESSARY INFORMATION

Industrial and Economic Development Bonds

Not later than September 19, 2022, Commerce must provide the State Authority with its final evaluation, scoring and ranking for allocation of state ceiling to these authorized requests in accordance with the competitive criteria described herein, as well as its allocation recommendations.

Commerce and the South Carolina Jobs Economic Development Authority (JEDA), in consultation with the South Carolina Coordinating Council for Economic Development (Coordinating Council), must provide a coordinated report for proposed industrial and economic development projects to the State Authority identifying all known requests for state ceiling for each of the calendar years 2022 and 2023 no later than August 1, 2022. The response must include the project name,⁶ amount of the state ceiling request, year of allocation, and tentative recommendation of Commerce in accordance with the competitive criteria described below.

For the 2023 calendar year, Commerce may also submit a request for the State Authority to assign up to 40 percent of state ceiling for Industrial and Economic Development, less any allocation requested for known projects, to accommodate future but presently unidentifiable requests; provided, however, that once known, each such request shall identify the project, amount of the allocation request, year of allocation, and include a recommendation of Commerce in accordance with the competitive criteria.

Multi-Family Housing Bonds

Not later than September 19, 2022, State Housing must provide the State Authority with a report of its evaluation, scoring and ranking for allocation of state ceiling to all authorized requests for state ceiling and all issuance requests for issuance approval for use of carryforward in accordance with the competitive criteria described below. State Housing's report must also include its evaluation and ranking of all pending state tax credit applications. As noted in Section N below, State Housing must provide the State Authority with written confirmation of its Board's allocation recommendations for State Housing projects no later than September 30, 2022.

The State Housing Finance and Development Authority must provide a report for proposed single-family and multi-family housing projects to the State Authority identifying all pending and expected authorized requests for each of the calendar years 2022 and 2023 not later than August 1, 2022. The report must also identify all pending and expected requests for issuance approval for use of carryforward for the years 2022 and 2023. The response must include the project name, amount of the state ceiling request, amount of state tax credit (if any), and year of allocation. The report must also include recommendations for the amount of year-end carryforward needed for State Housing to continue its programs in future years.

⁶ Or other identifying information in the event the name of the project is not yet public.

2022 South Carolina State Ceiling Allocation Plan

These reports will be utilized in decisions to reassign state ceiling pursuant to section 1-11-520(C), to reallocate by amending the plan pursuant to section 1-11-520(B), or to reserve current year state ceiling for allocation as year-end carryforward.

These reports will also be utilized in development of the 2023 State Ceiling Allocation Plan. The State Authority recognizes and acknowledges that specific project details may not be known in all cases for the 2023 calendar year; accordingly, specificity is expected to the extent known, accompanied by reasonable estimates of anticipated requests otherwise, properly described as such.

Pursuant to Section 1-11-520(E), State Housing, Commerce, and JEDA are directed to undertake outreach efforts each year designed to provide the State Authority with the best available information by the deadlines provided in the next year's state ceiling allocation plan.

All issuing authorities must provide the State Authority's Secretary with a year-end account of any unused remaining carryforward from prior years no later than January 2nd each year.

SECTION M. COMPETITIVE CRITERIA

Act 202 provides among other things that the allocation plan must establish competitive criteria for allocation of state ceiling to authorized requests, and further provides that competitive criteria may be unique to each category but must be uniform within each category and established to achieve highest value and greatest public benefit.

For purposes of this Allocation Plan, determinations of highest value and greatest public benefit will be made on the basis of the relationship of the state resources requested to the measurable benefit of the proposed project.

SECTION N. COMPETITIVE CRITERIA FOR INDUSTRIAL AND ECONOMIC DEVELOPMENT ALLOCATION AND ALLOCATION TO OTHER PERMITTED PURPOSES

In the case of industrial and economic development projects, and projects proposed for other qualified purposes, Commerce must provide each year to the State Authority for inclusion in the annual State Ceiling Allocation Plan its current recommendations for objective measures that will serve as the basis for the determination of highest value and greatest public benefit, which may include any existing measures, but which must also include at a minimum and without limitation such measures as the number of new permanent jobs⁷ that will be created by the project; the capital investment of the project sponsor independent of state incentives and resources; an assessment of the expected return on investment for the total incentives offered by the state, including without limitation, allocation of state ceiling, tax credits and other incentives, as well as any other resources committed by the state as are germane and applicable to the project. Council must submit its proposed recommendations for the coming year to the State Authority no later than June 30 each year. Commerce will use these measures to evaluate any ceiling allocation requests for Industrial and Economic Development projects and projects proposed for other qualified purposes, and such evaluations shall be presented to the Coordinating Council for approval at a public meeting.

⁷ Generally, maintenance of existing jobs will not meet this criterion.

2022 South Carolina State Ceiling Allocation Plan

For projects seeking either local or state discretionary incentives such as fee in lieu of tax arrangements, county industrial development bonds, job development credits and/or state grant funding, a definitive agreement with the Coordinating Council and/or the local government, as applicable, must have been finalized prior to consideration by the State Authority. Such agreements with the Coordinating Council may include a preliminary revitalization, grant performance or other incentive agreement provided that it contains minimum new permanent job and investment commitments by the entity seeking an allocation.

For projects that are not seeking local or state discretionary incentives, such information as is requested and determined by Commerce to be sufficient for Commerce to evaluate the feasibility and competitiveness of the proposal must be submitted to Commerce prior to consideration by the State Authority.

With its recommendations, Commerce must submit proposed deadlines for the coming year by which those seeking state ceiling for Industrial and Economic Development projects or projects proposed for other qualified purposes must submit their proposals to Commerce in order for Commerce to provide the State Authority with its final evaluation, scoring and recommendation no later than the bond submission deadline for the meetings at which state ceiling allocation requests will be considered for the applicable allocation period.

If multiple projects will be submitted for consideration by the State Authority within a single allocation period, Commerce must rank those projects from highest to lowest value and public benefit overall and must include a separate ranking determined solely by the commitment of state resources to the project.

In addition to the foregoing, Commerce must provide a definitive recommendation for the amount of state ceiling proposed to be allocated to the project, following an affirmative vote of the Coordinating Council in a public meeting.

For the current year, the competitive criteria for Industrial and Economic Development projects recommended by Commerce are adopted by the State Authority, attached as **Exhibit A**, and incorporated into this Plan by reference.

SECTION O. COMPETITIVE CRITERIA FOR MULTI-FAMILY HOUSING ALLOCATION

In the case of multi-family housing projects, the State Housing Finance and Development Authority (Housing) must provide each year to the State Authority for inclusion in the State Ceiling Allocation Plan its current recommendations for objective measures that will serve as the basis for the determination of highest value and greatest public benefit, which may include any existing measures, but which must also include at a minimum and without limitation such measures as the number of units, square footage, and tenant population for the portion of the project meeting the housing affordability qualification criteria contemplated by the project; the capital investment of the project sponsor independent of state incentives and resources; an assessment of the expected return on investment for the total incentives offered by the state, and specifically delineated for each commitment of state resources, including without limitation, allocation of state ceiling; tax credits and other incentives; and such other resources committed by the state as are germane and applicable to the project. These criteria will be applied uniformly to all multi-family housing projects whether seeking current year ceiling

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allocation or issuance approval using carryforward. Housing must submit its proposed recommendations for the coming year to the State Authority no later than June 30th each year.

With its recommendations for 2023, Housing must submit proposed deadlines for 2023 by which those seeking state ceiling for Multi-family housing projects must submit their proposals to Housing in order for Housing to provide the State Authority with its final evaluation, scoring and recommendation no later than the bond submission deadline for the meetings at which state ceiling allocation requests will be considered for the applicable allocation period.

If multiple multi-family project submissions (for ceiling allocation and/or issuance approval for use of carryforward) will be considered by the State Authority within a single allocation period, Housing must rank those projects from highest to lowest value and public benefit overall, and must include a separate ranking determined solely by the commitment of state resources to the project.

In addition to the foregoing, Housing must provide a definitive recommendation for the amount of state ceiling proposed to be allocated to any State Housing project, following an affirmative vote of its governing board in a public meeting. For 2022, State Housing must submit written confirmation of its Board's recommendations no later than September 30, 2022.

For the current year, the competitive criteria for Multi-family Housing projects recommended by Housing are adopted by the State Authority, attached as **Exhibit B**, and incorporated into this Plan by reference.

SECTION P. COMPETITIVE CRITERIA FOR SINGLE-FAMILY HOUSING ALLOCATION

In the case of single family housing projects, Housing must provide each year to the State Authority for inclusion in the State Ceiling Allocation Plan its current recommendations for competitive criteria that will serve as the basis for the determination of highest value and greatest public benefit, which may include any existing measures, but which must also include at a minimum and without limitation such measures as the number of qualified borrowers associated with the public benefit of the allocation; and such other resources committed by the state as are germane and applicable to the allocation. Housing must submit its proposed recommendations for the coming year to the State Authority no later than June 30th each year.

Multiple competing requests during a single allocation period are not expected for submissions in this category. Accordingly, the State Authority has determined that the highest value and greatest public benefit are most appropriately determined at the programmatic level, rather than by allocations to specific requests.

For the current year, the competitive criteria for single-family housing projects recommended by Housing are adopted by the State Authority, attached as **Exhibit C**, and incorporated into this Plan by reference.

SECTION Q. SUBMISSION REQUIREMENTS FOR AUTHORIZED REQUESTS

Section 1-11-530 provides the statutory requirements for authorized requests for allocation of state ceiling, and further provides for such other supporting documentation as the State

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Authority may by policy prescribe. The State Authority provides the following additional guidance pursuant to these provisions.

All submissions for allocation of state ceiling must be complete at the time of submission. The Secretary of the Authority is authorized not to place any submission on the agenda if the submission is found by Authority staff to be incomplete. The request must be in accordance with the statutory provisions of Section 1-11-530. In addition to the foregoing, all requests for allocation of state ceiling must meet all of the following requirements, as applicable:

1. If the applicable private activity bonds require approval of the State Authority, the request for allocation of state ceiling must include a contemporaneous request for approval to issue the associated bonds. For example, an issuance of Multi-family Housing Bonds by a state or local housing authority requires approval pursuant §31-13-90 or §31-13-220, as applicable. A request for an allocation of state ceiling associated with a contemporaneous request for issuance approval is not complete unless it includes all items required by the Authority for the issuance approval request.
2. If the applicable private activity bonds require the approval of an entity other than the State Authority, the issuer, or a state constitutional officer, a certified statement from the other approving entity must be submitted with the allocation request. For example, an issuance of bonds by the Jobs-Economic Development Authority must be approved by the Coordinating Council (§ 41-43-110(A)).
3. If a request for allocation of state ceiling regards private activity bonds for a multi-family housing project, either (i) the petition making the request must be accompanied by both a preliminary determination of the project's eligibility for the South Carolina housing tax credit (§12-6-3795(B)(5)(d)) and all comments provided by a county and city pursuant to Section 12-6-3795(C)(3)); or (ii) the petition making the request must include an irrevocable waiver of any claim for a state tax credit pursuant to Section 12-6-3795, accompanied by proof that the petition has been filed with State Housing. Even if a project includes an irrevocable waiver of any claim for a state tax credit, the request must undergo a feasibility and underwriting review by State Housing; accordingly, the request must be accompanied by a Certificate of Allocating Agency (42(m) Letter).
4. If a request for issuance approval regards private activity bonds for a multi-family housing project, and is using prior-year carryforward either the (i) the petition making the request must be accompanied by both a preliminary determination of the project's eligibility for the South Carolina housing tax credit (§12-6-3795(B)(5)(d)) and all comments provided by a county and city pursuant to Section 12-6-3795(C)(3)); or (ii) the petition making the request must include an irrevocable waiver of any claim for a state tax credit pursuant to Section 12-6-3795, accompanied by proof that the petition has been filed with State Housing. Even if a project includes an irrevocable waiver of any claim for a state tax credit, the request must undergo a feasibility and underwriting review by State Housing; accordingly, the request must be accompanied by a Certificate of Allocating Agency (42(m) Letter).
5. The petition submitted for each authorized request must include a representation that "the allocation amount requested constitutes all of the private activity bond financing

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contemplated at the time for the project and any other facilities located at or used as a part of an integrated operation with the project."

6. In the case of a proposed industrial or economic development project using state ceiling from either the Industrial and Economic Development or Other Qualified Purposes categories, the project must appear on the list of projects scored and ranked by the Coordinating Council for Economic Development and must have received a definitive recommendation from the Council for the amount of state ceiling proposed to be allocated to the project.

7. In the case of a proposed project using state ceiling from the Multi-family Housing category or prior year carryforward, the project must appear on the list of projects scored and ranked by the State Housing and Finance Development Authority and must have received a definitive recommendation from State Housing for the amount of state ceiling proposed to be allocated to the project.

8. A request to take any of the following actions must be accompanied by a letter signed by the chief executive officer of the applicant providing a thorough explanation of the compelling circumstances leading to the request and a justification for why those circumstances were not successfully avoided: A request (a) to reinstate or extend the validity of previously allocated state ceiling, (b) to allocate state ceiling to a project if previously allocated state ceiling was allowed to expire, or (c) to allocate additional state ceiling to a project. In addition, a request to allocate additional state ceiling to a project must be accompanied by supporting financial analysis demonstrating the further amount necessary to accomplish financial feasibility of the project. A responsible officer of the applicant is expected to attend the applicable Authority meeting.

9. A request (a) to approve single-project allocations for carry-forward election, or (b) to approve carryforward elections prior to the fourth quarter of the calendar year to which the state ceiling applies must be accompanied by a letter signed by the chief executive officer of the applicant that provides a compelling justification for such action and a thorough explanation of why it is in the best interest of the state to approve the request. As noted below, such requests are considered extraordinary and will receive a heightened level of review. A responsible officer of the applicant is expected to attend the applicable Authority meeting.

10. In the case of an industrial or economic development project, a petition requesting more than ten percent of the total state ceiling must be accompanied by a thorough and compelling statement of facts justifying such an extraordinary allocation of state ceiling to a single project. The petition must be accompanied by a statement of position by the Coordinating Council regarding the relative size of the request.

11. In the case of a request for any purpose other than for industrial or economic development, a petition requesting more than five percent of the total state ceiling must be accompanied by a thorough and compelling statement of facts justifying such an extraordinary allocation of state ceiling to a single project.

2022 South Carolina State Ceiling Allocation Plan

12. If any part of the submission is subject to review, comment or other action of the Joint Bond Review Committee, the item must be submitted to the committee prior to consideration of the submission by the State Authority.

If a request does not meet each and every published requirement by the submission deadline for the applicable Authority meeting, the Authority's Secretary is authorized not to place the item on the Authority's agenda.

The State Authority reserves its discretion to amend and supplement these procedures as circumstances dictate.

The State Authority and its members reserve the right to require additional information for any particular item.

SECTION R. EXTENSIONS AND CARRYFORWARDS

Section 1-11-530(C) provides that each authorized request must demonstrate that the allocation amount requested constitutes all of the private activity bond financing contemplated at the time for the project and any other facilities located at or used as a part of an integrated operation with the project. In addition to the foregoing, the Authority must be reasonably assured that any allocation of state resources will be utilized prior to expiration. Accordingly, the State Authority will undertake a heightened level of review and exercise conservative discretion in addressing any request to (1) reinstate or extend the validity of previously allocated state ceiling, (2) allocate state ceiling to a project if previously allocated state ceiling was allowed to expire, (3) allocate additional state ceiling to a project, (4) approve single-project allocations for carry-forward election, (5) or approve carryforward elections prior to the fourth quarter of the calendar year to which the state ceiling applies.

Unless the State Authority first makes a public finding that compelling circumstances dictate otherwise, the State Authority will consider any request to allocate additional state ceiling to any project to which state ceiling was previously allocated as a new request, subject to the competitive and all other submission criteria applicable to the request.

South Carolina General Assembly
124th Session, 2021-2022

R228, H5075

STATUS INFORMATION

General Bill

Sponsors: Reps. G.M. Smith and West

Document Path: I:\council\bill\ncd\11339dg22.docx

Companion/Similar bill(s): 1120

Introduced in the House on March 3, 2022

Introduced in the Senate on April 7, 2022

Last Amended on May 4, 2022

Passed by the General Assembly on May 10, 2022

Governor's Action: May 16, 2022, Signed

Summary: Housing tax credit

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
3/3/2022	House	Introduced and read first time (House Journal-page 23)
3/3/2022	House	Referred to Committee on Ways and Means (House Journal-page 23)
3/31/2022	House	Committee report: Favorable with amendment Ways and Means (House Journal-page 31)
4/5/2022	House	Member(s) request name added as sponsor: West
4/5/2022		Scrivener's error corrected
4/6/2022	House	Amended (House Journal-page 77)
4/6/2022	House	Read second time (House Journal-page 77)
4/6/2022	House	Roll call Yeas-99 Nays-5 (House Journal-page 85)
4/7/2022	House	Read third time and sent to Senate
4/7/2022	Senate	Introduced and read first time (Senate Journal-page 11)
4/7/2022	Senate	Referred to Committee on Finance (Senate Journal-page 11)
4/7/2022		Scrivener's error corrected
4/12/2022	Senate	Recalled from Committee on Finance (Senate Journal-page 6)
4/13/2022		Scrivener's error corrected
4/20/2022	Senate	Amended (Senate Journal-page 32)
4/20/2022	Senate	Read second time (Senate Journal-page 32)
4/20/2022	Senate	Roll call Ayes-44 Nays-0 (Senate Journal-page 32)
4/21/2022	Senate	Read third time and returned to House with amendments (Senate Journal-page 8)
4/21/2022		Scrivener's error corrected
4/25/2022		Scrivener's error corrected
4/27/2022	House	Debate adjourned (House Journal-page 33)
5/4/2022	House	Senate amendment amended (House Journal-page 52)
5/4/2022	House	Roll call Yeas-106 Nays-3 (House Journal-page 53)
5/4/2022	House	Returned to Senate with amendments (House Journal-page 54)
5/5/2022		Scrivener's error corrected
5/10/2022	Senate	Concurred in House amendment and enrolled (Senate Journal-page 83)
5/10/2022	Senate	Roll call Ayes-41 Nays-2 (Senate Journal-page 83)
5/12/2022		Ratified R 228 (Senate Journal-page 229)
5/16/2022		Signed By Governor

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VERSIONS OF THIS BILL

[3/3/2022](#)

[3/31/2022](#)

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[4/12/2022](#)

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[4/25/2022](#)

[5/4/2022](#)

[5/5/2022](#)

NOTE: THIS IS A TEMPORARY VERSION. THIS DOCUMENT WILL REMAIN IN THIS VERSION UNTIL FINAL APPROVAL BY THE LEGISLATIVE COUNCIL.

(R228, H5075)

AN ACT TO AMEND SECTION 12-6-3795, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA HOUSING TAX CREDIT, SO AS TO DEFINE TERMS AND LIMIT THE CREDIT; TO PROVIDE A ONE-TIME AUTHORIZATION OF SOUTH CAROLINA HOUSING TAX CREDITS FOR CERTAIN PROJECTS APPROVED BEFORE 2022; TO AMEND ARTICLE 3 OF CHAPTER 11, TITLE 1, RELATING TO THE ALLOCATION OF STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS, SO AS TO REQUIRE THE STATE FISCAL ACCOUNTABILITY AUTHORITY TO DEVELOP A STATE CEILING ALLOCATION PLAN ANNUALLY, TO SPECIFY REQUIREMENTS OF THE PLAN, AND TO PROVIDE A PROCESS FOR PERIODIC ALLOCATIONS OF THE STATE CEILING; AND TO REPEAL SECTION 1-11-370 RELATING TO INDEBTEDNESS INCLUDED WITHIN ANY LIMITS ON PRIVATE ACTIVITY BONDS.

Be it enacted by the General Assembly of the State of South Carolina:

South Carolina Housing Tax Credit

SECTION 1. A. Section 12-6-3795 of the 1976 Code, as added by Act 137 of 2020, is amended to read:

“Section 12-6-3795. (A) As used in this section:

(1) ‘Eligibility statement’ means a statement authorized and issued by the South Carolina State Housing and Finance Development Authority certifying that a given project qualifies for the South Carolina housing tax credit, including any preliminary determination thereof.

(2) ‘Federal housing tax credit’ means the federal tax credit as provided in Section 42 of the Internal Revenue Code of 1986, as amended.

(3) ‘Median income’ means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.

(4) 'Project' means a housing project that has restricted rents that do not exceed thirty percent of income for at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, or at least twenty percent of the units occupied by persons or families having incomes of fifty percent or less of the median income.

(5) 'Qualified project' means a qualified low-income building as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in South Carolina and receives approval for tax credits from the South Carolina Housing and Finance Development Authority provided pursuant to this section.

(6) 'Taxpayer' means a sole proprietor, partnership, corporation of any classification, limited liability company, or association taxable as a business entity that is subject to South Carolina taxes pursuant to Section 12-6-510, Section 12-6-530, Chapter 11, Title 12, or Chapter 7, Title 38.

(7) 'Federal 9 percent tax credit' means the federal housing tax credit described in Section 42(b)(1)(B)(i) of the Internal Revenue Code.

(8) 'Federal 4 percent tax credit' means the federal housing tax credit described in Section 42(b)(1)(B)(ii) of the Internal Revenue Code.

(9) 'Credit period' has the meaning defined in Section 42(f)(1) of the Internal Revenue Code.

(10) 'State housing authority' means the South Carolina State Housing Finance and Development Authority.

(11) 'Department of Revenue' means the South Carolina Department of Revenue.

(B)(1) A state tax credit pursuant to this section may be claimed against income taxes imposed by Section 12-6-510 or 12-6-530, bank taxes imposed pursuant to Chapter 11, Title 12, corporate license fees imposed pursuant to Chapter 20, Title 12, and insurance premium and retaliatory taxes imposed pursuant to Chapter 7, Title 38, to be termed the South Carolina housing tax credit, and is allowed with respect to each qualified project placed in service after January 1, 2020, and before December 31, 2030, in an amount not to exceed the federal housing tax credit allowed with respect to such qualified project, subject to the limitations of item (5). In computing a tax payable by a taxpayer pursuant to Section 38-7-90, the credit allowed pursuant to this section must be treated as a premium tax paid pursuant to Section 38-7-20.

(2)(a) If under Section 42 of the Internal Revenue Code of 1986, as amended, a portion of any federal housing tax credit taken on a project is required to be recaptured, the taxpayer claiming any South Carolina housing tax credit with respect to such project also is required to recapture a portion of any South Carolina housing tax credit authorized by this section. The state recapture amount is equal to the proportion of

the South Carolina housing tax credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal housing tax credit amount subject to recapture.

(b) In the event that recapture of any South Carolina housing tax credit is required, any return submitted to the Department of Revenue, as provided in this section, shall include the proportion of the South Carolina housing tax credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of South Carolina housing tax credit previously allocated to such taxpayer. Any recapture of the South Carolina housing tax credit is reported in the same manner as any recapture of the federal housing tax credit.

(3) The total amount of the South Carolina housing tax credit allowed by this section for a taxable year may not exceed the taxpayer's income tax liability. Any unused South Carolina housing tax credit may be carried forward to apply to the taxpayer's next five succeeding years' tax liability. The taxpayer may not apply the credit against any prior tax years' tax liability.

(4) The South Carolina housing tax credit and any recaptured tax credit, must be allocated among some or all of the partners, members, or shareholders of the entity owning the project in any manner agreed to by such persons, regardless of whether such persons are allocated or allowed any portion of the federal housing tax credit with respect to the project.

(5)(a) The South Carolina housing tax credit allowed for any project must supplement but not supplant the federal housing tax credit and must be limited to an amount necessary only to achieve financial feasibility of the project.

(b) The total amount of all South Carolina housing tax credits that may be allocated in any calendar year must not exceed twenty million dollars, plus the total of all unallocated tax credits, if any, for any preceding years, and the total amount of any previously allocated tax credits that have been recaptured, revoked, canceled, or otherwise recovered but not otherwise reallocated.

(c) Of the dollar limitation prescribed in subitem (b), the total amount of South Carolina housing tax credits allocated to qualified projects utilizing the federal 9 percent tax credit must not exceed forty percent of the dollar limitation prescribed in subitem (b). Of the South Carolina housing tax credits allocated to qualified projects utilizing the federal 9 percent tax credit, no less than fifty percent of the South Carolina housing tax credits must be allocated to qualified projects located in an eligible rural area as designated by the United States Department of Agriculture, with the remainder allocated to (i) qualified projects serving older persons or persons with special needs, irrespective

of rural eligibility criteria; (ii) qualified projects supporting workforce development as certified by the South Carolina Department of Commerce, irrespective of rural eligibility criteria; and (iii) other qualified projects, irrespective of rural eligibility criteria.

(d) Compliance with the dollar limitations of subitems (b) and (c) must be determined by the total amount of South Carolina housing tax credits allocated for one full year of the credit period applicable to each qualified project, and not the total amount of South Carolina housing tax credits allocated for the entire credit period applicable to each qualified project. Compliance with the dollar limitations of subitems (b) and (c) must be determined within each calendar year at the time the state housing authority makes a preliminary determination of any qualified project's eligibility for the South Carolina housing tax credit.

(e) In addition to the dollar limitation of subitem (b), allocation of any South Carolina housing tax credit to any qualified project utilizing the federal 4 percent tax credit is conditioned on among other things availability and allocation to the extent necessary for the qualified project of any state ceiling made pursuant to Article 3, Chapter 11, Title 1.

(C)(1) The state housing authority shall promulgate rules establishing criteria upon which the eligibility statements are issued which must include consideration of evidence of local support for the project. The eligibility statement must specify the amount of the South Carolina housing tax credit allowed, and must include: (i) the annual amount of South Carolina housing tax credit allocated to the qualified project for each year of credit the period; and (ii) the total amount of South Carolina housing tax credit allocated to the qualified project for the entire credit period.

(2) The state housing authority may not issue an eligibility statement until the taxpayer provides a report to the state housing authority detailing how the South Carolina housing tax credit will benefit the tenants of the project, once placed in service, including without limitation, reduced rent, and why the South Carolina housing tax credit is essential to the financial feasibility of the project.

(3) The state housing authority must establish uniform criteria for allocating the South Carolina housing tax credit to eligible projects pursuant to a competitive process that promotes highest value and greatest public benefit. The state housing authority must establish the criteria required by this section as part of any qualified allocation plan adopted to administer the federal housing tax credit, which must include without limitation: (i) written notice by the state housing authority to the county and city within which any project is proposed to be located; (ii)

following such notice, an opportunity for public comment on the proposed project at a public hearing conducted by the state housing authority no less than ten business days following notice of such public hearing, notification of which must be made by publication in a newspaper of general circulation in the county and city within which the proposed project is to be located; and (iii) an opportunity for the county and the city within which the project is proposed to be located to provide comment within no less than ten business days following such public hearing. The criteria established pursuant to this section, and any qualified allocation plan, are subject to the prior review and comment of the Joint Bond Review Committee.

(4) The state housing authority must furnish no later than January thirty-first of each year an annual report of South Carolina housing tax credits allocated pursuant to this section, which must include for the preceding calendar year the total amount of South Carolina housing tax credits allocated, and for each project, the project name and location, the amount of the South Carolina housing tax credits allocated to the project, project ownership, total number of units assisted, and the public benefit achieved by the project. The annual report must be furnished to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, the Chairman of the House of Representatives Ways and Means Committee, the Joint Bond Review Committee, and the State Fiscal Accountability Authority.

(D) The Department of Revenue, in consultation with the state housing authority, may adopt rules and policies necessary to implement and administer the provisions of this section; provided, however, that the state housing authority has the responsibility for: (i) allocation and administration of the South Carolina housing tax credit; and (ii) ensuring that the limits prescribed by subsection (B)(5)(b) and (c) are not exceeded.

(E) Notwithstanding any other provision of law, the provisions of this section and administration thereof are subject to the oversight, and review and comment as appropriate, of the Joint Bond Review Committee.”

B.1. Notwithstanding the limitations prescribed by Section 12-6-3795(B)(5)(b), (c), and (d) in SECTION 1.A., the General Assembly hereby provides a one-time authorization of South Carolina housing tax credits in an amount necessary but not exceeding one hundred million dollars for qualified projects approved before December 31, 2021, by the State Fiscal Accountability Authority or the South Carolina State Housing and Finance Development Authority, as applicable. Any allocations of South Carolina housing tax credits made

pursuant to this provision are subject to the review and comment of the Joint Bond Review Committee. No later than thirty days following enactment hereof, the South Carolina State Housing and Finance Development Authority must identify and report to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, the Chairman of the House of Representatives Ways and Means Committee, the Joint Bond Review Committee, and the State Fiscal Accountability Authority all qualified projects to which this one-time authorization of South Carolina housing tax credits is proposed to apply. The report must be made in such form and substance as may be directed by the Joint Bond Review Committee. Nothing in this provision grants any rights to, or in the processes used in the determination of, allocation of this one-time authorization of South Carolina housing tax credits. Decisions made pursuant to this provision are final and are not subject to judicial or administrative review.

2. This subsection B takes effect upon approval by the Governor.

C. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2021.

State ceiling allocation

SECTION 2. Article 3, Chapter 11, Title 1 of the 1976 Code is amended to read:

“Article 3

Allocation of State Ceiling on Issuance of Private Activity Bonds

Section 1-11-500. The state ceiling on the issuance of private activity bonds as defined in Section 146 of the Internal Revenue Code of 1986 established in the act must be certified annually by the Secretary of the State Fiscal Accountability Authority (the state authority) based upon the provisions of the act. The secretary of the state authority shall make this certification as soon as practicable after the estimates of the population of the State of South Carolina to be used in the calculation are published by the United States Bureau of the Census but in no event later than February first of each calendar year.

Section 1-11-510. (A) The private activity bond limit for all issuing authorities must be allocated by the state authority in response to

authorized requests as described in Section 1-11-530 by the issuing authorities, or as otherwise provided in Section 1-11-520(G).

(B) The aggregate private activity bond limit amount for all South Carolina issuing authorities is allocated initially to the State for further allocation within the limits prescribed herein.

(C) Nothing in this article or the State Ceiling Allocation Plan adopted pursuant to this article grants any rights to, or in the processes used in the allocation or disposition of, state ceiling. Decisions made pursuant to this article are final and are not subject to judicial or administrative review.

Section 1-11-520. (A) No later than September thirtieth of the year preceding the calendar year to which the state ceiling applies, and subject to review and comment by the Joint Bond Review Committee, the state authority must publish a State Ceiling Allocation Plan that assigns percentages of the state ceiling to categories of any of the permitted purposes prescribed by the Internal Revenue Code. Without limitation, categories of permitted purposes may include industrial and economic development bonds; single family housing bonds; multifamily housing bonds; student loan bonds; and any other bonds eligible for tax exemption as a private activity bond pursuant to the Internal Revenue Code. No initial assignment to any single category may exceed forty percent of the state ceiling, and no minimum assignment is required for any category.

(B) Further, the allocation plan must provide for a process of periodic allocations of the state ceiling within each category, which for any period generally may not exceed an amount of the state ceiling allocated to that category equally divided among the number of periods in the year during which allocations are to be made; provided, however, that the state authority may, upon findings of exceptional and compelling circumstances, amend the annual allocation plan following review and comment by the committee.

(C) Notwithstanding the assigned percentages set forth in the allocation plan, the state authority may but need not reassign any state ceiling unused in prior periods as a supplement to and means to address demand for ceiling allocation in a subsequent period. Such reassignment may be made for any allocation category, notwithstanding its original assignment.

(D) Unless otherwise approved in writing by the state authority following justification and substantial findings of significance, no authorized request may receive an allocation of state ceiling applicable to that calendar year exceeding ten percent of the total state ceiling in the

case of an industrial or economic development project, or five percent of the total state ceiling for any other allocation category.

(E) The allocation plan must establish competitive criteria for allocation of state ceiling to authorized requests. Competitive criteria may be unique to each category but must be uniform within each category and established to achieve highest value and greatest public benefit. Discussions of matters related to the periodic evaluation of authorized requests may be conducted in executive session. The state authority may utilize the services of the South Carolina Department of Commerce, the South Carolina State Housing Finance and Development Authority, any other state agency, and any other public or private resources to inform and provide services for the development of the allocation plan, including the evaluation and competitive criteria; and the periodic evaluation of authorized requests. The Department of Commerce and the State Housing Finance and Development Authority are directed to provide to the state authority such assistance as may be requested or required to accomplish the purposes of this article.

(F) Allocations of state ceiling to authorized requests must be made in accordance with the provisions of the allocation plan and policies and procedures adopted by the state authority.

(G) The state authority must determine the disposition of any remaining, unused state ceiling during the final period of the calendar year pursuant to a petition submitted in accordance with Section 1-11-530(D).

Section 1-11-530. (A) For private activity bonds proposed for issue by other than state government issuing authorities, an authorized request is a request included in a petition to the state authority that a specific amount of the state ceiling be allocated to the bonds for which the petition is filed. The petition must be accompanied by: (i) a copy of the Inducement Contract, Inducement Resolution, or other comparable preliminary approval entered into or adopted by the issuing authority, if any, relating to the bonds, and (ii) such other supporting documentation as the state authority may by policy prescribe.

(B) For private activity bonds proposed for issue by any state government issuing authority, an authorized request is a request included in a petition to the state authority that a specific amount of the state ceiling be allocated to the bonds for which the petition is filed. The petition must be accompanied by: (i) a bond resolution or comparable action by the issuing authority authorizing the issuance of the bonds, and (ii) such other supporting documentation as the state authority may by policy prescribe.

(C) Each authorized request must demonstrate that the allocation amount requested constitutes all of the private activity bond financing contemplated at the time for the project and any other facilities located at or used as a part of an integrated operation with the project.

(D) An issuing authority seeking an allocation of any remaining unused state ceiling for carry-forward designation must submit to the state authority a petition identifying the types of tax-exempt bonds to which the carry-forward designation will apply. The petition must be accompanied by such other supporting documentation as the state authority may by policy prescribe. Such allocations are not subjected to the provisions of Section 1-11-520(D), (E), and (F).

(E) Notwithstanding any other provision of this article, the state authority may disapprove, reduce, or defer any authorized request or petition for carryforward.

(F) The state authority must periodically furnish to the Joint Bond Review Committee a report of petitions received, along with their dispositions.

Section 1-11-540. Reserved.

Section 1-11-550. (A) An allocation of the state ceiling approved by the state authority is made formal initially by a certificate which allocates tentatively a specific amount of the state ceiling to the bonds for which the allocation is requested. This tentative allocation certificate must specify the state ceiling amount allocated, the issuing authority and the project involved, and the time period during which the tentative allocation is valid. This certificate must remind the issuing authority that the tentative allocation is made final after the issuing authority chairman or other duly authorized official or agent of the issuing authority, before the issue is made, certifies the issue amount and the projected date of issue, as is required by subsection (B) of this section. It also may include other information considered relevant by the secretary of the state authority.

(B) The chairman or other authorized official or agent of an issuing authority issuing any private activity bond for which a portion of the state ceiling has been allocated tentatively shall execute and deliver to the secretary of the state authority an issue amount certificate setting forth the exact amount of bonds to be issued and the projected bond issue date which date must not be more than ten business days after the date of the issue amount certificate and it must be before the state ceiling allocation involved expires. The issue amount certificate may be an executed copy of the appropriate completed form to be submitted to the Internal Revenue Service on the issue or it may be in the form of a letter which

certifies the exact amount of bonds to be issued and the projected date of the issue.

(C) In response to the issuing authority's issue amount certificate required by subsection (B) of this section, the secretary of the state authority is authorized to issue and, as may be necessary, to revise a certificate making final the ceiling allocation previously approved by the state authority on a tentative basis, if the secretary of the state authority determines that:

(1) the issuing authority's issue amount certificate specifies an amount not in excess of the approved tentative ceiling allocation amount;

(2) the issue amount certificate was received prior to the issue date projected and that the certificate is dated not more than ten days prior to the issue date projected; provided, however, that if an issue amount certificate is dated more than ten days prior to the date of issue of the bonds, such certificate shall be void, and a new request must be provided to the secretary of the state authority prior to issuance of the bonds;

(3) the issue date projected is within the time period approved previously for the tentative ceiling allocation; and

(4) the bonds when issued and combined with the total amount of bonds requiring a ceiling allocation included in issue amount certificates previously submitted to the state authority by issuing authorities do not exceed the state ceiling for the calendar year. Except under extraordinary circumstances, the secretary of the state authority shall issue this certificate within two business days following the date the issue amount certificate is received.

(D) In accordance with Section 149(e)(2)(F) of the Internal Revenue Code, the secretary of the state authority is designated as the state official responsible for certifying, if applicable, that certain bonds meet the requirements of Section 146 of the Internal Revenue Code relating to the volume cap on private activity bonds.

(E) Any tentative or final state ceiling allocation granted by the state authority before the effective date of this act remains valid as an allocation of a portion of the volume cap for South Carolina provided under Section 146 of the Internal Revenue Code. The allocations expire in accordance with the law under which they were granted or extended and their validity may be extended or reinstated in accordance with the provisions of Sections 1-11-500 through 1-11-570.

Section 1-11-560. (A) Any state ceiling allocation approved by the state authority is valid only for the calendar year in which it is approved, unless eligible and approved for carry-forward election or unless specified differently in the certificates required by Section 1-11-550.

(B) Unless eligible and approved for carry-forward election or unless specified differently in certificates required by Section 1-11-550, each state ceiling allocation expires automatically if the bonds for which the allocation is made are not issued within ninety consecutive calendar days from the date the allocation is approved by the state authority.

(C) In response to a written request by the chairman or other duly authorized official or agent of an issuing authority, the state authority, acting during the period an approved allocation is valid, may but need not extend the period in which an allocation is valid in a single calendar year by thirty-one consecutive calendar days to a total of not more than one hundred twenty-one consecutive calendar days.

(D) In response to a written request by the chairman or other authorized official or agent of an issuing authority, the state authority may but need not reinstate for a period of not more than thirty-one consecutive calendar days in any one calendar year part or all of an allocation approved but not extended previously in accordance with subsection (C) of this section in that same calendar year which has expired. The reinstatement request must certify that the authorized request previously submitted is still true and correct or a new authorized request must be submitted.

(E) A tentative ceiling allocation is canceled automatically if the chairman or other authorized official or agent of the issuing authority fails to deliver the issue amount certificate required by Section 1-11-550 to the secretary of the state authority before the bonds for which the allocation is made are issued.

(F) The chairman or other authorized official or agent of an issuing authority shall advise the secretary of the state authority in writing as soon as is practicable after a decision is made not to issue bonds for which a portion of the state ceiling has been allocated. All notices of relinquishment of ceiling allocations must be entered promptly in the state authority's records by the secretary of the state authority.

(G) Ceiling allocations which are eligible and approved for carry-forward election are not subject to the validity limits of this section. The state authority shall join with the issuing authorities involved in carry-forward election statements to meet the requirements of the Internal Revenue Service.

Section 1-11-570. The state authority may adopt policies and procedures necessary to implement and administer the provisions of this article. All such policies and procedures, and any changes thereto, are subject to review and comment by the Joint Bond Review Committee.

Section 1-11-580. The State Fiscal Accountability Authority shall make quarterly payments on insurance contracts where the annual premium exceeds fifty thousand dollars. The board shall undertake necessary negotiations to implement this requirement. Where fees may be incurred for quarterly rather than annual payments, the State Fiscal Accountability Authority shall determine whether the investment income opportunity is greater or less than proposed fees and shall make the decision which best benefits South Carolina.”

Repeal

SECTION 3. Section 1-11-370 of the 1976 Code is repealed.

Conflicting provisions

SECTION 4. The provisions of Article 3, Chapter 11, Title 1 of the 1976 Code relating to the allocation of state ceiling on issuance of private activity bonds, as amended in this act, shall control if there is any conflict with any other provision of law or regulation, specifically including Regulation 19-103.

Severability

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 6. The provisions of this act are effective for allocations of state ceiling beginning January 1, 2022, and thereafter. For the first year of implementation, the state authority may adopt such special procedures as may be necessary to effect the requirements of this act.

Ratified the 12th day of May, 2022.

President of the Senate

Speaker of the House of Representatives

Approved the _____ day of _____ 2022.

Governor

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STATE FISCAL ACCOUNTABILITY AUTHORITY

REGULAR SESSION

MEETING OF June 28, 2022

ITEM NUMBER 7

AGENCY: State Fiscal Accountability Authority

SUBJECT: Future Meeting

The next regular meeting of the State Fiscal Accountability Authority will be held at 10:00 a.m. on Tuesday, August 30, 2022, in Room 252, Edgar A. Brown Building.

AUTHORITY ACTION REQUESTED:

Agree to meet at 10:00 a.m. on Tuesday, August 30, 2022, in Room 252, Edgar A. Brown Building.

ATTACHMENTS: