

# STATE FISCAL ACCOUNTABILITY AUTHORITY

Meeting of Tuesday, May 23, 2023– 10:00 A.M.

Room 252, Edgar A. Brown Building

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## REGULAR SESSION AGENDA INDEX -- Page 1

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<u>Item</u>	<u>Agency</u>	<u>Subject</u>
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<b>B.</b>	<b>ADOPTION OF PROPOSED AGENDA</b>	
<b>C.</b>	<b>MINUTES OF PREVIOUS MEETING</b>	
<b>D.</b>	<b>REGULAR SESSION</b>	
1.	State Treasurer's Office	State Auditor's update regarding the status of their engagement to test the reconciliation of statewide cash balances as of December 31, 2022, to the cash balances by fund as presented in the State's annual comprehensive financial report (ACFR)
2.	State Treasurer's Office	Bond Counsel Selection
3.	Department of Administration, Executive Budget Office	Permanent Improvement Projects
4.	Department of Administration, Facilities Management and Property Services	Easements
5.	Department of Administration, Facilities Management and Property Services	Clemson University Lease at 1 Research Drive in Greenville
6.	Department of Administration, Facilities Management and Property Services	SC Department of Commerce Road Lease to Navy Land Partners, L.P.
7.	Department of Administration, Facilities Management and Property Services	Petition to Request Annexation of Department of Natural Resources Property into the Town of Great Falls
8.	Patriots Point Development Authority	Report Regarding Lease to Patriots Annex, LLC

# STATE FISCAL ACCOUNTABILITY AUTHORITY

Meeting of Tuesday, May 23, 2023– 10:00 A.M.

Room 252, Edgar A. Brown Building

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## REGULAR SESSION AGENDA INDEX -- Page 2

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<u>Item</u>	<u>Agency</u>	<u>Subject</u>
9.	Division of Procurement Services	Audit and Certification – The Citadel
10.	Division of Procurement Services	Audit and Certification – Department of Health and Environmental Control (DHEC)
11.	Division of Procurement Services	Audit and Certification – Tri-County Technical College
12.	Division of Procurement Services	Audit Update for Florence Darlington Technical College Gift Card Program
13.	Division of Procurement Services	Exemption from Articles 9 and 10 of the Consolidated Procurement Code for the Department of Health and Environmental Control (DHEC) to acquire engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program
14.	Clemson University	Not exceeding \$30,500,000 of General Obligation State Institution Bonds (Issued on Behalf of Clemson University), of the State of South Carolina
15.	University of South Carolina	Not Exceeding \$29,000,000 University of South Carolina Higher Education Revenue Refunding Bonds, Series 2023
16.	Executive Director	Revenue Bonds (State Housing Finance and Development Authority)
17.	Executive Director	Permanent Improvement Projects Approved by Governing Board Pursuant to Proviso 117.140 (FY 2022-2023)
18.	State Fiscal Accountability Authority	Future Meeting

STATE FISCAL ACCOUNTABILITY AUTHORITY      REGULAR SESSION  
MEETING OF May 23, 2023      ITEM NUMBER   1  

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AGENCY:    State Treasurer's Office

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SUBJECT:    State Auditor's update regarding the status of their engagement to test the reconciliation of statewide cash balances as of December 31, 2022, to the cash balances by fund as presented in the State's annual comprehensive financial report (ACFR)

The State Auditor has been requested to provide an update and answer questions regarding the the status of their engagement to test the reconciliation of statewide cash balances as of December 31, 2022, to the cash balances by fund as presented in the State's annual comprehensive financial report (ACFR).

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AUTHORITY ACTION REQUESTED:

In accord with Authority policy, receive as information the State Auditor's update regarding the status of their engagement to test the reconciliation of statewide cash balances as of December 31, 2022, to the cash balances by fund as presented in the State's annual comprehensive financial report (ACFR).

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ATTACHMENTS:

Agenda item worksheet and attachment



May 15, 2023

The Honorable Curtis M. Loftis, Jr., State Treasurer  
Wade Hampton Building, 1200 Senate Street  
Columbia, South Carolina 29201

Dear Treasurer Loftis:

At your request, I am providing an update on the status of our engagement to test the reconciliation of statewide cash balances as of December 31, 2022, to the cash balances by fund as presented in the State's annual comprehensive financial report (ACFR). As you know, this reconciliation was prepared by the Office of the Comptroller General (CGO) in collaboration with the Office of the State Treasurer.

On May 4, 2023, we were notified by email from David Starkey of CGO that the December 31, 2022 reconciliation was available for testing. On May 8, 2023, my staff and I met with Remi Omisore of CliftonLarsonAllen (CLA) and his staff to plan our approach to testing the reconciliation. We determined that the most efficient type of engagement would be agreed-upon procedures, using procedures similar to those we performed to test the cash reconciliation prepared by CGO for the fiscal year 2022 ACFR. One potential issue we identified is that information available regarding cash balances of certain state entities at a June 30 fiscal year end would not be available at December 31 or any other interim period. To compensate, we are considering options that may include confirmation directly with certain state entities of the cash balances held by them as of December 31, 2022. Should we proceed with confirmation, every effort will be made to obtain responses to our requests quickly and efficiently. However, the confirmation process is time-consuming and there may be delays in our testing that are beyond our control.

The teams from my office and CLA are meeting with David Starkey, Katherine Kip, and other members of CGO staff on May 17, 2023, to walk through how the reconciliation was prepared, including understanding the sources of cash balances and other information. We will also discuss our planned approach and determine the next steps in our testing process.

The Honorable Curtis M. Loftis, Jr., State Treasurer

Page Two

May 15, 2023

Our goal is to complete the agreed-upon procedures engagement and issue our report in June, however, issues could arise which may extend the time we need to complete our work and issue our report.

Please let me know if you have questions.

Sincerely,



George L. Kennedy, III, CPA  
State Auditor

GLKIII/trb

Additional Distribution

Governor Henry McMaster

Senator Harvey S. Peeler, Jr., Chairman of the Senate Finance Committee

Representative Bruce Bannister, Chairman of the House Ways and Means Committee

Comptroller General Brian Gaines

Senator Lawrence K. Grooms, Member, Senate Finance Committee

Grant Gillespie, Executive Director, State Fiscal Accountability Authority

## STATE FISCAL ACCOUNTABILITY AUTHORITY      REGULAR SESSION

MEETING OF May 23, 2023

ITEM NUMBER   2  , Page 1AGENCY:    State Treasurer's OfficeSUBJECT:    Bond Counsel Selection**CONDUIT/OTHER ISSUES:**

<b>Description of Issue</b>	<b>Agency/Institution (Borrower)</b>	<b>Bond Counsel</b>	<b>Issuer's Counsel</b>	<b>Date STO Approved</b>
\$7,235,000; South Carolina Jobs-Economic Development Authority ("SC JEDA"); Economic Development Revenue Bonds (Taxable), Series 2023; SC Saves Green Community Program - AAC East, LLC Project	SC Saves Green Community Program - AAC East, LLC Project Conduit: SCJEDA	Haynsworth Sinkler Boyd – Kimberly Witherspoon	Pope Flynn Group - Joe Lucas	3/15/2023
\$15,500,000; SC JEDA; Jobs-Economic Development Authority Educational Facilities Revenue Bonds, Series 2023; Virtus Academy	Virtus Academy Conduit: SC JEDA	Howell Linkous & Nettles – Alan Linkous and Sam Howell	Burr Forman – Michael Seezen and Assatta Williams	3/15/2023
\$100,000,000; SC JEDA; SC Jobs-Economic Development Authority Hospital Revenue Bonds, Series 2023 - Prisma Health	Prisma Health Conduit: SCJEDA	Haynsworth Sinkler Boyd – Kathy McKinney and Brad Love	Howell Linkous & Nettles – Sam Howell and Alan Linkous	4/19/2023

## STATE FISCAL ACCOUNTABILITY AUTHORITY      REGULAR SESSION

MEETING OF May 23, 2023

ITEM NUMBER   2  , Page 2

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**AGENCY:**    State Treasurer's Office

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**SUBJECT:**    Bond Counsel Selection

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**GENERAL OBLIGATION / REVENUE ISSUES:**

<b>Description of Issue</b>	<b>Agency/Institution (Borrower)</b>	<b>Bond Counsel</b>	<b>Issuer's Counsel</b>	<b>Date STO Approved</b>
\$30,500,000; State of South Carolina General Obligation State Institution Bonds (Issued on Behalf of Clemson University), Series 2023	State of South Carolina (on behalf of Clemson University)	Pope Flynn Group – Gary Pope	South Carolina Attorney General	4/11/2023
\$29,000,000; University of South Carolina Higher Education Revenue Refunding Bonds; Series 2023A	University of South Carolina	Pope Flynn Group – Gary Pope	Issuer's Counsel to the University of South Carolina - Terry Parham	4/10/2023
\$206,190,000; South Carolina State Housing Finance & Development Authority Mortgage Revenue Bonds; Series 2023A & 2023B	South Carolina State Housing Finance and Development Authority	Burr Forman McNair – Rion Foley	Issuer's Counsel to SC State Housing Authority – Lee Ann Watson (General Counsel)	4/10/2023

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**AUTHORITY ACTION REQUESTED:**

In accord with Authority policy, receive the State Treasurer's Office report of bond counsel as information.

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**ATTACHMENTS:**

Bond Counsel Selection Approved by the State Treasurer's Office

**The State Treasurer advises the State Fiscal Accountability Authority, for informational purposes,  
of the firms selected and approved for its May 23, 2023 meeting:**

**CONDUIT/OTHER ISSUES:**

<b>Description of Issue</b>	<b>Agency/Institution (Borrower)</b>	<b>Bond Counsel</b>	<b>Issuer's Counsel</b>	<b>Date STO Approved</b>
\$7,235,000; South Carolina Jobs-Economic Development Authority ("SC JEDA"); Economic Development Revenue Bonds (Taxable), Series 2023; SC Saves Green Community Program - AAC East, LLC Project	SC Saves Green Community Program - AAC East, LLC Project Conduit: SCJEDA	Haynsworth Sinkler Boyd – Kimberly Witherspoon	Pope Flynn Group - Joe Lucas	3/15/2023
\$15,500,000; SC JEDA; Jobs-Economic Development Authority Educational Facilities Revenue Bonds, Series 2023; Virtus Academy	Virtus Academy Conduit: SC JEDA	Howell Linkous & Nettles – Alan Linkous and Sam Howell	Burr Forman – Michael Seezen and Assatta Williams	3/15/2023
\$100,000,000; SC JEDA; SC Jobs-Economic Development Authority Hospital Revenue Bonds, Series 2023 - Prisma Health	Prisma Health Conduit: SCJEDA	Haynsworth Sinkler Boyd – Kathy McKinney and Brad Love	Howell Linkous & Nettles – Sam Howell and Alan Linkous	4/19/2023

**GENERAL OBLIGATION / REVENUE ISSUES:**

<b>Description of Issue</b>	<b>Agency/Institution (Borrower)</b>	<b>Bond Counsel</b>	<b>Issuer's Counsel</b>	<b>Date STO Approved</b>
\$30,500,000; State of South Carolina General Obligation State Institution Bonds (Issued on Behalf of Clemson University), Series 2023	State of South Carolina (on behalf of Clemson University)	Pope Flynn Group – Gary Pope	South Carolina Attorney General	4/11/2023
\$29,000,000; University of South Carolina Higher Education Revenue Refunding Bonds; Series 2023A	University of South Carolina	Pope Flynn Group – Gary Pope	Issuer's Counsel to the University of South Carolina - Terry Parham	4/10/2023
\$206,190,000; South Carolina State Housing Finance & Development Authority Mortgage Revenue Bonds; Series 2023A & 2023B	South Carolina State Housing Finance and Development Authority	Burr Forman McNair – Rion Foley	Issuer's Counsel to SC State Housing Authority – Lee Ann Watson (General Counsel)	4/10/2023

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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The Authority is asked to approve the following permanent improvement project establishment requests and budget revisions as requested by the Department of Administration, Executive Budget Office as noted herein. All items were reviewed favorably by the Joint Bond Review Committee (JBRC).

- (a) Project: JBRC Item 1: Clemson University  
H12.9968: Jervey Athletic Center Renovations and Performance & Wellness Center Addition
- Request: Establish Phase I Pre-Design Budget to construct an addition to and renovate a portion of the Jervey Center.
- Included in CPIP: Yes – 2022 CPIP Priority 9 of 9 in FY23 (estimated at \$48,000,000)  
CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Athletic Gifts & Donations				750,000	750,000
All Sources				<u>750,000</u>	<u>750,000</u>

Summary of Work: The project will construct an approximately 50,600 square foot addition and renovate approximately 18,850 square feet within the existing Athletic Center, including improvements for the volleyball and track and field programs. All roofing material options for the addition will be evaluated during the Phase I process. The facility improvements will include updated locker rooms for officials, Clemson and visiting teams, including showers, nutrition, bistro, lounge and film room spaces. Modernization of restrooms, concessions, seating and playing areas, raising the roof above the playing court, and additional equipment storage will also be included.

Rationale: With the addition of Women's Gymnastics and Women's Lacrosse, additional square footage is needed beyond the capacity of existing Performance and Wellness facilities, such as the weight room and sports medicine areas. The existing facility needs significant improvements and modernization of all lower-level areas, per the university. The renovation and addition were determined to be

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

more cost effective than the alternative of replacing the facility with all new construction.

**Facility Characteristics:** The existing facility is 85,000 square feet and was constructed in 1972 (51 years old). Approximately 18,180 square feet of the facility will be renovated in this project. The addition to be constructed will be approximately 50,600 square feet. The facility currently provides services for all Clemson student-athletes but serves as the primary home of Women's Volleyball and Men's and Women's Track and Field. In addition, it provides locker rooms for visiting volleyball teams, baseball teams, and officials/umpires. The improvements to the Jervy Performance and Wellness Center will be utilized by approximately 400 students and 45 staff.

**Financial Impact:** The project will be funded from Athletic Gifts & Donation Funds (uncommitted balance \$50 million at February 13, 2023). Revenues to this fund are received from individuals, corporations, and other entities that are to be expended for their restricted purposes. The project is expected to result in an increase of \$325,000 (year 1), \$334,750 (year 2), and \$344,792 (year 3) in annual operating expenses. The addition will be designed to meet Two Green Globes certification standards. No student fees or tuition will be increased as a consequence of the project. A portion of tuition is designated for capital improvements, currently \$1,005 per student per semester, and has increased from \$738 to \$1,005 for the academic years 2014-2015 to 2022-2023. \$380 of the \$1,005 is currently pledged for debt service. The balance of the fee, \$625 per student, per semester, is used to fund ongoing capital projects and maintenance.

**Full Project Estimate:** \$50,000,000 (internal) funded by Athletic Gifts and Donations.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(b) Project: JBRC Separate Item: Clemson University  
H12.9963: Chiller Plants Expansions and Upgrades

Request: Change Source of Funds and Establish Phase II Full Construction Budget to expand and upgrade the three existing district chilled water facilities.

Included in CIP: Yes – 2022 CIP Priority 6 of 9 in FY23 (estimated at \$30,000,000)

Phase I Approval: August 2022 (estimated at \$30,000,000) (SFAA)

CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Institution Bonds				30,000,000	30,000,000
Other, Maintenance & Stewardship	450,000			(450,000)	
All Sources	<u>450,000</u>			<u>29,550,000</u>	<u>30,000,000</u>

Summary of Work: This project will expand and upgrade existing chilled water facilities and includes expanding the existing district chilled water plants with underground utility distribution piping upgrades, replacing aging centrifugal chiller capacity, and adding capacity for future buildings and chiller plant building space. Most of the project will involve building out a large shell of a chiller plant building, next to the existing West Chiller Plant near Littlejohn Coliseum, with extra plant bays. Additionally, minor mechanical work on pumping, piping and controls will be done in the South and East Chiller Plants. For energy efficient district cooling production, the project will expand existing chilled water capacity by 30%.

Rationale: Per the university, new campus buildings being planned will exceed available cooling system production and distribution capabilities by 2026. The aging central energy facility will be phased out over the next ten years. The expansions will serve the proposed Advanced Materials Building and Lehotsky Replacement Building sites, existing campus building HVAC improvements, and the Douthitt Hills chilled Water thermal storage tank.

Facility Characteristics: The West Energy Plant is 11,923 square feet and was constructed in 2016 (7 years old). This plant will be expanded to 24,903 square feet. The South Chiller Plant is 10,548 square feet and was constructed in 2008 (15) years old). The East

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

Chiller Plant is 8,870 square feet and was constructed in 1985 (38 years old). The district chilled water plants will impact approximately 28,400 students, 5,800 faculty and staff, and numerous visitors.

**Financial Impact:** This phase of the project will be funded from Institution Bond Funds (\$30 million to be issued). The project is not expected to result in any change in annual operating expenditures. No student fees or tuition will be increased because of the project. A portion of tuition is designated for capital improvements, currently \$1,005 per student per semester, and has increased from \$738 to \$1,005 for the academic years 2014-2015 to 2022-2023. \$380 of the \$1,005 is currently pledged for debt service. The balance of the fee, \$625 per student, per semester, is used to fund ongoing capital projects and maintenance.

**Full Project Estimate:** \$30,000,000 (internal) funded by State Institution Bonds. Contract execution is expected in December 2023 and completion of construction in April 2026.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(c) Project: JBRC Item 2: Coastal Carolina University  
H17.9619: Shift Western End of University Boulevard

Request: Establish Phase II Full Construction Budget to realign 0.38 miles of the western end of University Boulevard southward to the edge of campus.

Included in CIP: Yes – 2022 CIP Priority 2 of 4 in FY23 (estimated at \$7,400,000)

Phase I Approval: May 2022 (estimated at \$7,400,000) (SFAA)

CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Penny Sales Tax	111,000		111,000	7,289,000	7,400,000
All Sources	<u>111,000</u>		<u>111,000</u>	<u>7,289,000</u>	<u>7,400,000</u>

Summary of Work: This project will shift the western end of University Boulevard southward to the edge of the wetland slough. The proposed intersection of University Boulevard with SC 544 will be located approximately 680-feet south of the existing intersection and will line up with the southern entrance to Hillcrest Cemetery. The proposed intersection will include a new right turn lane and traffic signal and modification to the existing pond. The right turn lane includes a 180-degree taper off SC 544 followed by a 200-foot deceleration lane onto an 85-degree radius turn lane onto University Blvd. The proposed right turn lane will require extending the existing dual 6-foot by 10-foot box culvert along SC 544. The new University Blvd. will run adjacent to the wetland area on the south side of the pond and soccer field and will realign with the existing University Blvd. at the intersection with Chanticleer Drive W. The typical section will include 2 travel lanes in each direction with curb and gutter, a landscaped median, and a 6-foot-wide sidewalk on the north side of the road. The turn off University Blvd. onto SC 544 includes two left turn lanes with a 132-foot taper for right turn only. A section of the existing University Blvd. between the new access drive off the new University Blvd. and Brooks Stadium parking lot will be removed, graded and seeded.

Rationale: Relocating University Boulevard southward would alleviate the concentration of pedestrians on/near this main campus thoroughfare. Additionally, relocation will permit expansion of the intercollegiate athletic complex allowing for construction of the proposed Indoor Football Practice Facility. This shift would also draw the intersection of University Boulevard with SC 544 closer to the University Place

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

residential complex and YY parking lot allowing safer and more convenient pedestrian and bicycle access.

Facility Characteristics: University Boulevard is the main thoroughfare through campus. It is used by all students, faculty, staff, and visitors.

Financial Impact: The project will be funded from Penny Sales Tax Funds (uncommitted balance \$42.63 million at February 28, 2023). The Penny Sales Tax was approved in November 2008, started on March 1, 2009, and runs for 15 years. This funding can be utilized for construction, renovation, land acquisition or to offset debt service payments. The legislation guarantees that Coastal Carolina University will receive 13.3% of the sales tax collections. The University's portion has averaged \$10,900,000 per year over the last five-year time period, and the balance with the State Treasurer does earn interest. The project is not expected to result in any change in annual operating expenditures. No student fees or tuition will be increased as a consequence of the project. A portion of tuition is designated for capital improvements, currently \$405 per student per semester, and has decreased from \$595 in 2014-2015 to \$405 in 2022-2023. \$255 of the \$405 is currently pledged for debt service. The balance of the fee, \$150 per student, per semester, is used to fund ongoing capital projects and maintenance.

Full Project Estimate: \$7,400,000 (internal) funded by Penny Sales Tax Funds. Contract execution is expected in June 2024 and completion of construction in December 2025.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(d) Project: JBRC Item 3: Coastal Carolina University  
H17.9623: PGA Golf Management Program Academic Learning Lab  
Construction

Request: Establish Phase II Full Construction Budget to demolish the existing Hackler facility and to construct a new PGA Golf Management Program Academic Learning Lab at the Hackler Golf Course.

Included in CPIP: Yes – 2022 CPIP Priority 3 of 4 in FY23 (estimated at \$8,000,000)

Phase I Approval: April 2022 (estimated at \$8,000,000) (SFAA)

CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Capital Project Reserves	120,000		120,000	2,217,000	2,337,000
Other, Penny Sales Tax				2,800,000	2,800,000
Other, Gift (Horry County Higher Education Commission)				5,663,000	5,663,000
All Sources	<u>120,000</u>		<u>120,000</u>	<u>10,680,000</u>	<u>10,800,000</u>

Summary of Work: The project will demolish the existing facility (the existing cart storage will remain) and construct an approximately 16,000 square foot facility that will be located near the site of the existing Hackler Golf Course Clubhouse and will serve as a teaching/working lab with classrooms and hands-on spaces that serve the Golf Course functions. The existing parking lot will be utilized and modified to address drainage and additional parking. The building will be two stories and will consist of four main program components with central lobbies on both levels. The first floor will include a pro shop and restaurant. The second floor will include classrooms, swinging and putting labs and offices with associated support spaces. The roof to be installed on the facility will be a sloped synthetic slate shingle roofing system and will come with a minimum 20-year material and workmanship warranty.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

**Rationale:** The PGA Golf Management Program at the university is one of only 17 PGA Golf Management University programs accredited by the PGA of America. The program prepares students for a successful career in the golf industry by combining academic studies and professional golf-training experiences. The program's curriculum has been carefully developed to offer students the opportunity to simultaneously complete the requirements for a Bachelor of Science degree in business administration, acquire valuable training experiences in the golf industry and complete the PGA of America's membership requirements. Completion of the university's PGA Golf Management program allows graduates to pursue careers as club or teaching professionals, golf-association administrators, representatives of golf equipment manufacturers or trade publications, and many more opportunities in the ever-growing golf industry.

**Facility Characteristics:** The Hackler Golf Course is owned and operated by Coastal Carolina University. The current clubhouse at the golf course was constructed in 1969 (54 years old), will be demolished and the new facility to be constructed will sit in its location. The facility will primarily be utilized by the PGA Golf Management Program. Enrollment in this program in Fall 2022 was 211, along with dedicated faculty and staff of 5 full-time employees.

**Financial Impact:** This phase of the project will be funded from Capital Project Reserve Funds (uncommitted balance \$4.56 million at February 28, 2023), Penny Sales Tax (uncommitted balance \$42.63 million at February 28, 2023), and Horry County Higher Education Commission Bond Funds (uncommitted balance \$5,663,000 at February 28, 2023). Revenue to the Capital Project Reserve Fund is from a September 2019 redemption of outstanding Series 2010A General Obligation Bonds. The transaction was funded entirely by existing university resources and funds that would have been used to service this debt is collected into this account. Revenue from the Penny Sales Tax was approved in November 2008, started on March 1, 2009, and runs for 15 years. This funding can be utilized for construction, renovation, land acquisition or to offset debt service payments. The legislation guarantees that Coastal Carolina University will receive 13.3% of the sales tax collections. The University's portion has averaged \$10,900,000 per year over the last five-year time period, and the balance with the State Treasurer does earn interest. Horry County Higher Education Commission issued general obligation bonds in March 2022 to finance its commitment. The project is not expected to result in any change in annual operating expenditures. The building will be constructed to meet Two Green Globes certification standards with anticipated energy savings of \$253,438 over a 30-year period. No student fees or tuition will be increased as a consequence of the project. A portion of tuition is designated for capital improvements, currently \$405 per student per semester, and has decreased from \$595 in 2014-2015 to \$405 in 2022-2023. \$255 of the \$405 is currently

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

pledged for debt service. The balance of the fee, \$150 per student, per semester, is used to fund ongoing capital projects and maintenance.

Full Project Estimate: \$10,800,000 (internal) funded by Capital Project Reserves, Penny Sales Tax, and Horry County Higher Education Commission General Obligation Bond Funds. Contract execution is expected in September 2023 and completion of construction in December 2024. The estimated cost to complete the project has increased from the Phase I estimate and the 2022 CPIP due to escalating construction costs.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(e) Project: JBRC Item 4: Aiken Technical College  
H59.6250: Nursing Building Construction

Request: Establish Phase I Pre-Design Budget to construct a nursing building to house the expansion of the Health Science Technologies.

Included in CPIP: Yes – 2022 CPIP Priority 1 of 6 in 2023 (estimated at \$14,500,000)  
CHE Approval: 03/31/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
FY18 Capital Reserve (21)				300,000	300,000
All Sources				<u>300,000</u>	<u>300,000</u>

Summary of Work: The project will to construct a 38,000 square foot, brick and mortar 1 ½ story nursing building that will include classrooms and laboratory space. All roofing material options will be evaluated during the Phase I process.

Rationale: Per the college, the current Health Sciences building lacks available space for expansion of the Health Science programs. The Surgical Technology program is proposing expansion to an Associate Degree Surgical Technology. The Medical Coding certificate is proposed to expand to a Health Information Management degree. The Radiological Technology degree proposes to add a Sonography component. A Dental Hygiene Associate Degree is proposed to augment the Dental Assistant diploma. New programs proposed include Pharmacy Technology, Cardiovascular Technology, BIO/Med Laboratory Technology and Dialysis Technicians. Additionally, this building will assist the college in meeting accreditation standards and demand for the programs.

Facility Characteristics: The new 38,000 square foot building will house the Associate Degree in Nursing (ADN) program, the Certified Nursing Assistant (CNA) program, the Licensed Practical Nursing (LPN) program and the Emergency Medical Technician (EMT) program. The Nursing programs will be relocated from the current Health Sciences building to the new Nursing building, and the available space in the current Health Sciences building will be utilized to enhance existing programs and expand with additional offerings in the Health Sciences. The new facility will be utilized by approximately 200 students, faculty and staff.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

**Financial Impact:** This phase of the project will be funded from FY18 Capital Reserve Funds (uncommitted balance \$3 million at March 9, 2023). The project is expected to result in increase of 3,937.50 (year 1), and \$15,750 (years 2 thru 3), in additional annual operating expenses. The building will be designed to meet LEED Silver certification standards. No student fees or tuition will be increased as a consequence of the project. Currently, no portion of tuition is designated for capital improvements.

**Full Project Estimate:** \$20,650,000 (internal). Phase II will be funded by FY23 Proviso 118.20 SRS Settlement, and Local Funds. The estimated cost to complete the project has increased from the Phase I estimate and the 2022 CPIP due to escalating construction costs, as well the increase in the square footage of the facility from 32,000 to 38,000 square feet.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(f) Project: JBRC Item 5: Aiken Technical College  
H59.6251: 700 Building Renovations

Request: Establish Phase I Pre-Design Budget to renovate the 700/800 building to create additional office/administration space.

Included in CIP: No – The need for this project was not recognized until after the submission of the 2022 CIP.

CHE Approval: 03/16/23

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Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
FY15 Capital Reserve (29) (Redirected in FY22 Proviso 25.10)				37,500	37,500
All Sources				<u>37,500</u>	<u>37,500</u>

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Summary of Work: The project will create additional office/administration space in building 700/800 due to preparing to take the 100/200 building offline due to the deterioration of the internal workings. The construction will serve to relocate several offices and renovate the existing restrooms throughout the 700 building. Building 700/800 will become the central hub for the campus. Building 100/200 will be demolished at a later date as part of a separate project.

Rationale: It was determined that the interior workings of building 100/200 are deteriorating and the cost to renovate the systems outweighed the return, per the college.

Facility Characteristics: Building 100/200 is 42,345 square feet and was constructed in 1973 (50 years old). Building 700/800 is 36,106 square feet and was constructed in and 1978 (45 years old). Approximately 12,000 square feet of Building 700 will be renovated.

Financial Impact: This phase of the project will be funded from FY15 Capital Reserve Funds redirected in FY22 Proviso 25.10 (uncommitted balance \$330,630 at March 9, 2023). The project is expected to result in increase of \$200 (year 1), and \$2,300 (years 2 thru 3), in additional annual operating expenses. No student fees or tuition will be increased as a consequence of the project. Currently, no portion of tuition is designated for capital improvements.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

Full Project Estimate: \$2,500,000 (internal). Phase II will be funded by FY15 Capital Reserve, and FY24 Appropriated State Funds requested during the FY23-24 budget process. If additional funds are not appropriated, the project will be funded with Local Funds.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(g) Project: JBRC Item 7: Horry Georgetown Technical College  
H59.6255: Construction of GT Workforce Training Center

Request: Establish Phase I Pre-Design Budget to construct a Marine Technology Center on the Georgetown Campus.

Included in CPIP: Yes – 2022 CPIP Priority 1 of 4 in FY24 (estimated at \$12,500,000)  
CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, College				250,000	250,00
All Sources				<u>250,000</u>	<u>250,000</u>

Summary of Work: The project will construct a conventional framed steel facility, with a brick veneer, with re-enforced corrugated metal siding. The building will include bay-style garage doors that are at least 14 feet high and 12 feet wide. It is anticipated that the roof system will be PVC roofing, although all roofing material options will be evaluated during the Phase I process. The floor system will be polished concrete and may require additional re-enforcements to support heavier load requirements of the equipment. The new building will contain classrooms and large open lab environments for hands-on training. The classrooms will include computer stations and diagnostic and simulation equipment. The labs will include commercial grade toolboxes and benches, tool and chemical storage areas, commercial grade hoists, mobile lifts, and other equipment to support the instructional requirements.

Rationale: Per the college, the existing workforce training space no longer supports the enrollment demands or infrastructure requirements of the college or its industry partners. The college's boat building program is the only program of its kind in the state and there is a consistent waiting list for students seeking access to the marine motor program, per the college. The college currently has a waiting list of students for the programs that will be housed in the new facility.

Facility Characteristics: The existing workforce training space is 7,250 square feet and was constructed in 2008 (15 years old). This building is owned by Georgetown County and has been under a no-cost lease agreement since 2007. The college has had

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unrestricted use which will continue until 2042 when the property will transfer to the college. The new 25,000 square foot facility will be a stand-alone building. It will be primarily utilized by the Outboard Marine Motor Technician and Boat Building Technician programs. The building may also be used to support various trades-based high demand programs such as construction trades, including brick laying, electrician, and carpentry training. Approximately 76 students, faculty, staff and clients will utilize the facility annually.

**Financial Impact:** This phase of the project will be funded from College Funds (uncommitted balance \$46.91 million at February 28, 2023). The project is expected to result in an increase of \$28,000 (year 1), and \$112,000 (years 2 thru 3), in annual operating expenses. The Phase I amount requested is 1.9% of the estimated cost to complete the project because the college will use a Construction Manager at Risk (CMAR). The new building will be designed to meet Two Green Globes certification standards. No student fees or tuition will be increased as a consequence of the project. Currently, no portion of tuition is designated for capital improvements.

**Full Project Estimate:** \$13,000,000 (internal). Phase II will be funded by \$6,000,000 in College Funds, \$1,000,000 in Donations, and \$6,000,000 to be requested in the FY23-24 budget process. If the additional state funds are not received, the remaining cost will be funded by College funds.

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**AGENCY:** Department of Administration, Facilities Management and Property Services

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**SUBJECT:** Permanent Improvement Projects

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- (h) Project: JBRC Item 10: Department of Administration  
D50.6111: Sumter Street Arts Commission First Floor Renovation
- Request: Establish Phase II Full Construction Budget to renovate the SC Arts Commission first floor office space.
- Included in CIP: Yes – 2022 CIP Priority 24 of 24 in FY23 (estimated at \$750,000)
- Phase I Approval: December 2022 (estimated at \$992,751) (JBRC)
- 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, SC Arts Commission Operating	18,656		18,656	986,737	1,005,393
All Sources	<u>18,656</u>		<u>18,656</u>	<u>986,737</u>	<u>1,005,393</u>

**Summary of Work:** The project will renovate approximately 6,066 square feet and includes renovation of the storefront entry, renovation of the bathroom and kitchen to accommodate educator and public workshops, and new office spaces. The work includes required ceiling, lighting, HVAC, plumbing and life safety modifications. Additionally, flex space will be created to be used for workshops and gallery space.

**Rationale:** Over the last two fiscal years the Arts Commission increased staff from 15 to 27 due to program growth and expanded statewide reach. Due to the expansion of programs, staff require additional office/flex space to provide training and workshop opportunities for educators and community non-profit groups statewide.

**Facility Characteristics:** The Sumter Street Building is approximately 37,501 square feet and was constructed in 1923 (100 years old). Approximately 6,066 square feet of the building will be renovated. The space is utilized by approximately 30 SC Arts Commission staff and various visitors annually.

**Financial Impact:** The project will be funded from SC Arts Commission Operating Funds (uncommitted balance \$1.10 million at February 24, 2023). The project is not expected to result in any change in annual operating expenditures.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

Full Project Estimate: \$1,005,393 (internal) funded by SC Arts Commission Operating State Funds.  
Contract execution is expected in October 2023 and completion of construction in July 2024.

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**AGENCY:** Department of Administration, Facilities Management and Property Services

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**SUBJECT:** Permanent Improvement Projects

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- (i) **Project:** JBRC Item 13: Office of the Adjutant General  
E24.9835: Aiken Readiness Center MILCON & Dreamport Center
- Request:** Increase Phase I Pre-Design Budget to add the cost to design the DreamPort Center on the University of South Carolina Aiken Campus.
- Included in CPIP:** Yes – 2022 CPIP priority 2 of 24 FY23 (estimated at \$33,036,729)
- Phase I Approval:** January 2022 (estimated at \$30,950,000) (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, FY22 Proviso 118.18 (69) (a)	149,981		149,981		149,981
Federal, MILCON	453,944		453,944		453,944
Other, SRS				242,000	242,000
All Sources	<u>603,925</u>		<u>603,925</u>	<u>242,000</u>	<u>845,925</u>

**Summary of Work:** The project was established for the design and construction of both the Aiken Readiness Center and the Dreamport Center. This Phase I increase will complete the design work associated with construction of the Dreamport Center on property owned by Aiken County Commission for Higher Education on the campus of the University of South Carolina Aiken. This facility will consist of a collaborative innovation area, classrooms, testing and training rooms. It will also include a Secure Room for cyber protection activities.

**Rationale:** The initial Phase I received approval for the design of the Aiken Readiness Center. Since that time partial funding has been received for the construction of the Dreamport Center. Once full funding has been received for the Dreamport Center and the Aiken Readiness Center, Phase II construction will be submitted for approval. The construction of these facilities may be requested at separate times due to funding availability. The Readiness Center is required to provide a training facility that accommodates modernization and transformation of equipment and performance of their mission to support Strategic Depth of the Army and the unit

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training in the Army Modular Force configuration. The USC Aiken & National Guard Dreamport Center is a cyber security facility to allow for secure cyber protection activities to be conducted by the SC Army National Guard, USC Aiken, and other Cyber protection entities.

**Facility Characteristics:** The USC Aiken & National Guard Dreamport Center to be constructed will be 25,000 square feet and will house the Office of the Adjutant General, University of South Carolina Aiken and other Cyber Security Agencies. There will be approximately 50 transient users per day. The National Guard Readiness Center to be constructed will be 42,839 square feet and will house 2 units (1221 Engineer Company & 135<sup>th</sup> Cyber Protection Company), consisting of 7 authorized full-time employees and 183 M-Day Soldiers that currently do not have a facility.

**Financial Impact:** This Phase I increase will be funded from Savannah River Site Litigation Settlement Funds (uncommitted balance \$10 million at February 14, 2023). The Dreamport Center is expected to result in an increase of \$36,000 (year 1), \$38,000 (year 2), and \$40,000 (year 3) in annual operating expenses. The Aiken Readiness Center is expected to result in an increase of \$72,000 (year 1), \$76,000 (year 2), and \$80,000 (year 3), in annual operating expenses. Both buildings will be designed to meet LEED Silver certification standards.

**Full Project Estimate:** \$38,650,948 (internal). Phase II of the Dreamport Center will be funded by \$9.758 million in Savannah River Site Litigation Settlement, and \$1.98 in Appropriated State (nonrecurring) Funds being requested in the FY23-FY24 budget process. Phase II of the Aiken Readiness Center will be funded by \$6.67 million in Appropriated State, (nonrecurring), \$20 million in Federal MILCON, and National Guard Bureau Funds.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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- (j) Project: JBRC Item 19: Department of Mental Health  
J12.9798: Roddey Pavilion HVAC and Domestic Water Piping and Flooring Replacement (Ward 136)
- Request: Revise Scope, Change Project Name and Establish Phase II Full Construction Budget to replace the domestic and HVAC overhead water lines and the existing sheet vinyl flooring in a Ward at Roddey Pavilion.
- Included in CPIP: No – Ward 134 was included in the 2021 CPIP and established thru Phase II. Ward 136 was not included in the 2022 CPIP submission due to lack of funding.
- Phase I Approval: March 2021 (estimated at \$490,000) (JBRC)
- Phase II Approval: October 2021 (estimated at \$1,100,000) (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	7,350	1,092,650	1,100,000	200,000	1,300,000
All Sources	<u>7,350</u>	<u>1,092,650</u>	<u>1,100,000</u>	<u>200,000</u>	<u>1,300,000</u>

Summary of Work: The project was established to be completed in Ward 134; however, the work will now be completed in Ward 136 instead. The project includes replacing and relocating the HVAC controls in the patient rooms for the fan coils. The HVAC controls will be relocated to the hall so that servicing the units will be less intrusive to the residents that occupy the rooms. This project will also incorporate the recommendations from a recent legionella study for resident and staff safety. Since the Ward will be vacant for the pipe replacement, they will also replace the existing sheet vinyl floor in the Ward.

Rationale: Due to water damage in October 2022 in Ward 136, it is necessary to complete that Ward first. Each Ward is very similar, requiring minimal modifications to the existing plan. The copper pipes are original to the building and leaking causing mold issues and stains on the ceiling. The average life cycle of a copper water line is 20-50 years. DHEC continues to cite the nursing home for the flooring throughout the facility during inspections.

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SUBJECT: Permanent Improvement Projects

Facility Characteristics: Roddey Pavilion, located on the C.M. Tucker Campus in Columbia, is 111,534 square feet and was constructed in 1983 (40 years old). The Ward included in this project to be renovated is 13,000 square feet. The pipes are original to the building and the flooring is 15-20 years old. The facility is utilized by over 200 staff and approximately 170 inpatient clients who occupy the building on a 24/7 basis.

Financial Impact: The project will be funded from Capital Improvement & Maintenance Funds (uncommitted balance \$22 million at February 15, 2023). 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 \$2,000 (year 1), and \$5,000 (years 2 and 3) in annual operating expenses.

Full Project Estimate: \$1,300,000 (internal) funded by Capital Improvement & Maintenance Funds. Contract execution is expected in July 2023 with construction completion in December 2023.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(k) Project: JBRC Item 24: Department of Disabilities & Special Needs  
J16.9941: Pee Dee Center - Mulberry & Pecan Dorms - Roof Replacement

Request: Establish Phase II Full Construction Budget to replace the entire roof on the Mulberry Dorms and the shingle roof sections of the Pecan Dorms.

Included in CPIP: Yes – 2022 CPIP Priority 5 of 11 in FY25 (estimated at \$500,000) & 2022 CPIP 5 of 11 in FY26 (estimated at \$500,000)

Phase I Approval: December 2022 (estimated at \$950,000) (JBRC)

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	14,250		14,250	1,215,251	1,229,501
All Sources	<u>14,250</u>		<u>14,250</u>	<u>1,215,251</u>	<u>1,229,501</u>

Summary of Work: The project will include replacement of the shingle roofs and exterior fascia, soffit and trim board replacement and/or repair. The substrate will be repaired and caulked, with other related work to assure the entire building envelope is in good shape for all the Pee Dee Center's Mulberry and Pecan Dorms. The new roofs to be installed will be a high commercial grade shingle and will come with a minimum 20-year material and workmanship warranty.

Rationale: Some of the existing roofs are 20+ years old, with continuous leaks and have reached the end of their life cycle. Attempts to patch and/or repair are no longer containing the issue.

Facility Characteristics: The Mulberry Dorms are 5,243 square foot each, totaling 36,701 square feet and were constructed in 1978 (45 years old). The existing roofs were installed between 1997 (26 years old) and 2002 (21 years old). The Pecan Dorms are 6,534 square foot each, totaling 32,670 square feet and were constructed in 1957 (66 years old). The existing roofs were installed between 1997 (26 years old) and 2002 (21 years old). There are approximately 118 residents and 395 staff who utilize these facilities.

Financial Impact: The project will be funded from Excess Debt Service funds (uncommitted balance \$6.14 million at March 31, 2023). Revenue to the fund is invested and held by the State Treasurer's Office on behalf of SCDDSN and is comprised of revenues of

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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: \$1,229,501 (internal) funded by Excess Debt Service Funds. Contract execution is expected in July 2023 with construction completion in June 2025.

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**AGENCY:** Department of Administration, Facilities Management and Property Services

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**SUBJECT:** Permanent Improvement Projects

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(l) **Project:** JBRC Item 26: Department of Corrections  
N04.9784: Statewide - Replace Fence Intrusion Detection Systems

**Request:** Establish Phase II Full Construction Budget to replace the fence intrusion detection systems at five correctional institutions across the state.

**Included in CIP:** Yes – 2022 CIP Priority 1 of 10 in FY23 (estimated at \$1,022,723)

**Phase I Approval:** August 2022 (estimated at \$1,022,723) (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, FY22 Carryforward	15,340		15,340	1,007,383	1,022,723
All Sources	<u>15,340</u>		<u>15,340</u>	<u>1,007,383</u>	<u>1,022,723</u>

**Summary of Work:** The project will replace the fence intrusion detection systems at Lee, Evans, Perry, Kirkland, and Tyger River Correctional Institutions. The fence intrusion detection systems are used to alert the institution's security personnel of an attempted escape. Any attempt to scale or cut the perimeter fence will set off an alarm in the control room showing where the event is occurring. This allows security to respond to the exact location quickly. Per the agency, the intrusion detection systems are an integral part of the layered security inside the state's correctional institutions.

**Rationale:** The current fence intrusion detection systems are obsolete and spare parts are no longer available. Currently the agency is having components rebuilt as needed but as they continue to age it has become harder to find vendors who will repair these components.

**Facility Characteristics:** The Lee, Evans, Perry, Kirkland, and Tyger River Correctional Institutions have intrusion detection systems that were installed between 1982 (41 years old) and 1994 (29 years old) but are of the same design and manufacturer. These 5 institutions across the state house 5,406 inmates.

**Financial Impact:** The project will be funded from FY22 Carryforward Funds (uncommitted balance \$14.76 million on March 8, 2023). The project is not expected to result in any change in annual operating expenditures.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

Full Project Estimate: \$1,022,723 (internal) funded by FY22 Carryforward Funds. Contract execution is expected in July 2023 with construction completion in July 2025.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(m)Project: JBRC Item 27: Department of Corrections  
N04.9785: Livesay - B - Add AC to Dorms N-2, N-3 & N-4

Request: Establish Phase II Full Construction Budget to add air conditioning to dorms at Livesay Correctional Institution.

Included in CPIP: No – This project was not included in the 2022 CPIP submission because the focus has been to concentrate on higher security institutions for the installation of AC before lower security institutions. Livesay is a work camp and minimum-security facility, so this institution did not originally fall within the 5-year plan of the CPIP. However, with the projected savings realized from the revised estimate for Wateree River CI - Add AC to Dorms 1, 2 & 4 (N04-9787), the funds will be redirected to fund this project.

Phase I Approval: November 2022 (estimated at \$2,000,000) (SFAA)

CHE Approval: N/A

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Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Appropriated State, FY22 Carryforward	30,000		30,000	1,977,900	2,007,900
All Sources	<u>30,000</u>		<u>30,000</u>	<u>1,977,900</u>	<u>2,007,900</u>

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Summary of Work: The project scope will add air conditioning to Dorms N-2, N-3 & N-4 and will include the addition of new-air handlers, duct work and electrical upgrades to run the new equipment. The work will be accomplished by a general/mechanical contractor.

Rationale: All three dorms were designed and constructed with heat and ventilation only. The addition of AC to the dorms will increase the habitability and comfort for the inmates which improves security and safety while also increasing the building systems life span by controlling the humidity inside, per the agency.

Facility Characteristics: Dorms N-2, N-3 & N-4 are of the same design, total 18,252 square feet and were constructed in 1973 (50 years old). Each housing unit accommodates 144 inmates and 3 staff.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

Financial Impact: The project will be funded from Appropriated State, FY22 Carryforward Funds (uncommitted balance \$14.76 million on March 8, 2023). The project is expected to result in an increase of \$22,500 (years 1 thru 3), in annual operating expenses.

Full Project Estimate: \$2,007,900 (internal) funded by Appropriated State, FY22 Carryforward Funds. Contract execution is expected in November 2023 with construction completion in January 2026.

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**AGENCY:** Department of Administration, Facilities Management and Property Services

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**SUBJECT:** Permanent Improvement Projects

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(n) Project: JBRC Item 28: Department of Corrections  
N04.9786: Turbeville & Kershaw CI - Add Air-Conditioning to 256 Bed Housing Units

Request: Establish Phase II Full Construction to add air conditioning to two housing units located at Turbeville Correctional Institution and Kershaw Correctional Institution.

Included in CPIP: Yes – 2022 CPIP Priority 10 of 10 in FY23 (estimated at \$8,000,000)

Phase I Approval: November 2022 (estimated at \$8,000,000) (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, FY22 Carryforward	120,000		120,000	7,880,000	8,000,000
All Sources	<u>120,000</u>		<u>120,000</u>	<u>7,880,000</u>	<u>8,000,000</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. The work will be accomplished by a general/mechanical contractor.

Rationale: The housing units were designed and constructed with heat and ventilation only.

Facility Characteristics: Both the Turbeville II and the Kershaw CI are each 29,470 square feet and were constructed in 2003 (20 years old). Each housing unit accommodates 256 inmates and 3 staff.

Financial Impact: The project will be funded from Appropriated State, FY22 Carryforward Funds (uncommitted balance \$14.76 million on March 8, 2023). The project is expected to result in an increase of \$72,876 (years 1 thru 3), in annual operating expenses.

Full Project Estimate: \$8,000,000 (internal) funded by Appropriated State, FY22 Carryforward Funds. Contract execution is expected in January 2024 with construction completion in December 2026.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(o) Project: JBRC Item 29: Department of Corrections  
N04.9787: Wateree River CI - Add AC to Dorms 1, 2 & 4

Request: Establish Phase II Full Construction Budget to add air conditioning to dorms at Wateree Correctional Institution.

Included in CIP: Yes – 2022 CIP Priority 9 of 10 in FY23 (estimated at \$6,000,000)

Phase I Approval: November 2022 (Estimated at \$4,000,000) (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, FY22 Carryforward	90,000		90,000	3,322,650	3,412,650
All Sources	<u>90,000</u>		<u>90,000</u>	<u>3,322,650</u>	<u>3,412,650</u>

Summary of Work: The project scope will add air conditioning to Dorms 1, 2, & 4 and will include the addition of new-air handlers, duct work and electrical upgrades to run the new equipment. The work will be accomplished by a general/mechanical contractor.

Rationale: All three dorms were designed and constructed with heat and ventilation only. The addition of AC to the dorms will increase the habitability and comfort for the inmates which improves security and safety while also increasing the building systems life span by controlling the humidity inside, per the agency.

Facility Characteristics: Dorms 1 & 2 are approximately 12,818 square feet each and were constructed in 1982 (41 years old). Dorm 4 is approximately 13,631 square feet and was constructed in 1991 (32 years old). Each housing unit accommodates 288 inmates and 9 staff.

Financial Impact: The project will be funded from Appropriated State, FY22 Carryforward Funds (uncommitted balance \$14.76 million on March 8, 2023). The project is expected to result in an increase of \$32,000 (years 1 thru 3), in annual operating expenses.

Full Project Estimate: \$3,412,650 (internal) funded by Appropriated State, FY22 Carryforward Funds. Contract execution is expected in January 2024 with construction completion in June 2026.

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SUBJECT: Permanent Improvement Projects

Other: The estimate cost to complete the project has decreased from the 2022 CPIP submission and the Phase I estimate due to the determination that more existing duct work can be used than originally anticipated. In addition, two other upgrades at Wateree CI that are ongoing including a new campus wide fire alarm and electrical upgrades will keep from having to update those systems with this project to ensure code compliance. These factors helped to reduce the projected cost.

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**AGENCY:** Department of Administration, Facilities Management and Property Services

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**SUBJECT:** Permanent Improvement Projects

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(p) Project: JBRC Item 30: Department of Corrections  
N04.9789: Statewide Cross Fencing and Recreation Yard Relocation

**Request:** Establish Phase II Full Construction Budget to relocate the recreation yards at Turbeville, Ridgeland, and Kershaw, and install additional security fencing at these institutions as well as at the remaining 11, Level 2 and Level 3 institutions across the state.

**Included in CPIP:** Yes – 2022 Priority 6 of 7 in FY24 (estimated at \$6,200,000)

**Phase I Approval:** December 2022 (estimated at \$6,200,000) (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, Operating	93,000		93,000	6,108,750	6,201,750
All Sources	<u>93,000</u>		<u>93,000</u>	<u>6,108,750</u>	<u>6,201,750</u>

**Summary of Work:** The project will move the recreation yards at three institutions, Turbeville CI, Kershaw CI, and Ridgeland CI to the front of the dorms. Current designs call for 2,100 linear feet of fencing at Turbeville CI, 2,200 linear feet at Kershaw CI and 2,100 linear feet at Ridgeland CI. The remainder of the security fence will be spread out at the remaining Level 2 and 3 institutions across the state (11 Institutions) as security audits are conducted and additional needs are identified. The security fencing inside the institutions consists of 12 ft tall 9-gauge chain link fence topped with at least one roll of razor wire (number of rolls of razor wire depend on the institution and location of the fence inside of the institution) embedded in a concrete ribbon. Electronic gates to control movement through the yards will be installed, and sidewalks and underground utilities will be rerouted as needed.

**Rationale:** Currently the recreation yard is located at the back of the housing unit at these correctional institutions, where inmates are blocked from most site lines of the staff. This project will increase the security and safety of the staff and inmates by increasing the staff's situation awareness, per the agency.

**Facility Characteristics:** The new recreation yards at Turbeville CI, Kershaw CI, and Ridgeland CI will be approximately 4,000 square feet each, and each dorm will have 2 recreation

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SUBJECT: Permanent Improvement Projects

yards, one for each wing, totaling 8 yards for each institution. These yards will be used by approximately 3,449 inmates.

Financial Impact: The project will be funded from Appropriated State, Operating Funds (uncommitted balance \$49.38 million on March 8, 2023). The project is not expected to result any change in annual operating expenses.

Full Project Estimate: \$6,201,750 (internal) funded by Appropriated State, Operating Funds. Contract execution is expected in October 2023 with construction completion in December 2026.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

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(q) Project: JBRC Item 34: Department of Parks, Recreation & Tourism  
P28.9812: Mountain Bridge River Falls Acquisition

Request: Establish Final Land Acquisition to purchase 170.97 acres of land adjacent to Jones Gap State Park in Greenville County.

Included in CPIP: Yes – 2022 CPIP Priority 59 of 59 in FY27 (estimated at \$2,000,000)

Phase I Approval: March 2022 (estimated at \$380,000) (JBRC)

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, Operating				500,000	500,000
Federal, LWCF				500,000	500,000
Other, Park Revenue	30,000		30,000		30,000
All Sources	<u>30,000</u>		<u>30,000</u>	<u>1,000,000</u>	<u>1,030,000</u>

Rationale: The property will provide for public recreation in an area that has seen tremendous growth, per the agency. The acquisition will provide public access while protecting a unique landscape of South Carolina, the Blue Ridge escarpment with its unique flora and fauna. This acquisition will also help to address current capacity issues of the park by providing more opportunities for trails, public recreation and access points to Jones Gam and the Mountain Bridge Wilderness area.

Characteristics: This property includes the Blue Ridge Escarpment which includes a hardwood forest with diverse flora and fauna creeks and waterfalls. It is anticipated that approximately 50,000 park visitors to the Mountain Bridge Wilderness Area/Jones Gap State Park will visit the property a year.

Financial Impact: The property is offered by Naturaland Trust of Greenville, SC for \$1,000,000. The acquisition will be funded from Appropriated State, Operating Funds (uncommitted balance \$2.4 million at April 12, 2023) and Land & Water Conservation Funds (\$500K committed for the project at October 1, 2022). The project is not expected to result in any change in annual operating expenditures. An appraisal was completed in April 2022 and valued the property at \$1,580,000.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Permanent Improvement Projects

A Building Condition Assessment was completed in January 2023 for the hunting cabin and found some immediate needs and hazards. The anticipated cost to address these items is \$38,981. A Phase I Environmental Site Assessment was completed in December 2022 and revealed no evidence of recognized environmental conditions in connection with the property, and therefore a Phase II assessment is not recommended at this time. Letters of support are not required because the property is owned by a nonprofit organization.

Full Project Estimate: \$1,030,000 (internal) funded by Appropriated State Operating Funds.

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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.

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ATTACHMENTS:

Agenda item worksheet and attachments

**Project List: JBRC Items - May 23, 2023**
**JBRC Items - May 23, 2023**

SFAA Item	JBRC Item	Agency Code	Agency Name	Project ID	Project Name	Action Proposed	Included in CPIP?	Current Budget	Requested Change	Phase I	Total Phase II Budget	SOF (excludes proposed Phase II if currently seeking Phase I)	Notes
(a)	1	H12	Clemson University	9968	Jervay Athletic Center Renovations and Performance & Wellness Center Addition	Establish Phase I	Yes	-	750,000	750,000	50,000,000	Other - Athletic Gifts and Donations	Pending CHE Board Approval on 05/04/23
(b)	sep	H12	Clemson University	9963	Chiller Plants Expansions and Upgrades	Establish Phase II	Yes	450,000	29,550,000	450,000	30,000,000	Institution Bonds	Pending CHE Board Approval on 05/04/23
(c)	2	H17	Coastal Carolina University	9619	Shift Western End of University Boulevard	Establish Phase II	Yes	111,000	7,289,000	111,000	7,400,000	Other - Penny Sales Tax	Pending CHE Board Approval on 05/04/23
(d)	3	H17	Coastal Carolina University	9623	PGA Golf Management Program Academic Learning Lab Construction	Establish Phase II	Yes	120,000	10,680,000	120,000	10,800,000	Other - Capital Project Reserves / Other - Penny Sales Tax / Other - Horry County Higher Education Commission Bond	Pending CHE Board Approval on 05/04/23
(e)	4	H59	Aiken Technical College	6250	Nursing Building Construction	Establish Phase I	Yes	-	300,000	300,000	20,650,000	FY18 Capital Reserve - (21)	Approved by CHE on 3/31/23
(f)	5	H59	Aiken Technical College	6251	700 Building Renovations	Establish Phase I	No	-	37,500	37,500	2,500,000	FY22 Appropriated State - Proviso 118.18 (B)(27)(a)	Approved by CHE on 3/16/23
(g)	7	H59	Horry Georgetown Technical College	6255	Construction of GT Workforce Training Center	Establish Phase I	Yes	-	250,000	250,000	13,000,000	Other - College	Pending CHE Board Approval on 05/04/23
(h)	10	D50	Department of Administration	6111	Sumter Street Arts Commission First Floor Renovation	Establish Phase II	Yes	18,656	986,737	18,656	1,005,393	Other - SC Arts Commission FY23 Appropriated State (operating)	
(i)	13	E24	Office of the Adjutant General	9835	Aiken Readiness Center MILCON & Dreamport Center	Establish Phase II	Yes	603,925	242,000	845,925	38,650,948	Appropriated State - FY22 Proviso 118.18 (69)(a) / Federal - MILCON / Other - Savannah River Site Litigation Settlement	
(j)	19	J12	Department of Mental Health	9798	Roddey Pavilion HVAC and Domestic Water Piping and Flooring Replacement (Ward 136)	Phase II Increase	No	1,100,000	200,000	7,350	1,300,000	Other - Capital Improvement & Maintenance	
(k)	24	J16	Department of Disabilities & Special Needs	9941	Pee Dee Center - Mulberry & Pecan Dorms - Roof Replacement	Establish Phase II	Yes	14,250	1,215,251	14,250	1,229,501	Excess Debt Service	
(l)	26	N04	Department of Corrections	9784	Statewide - Replace Fence Intrusion Detection Systems	Establish Phase II	Yes	15,340	1,007,383	15,340	1,022,723	Appropriated State - FY22 Carryforward	
(m)	27	N04	Department of Corrections	9785	Livesay - B - Add AC to Dorms N-2, N-3 & N-4	Establish Phase II	No	30,000	1,977,900	30,000	2,007,900	Appropriated State - FY22 Carryforward	
(n)	28	N04	Department of Corrections	9786	Turbeville & Kershaw CI - Add Air-Conditioning to 256 Bed Housing Units	Establish Phase II	Yes	120,000	7,880,000	120,000	8,000,000	Appropriated State - FY22 Carryforward	
(o)	29	N04	Department of Corrections	9787	Waterree River CI - Add AC to Dorms 1,	Establish Phase II	Yes	90,000	3,322,650	90,000	3,412,650	Appropriated State - FY22 Carryforward	
(p)	30	N04	Department of Corrections	9789	Statewide Cross Fencing and Recreation Yard Relocation	Establish Phase II	Yes	93,000	6,108,750	93,000	6,201,750	Appropriated State - Operating	
(q)	34	P28	Department of Parks, Recreation & Tourism	9812	Mountain Bridge River Falls Acquisition	Final Land Acquisition	Yes	30,000	1,000,000	30,000	1,030,000	Appropriated State - Operating / Federal - Land & Water Conservation / Other - Park Revenue	

# STATE FISCAL ACCOUNTABILITY AUTHORITY AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 23, 2023

Regular Agenda

1. Submitted By:

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

  
Brian J. Gaines, Director, Executive Budget Office

2. Permanent Improvement Projects

3. Summary Background Information:

- (a) Project: JBRC Item 1: Clemson University  
H12.9968: Jervey Athletic Center Renovations and Performance & Wellness Center Addition
- Request: Establish Phase I Pre-Design Budget to construct an addition to and renovate a portion of the Jervey Center.
- Included in CPIP: Yes – 2022 CPIP Priority 9 of 9 in FY23 (estimated at \$48,000,000)  
CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Athletic Gifts & Donations				750,000	750,000
All Sources				<u>750,000</u>	<u>750,000</u>

Summary of Work: The project will construct an approximately 50,600 square foot addition and renovate approximately 18,850 square feet within the existing Athletic Center, including improvements for the volleyball and track and field programs. All roofing material options for the addition will be evaluated during the Phase I process. The facility improvements will include updated locker rooms for officials, Clemson and visiting teams, including showers, nutrition, bistro, lounge and film room spaces. Modernization of restrooms, concessions, seating and playing areas, raising the roof above the playing court, and additional equipment storage will also be included.

Rationale: With the addition of Women's Gymnastics and Women's Lacrosse, additional square footage is needed beyond the capacity of existing Performance and Wellness facilities, such as the weight room and sports medicine areas. The existing facility needs significant improvements and modernization of all lower-level areas, per the university. The renovation and addition were determined to be more cost effective than the alternative of replacing the facility with all new construction.

Facility Characteristics: The existing facility is 85,000 square feet and was constructed in 1972 (51 years old). Approximately 18,180 square feet of the facility will be renovated in this project. The addition to be constructed will be approximately 50,600 square feet. The facility currently provides services for all Clemson student-athletes but serves as the primary home of Women's Volleyball and Men's and Women's Track and Field. In addition, it provides locker rooms for visiting volleyball teams, baseball teams, and officials/umpires. The improvements to the Jervey Performance and Wellness Center will be utilized by approximately 400 students and 45 staff.

**Financial Impact:** The project will be funded from Athletic Gifts & Donation Funds (uncommitted balance \$50 million at February 13, 2023). Revenues to this fund are received from individuals, corporations, and other entities that are to be expended for their restricted purposes. The project is expected to result in an increase of \$325,000 (year 1), \$334,750 (year 2), and \$344,792 (year 3) in annual operating expenses. The addition will be designed to meet Two Green Globes certification standards. No student fees or tuition will be increased as a consequence of the project. A portion of tuition is designated for capital improvements, currently \$1,005 per student per semester, and has increased from \$738 to \$1,005 for the academic years 2014-2015 to 2022-2023. \$380 of the \$1,005 is currently pledged for debt service. The balance of the fee, \$625 per student, per semester, is used to fund ongoing capital projects and maintenance.

**Full Project Estimate:** \$50,000,000 (internal) funded by Athletic Gifts and Donations.

(b) Project: JBRC Separate Item: Clemson University  
H12.9963: Chiller Plants Expansions and Upgrades

Request: Change Source of Funds and Establish Phase II Full Construction Budget to expand and upgrade the three existing district chilled water facilities.

Included in CPIP: Yes – 2022 CPIP Priority 6 of 9 in FY23 (estimated at \$30,000,000)

Phase I Approval: August 2022 (estimated at \$30,000,000) (SFAA)

CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Institution Bonds				30,000,000	30,000,000
Other, Maintenance & Stewardship	450,000			(450,000)	
All Sources	<u>450,000</u>			<u>29,550,000</u>	<u>30,000,000</u>

Summary of Work: This project will expand and upgrade existing chilled water facilities and includes expanding the existing district chilled water plants with underground utility distribution piping upgrades, replacing aging centrifugal chiller capacity, and adding capacity for future buildings and chiller plant building space. Most of the project will involve building out a large shell of a chiller plant building, next to the existing West Chiller Plant near Littlejohn Coliseum, with extra plant bays. Additionally, minor mechanical work on pumping, piping and controls will be done in the South and East Chiller Plants. For energy efficient district cooling production, the project will expand existing chilled water capacity by 30%.

Rationale: Per the university, new campus buildings being planned will exceed available cooling system production and distribution capabilities by 2026. The aging central energy facility will be phased out over the next ten years. The expansions will serve the proposed Advanced Materials Building and Lehotsky Replacement Building sites, existing campus building HVAC improvements, and the Douthitt Hills chilled Water thermal storage tank.

Facility Characteristics: The West Energy Plant is 11,923 square feet and was constructed in 2016 (7 years old). This plant will be expanded to 24,903 square feet. The South Chiller Plant is 10,548 square feet and was constructed in 2008 (15) years old). The East Chiller Plant is 8,870 square feet and was constructed in 1985 (38 years old). The district chilled water plants will impact approximately 28,400 students, 5,800 faculty and staff, and numerous visitors.

Financial Impact: This phase of the project will be funded from Institution Bond Funds (\$30 million to be issued). The project is not expected to result in any change in annual operating expenditures. No student fees or tuition will be increased because of the project. A portion of tuition is designated for capital improvements, currently \$1,005 per student per semester, and has increased from \$738 to \$1,005 for the academic years 2014-2015 to 2022-2023. \$380 of the \$1,005 is currently pledged for debt service. The balance of the fee, \$625 per student, per semester, is used to fund ongoing capital projects and maintenance.

Full Project Estimate: \$30,000,000 (internal) funded by State Institution Bonds. Contract execution is expected in December 2023 and completion of construction in April 2026.

(c) Project: JBRC Item 2: Coastal Carolina University  
H17.9619: Shift Western End of University Boulevard

Request: Establish Phase II Full Construction Budget to realign 0.38 miles of the western end of University Boulevard southward to the edge of campus.

Included in CPIP: Yes – 2022 CPIP Priority 2 of 4 in FY23 (estimated at \$7,400,000)  
Phase I Approval: May 2022 (estimated at \$7,400,000) (SFAA)  
CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Penny Sales Tax	111,000		111,000	7,289,000	7,400,000
All Sources	<u>111,000</u>		<u>111,000</u>	<u>7,289,000</u>	<u>7,400,000</u>

Summary of Work: This project will shift the western end of University Boulevard southward to the edge of the wetland slough. The proposed intersection of University Boulevard with SC 544 will be located approximately 680-feet south of the existing intersection and will line up with the southern entrance to Hillcrest Cemetery. The proposed intersection will include a new right turn lane and traffic signal and modification to the existing pond. The right turn lane includes a 180-degree taper off SC 544 followed by a 200-feet deceleration lane onto an 85-degree radius turn lane onto University Blvd. The proposed right turn lane will require extending the existing dual 6-foot by 10-foot box culvert along SC 544. The new University Blvd. will run adjacent to the wetland area on the south side of the pond and soccer field and will realign with the existing University Blvd. at the intersection with Chanticleer Drive W. The typical section will include 2 travel lanes in each direction with curb and gutter, a landscaped median, and a 6-foot-wide sidewalk on the north side of the road. The turn off University Blvd. onto SC 544 includes two left turn lanes with a 132-foot taper for right turn only. A section of the existing University Blvd. between the new access drive off the new University Blvd. and Brooks Stadium parking lot will be removed, graded and seeded.

Rationale: Relocating University Boulevard southward would alleviate the concentration of pedestrians on/near this main campus thoroughfare. Additionally, relocation will permit expansion of the intercollegiate athletic complex allowing for construction of the proposed Indoor Football Practice Facility. This shift would also draw the intersection of University Boulevard with SC 544 closer to the University Place residential complex and YY parking lot allowing safer and more convenient pedestrian and bicycle access.

Facility Characteristics: University Boulevard is the main thoroughfare through campus. It is used by all students, faculty, staff, and visitors.

Financial Impact: The project will be funded from Penny Sales Tax Funds (uncommitted balance \$42.63 million at February 28, 2023). The Penny Sales Tax was approved in November 2008, started on March 1, 2009, and runs for 15 years. This funding can be utilized for construction, renovation, land acquisition or to offset debt service payments. The legislation guarantees that Coastal Carolina University will receive 13.3% of the sales tax collections. The University's portion has averaged \$10,900,000 per year over the last five-year time period, and the balance with the State Treasurer does earn interest. The project is not expected to result in any change in annual operating expenditures. No student fees or tuition will be increased as a consequence of the project. A portion of tuition is designated for capital improvements, currently \$405 per student per semester, and has decreased from \$595 in 2014-2015 to \$405 in 2022-2023. \$255 of the \$405 is currently pledged for debt service. The balance of the fee, \$150 per student, per semester, is used to fund ongoing capital projects and maintenance.

Full Project Estimate: \$7,400,000 (internal) funded by Penny Sales Tax Funds. Contract execution is expected in June 2024 and completion of construction in December 2025.

(d) Project: JBRC Item 3: Coastal Carolina University  
H17.9623: PGA Golf Management Program Academic Learning Lab Construction

Request: Establish Phase II Full Construction Budget to demolish the existing Hackler facility and to construct a new PGA Golf Management Program Academic Learning Lab at the Hackler Golf Course.

Included in CPIP: Yes – 2022 CPIP Priority 3 of 4 in FY23 (estimated at \$8,000,000)

Phase I Approval: April 2022 (estimated at \$8,000,000) (SF AA)

CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, Capital Project Reserves	120,000		120,000	2,217,000	2,337,000
Other, Penny Sales Tax				2,800,000	2,800,000
Other, Gift (Horry County Higher Education Commission)				5,663,000	5,663,000
All Sources	<u>120,000</u>		<u>120,000</u>	<u>10,680,000</u>	<u>10,800,000</u>

Summary of Work: The project will demolish the existing facility (the existing cart storage will remain) and construct an approximately 16,000 square foot facility that will be located near the site of the existing Hackler Golf Course Clubhouse and will serve as a teaching/working lab with classrooms and hands-on spaces that serve the Golf Course functions. The existing parking lot will be utilized and modified to address drainage and additional parking. The building will be two stories and will consist of four main program components with central lobbies on both levels. The first floor will include a pro shop and restaurant. The second floor will include classrooms, swinging and putting labs and offices with associated support spaces. The roof to be installed on the facility will be a sloped synthetic slate shingle roofing system and will come with a minimum 20-year material and workmanship warranty.

Rationale: The PGA Golf Management Program at the university is one of only 17 PGA Golf Management University programs accredited by the PGA of America. The program prepares students for a successful career in the golf industry by combining academic studies and professional golf-training experiences. The program's curriculum has been carefully developed to offer students the opportunity to simultaneously complete the requirements for a Bachelor of Science degree in business administration, acquire valuable training experiences in the golf industry and complete the PGA of America's membership requirements. Completion of the university's PGA Golf Management program allows graduates to pursue careers as club or teaching professionals, golf-association administrators, representatives of golf equipment manufacturers or trade publications, and many more opportunities in the ever-growing golf industry.

Facility Characteristics: The Hackler Golf Course is owned and operated by Coastal Carolina University. The current clubhouse at the golf course was constructed in 1969 (54 years old), will be demolished and the new facility to be constructed will sit in its location. The facility will primarily be utilized by the PGA Golf Management Program. Enrollment in this program in Fall 2022 was 211, along with dedicated faculty and staff of 5 full-time employees.

Financial Impact: This phase of the project will be funded from Capital Project Reserve Funds (uncommitted balance \$4.56 million at February 28, 2023), Penny Sales Tax (uncommitted balance \$42.63 million at February 28, 2023), and Horry County Higher Education Commission Bond Funds (uncommitted balance \$5,663,000 at February 28, 2023) Revenue to the Capital Project Reserve Fund is from a September 2019 redemption of outstanding Series

2010A General Obligation Bonds. The transaction was funded entirely by existing university resources and funds that would have been used to service this debt is collected into this account. Revenue from the Penny Sales Tax was approved in November 2008, started on March 1, 2009, and runs for 15 years. This funding can be utilized for construction, renovation, land acquisition or to offset debt service payments. The legislation guarantees that Coastal Carolina University will receive 13.3% of the sales tax collections. The University's portion has averaged \$10,900,000 per year over the last five-year time period, and the balance with the State Treasurer does earn interest. Horry County Higher Education Commission issued general obligation bonds in March 2022 to finance its commitment. The project is not expected to result in any change in annual operating expenditures. The building will be constructed to meet Two Green Globes certification standards with anticipated energy savings of \$253,438 over a 30-year period. No student fees or tuition will be increased as a consequence of the project. A portion of tuition is designated for capital improvements, currently \$405 per student per semester, and has decreased from \$595 in 2014-2015 to \$405 in 2022-2023. \$255 of the \$405 is currently pledged for debt service. The balance of the fee, \$150 per student, per semester, is used to fund ongoing capital projects and maintenance.

Full Project Estimate: \$10,800,000 (internal) funded by Capital Project Reserves, Penny Sales Tax, and Horry County Higher Education Commission General Obligation Bond Funds. Contract execution is expected in September 2023 and completion of construction in December 2024. The estimated cost to complete the project has increased from the Phase I estimate and the 2022 CPIP due to escalating construction costs.

(e) Project: JBRC Item 4: Aiken Technical College  
H59.6250: Nursing Building Construction

Request: Establish Phase I Pre-Design Budget to construct a nursing building to house the expansion of the Health Science Technologies.

Included in CPIP: Yes – 2022 CPIP Priority 1 of 6 in 2023 (estimated at \$14,500,000)

CHE Approval: 03/31/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
FY18 Capital Reserve (21)				300,000	300,000
All Sources				<u>300,000</u>	<u>300,000</u>

Summary of Work: The project will to construct a 38,000 square foot, brick and mortar 1 ½ story nursing building that will include classrooms and laboratory space. All roofing material options will be evaluated during the Phase I process.

Rationale: Per the college, the current Health Sciences building lacks available space for expansion of the Health Science programs. The Surgical Technology program is proposing expansion to an Associate Degree Surgical Technology. The Medical Coding certificate is proposed to expand to a Health Information Management degree. The Radiological Technology degree proposes to add a Sonography component. A Dental Hygiene Associate Degree is proposed to augment the Dental Assistant diploma. New programs proposed include Pharmacy Technology, Cardiovascular Technology, BIO/Med Laboratory Technology and Dialysis Technicians. Additionally, this building will assist the college in meeting accreditation standards and demand for the programs.

Facility Characteristics: The new 38,000 square foot building will house the Associate Degree in Nursing (ADN) program, the Certified Nursing Assistant (CNA) program, the Licensed Practical Nursing (LPN) program and the Emergency Medical Technician (EMT) program. The Nursing programs will be relocated from the current Health Sciences building to the new Nursing building, and the available space in the current Health Sciences building will be utilized to enhance existing programs and expand with additional offerings in the Health Sciences. The new facility will be utilized by approximately 200 students, faculty and staff.

Financial Impact: This phase of the project will be funded from FY18 Capital Reserve Funds (uncommitted balance \$3 million at March 9, 2023). The project is expected to result in increase of 3,937.50 (year 1), and \$15,750 (years 2 thru 3), in additional annual operating expenses. The building will be designed to meet LEED Silver certification standards. No student fees or tuition will be increased as a consequence of the project. Currently, no portion of tuition is designated for capital improvements.

Full Project Estimate: \$20,650,000 (internal). Phase II will be funded by FY23 Proviso 118.20 SRS Settlement, and Local Funds. The estimated cost to complete the project has increased from the Phase I estimate and the 2022 CPIP due to escalating construction costs, as well the increase in the square footage of the facility from 32,000 to 38,000 square feet.

(f) Project: JBRC Item 5: Aiken Technical College  
H59.6251: 700 Building Renovations

Request: Establish Phase I Pre-Design Budget to renovate the 700/800 building to create additional office/administration space.

Included in CPIP: No – The need for this project was not recognized until after the submission of the 2022 CPIP.

CHE Approval: 03/16/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
FY15 Capital Reserve (29) (Redirected in FY22 Proviso 25.10)				37,500	37,500
All Sources				<u>37,500</u>	<u>37,500</u>

Summary of Work: The project will create additional office/administration space in building 700/800 due to preparing to take the 100/200 building offline due to the deterioration of the internal workings. The construction will serve to relocate several offices and renovate the existing restrooms throughout the 700 building. Building 700/800 will become the central hub for the campus. Building 100/200 will be demolished at a later date as part of a separate project.

Rationale: It was determined that the interior workings of building 100/200 are deteriorating and the cost to renovate the systems outweighed the return, per the college.

Facility Characteristics: Building 100/200 is 42,345 square feet and was constructed in 1973 (50 years old). Building 700/800 is 36,106 square feet and was constructed in and 1978 (45 years old). Approximately 12,000 square feet of Building 700 will be renovated.

Financial Impact: This phase of the project will be funded from FY15 Capital Reserve Funds redirected in FY22 Proviso 25.10 (uncommitted balance \$330,630 at March 9, 2023). The project is expected to result in increase of \$200 (year 1), and \$2,300 (years 2 thru 3), in additional annual operating expenses. No student fees or tuition will be increased as a consequence of the project. Currently, no portion of tuition is designated for capital improvements.

Full Project Estimate: \$2,500,000 (internal). Phase II will be funded by FY15 Capital Reserve, and FY24 Appropriated State Funds requested during the FY23-24 budget process. If additional funds are not appropriated, the project will be funded with Local Funds.

(g) Project: JBRC Item 7: Horry Georgetown Technical College  
H59.6255: Construction of GT Workforce Training Center

Request: Establish Phase I Pre-Design Budget to construct a Marine Technology Center on the Georgetown Campus.

Included in CPIP: Yes – 2022 CPIP Priority 1 of 4 in FY24 (estimated at \$12,500,000)

CHE Approval: 05/04/23

Source of Funds	Original Budget Amount	Cumulative Changes Since Original Budget	Current Budget	Adjustment Requested	Total Budget After Current Adjustment
Other, College				250,000	250,00
All Sources				<u>250,000</u>	<u>250,000</u>

Summary of Work: The project will construct a conventional framed steel facility, with a brick veneer, with re-enforced corrugated metal siding. The building will include bay-style garage doors that are at least 14 feet high and 12 feet wide. It is anticipated that the roof system will be PVC roofing, although all roofing material options will be evaluated during the Phase I process. The floor system will be polished concrete and may require additional re-enforcements to support heavier load requirements of the equipment. The new building will contain classrooms and large open lab environments for hands-on training. The classrooms will include computer stations and diagnostic and simulation equipment. The labs will include commercial grade toolboxes and benches, tool and chemical storage areas, commercial grade hoists, mobile lifts, and other equipment to support the instructional requirements.

Rationale: Per the college, the existing workforce training space no longer supports the enrollment demands or infrastructure requirements of the college or its industry partners. The college's boat building program is the only program of its kind in the state and there is a consistent waiting list for students seeking access to the marine motor program, per the college. The college currently has a waiting list of students for the programs that will be housed in the new facility.

Facility Characteristics: The existing workforce training space is 7,250 square feet and was constructed in 2008 (15 years old). This building is owned by Georgetown County and has been under a no-cost lease agreement since 2007. The college has had unrestricted use which will continue until 2042 when the property will transfer to the college. The new 25,000 square foot facility will be a stand-alone building. It will be primarily utilized by the Outboard Marine Motor Technician and Boat Building Technician programs. The building may also be used to support various trades-based high demand programs such as construction trades, including brick laying, electrician, and carpentry training. Approximately 76 students, faculty, staff and clients will utilize the facility annually.

Financial Impact: This phase of the project will be funded from College Funds (uncommitted balance \$46.91 million at February 28, 2023). The project is expected to result in an increase of \$28,000 (year 1), and \$112,000 (years 2 thru 3), in annual operating expenses. The Phase I amount requested is 1.9% of the estimated cost to complete the project because the college will use a Construction Manager at Risk (CMAR). The new building will be designed to meet Two Green Globes certification standards. No student fees or tuition will be increased as a consequence of the project. Currently, no portion of tuition is designated for capital improvements.

Full Project Estimate: \$13,000,000 (internal). Phase II will be funded by \$6,000,000 in College Funds, \$1,000,000 in Donations, and \$6,000,000 to be requested in the FY23-24 budget process. If the additional state funds are not received, the remaining cost will be funded by College funds.

(h) Project: JBRC Item 10: Department of Administration  
D50.6111: Sumter Street Arts Commission First Floor Renovation

Request: Establish Phase II Full Construction Budget to renovate the SC Arts Commission first floor office space.

Included in CPIP: Yes – 2022 CPIP Priority 24 of 24 in FY23 (estimated at \$750,000)

Phase I Approval: December 2022 (estimated at \$992,751) (JBRC)

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, SC Arts Commission Operating	18,656		18,656	986,737	1,005,393
All Sources	<u>18,656</u>		<u>18,656</u>	<u>986,737</u>	<u>1,005,393</u>

Summary of Work: The project will renovate approximately 6,066 square feet and includes renovation of the storefront entry, renovation of the bathroom and kitchen to accommodate educator and public workshops, and new office spaces. The work includes required ceiling, lighting, HVAC, plumbing and life safety modifications. Additionally, flex space will be created to be used for workshops and gallery space.

Rationale: Over the last two fiscal years the Arts Commission increased staff from 15 to 27 due to program growth and expanded statewide reach. Due to the expansion of programs, staff require additional office/flex space to provide training and workshop opportunities for educators and community non-profit groups statewide.

Facility Characteristics: The Sumter Street Building is approximately 37,501 square feet and was constructed in 1923 (100 years old). Approximately 6,066 square feet of the building will be renovated. The space is utilized by approximately 30 SC Arts Commission staff and various visitors annually.

Financial Impact: The project will be funded from SC Arts Commission Operating Funds (uncommitted balance \$1.10 million at February 24, 2023). The project is not expected to result in any change in annual operating expenditures.

Full Project Estimate: \$1,005,393 (internal) funded by SC Arts Commission Operating State Funds. Contract execution is expected in October 2023 and completion of construction in July 2024.

(i) Project: JBRC Item 13: Office of the Adjutant General  
E24.9835: Aiken Readiness Center MILCON & Dreamport Center

Request: Increase Phase I Pre-Design Budget to add the cost to design the DreamPort Center on the University of South Carolina Aiken Campus.

Included in CPIP: Yes – 2022 CPIP priority 2 of 24 FY23 (estimated at \$33,036,729)

Phase I Approval: January 2022 (estimated at \$30,950,000) (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, FY22 Proviso 118.18 (69) (a)	149,981		149,981		149,981
Federal, MILCON	453,944		453,944		453,944
Other, SRS				242,000	242,000
All Sources	<u>603,925</u>		<u>603,925</u>	<u>242,000</u>	<u>845,925</u>

Summary of Work: The project was established for the design and construction of both the Aiken Readiness Center and the Dreamport Center. This Phase I increase will complete the design work associated with construction of the Dreamport Center on property owned by Aiken County Commission for Higher Education on the campus of the University of South Carolina Aiken. This facility will consist of a collaborative innovation area, classrooms, testing and training rooms. It will also include a Secure Room for cyber protection activities.

Rationale: The initial Phase I received approval for the design of the Aiken Readiness Center. Since that time partial funding has been received for the construction of the Dreamport Center. Once full funding has been received for the Dreamport Center and the Aiken Readiness Center, Phase II construction will be submitted for approval. The construction of these facilities may be requested at separate times due to funding availability. The Readiness Center is required to provide a training facility that accommodates modernization and transformation of equipment and performance of their mission to support Strategic Depth of the Army and the unit training in the Army Modular Force configuration. The USC Aiken & National Guard Dreamport Center is a cyber security facility to allow for secure cyber protection activities to be conducted by the SC Army National Guard, USC Aiken, and other Cyber protection entities.

Facility Characteristics: The USC Aiken & National Guard Dreamport Center to be constructed will be 25,000 square feet and will house the Office of the Adjutant General, University of South Carolina Aiken and other Cyber Security Agencies. There will be approximately 50 transient users per day. The National Guard Readiness Center to be constructed will be 42,839 square feet and will house 2 units (1221 Engineer Company & 135<sup>th</sup> Cyber Protection Company), consisting of 7 authorized full-time employees and 183 M-Day Soldiers that currently do not have a facility.

Financial Impact: This Phase I increase will be funded from Savannah River Site Litigation Settlement Funds (uncommitted balance \$10 million at February 14, 2023). The Dreamport Center is expected to result in an increase of \$36,000 (year 1), \$38,000 (year 2), and \$40,000 (year 3) in annual operating expenses. The Aiken Readiness Center is expected to result in an increase of \$72,000 (year 1), \$76,000 (year 2), and \$80,000 (year 3), in annual operating expenses. Both buildings will be designed to meet LEED Silver certification standards.

Full Project Estimate: \$38,650,948 (internal). Phase II of the Dreamport Center will be funded by \$9.758 million in Savannah River Site Litigation Settlement, and \$1.98 in Appropriated State (nonrecurring) Funds being requested in the FY23-FY24 budget process. Phase II of the Aiken Readiness Center will be funded by \$6.67 million in Appropriated State, (nonrecurring), \$20 million in Federal MILCON, and National Guard Bureau Funds.

(j) Project: JBRC Item 19: Department of Mental Health  
J12.9798: Roddey Pavilion HVAC and Domestic Water Piping and Flooring Replacement (Ward 136)

Request: Revise Scope, Change Project Name and Establish Phase II Full Construction Budget to replace the domestic and HVAC overhead water lines and the existing sheet vinyl flooring in a Ward at Roddey Pavilion.

Included in CPIP: No – Ward 134 was included in the 2021 CPIP and established thru Phase II. Ward 136 was not included in the 2022 CPIP submission due to lack of funding,

Phase I Approval: March 2021 (estimated at \$490,000) (JBRC)

Phase II Approval: October 2021 (estimated at \$1,100,000) (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	7,350	1,092,650	1,100,000	200,000	1,300,000
All Sources	<u>7,350</u>	<u>1,092,650</u>	<u>1,100,000</u>	<u>200,000</u>	<u>1,300,000</u>

Summary of Work: The project was established to be completed in Ward 134; however, the work will now be completed in Ward 136 instead. The project includes replacing and relocating the HVAC controls in the patient rooms for the fan coils. The HVAC controls will be relocated to the hall so that servicing the units will be less intrusive to the residents that occupy the rooms. This project will also incorporate the recommendations from a recent legionella study for resident and staff safety. Since the Ward will be vacant for the pipe replacement, they will also replace the existing sheet vinyl floor in the Ward.

Rationale: Due to water damage in October 2022 in Ward 136, it is necessary to complete that Ward first. Each Ward is very similar, requiring minimal modifications to the existing plan. The copper pipes are original to the building and leaking causing mold issues and stains on the ceiling. The average life cycle of a copper water line is 20-50 years. DHEC continues to cite the nursing home for the flooring throughout the facility during inspections.

Facility Characteristics: Roddey Pavilion, located on the C.M. Tucker Campus in Columbia, is 111,534 square feet and was constructed in 1983 (40 years old). The Ward included in this project to be renovated is 13,000 square feet. The pipes are original to the building and the flooring is 15-20 years old. The facility is utilized by over 200 staff and approximately 170 inpatient clients who occupy the building on a 24/7 basis.

Financial Impact: The project will be funded from Capital Improvement & Maintenance Funds (uncommitted balance \$22 million at February 15, 2023). 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 \$2,000 (year 1), and \$5,000 (years 2 and 3) in annual operating expenses.

Full Project Estimate: \$1,300,000 (internal) funded by Capital Improvement & Maintenance Funds. Contract execution is expected in July 2023 with construction completion in December 2023.

(k) Project: JBRC Item 24: Department of Disabilities & Special Needs  
J16.9941: Pee Dee Center - Mulberry & Pecan Dorms - Roof Replacement

Request: Establish Phase II Full Construction Budget to replace the entire roof on the Mulberry Dorms and the shingle roof sections of the Pecan Dorms.

Included in CPIP: Yes – 2022 CPIP Priority 5 of 11 in FY25 (estimated at \$500,000) & 2022 CPIP 5 of 11 in FY26 (estimated at \$500,000)

Phase I Approval: December 2022 (estimated at \$950,000) (JBRC)

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	14,250		14,250	1,215,251	1,229,501
All Sources	<u>14,250</u>		<u>14,250</u>	<u>1,215,251</u>	<u>1,229,501</u>

Summary of Work: The project will include replacement of the shingle roofs and exterior fascia, soffit and trim board replacement and/or repair. The substrate will be repaired and caulked, with other related work to assure the entire building envelope is in good shape for all the Pee Dee Center's Mulberry and Pecan Dorms. The new roofs to be installed will be a high commercial grade shingle and will come with a minimum 20-year material and workmanship warranty.

Rationale: Some of the existing roofs are 20+ years old, with continuous leaks and have reached the end of their life cycle. Attempts to patch and/or repair are no longer containing the issue.

Facility Characteristics: The Mulberry Dorms are 5,243 square foot each, totaling 36,701 square feet and were constructed in 1978 (45 years old). The existing roofs were installed between 1997 (26 years old) and 2002 (21 years old). The Pecan Dorms are 6,534 square foot each, totaling 32,670 square feet and were constructed in 1957 (66 years old). The existing roofs were installed between 1997 (26 years old) and 2002 (21 years old). There are approximately 118 residents and 395 staff who utilize these facilities.

Financial Impact: The project will be funded from Excess Debt Service funds (uncommitted balance \$6.14 million at March 31, 2023). 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: \$1,229,501 (internal) funded by Excess Debt Service Funds. Contract execution is expected in July 2023 with construction completion in June 2025.

(l) Project: JBRC Item 26: Department of Corrections  
N04.9784: Statewide - Replace Fence Intrusion Detection Systems

Request: Establish Phase II Full Construction Budget to replace the fence intrusion detection systems at five correctional institutions across the state.

Included in CPIP: Yes – 2022 CPIP Priority 1 of 10 in FY23 (estimated at \$1,022,723)

Phase I Approval: August 2022 (estimated at \$1,022,723) (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, FY22 Carryforward	15,340		15,340	1,007,383	1,022,723
All Sources	<u>15,340</u>		<u>15,340</u>	<u>1,007,383</u>	<u>1,022,723</u>

Summary of Work: The project will replace the fence intrusion detection systems at Lee, Evans, Perry, Kirkland, and Tyger River Correctional Institutions. The fence intrusion detection systems are used to alert the institution's security personnel of an attempted escape. Any attempt to scale or cut the perimeter fence will set off an alarm in the control room showing where the event is occurring. This allows security to respond to the exact location quickly. Per the agency, the intrusion detection systems are an integral part of the layered security inside the state's correctional institutions.

Rationale: The current fence intrusion detection systems are obsolete and spare parts are no longer available. Currently the agency is having components rebuilt as needed but as they continue to age it has become harder to find vendors who will repair these components.

Facility Characteristics: The Lee, Evans, Perry, Kirkland, and Tyger River Correctional Institutions have intrusion detection systems that were installed between 1982 (41 years old) and 1994 (29 years old) but are of the same design and manufacturer. These 5 institutions across the state house 5,406 inmates.

Financial Impact: The project will be funded from FY22 Carryforward Funds (uncommitted balance \$14.76 million on March 8, 2023). The project is not expected to result in any change in annual operating expenditures.

Full Project Estimate: \$1,022,723 (internal) funded by FY22 Carryforward Funds. Contract execution is expected in July 2023 with construction completion in July 2025.

(m) Project: JBRC Item 27: Department of Corrections  
N04.9785: Livesay - B - Add AC to Dorms N-2, N-3 & N-4

Request: Establish Phase II Full Construction Budget to add air conditioning to dorms at Livesay Correctional Institution.

Included in CPIP: No – This project was not included in the 2022 CPIP submission because the focus has been to concentrate on higher security institutions for the installation of AC before lower security institutions. Livesay is a work camp and minimum-security facility, so this institution did not originally fall within the 5-year plan of the CPIP. However, with the projected savings realized from the revised estimate for Wateree River CI - Add AC to Dorms 1, 2 & 4 (N04-9787), the funds will be redirected to fund this project.

Phase I Approval: November 2022 (estimated at \$2,000,000) (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, FY22 Carryforward	30,000		30,000	1,977,900	2,007,900
All Sources	<u>30,000</u>		<u>30,000</u>	<u>1,977,900</u>	<u>2,007,900</u>

Summary of Work: The project scope will add air conditioning to Dorms N-2, N-3 & N-4 and will include the addition of new-air handlers, duct work and electrical upgrades to run the new equipment. The work will be accomplished by a general/mechanical contractor.

Rationale: All three dorms were designed and constructed with heat and ventilation only. The addition of AC to the dorms will increase the habitability and comfort for the inmates which improves security and safety while also increasing the building systems life span by controlling the humidity inside, per the agency.

Facility Characteristics: Dorms N-2, N-3 & N-4 are of the same design, total 18,252 square feet and were constructed in 1973 (50 years old). Each housing unit accommodates 144 inmates and 3 staff.

Financial Impact: The project will be funded from Appropriated State, FY22 Carryforward Funds (uncommitted balance \$14.76 million on March 8, 2023). The project is expected to result in an increase of \$22,500 (years 1 thru 3), in annual operating expenses.

Full Project Estimate: \$2,007,900 (internal) funded by Appropriated State, FY22 Carryforward Funds. Contract execution is expected in November 2023 with construction completion in January 2026.

(n) Project: JBRC Item 28: Department of Corrections  
N04.9786: Turbeville & Kershaw CI - Add Air-Conditioning to 256 Bed Housing Units

Request: Establish Phase II Full Construction to add air conditioning to two housing units located at Turbeville Correctional Institution and Kershaw Correctional Institution.

Included in CPIP: Yes – 2022 CPIP Priority 10 of 10 in FY23 (estimated at \$8,000,000)  
Phase I Approval: November 2022 (estimated at \$8,000,000) (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, FY22 Carryforward	120,000		120,000	7,880,000	8,000,000
All Sources	<u>120,000</u>		<u>120,000</u>	<u>7,880,000</u>	<u>8,000,000</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. The work will be accomplished by a general/mechanical contractor.

Rationale: The housing units were designed and constructed with heat and ventilation only.

Facility Characteristics: Both the Turbeville II and the Kershaw CI are each 29,470 square feet and were constructed in 2003 (20 years old). Each housing unit accommodates 256 inmates and 3 staff.

Financial Impact: The project will be funded from Appropriated State, FY22 Carryforward Funds (uncommitted balance \$14.76 million on March 8, 2023). The project is expected to result in an increase of \$72,876 (years 1 thru 3), in annual operating expenses.

Full Project Estimate: \$8,000,000 (internal) funded by Appropriated State, FY22 Carryforward Funds. Contract execution is expected in January 2024 with construction completion in December 2026.

(o) Project: JBRC Item 29: Department of Corrections  
N04.9787: Wateree River CI - Add AC to Dorms 1, 2 & 4

Request: Establish Phase II Full Construction Budget to add air conditioning to dorms at Wateree Correctional Institution.

Included in CPIP: Yes – 2022 CPIP Priority 9 of 10 in FY23 (estimated at \$6,000,000)  
Phase I Approval: November 2022 (Estimated at \$4,000,000) (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, FY22 Carryforward	90,000		90,000	3,322,650	3,412,650
All Sources	<u>90,000</u>		<u>90,000</u>	<u>3,322,650</u>	<u>3,412,650</u>

Summary of Work: The project scope will add air conditioning to Dorms 1, 2, & 4 and will include the addition of new-air handlers, duct work and electrical upgrades to run the new equipment. The work will be accomplished by a general/mechanical contractor.

Rationale: All three dorms were designed and constructed with heat and ventilation only. The addition of AC to the dorms will increase the habitability and comfort for the inmates which improves security and safety while also increasing the building systems life span by controlling the humidity inside, per the agency.

Facility Characteristics: Dorms 1 & 2 are approximately 12,818 square feet each and were constructed in 1982 (41 years old). Dorm 4 is approximately 13,631 square feet and was constructed in 1991 (32 years old). Each housing unit accommodates 288 inmates and 9 staff.

Financial Impact: The project will be funded from Appropriated State, FY22 Carryforward Funds (uncommitted balance \$14.76 million on March 8, 2023). The project is expected to result in an increase of \$32,000 (years 1 thru 3), in annual operating expenses.

Full Project Estimate: \$3,412,650 (internal) funded by Appropriated State, FY22 Carryforward Funds. Contract execution is expected in January 2024 with construction completion in June 2026.

Other: The estimate cost to complete the project has decreased from the 2022 CPIP submission and the Phase I estimate due to the determination that more existing duct work can be used than originally anticipated. In addition, two other upgrades at Wateree CI that are ongoing including a new campus wide fire alarm and electrical upgrades will keep from having to update those systems with this project to ensure code compliance. These factors helped to reduce the projected cost.

(p) Project: JBRC Item 30: Department of Corrections  
N04.9789: Statewide Cross Fencing and Recreation Yard Relocation

Request: Establish Phase II Full Construction Budget to relocate the recreation yards at Turbeville, Ridgeland, and Kershaw, and install additional security fencing at these institutions as well as at the remaining 11, Level 2 and Level 3 institutions across the state.

Included in CPIP: Yes – 2022 Priority 6 of 7 in FY24 (estimated at \$6,200,000)  
Phase I Approval: December 2022 (estimated at \$6,200,000) (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, Operating	93,000		93,000	6,108,750	6,201,750
All Sources	<u>93,000</u>		<u>93,000</u>	<u>6,108,750</u>	<u>6,201,750</u>

Summary of Work: The project will move the recreation yards at three institutions, Turbeville CI, Kershaw CI, and Ridgeland CI to the front of the dorms. Current designs call for 2,100 linear feet of fencing at Turbeville CI, 2,200 linear feet at Kershaw CI and 2,100 linear feet at Ridgeland CI. The remainder of the security fence will be spread out at the remaining Level 2 and 3 institutions across the state (11 Institutions) as security audits are conducted and additional needs are identified. The security fencing inside the institutions consists of 12 ft tall 9-gauge chain link fence topped with at least one roll of razor wire (number of rolls of razor wire depend on the institution and location of the fence inside of the institution) embedded in a concrete ribbon. Electronic gates to control movement through the yards will be installed, and sidewalks and underground utilities will be rerouted as needed.

Rationale: Currently the recreation yard is located at the back of the housing unit at these correctional institutions, where inmates are blocked from most site lines of the staff. This project will increase the security and safety of the staff and inmates by increasing the staff's situation awareness, per the agency.

Facility Characteristics: The new recreation yards at Turbeville CI, Kershaw CI, and Ridgeland CI will be approximately 4,000 square feet each, and each dorm will have 2 recreation yards, one for each wing, totaling 8 yards for each institution. These yards will be used by approximately 3,449 inmates.

Financial Impact: The project will be funded from Appropriated State, Operating Funds (uncommitted balance \$49.38 million on March 8, 2023). The project is not expected to result any change in annual operating expenses.

Full Project Estimate: \$6,201,750 (internal) funded by Appropriated State, Operating Funds. Contract execution is expected in October 2023 with construction completion in December 2026.

(q) Project: JBRC Item 34: Department of Parks, Recreation & Tourism  
P28.9812: Mountain Bridge River Falls Acquisition

Request: Establish Final Land Acquisition to purchase 170.97 acres of land adjacent to Jones Gap State Park in Greenville County.

Included in CPIP: Yes – 2022 CPIP Priority 59 of 59 in FY27 (estimated at \$2,000,000)

Phase I Approval: March 2022 (estimated at \$380,000) (JBRC)

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, Operating				500,000	500,000
Federal, LWCF				500,000	500,000
Other, Park Revenue	30,000		30,000		30,000
All Sources	<u>30,000</u>		<u>30,000</u>	<u>1,000,000</u>	<u>1,030,000</u>

Rationale: The property will provide for public recreation in an area that has seen tremendous growth, per the agency. The acquisition will provide public access while protecting a unique landscape of South Carolina, the Blue Ridge escarpment with its unique flora and fauna. This acquisition will also help to address current capacity issues of the park by providing more opportunities for trails, public recreation and access points to Jones Gam and the Mountain Bridge Wilderness area.

Characteristics: This property includes the Blue Ridge Escarpment which includes a hardwood forest with diverse flora and fauna creeks and waterfalls. It is anticipated that approximately 50,000 park visitors to the Mountain Bridge Wilderness Area/Jones Gap State Park will visit the property a year.

Financial Impact: The property is offered by Naturaland Trust of Greenville, SC for \$1,000,000. The acquisition will be funded from Appropriated State, Operating Funds (uncommitted balance \$2.4 million at April 12, 2023) and Land & Water Conservation Funds (\$500K committed for the project at October 1, 2022). The project is not expected to result in any change in annual operating expenditures. An appraisal was completed in April 2022 and valued the property at \$1,580,000. A Building Condition Assessment was completed in January 2023 for the hunting cabin and found some immediate needs and hazards. The anticipated cost to address these items is \$38,981. A Phase I Environmental Site Assessment was completed in December 2022 and revealed no evidence of recognized environmental conditions in connection with the property, and therefore a Phase II assessment is not recommended at this time. Letters of support are not required because the property is owned by a nonprofit organization.

Full Project Estimate: \$1,030,000 (internal) funded by Appropriated State Operating Funds.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Easements

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

- (a) County Location: Charleston  
From: Department of Administration  
To: South Carolina Public Service Authority (Santee Cooper)  
Consideration: \$700 administrative fee  
\$1,918.81  
Description/Purpose: To grant a 1.293± acre non-exclusive easement for the construction, installation, operation and maintenance of an overhead electric transmission line and related support poles across Penny's Creek on Johns Island. The easement is needed to ensure reliability of the power line serving Johns Island, Kiawah Island, Seabrook Island and Wadmalaw Island. 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 term of the easement will be fifty (50) years. Consideration is \$700 administrative fee plus the average sales price per acre of improved agricultural land for easements across navigable waterways and submerged lands. There are no exceptions requested with regard to the 2022 easement policy.
- (b) County Location: Charleston  
From: Department of Administration  
To: South Carolina Public Service Authority (Santee Cooper)  
Consideration: \$700 administrative fee  
\$3,848.01  
Description/Purpose: To grant a 2.593± acre non-exclusive easement for the construction, installation, operation and maintenance of an overhead electric transmission line and related support poles across Murray Creek on Johns Island. The easement is needed to ensure reliability of the power line serving Johns Island, Kiawah Island, Seabrook Island and Wadmalaw Island. 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 term of the easement will be fifty (50) years. Consideration is \$700 administrative fee plus the average sales price per acre of improved agricultural land for easements across navigable waterways and submerged lands. There are no exceptions requested with regard to the 2022 easement policy.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Easements

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- (c) County Location: Calhoun
- From: South Carolina State University
- To: South Carolina Public Service Authority (Santee Cooper) and invitees
- Consideration: \$700 administrative fee  
\$1
- Description/Purpose: To grant a right-of-way and access easement totaling 7.16± acres along three existing roads (Camp Daniels Road, Marshall Road and Nance Drive) on Grantee's property for the purpose of ingress and egress across and upon South Carolina State University's Camp Harry Daniels. The easement is needed to provide access to 27 lots in the Washington Point Subdivision in Elloree, SC leased by Santee Cooper to third party leaseholders designated by SCSU. Santee Cooper would use the roads to allow lessees to access the leased lots that are not otherwise accessible. Santee Cooper has advised that the roads has been used for this purpose for at least 40 years with no written agreement in place. The easement is necessary for the implementation of a lease management plan for the Washington Point subdivision. Pursuant to a Lease Management Agreement between Santee Cooper and SCSU and approved by JBRC on December 7, 2021, lease revenues will be used to secure, maintain, and repair the access roads with any excess dedicated to fund SCSU scholarships. The term of the easement will be approximately forty (40) years to be coterminous with the Lease Management Agreement approved by JBRC on December 7, 2021. Should the Lease Management Agreement terminate for any reason, the easement will also terminate. 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 of mutual benefit to Santee Cooper and SCSU and, as such, the University 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 2022 easement policy.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Easements

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AUTHORITY ACTION REQUESTED:

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

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ATTACHMENTS:

Agenda item worksheet and attachment


**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

**Meeting Scheduled for: May 23, 2023**

**Regular Agenda**

**1. Submitted by:**

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



Ashlie Lancaster, Director

**2. Subject: Easements**

**3. Summary and Background Information:**

- (a) County Location: Charleston  
From: Department of Administration  
To: South Carolina Public Service Authority (Santee Cooper)  
Consideration: \$700 administrative fee  
\$1,918.81  
Description/Purpose: To grant a 1.293± acre non-exclusive easement for the construction, installation, operation and maintenance of an overhead electric transmission line and related support poles across Penny's Creek on Johns Island. The easement is needed to ensure reliability of the power line serving Johns Island, Kiawah Island, Seabrook Island and Wadmalaw Island. 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 term of the easement will be fifty (50) years. Consideration is \$700 administrative fee plus the average sales price per acre of improved agricultural land for easements across navigable waterways and submerged lands. There are no exceptions requested with regard to the 2022 easement policy.
  
- (b) County Location: Charleston  
From: Department of Administration  
To: South Carolina Public Service Authority (Santee Cooper)  
Consideration: \$700 administrative fee  
\$3,848.01  
Description/Purpose: To grant a 2.593± acre non-exclusive easement for the construction, installation, operation and maintenance of an overhead electric transmission line and related support poles across Murray Creek on Johns Island. The easement is needed to ensure reliability of the power line serving Johns Island, Kiawah Island, Seabrook Island and Wadmalaw Island. 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 term of the easement will be fifty (50) years. Consideration is \$700 administrative fee plus the average sales price per acre of improved agricultural land for easements across navigable waterways and submerged lands. There are no exceptions requested with regard to the 2022 easement policy.

(c) County Location: Calhoun  
From: South Carolina State University  
To: South Carolina Public Service Authority (Santee Cooper)  
and invitees  
Consideration: \$700 administrative fee  
\$1  
Description/Purpose: To grant a right-of-way and access easement totaling 7.16± acres along three existing roads (Camp Daniels Road, Marshall Road and Nance Drive) on Grantee's property for the purpose of ingress and egress across and upon South Carolina State University's Camp Harry Daniels. The easement is needed to provide access to 27 lots in the Washington Point Subdivision in Elloree, SC leased by Santee Cooper to third party leaseholders designated by SCSU. Santee Cooper would use the roads to allow lessees to access the leased lots that are not otherwise accessible. Santee Cooper has advised that the roads has been used for this purpose for at least 40 years with no written agreement in place. The easement is necessary for the implementation of a lease management plan for the Washington Point subdivision. Pursuant to a Lease Management Agreement between Santee Cooper and SCSU and approved by JBRC on December 7, 2021, lease revenues will be used to secure, maintain, and repair the access roads with any excess dedicated to fund SCSU scholarships. The term of the easement will be approximately forty (40) years to be coterminous with the Lease Management Agreement approved by JBRC on December 7, 2021. Should the Lease Management Agreement terminate for any reason, the easement will also terminate. 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 of mutual benefit to Santee Cooper and SCSU and, as such, the University 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 2022 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: \_\_\_\_\_
- 

**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. South Carolina Public Service Authority (Penny's Creek)
  - b. South Carolina Public Service Authority (Murray Creek)
  - c. South Carolina State University – South Carolina Public Service Authority

## **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.



Amanda L. Callander

Attorney

Office of General Counsel

(843) 761-7012

fax: (843) 761-4010

amanda.callander@santeecooper.com

February 20, 2023 – original  
March 27, 2023 – update

South Carolina Department of Administration  
Division of Facilities Management and Property Services  
1200 Senate Street, 6<sup>th</sup> Floor  
Columbia, SC 29201  
ATTN: Linda Gordon

RE: **Easement Application of South Carolina Public Service Authority for two water crossing easements for our Johns Island-Queensborough Transmission Line**

Dear Linda,

Thank you and Shawn for your guidance on this project for our transmission line on Johns Island. Please find attached the completed State Easement Application with all attachments.

We have requested an easement, as opposed to a lease or license, due to the nature of the use - the transmission of electrical power to Johns Island, Kiawah Island, Seabrook Island and Wadmalaw Island. A license is inappropriate in this instance because a license does not convey an interest in property sufficient to give assurance that our right will continue for the extended duration that an easement does. A lease is also inappropriate in this instance because leases generally convey a more temporary right in property and subject the lease holder to potential eviction. The rights of Santee Cooper in constructing and maintaining this line need to be of a more permanent nature to justify the expense and to ensure our customers that we can reliably provide the power for these islands for a long term.

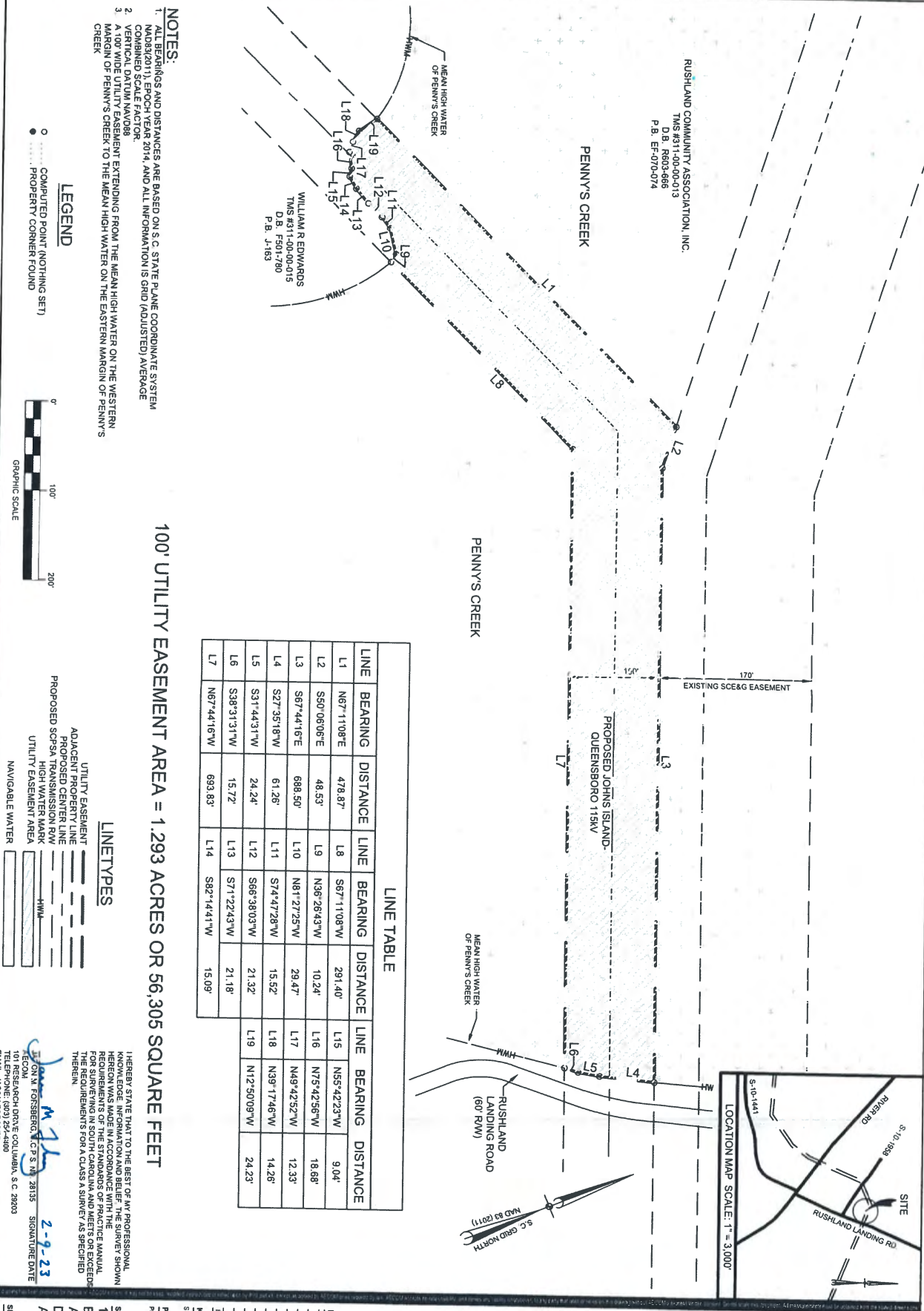
For the same reasons conveyed above, we are requesting that the term be for the maximum time period allowed, 50 years.

Should you have any questions or need anything further, please don't hesitate to contact me. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Amanda Callander', written over the word 'Sincerely,'.

Amanda Callander



LINE TABLE								
LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N67°11'09"E	478.87'	L8	S67°11'09"W	291.40'	L15	N55°42'23"W	9.04'
L2	S50°08'06"E	48.53'	L9	N36°26'43"W	10.24'	L16	N75°42'56"W	18.88'
L3	S67°44'16"E	688.50'	L10	N61°27'25"W	29.47'	L17	N49°42'52"W	12.33'
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L6	S38°31'31"W	15.72'	L13	S71°22'43"W	21.18'			
L7	N67°44'16"W	693.83'	L14	S62°14'41"W	15.09'			

**PROJECT**

JOHN'S ISLAND -  
QUEENSBORO 115KVA  
TRANSMISSION LINE

JOHN'S ISLAND  
CHARLESTON COUNTY, S.C.

**CLIENT**

SOUTH CAROLINA  
PUBLIC SERVICE  
AUTHORITY

**CONSULTANT**

AECON  
AECOM Building Plaza  
Columbia, SC 29203    803 771 6676 fax  
803 254 4400 in    www.aecom.com

**REGISTRATION**




**ISSUE/REVISION**

#	DATE	DESCRIPTION

**KEY PLAN**

SHEET SCALE 1" = 100'

**PROJECT & FILE NUMBER**

PROJECT NUMBER: 8034747

**SHEET TITLE**

100' UTILITY  
EASEMENT TO BE  
ACQUIRED FROM S.C.  
DEPARTMENT OF  
ADMINISTRATION

**SHEET NUMBER**

ONE - 1

(b-1)



Amanda L. Callander  
Attorney

Office of General Counsel  
(843) 761-7012

fax: (843) 761-4010

amanda.callander@santeecooper.com

February 20, 2023 – original  
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For the same reasons conveyed above, we are requesting that the term be for the maximum time period allowed, 50 years.

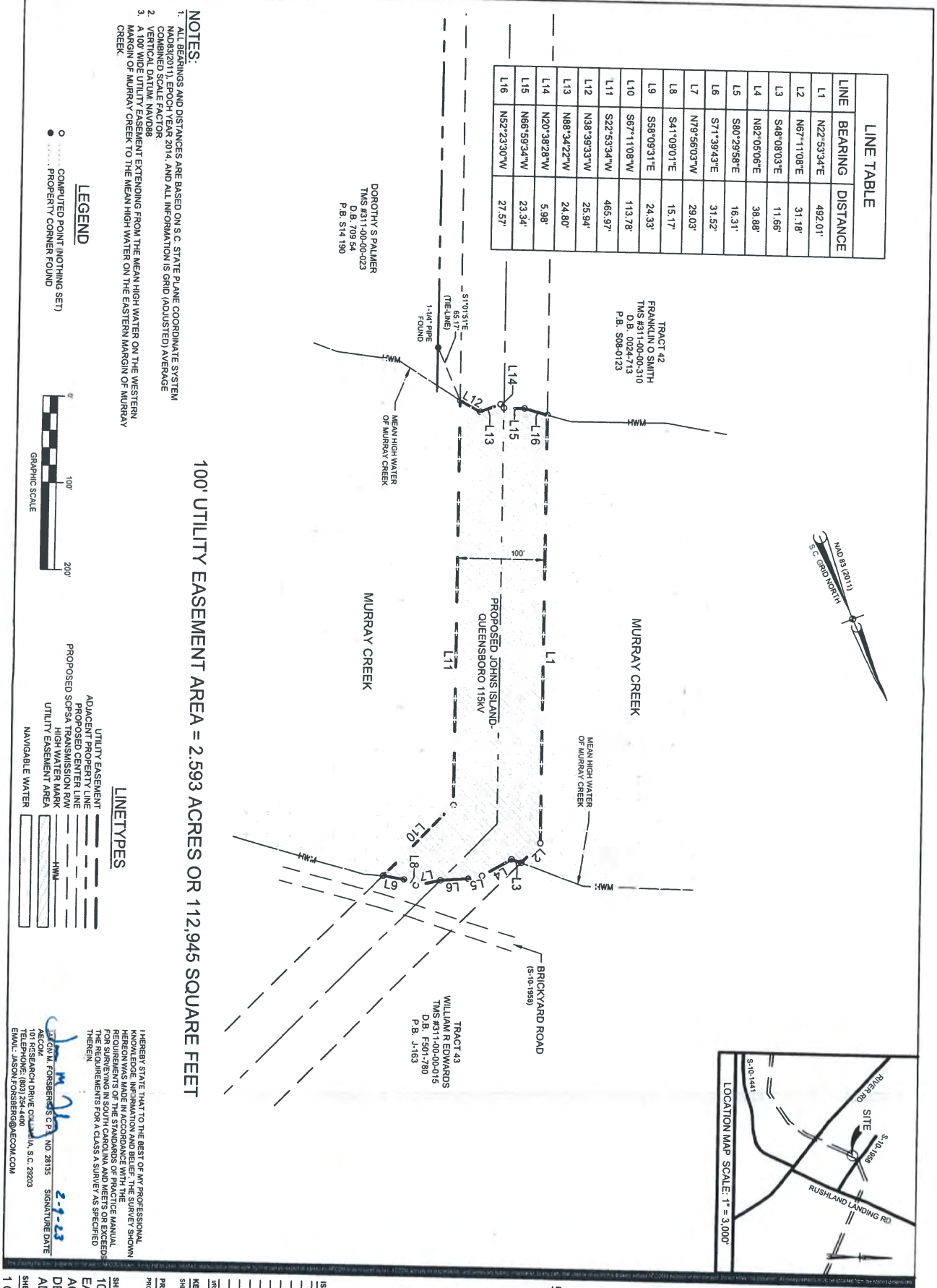
Should you have any questions or need anything further, please don't hesitate to contact me. Thank you.

Sincerely,

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Amanda Callander

(b-2)





April 20, 2023

Ms. Ashley Lancaster  
Director, Division of Facilities Management and Property Services  
The South Carolina Department of Administration  
1200 Senate Street, Room 612  
Columbia, SC 29201

RE: Easement from SC State

Dear Ms. Lancaster:

The South Carolina Public Service Authority (Santee Cooper) owns approximately 39 acres on Lake Marion that is adjacent to South Carolina State University's 255-acre Camp Harry Daniels. On December 7, 2021, the Joint Bond Review Committee approved the renewal of a gratis lease from Santee Cooper to SCSU for approximately 9.1 acres for use by SCSU's 1880 Research and Extension Program. The remaining 30 acres are divided into 27 residential lots known as Washington Point Subdivision which are leased by Santee Cooper. Santee Cooper and SCSU will enter into a Lease Management Agreement to cooperatively manage the leases, with a portion of lease fees retained by Santee Cooper, a portion used for Washington Point Subdivision road maintenance, and a portion dedicated to a scholarship fund for SCSU students.

As part of this Agreement, SCSU agreed to grant a right-of-way and access easement over existing roads at its Camp Daniels property. A state-maintained road (S-9-233) carries leaseholders onto the Camp Daniels property. At the end of the state-maintained road, the leaseholders access their lots at Washington Point Subdivision by using Camp Daniels Road, Marshall Road, and Nance Drive, all as shown on the attached plat. The leaseholders and Santee Cooper have accessed the lakefront lots for many years by these roads without any easement or written agreement in place. SCSU desires to formalize the access to Washington Point Subdivision through the grant of an Access Road Easement Agreement. The requested easement will formalize the continued access, use, and maintenance of the roadways.

This collaborative effort between SCSC's 1890 Program and Santee Cooper supports both parties in fulfilling their respective public service missions to improve the quality of life of State residents by providing public recreation and education opportunities for the community, and therefore, SCSU desires that the easement be granted for nominal consideration. The term of the easement will be approximately forty (40) years to be co-terminus with the Lease Management Agreement. The easement will not materially impair the utility of the property nor impact the operation of SCSU's Camp Daniels.

In consideration of the information above, South Carolina State University respectfully requests SFAA approval of this easement request. If you will please place these on the May meeting agenda, I would appreciate it. Thank you in advance for your attention to this matter. If you have any questions, please do not hesitate to contact me at 803-707-1419 or [lwhitesides@scsu.edu](mailto:lwhitesides@scsu.edu).

Sincerely,

*Louis D. Whitesides*

Louis D. Whitesides, D.B.A.  
Vice President & Executive Director  
1890 Research and Extension Program  
South Carolina State University

LDW/ds

**DATE:** April 11, 2023  
**TO:** SFAA Easement Application Attachments  
**FROM:** Daniel D. Camp, Senior Director, Real Estate & Camp Hall  
**SUBJECT:** Access Easement for Washington Point Subdivision

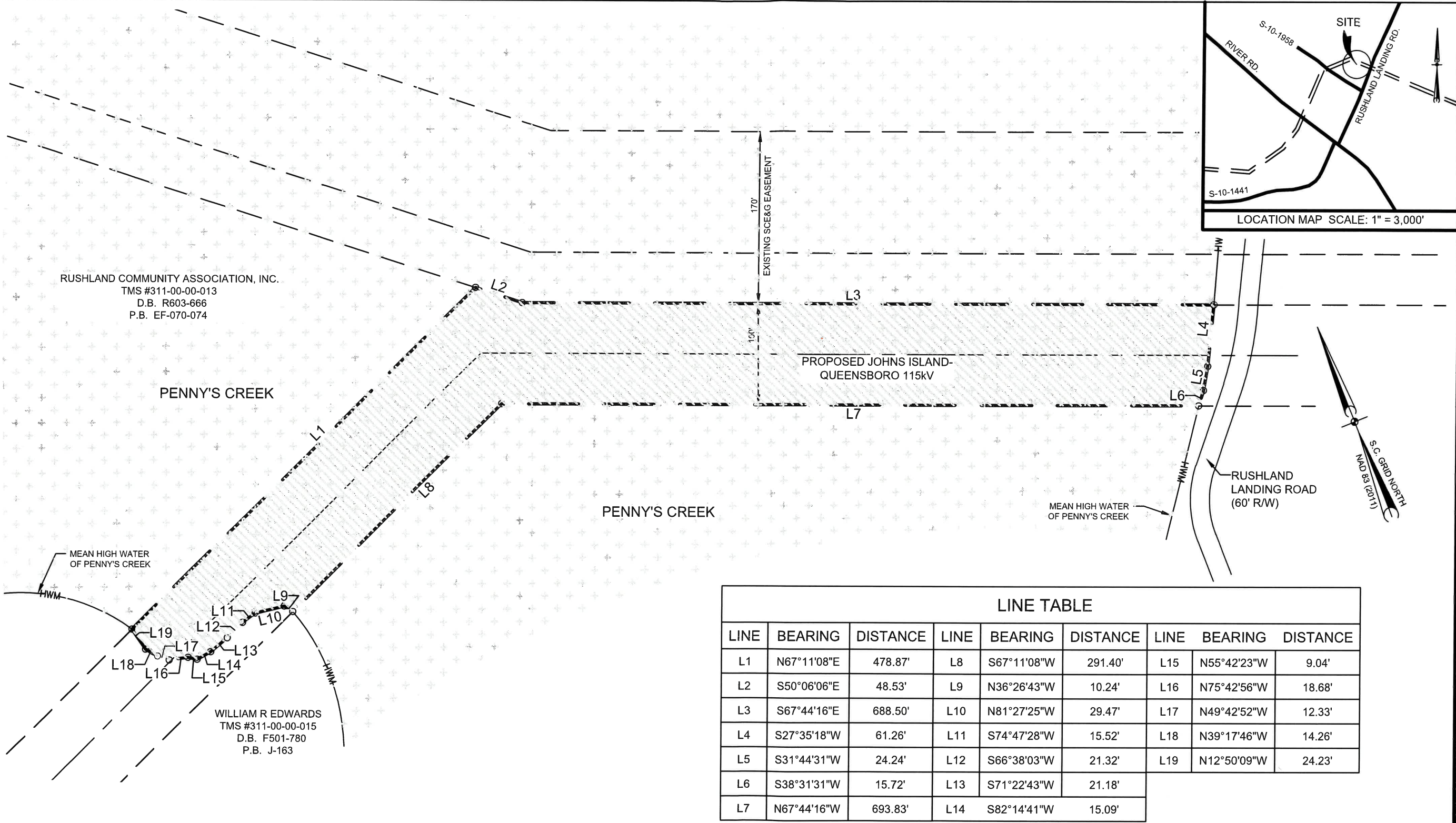
Since 1981, 27 lots were leased from Santee Cooper to specific individuals designated by South Carolina State University (SC State). Access to these leased lots is through SC State's Camp Daniels property. There is no dedicated access easement to the leased lots only a prescriptive easement. Santee Cooper is requesting a 40-year access easement that matches the term of the lease management agreement as well as the term of the Washington Point Lot Leases. Since access will be shared with the lessees of Washington Point Subdivision, Santee Cooper requests an easement instead of a license or lease.

#### Attachments

Proposed Easement  
Plat



11" x 17" Approved: JMF Checked: JMF Drafter: GLB Designer: N/A Project Management Initials: Project Eng.: N/A  
Last saved by: GRANT.BEEBE(2022-10-12) Last Plotted: 2023-02-09  
Filename: L:\LEGACY\22855R-C8700\1\CAE\INTEROFFICE\60581247\_SCOPPER J.I.\_QUEENSBORO\900-WORK\920-GIS\_SURVEYING\SURVEY\DWG\WATERSZ.DWG



- NOTES:**
- ALL BEARINGS AND DISTANCES ARE BASED ON S.C. STATE PLANE COORDINATE SYSTEM NAD83(2011), EPOCH YEAR 2014, AND ALL INFORMATION IS GRID (ADJUSTED) AVERAGE COMBINED SCALE FACTOR.
  - VERTICAL DATUM NAVD88
  - A 100' WIDE UTILITY EASEMENT EXTENDING FROM THE MEAN HIGH WATER ON THE WESTERN MARGIN OF PENNY'S CREEK TO THE MEAN HIGH WATER ON THE EASTERN MARGIN OF PENNY'S CREEK

**LEGEND**

- ..... COMPUTED POINT (NOTHING SET)
- ..... PROPERTY CORNER FOUND

**LINETYPES**

- UTILITY EASEMENT
- ADJACENT PROPERTY LINE
- PROPOSED CENTER LINE
- PROPOSED SCPSA TRANSMISSION R/W
- HIGH WATER MARK
- UTILITY EASEMENT AREA
- NAVIGABLE WATER

**LINE TABLE**

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N67°11'08"E	478.87'	L8	S67°11'08"W	291.40'	L15	N55°42'23"W	9.04'
L2	S50°06'06"E	48.53'	L9	N36°26'43"W	10.24'	L16	N75°42'56"W	18.68'
L3	S67°44'16"E	688.50'	L10	N81°27'25"W	29.47'	L17	N49°42'52"W	12.33'
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L7	N67°44'16"W	693.83'	L14	S82°14'41"W	15.09'			

100' UTILITY EASEMENT AREA = 1.293 ACRES OR 56,305 SQUARE FEET

I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN.

*Jason M. Forsberg* 2-9-23  
JASON M. FORSBERG, S.C.P.S. NO. 28135 SIGNATURE DATE  
AECOM  
101 RESEARCH DRIVE COLUMBIA, S.C. 29203  
TELEPHONE: (803) 254-4400  
EMAIL: JASON.FORSBERG@AECOM.COM

**PROJECT**  
JOHNS ISLAND - QUEENSBORO 115kV TRANSMISSION LINE

JOHNS ISLAND  
CHARLESTON COUNTY, S.C.

**CLIENT**  
SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

**CONSULTANT**  
AECOM  
101 Research Drive,  
Columbia, SC 29203  
803.254.4400 tel 803.771.6676 fax  
www.aecom.com

**REGISTRATION**

**ISSUE/REVISION**

I/R	DATE	DESCRIPTION

**KEY PLAN**  
SHEET SCALE: 1" = 100'

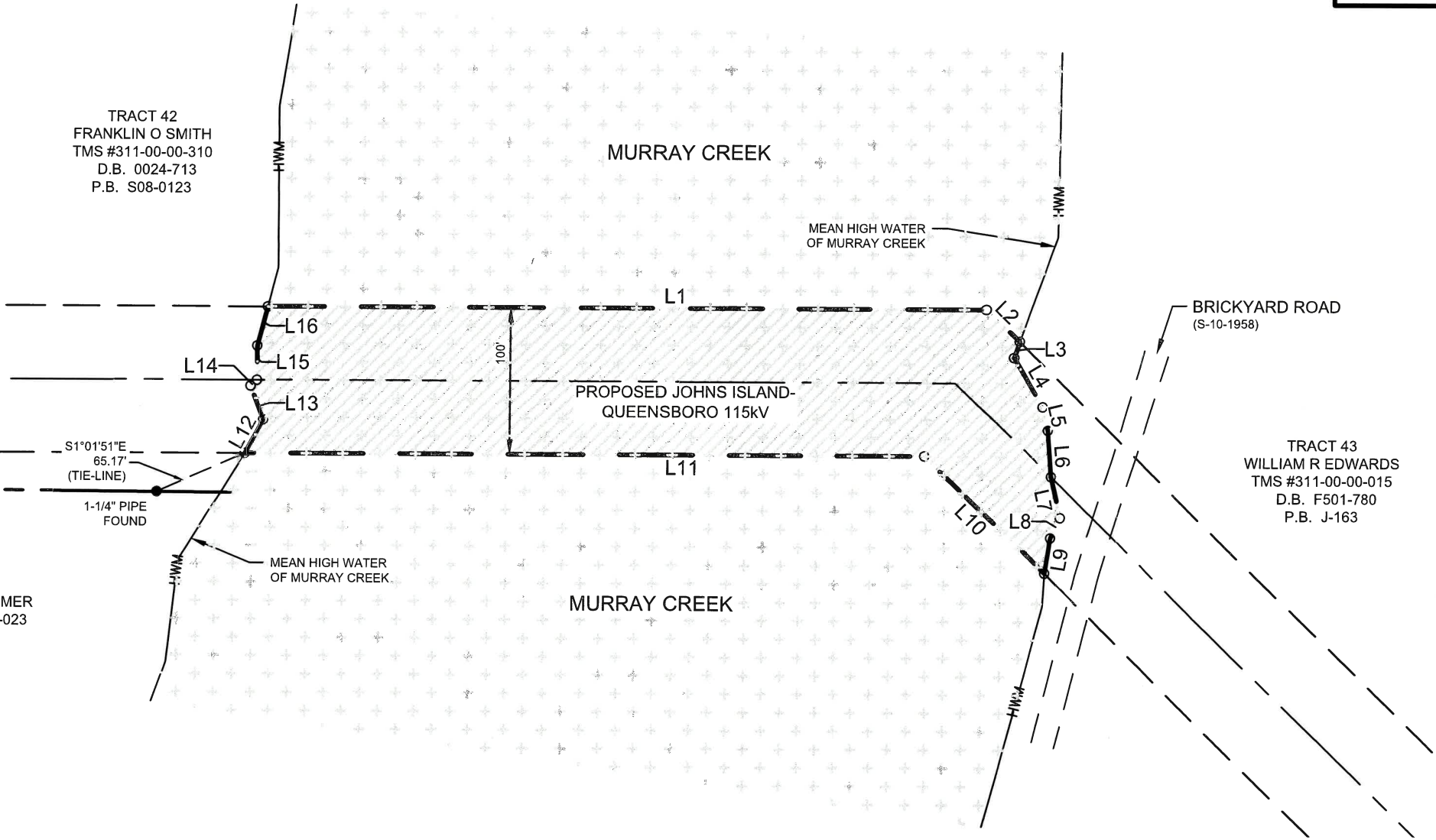
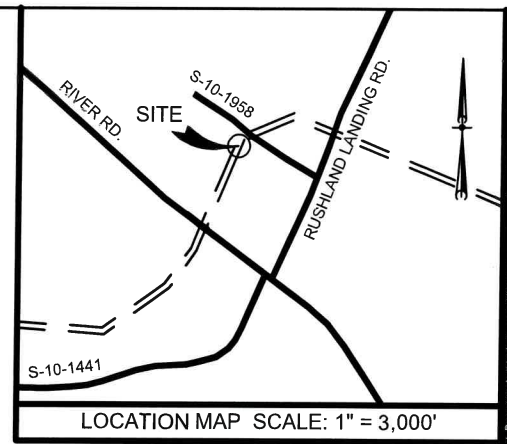
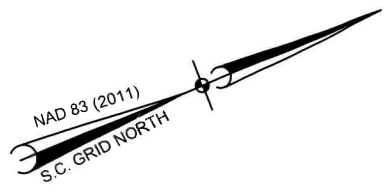
**PROJECT & FILE NUMBER**  
PROJECT NUMBER: 60581247

**SHEET TITLE**  
100' UTILITY EASEMENT TO BE ACQUIRED FROM S.C. DEPARTMENT OF ADMINISTRATION

**SHEET NUMBER**  
1 OF 1

11" x 17" Approved: JMF Checked: JMF Drafter: GLB Designer: N/A Project Management Initials: Project Eng.: N/A Project Name: L:\LEGACY\22865R-C87001\CAE\INTEROFFICE\66581247\_SCOOPER.J.L.\_SCOOPEP.J.L.\_QUEENSBORO\900-WORK\920-GIS\_SURVEYING\SURVEY\DWG\WATERS1.DWG

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N22°53'34"E	492.01'
L2	N67°11'08"E	31.18'
L3	S48°08'03"E	11.66'
L4	N82°05'06"E	38.88'
L5	S80°29'58"E	16.31'
L6	S71°39'43"E	31.52'
L7	N79°56'03"W	29.03'
L8	S41°09'01"E	15.17'
L9	S58°09'31"E	24.33'
L10	S67°11'08"W	113.78'
L11	S22°53'34"W	465.97'
L12	N38°39'33"W	25.94'
L13	N88°34'22"W	24.80'
L14	N20°38'28"W	5.98'
L15	N66°59'34"W	23.34'
L16	N52°23'30"W	27.57'

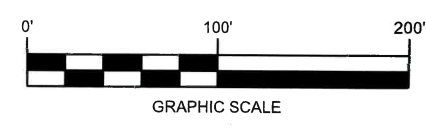


100' UTILITY EASEMENT AREA = 2.593 ACRES OR 112,945 SQUARE FEET

- NOTES:**
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**LEGEND**

- ..... COMPUTED POINT (NOTHING SET)
- ..... PROPERTY CORNER FOUND



**LINETYPES**

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*Jason M. Forsberg* 2-9-23  
JASON M. FORSBERG, S.C.P.S. NO. 28135 SIGNATURE DATE  
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TELEPHONE: (803) 254-4400  
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**PROJECT**

JOHNS ISLAND - QUEENSBORO 115kV TRANSMISSION LINE

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**REGISTRATION**

ISSUE/REVISION		
I/R	DATE	DESCRIPTION

**KEY PLAN**

SHEET SCALE: 1" = 100'

**PROJECT & FILE NUMBER**

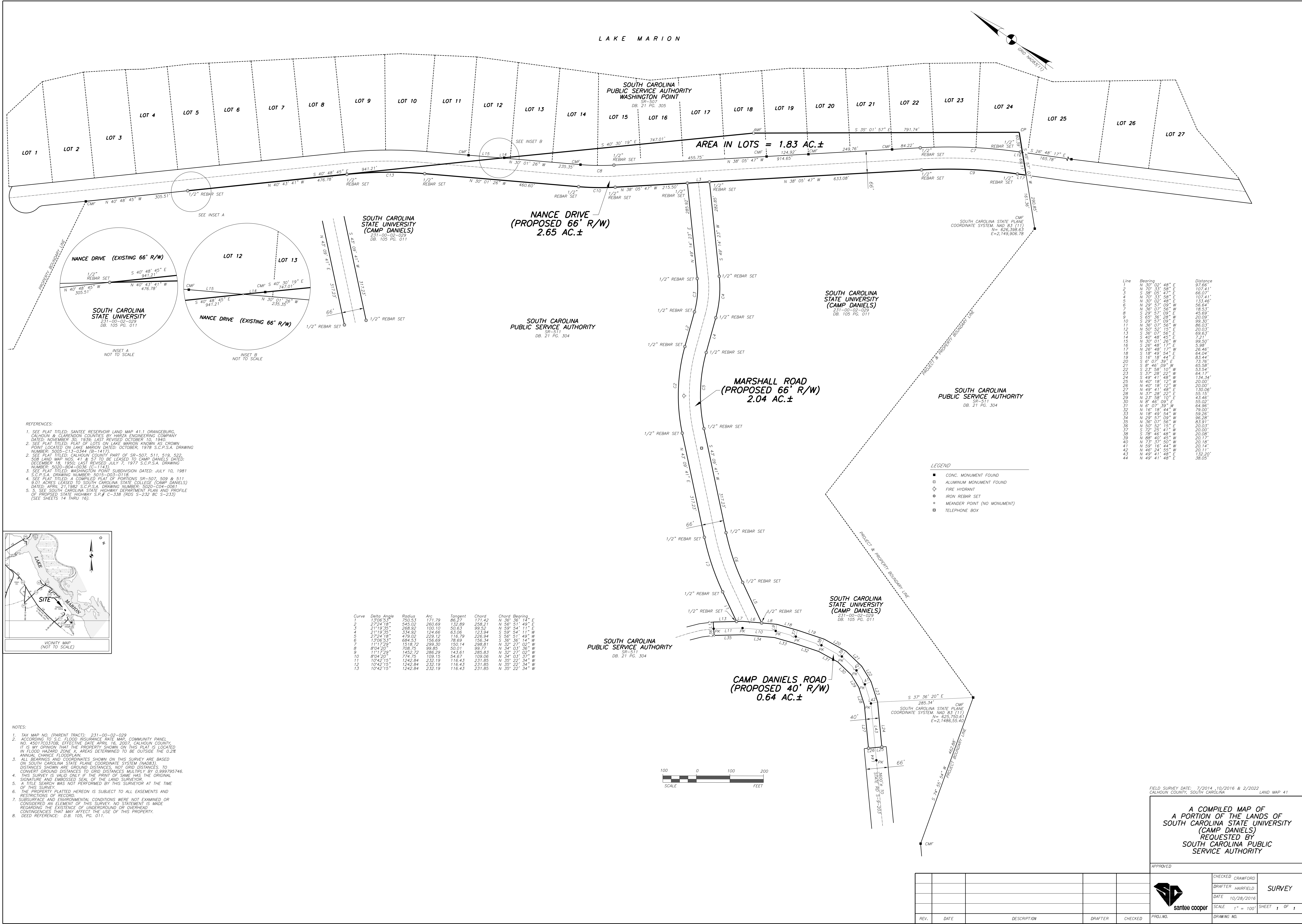
PROJECT NUMBER: 60581247

**SHEET TITLE**

100' UTILITY EASEMENT TO BE ACQUIRED FROM S.C. DEPARTMENT OF ADMINISTRATION

**SHEET NUMBER**

1 OF 1



AGENCY: Department of Administration, Facilities Management and Property Services

SUBJECT: Clemson University Lease at 1 Research Drive in Greenville

Clemson University is requesting approval to continue leasing ±12,845 square feet of space located on the fourth (4) floor of 1 Research Drive in Greenville from LICAR, LLC. The space has been used by Clemson University as a research center since October 2016. The current lease costs \$213,869.25 (\$16.65/SF) annually plus operating costs and will expire on February 29, 2024.

After contacting state agencies to verify no adequate State space was available, the Department of Administration solicited for commercial space for 3, 5, 7 and 10-year terms. The current location was the only offer received in response to the solicitation.

The requested lease term is five (5) years commencing March 1, 2024. The rate for the first year of the term will be \$17.00/SF for an annual aggregate of \$218,365.00. After the first year, the rate will escalate by 2%. The lease also includes an optional extended term of 5 years as shown in the chart below.

<b>INITIAL TERM</b>				
<b><u>TERM</u></b>	<b><u>PERIOD: FROM - TO</u></b>	<b><u>ANNUAL RENT</u></b>	<b><u>MONTHLY RENT</u></b>	<b><u>BASIC RENT</u></b>
YEAR 1	3/1/2024 – 2/28/2025	\$218,365.00	\$18,197.08	\$17.00
YEAR 2	3/1/2025 – 2/28/2026	\$222,732.30	\$18,561.03	\$17.34
YEAR 3	3/1/2026 – 2/28/2027	\$227,186.95	\$18,932.25	\$17.69
YEAR 4	3/1/2027 – 2/29/2028	\$231,730.68	\$19,310.89	\$18.04
YEAR 5	3/1/2028 – 2/28/2029	\$236,365.30	\$19,697.11	\$18.40
<b>OPTIONAL EXTENDED TERM</b>				
YEAR 6	3/1/2029 – 2/28/2030	\$241,092.60	\$20,091.05	\$18.77
YEAR 7	3/1/2030 – 2/28/2031	\$245,914.46	\$20,492.87	\$19.14
YEAR 8	3/1/2031 – 2/28/2032	\$250,832.75	\$20,902.73	\$19.53
YEAR 9	3/1/2032 – 2/28/2033	\$255,849.40	\$21,320.78	\$19.92
YEAR 10	3/1/2033 – 2/28/2034	\$260,966.39	\$21,747.20	\$20.32

The University will also be responsible for its prorata share of operating expenses which are estimated at \$8.00/SF or \$102,760.00 for the first year and subject to any operating expense increases thereafter. The lease meets the state space standard of 210SF/person with a density of 205SF/person.

The following chart represents comparable lease rates of similar space in the area:

<b>Tenant</b>	<b>Location</b>	<b>Rate</b>
Vocational Rehabilitation	301 North Main Street, Greenville	\$20.90
DHEC	660 Mauldin Rd, Greenville	\$20.00
DMV	122 Edgeworth St, Greenville	\$29.23
Vacant	701 Brookfield Parkway, Greenville	\$25.00*

---

AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Clemson University Lease at 1 Research Drive in Greenville

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Unless otherwise indicated, the rates shown in the table include operating expenses but may be subject to escalations over the term.

\*Rate does not include operating expenses

The lease also provides for free parking in a 1,200 space parking garage in close proximity to the building.

There are adequate funds for the lease according to the Budget Approval Form submitted by Clemson University on March 8, 2023. Lease payments will be funded through grant funding. No option to purchase the property is included in the lease. The lease was approved by the Clemson University Board of Trustees on February 3, 2023, the Commission on Higher Education on May 4, 2023, and JBRC on May 16, 2023.

---

AUTHORITY ACTION REQUESTED:

Approve the proposed five-year lease and the optional extension of five years for Clemson University for ±12,845 square feet of space at 1 Research Drive in Greenville from LICAR LLC, as recommended by the Department of Administration, Facilities Management and Property Services.

---

ATTACHMENTS:

Agenda item worksheet and attachment

# STATE FISCAL ACCOUNTABILITY AUTHORITY AGENDA ITEM WORKSHEET

Meeting Scheduled for: May 23, 2023

Regular Agenda

## 1. Submitted by:

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

*Ashlie Lancaster*

Ashlie Lancaster, Director

## 2. Subject: Clemson University Lease at 1 Research Drive in Greenville

## 3. Summary Background Information:

Clemson University is requesting approval to continue leasing  $\pm 12,845$  square feet of space located on the fourth (4) floor of 1 Research Drive in Greenville from LICAR, LLC. The space has been used by Clemson University as a research center since October 2016. The current lease costs \$213,869.25 (\$16.65/SF) annually plus operating costs and will expire on February 29, 2024.

After contacting state agencies to verify no adequate State space was available, the Department of Administration solicited for commercial space for 3, 5, 7 and 10-year terms. The current location was the only offer received in response to the solicitation.

The requested lease term is five (5) years commencing March 1, 2024. The rate for the first year of the term will be \$17.00/SF for an annual aggregate of \$218,365.00. After the first year, the rate will escalate by 2%. The lease also includes an optional extended term of 5 years as shown in the chart below.

<b>INITIAL TERM</b>				
<b>TERM</b>	<b>PERIOD: FROM - TO</b>	<b>ANNUAL RENT</b>	<b>MONTHLY RENT</b>	<b>BASIC RENT</b>
YEAR 1	3/1/2024 – 2/28/2025	\$218,365.00	\$18,197.08	\$17.00
YEAR 2	3/1/2025 – 2/28/2026	\$222,732.30	\$18,561.03	\$17.34
YEAR 3	3/1/2026 – 2/28/2027	\$227,186.95	\$18,932.25	\$17.69
YEAR 4	3/1/2027 – 2/29/2028	\$231,730.68	\$19,310.89	\$18.04
YEAR 5	3/1/2028 – 2/28/2029	\$236,365.30	\$19,697.11	\$18.40
<b>OPTIONAL EXTENDED TERM</b>				
YEAR 6	3/1/2029 – 2/28/2030	\$241,092.60	\$20,091.05	\$18.77
YEAR 7	3/1/2030 – 2/28/2031	\$245,914.46	\$20,492.87	\$19.14
YEAR 8	3/1/2031 – 2/28/2032	\$250,832.75	\$20,902.73	\$19.53
YEAR 9	3/1/2032 – 2/28/2033	\$255,849.40	\$21,320.78	\$19.92
YEAR 10	3/1/2033 – 2/28/2034	\$260,966.39	\$21,747.20	\$20.32

The University will also be responsible for its prorata share of operating expenses which are estimated at \$8.00/SF or \$102,760.00 for the first year and subject to any operating expense

increases thereafter. The lease meets the state space standard of 210SF/person with a density of 205SF/person.

The following chart represents comparable lease rates of similar space in the area:

<b>Tenant</b>	<b>Location</b>	<b>Rate</b>
Vocational Rehabilitation	301 North Main Street, Greenville	\$20.90
DHEC	660 Mauldin Rd, Greenville	\$20.00
DMV	122 Edgeworth St, Greenville	\$29.23
Vacant	701 Brookfield Parkway, Greenville	\$25.00*

Unless otherwise indicated, the rates shown in the table include operating expenses but may be subject to escalations over the term.

\*Rate does not include operating expenses

The lease also provides for free parking in a 1,200 space parking garage in close proximity to the building.

There are adequate funds for the lease according to the Budget Approval Form submitted by Clemson University on March 8, 2023. Lease payments will be funded through grant funding. No option to purchase the property is included in the lease. The lease was approved by the Clemson University Board of Trustees on February 3, 2023, the Commission on Higher Education on May 4, 2023, and JBRC on May 16, 2023.

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- 4. What is the Authority asked to do?** Approve the proposed five-year lease and the optional extension of five years for Clemson University for ±12,845 square feet of space at 1 Research Drive in Greenville from LICAR LLC.
- 

- 5. What is recommendation of the division of Facilities Management and Property Services?** Approve the proposed five-year lease and the optional extension of five years for Clemson University for ±12,845 square feet of space at 1 Research Drive in Greenville from LICAR LLC.
- 

**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.

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**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) Letter from Agency



March 6, 2023

Ms. Ashlie Lancaster  
Assistant Director  
Real Property Services  
Department of Administration  
1200 Senate Street, Suite 408  
Columbia, SC 29201

SUBJECT: Clemson University Lease for Space in Greenville, SC  
One Research Drive

**Finance and Operations**

Clemson University  
G06 Sikes Hall  
Box 345302  
Clemson, SC  
29634-5302

P 864-656-2421  
F 864-656-2008

Dear Ms. Lancaster,

Clemson University requests approval by the Joint Bond Review Committee (JBRC) and the State Fiscal Accountability Authority (SFAA) at their meetings on May 16 and May 23, respectively, for the lease between LICAR, LLC and Clemson University for space located at 1 Research Drive on the CU-ICAR Campus in Greenville, South Carolina. The lease was approved by the Clemson University Board of Trustees on February 3, 2023.

Clemson University's College of Engineering, Computing, and Applied Sciences (CECAS) would like to lease approximately 12,845 square feet of space in Greenville on the CU-ICAR Campus to support graduate students and continuing education for Engineering Programs. The space will be used for faculty offices, classrooms, student and research spaces in support of the University's research contract with the Department of Defense supporting the University's Virtual Prototyping of Ground Systems Center while also accommodating space for CECAS's Center for Workforce Development and Clemson University Professional Programs. Additionally, the programming will be synergistic with University programming already occurring on the CU-ICAR Campus in the Clemson University Campbell Graduate Education Center and Greenville Technical College's Center for Manufacturing Innovation, allowing for research and collaboration. The space will also allow for greater access to industry partners and their programs to take advantage of shared services on the Campus.

A solicitation was conducted by the Real Property Services Section of the Department of Administration, and one response was received. The LICAR, LLC response provides lower than market lease costs and lower overall costs given the space is already upfitted. In addition, the LICAR space provides synergy with other CU students and faculty already located at CU-ICAR, the student service programs located on the Campus, and access to the Clemson network and bus route to Clemson's main campus.



Once approved, please send two of the originals of the lease back to my office for distribution. If you should have any questions or need any further documentation, please do not hesitate to contact me or Laura Stoner at (864) 283-7107.

Kindest regards,

A handwritten signature in black ink that reads "Anthony E. Wagner".

Anthony E. Wagner  
EVP Finance & Operations

Cc: Carol Routh  
Rick Petillo

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: SC Department of Commerce Road Lease to Navy Land Partners, L.P.

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The SC Department of Commerce Division of Public Railways (“Palmetto Railways”) requests approval to lease the road identified in that certain parcel on the former Navy Yard, located in North Charleston, South Carolina as Charleston County TMS # 400-00-00-062 to Navy Land Partners, L.P. (the “Road”). The Road was acquired by Palmetto Railways as part of multiple acquisitions in relation to the building of the Naval Base Intermodal Facility (NBIF).

Palmetto Railways subsequently determined the Road was not necessary for the NBIF and, in April 2022, requested and received approval from the State Fiscal Accountability Authority to sell the property which included the Road and an adjacent parking lot. A competitive bid process was conducted through the Department of Administration but ultimately Palmetto Railways decided not to sell the parcel as it would help the SC Ports Authority with access to the NBIF site and for use as a potential laydown area during construction.

Palmetto Railways is proposing to lease the Road to Navy Land Partners, L.P. for a term of twenty (20) years beginning on the Effective Date and ending at midnight on December 31, 2043 (the “Expiration Date”). As consideration for the lease, Navy Land Partners, L.P. will pay annual rent in the amount of \$1.00 and will, within three (3) years of the Effective Date, make and pay for the repaving of those portions of the Road that are potholed. Also, within five (5) years of the Effective Date of the lease, Navy Land Partners, L.P. will make and pay for those additional road improvements as specified in plans and specifications to be delivered by Navy Land Partners, L.P. to Palmetto Railways, and Navy Land Partners, L.P. agrees to maintain the road at its sole expense throughout the lease term. The road is currently in severe disrepair and the improvements are estimated to cost approximately \$3.5M. Navy Land Partners, L.P. has previously acquired various surplus properties from Palmetto Railways, including two historic storehouses (Storehouses 8 and 9) and desires to improve the Road to provide local access to the redevelopment which will include a series of restaurants, shops, offices, apartments and live/work units.

Upon the earlier of the completion of the improvements by Navy Land Partners, L.P. or the end of the lease term, Navy Land Partners, L.P. may request that the lease be terminated and that Palmetto Railways transfer, grant or dedicate the Road to the City of North Charleston, the SC Department of Transportation (SCDOT) or a similar public agency. If the City of North Charleston, SCDOT, or similar public agency does not accept such transfer, grant or dedication, the lease will remain in effect and Palmetto Railways will convey the Road to Navy Land Partners, L.P. by a quit claim deed on the Expiration Date, with the requirement in the deed that Navy Land Partners, L.P. will maintain the road as open to the public in perpetuity.

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: SC Department of Commerce Road Lease to Navy Land Partners, L.P.

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AUTHORITY ACTION REQUESTED:

- (1) Approve the proposed 20 year ground lease from Palmetto Railways to Navy Land Partners, LP of a portion of Noisette Boulevard identified by Charleston County TMS#400-00-00-062.
- (2) Approve the transfer, grant or dedication of the leased premises to the City of North Charleston, SCDOT or a similar public agency at the (a) completion of the improvements required by the lease or (b) expiration of the lease, whichever shall occur first.
- (3) Approve the conveyance of the leased premises to Navy Land Partners, LP at the expiration of the lease if the City of North Charleston, SCDOT or similar agency does not accept the transfer, grant or dedication.

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ATTACHMENTS:

1. Agenda item worksheet
2. Department of Commerce Letter dated April 21, 2023
3. Lease Agreement

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

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**Meeting Scheduled for: May 23, 2023**

**Regular Agenda**

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**1. Submitted by:**

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

*Ashlie Lancaster*  
Ashlie Lancaster, Director

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**2. Subject:** SC Department of Commerce Road Lease to Navy Land Partners, L.P.

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**3. Summary and Background Information:**

The SC Department of Commerce Division of Public Railways ("Palmetto Railways") requests approval to lease the road identified in that certain parcel on the former Navy Yard, located in North Charleston, South Carolina as Charleston County TMS # 400-00-00-062 to Navy Land Partners, L.P. (the "Road"). The Road was acquired by Palmetto Railways as part of multiple acquisitions in relation to the building of the Naval Base Intermodal Facility (NBIF).

Palmetto Railways subsequently determined the Road was not necessary for the NBIF and, in April 2022, requested and received approval from the State Fiscal Accountability Authority to sell the property which included the Road and an adjacent parking lot. A competitive bid process was conducted through the Department of Administration but ultimately Palmetto Railways decided not to sell the parcel as it would help the SC Ports Authority with access to the NBIF site and for use as a potential laydown area during construction.

Palmetto Railways is proposing to lease the Road to Navy Land Partners, L.P. for a term of twenty (20) years beginning on the Effective Date and ending at midnight on December 31, 2043 (the "Expiration Date"). As consideration for the lease, Navy Land Partners, L.P. will pay annual rent in the amount of \$1.00 and will, within three (3) years of the Effective Date, make and pay for the repaving of those portions of the Road that are potholed. Also, within five (5) years of the Effective Date of the lease, Navy Land Partners, L.P. will make and pay for those additional road improvements as specified in plans and specifications to be delivered by Navy Land Partners, L.P. to Palmetto Railways, and Navy Land Partners, L.P. agrees to maintain the road at its sole expense throughout the lease term. The road is currently in severe disrepair and the improvements are estimated to cost approximately \$3.5M. Navy Land Partners, L.P. has previously acquired various surplus properties from Palmetto Railways, including two historic storehouses (Storehouses 8 and 9) and desires to improve the Road to provide local access to the redevelopment which will include a series of restaurants, shops, offices, apartments and live/work units.

Upon the earlier of the completion of the improvements by Navy Land Partners, L.P. or the end of the lease term, Navy Land Partners, L.P. may request that the lease be terminated and that Palmetto Railways transfer, grant or dedicate the Road to the City of North Charleston, the SC Department of Transportation (SCDOT) or a similar public agency. If the City of North Charleston, SCDOT, or similar public agency does not accept such transfer, grant or dedication, the lease will remain in effect and Palmetto Railways will convey the Road to Navy Land Partners, L.P. by a quit claim deed on the Expiration Date, with the requirement in the deed that Navy Land Partners, L.P. will maintain the road as open to the public in perpetuity.

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**4. What is the Authority asked to do?** Approve the 20-year ground lease of the road identified in that certain parcel on the former Navy Yard, located in North Charleston, South Carolina as Charleston County TMS # 400-00-00-062 from Palmetto Railways to Navy Land Partners, L.P. and the transfer, grant or dedication of the Road to the City of North Charleston, the SCDOT or a similar public agency upon completion of the improvements or, if the City of North Charleston, SCDOT, or similar public agency does not accept such transfer, grant or dedication, the conveyance of the Road to Navy Land Partners, L.P. at the expiration of the lease term.

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**5. What is recommendation of the submitting agency involved?** Approve the 20-year ground lease of the road identified in that certain parcel on the former Navy Yard, located in North Charleston, South Carolina as Charleston County TMS # 400-00-00-062 from Palmetto Railways to Navy Land Partners, L.P. and the transfer, grant or dedication of the Road to the City of North Charleston, the SCDOT or a similar public agency upon completion of the improvements or, if the City of North Charleston, SCDOT, or similar public agency does not accept such transfer, grant or dedication, the conveyance of the Road to Navy Land Partners, L.P. at the expiration of the lease term.

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**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.

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

(a) Authorized Signature: \_\_\_\_\_

(b) Office Name: [Click or tap here to enter text.](#)

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**8. List of Supporting Documents:**

(a) Letter from Agency



Henry McMaster  
Governor

**SOUTH CAROLINA**  
DEPARTMENT OF COMMERCE

Harry M. Lightsey III  
Secretary

April 21, 2023

Ms. Ashlie Lancaster  
South Carolina Department of Administration  
1200 Senate Street, Ste. 460  
Columbia, SC 29201

Dear Ashlie:

The South Carolina Department of Commerce, Division of Public Railways ("Palmetto Railways") requests that the Joint Bond Review Committee (JBRC) and the State Fiscal Accountability Authority (SFAA) review and approve a ground lease of a portion of Noisette Boulevard (TMS # 400-00-00-062) located on the former Navy Yard in North Charleston, South Carolina (the "Road").

Palmetto Railways acquired the Road as part of multiple transactions undertaken in connection with the Navy Base Intermodal Facility (NBIF) project that is currently being implemented by the South Carolina Ports Authority (SCPA). In April 2022, Palmetto Railways requested and received approval to sell the Road and an adjacent parking lot that were not needed for the NBIF, but later determined that retaining those properties in the near term would facilitate construction of the NBIF by the SCPA. The SCPA will use the Road for access to the NBIF site and the parking lot for a potential laydown area during construction. (Palmetto Railways intends to sell the parking lot to the highest bidder after the NBIF is constructed.)

Navy Land Partners, L.P. has previously acquired various surplus properties from Palmetto Railways, including two historic storehouses (Storehouses 7 and 10), and desires to improve the Road to provide local access to the redevelopment that will be known as Navy Yard Charleston. Navy Yard Charleston will be reactivated as a series of restaurants, shops, offices, apartments, and live/work units. Navy Land Partners, L.P. expects the restoration and reactivation of these Storehouses to bolster the area's business community and provide new opportunities for local entrepreneurs, businesses, artists and residents, but because the Road is currently in severe disrepair,<sup>1</sup> Navy Land Partners, L.P. is willing to undertake repaving and other improvements estimated to cost \$3.5 million.

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<sup>1</sup> SFAA approved the request by Palmetto Railways to surplus the Road on April 5, 2022. By letter dated November 1, 2022, appraiser William M. Ford concluded that the private roadways, including the Road, had "zero" value because of likely prescriptive easements benefiting existing neighboring property owners along with the costs, expenses and ongoing liability related to the roadways as outlined in a October 2021 Roadway Condition Assessment and Maintenance Strategy Recommendations prepared by CDM Smith.

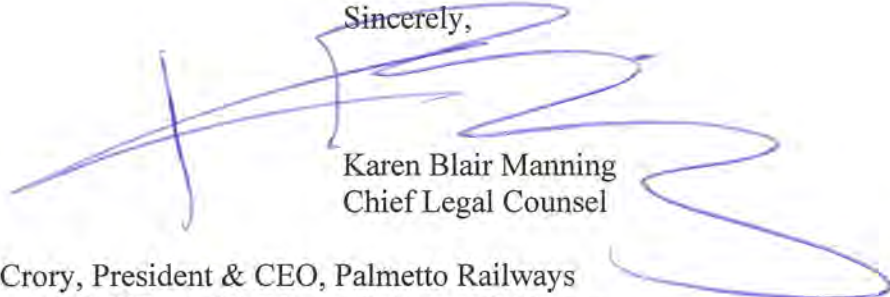
Palmetto Railways proposes to ground lease the Road to Navy Land Partners, L.P. for a term of twenty (20) years beginning upon approval of the lease for an annual rent of \$1.00. Navy Land Partners, L.P. will, within the first three (3) years of the lease term, make and pay for repaving to fix potholes and, within five (5) years, will make and pay for other improvements as specified in plans and specifications that Navy Land Partners L.P. will provide to Palmetto Railways. Navy Land Partners, L.P. also agrees to maintain the Road at its sole expense throughout the lease term.

Upon completion of the improvements as contemplated, Navy Land Partners, L.P. may request that the lease be terminated and that Palmetto Railways transfer, grant or dedicate the Road to the City of North Charleston, the South Carolina Department of Transportation or similar public agency. However, if no public entity accepts such transfer, grant or dedication, the lease shall remain effective and, so long as Navy Land Partners, L.P. is not in default, Palmetto Railways will convey the Road to Navy Land Partners, L.P. by quit claim deed after the lease expires with a deed restriction that requires Navy Land Partners, L.P. to maintain the road as open to the public in perpetuity.

#### **AUTHORITY ACTION REQUESTED**

- (1) Approve the proposed 20-year ground lease from Palmetto Railways to Navy Land Partners, LP of the leased premises, which is the portion of Noisette Boulevard identified by the lease and appearing on Charleston County TMS#400-00-00-062.
- (2) Approve the transfer, grant or dedication of the leased premises to the City of North Charleston, SCDOT or a similar public agency at the (a) completion of the improvements required by the lease or (b) expiration of the lease, whichever shall occur first.
- (3) Approve the conveyance of the leased premises to Navy Land Partners, LP at the expiration of the lease if the City of North Charleston, SCDOT or similar agency does not accept the transfer, grant or dedication.

Sincerely,



Karen Blair Manning  
Chief Legal Counsel

cc: Patrick McCrory, President & CEO, Palmetto Railways  
Sheri Cooper, Chief Financial Officer, Palmetto Railways  
Chris Huffman, Chief Financial Officer

## ROAD LEASE AGREEMENT

THIS ROAD LEASE AGREEMENT (hereinafter referred to as the "**Lease**" or "**Lease Agreement**") is made and entered into on the Effective Date (which is the date on which the Department of Administration, Real Property Services, approves this Lease as set forth on the signature page) by and between **SOUTH CAROLINA DIVISION OF PUBLIC RAILWAYS D/BA/ PALMETTO RAILWAYS** (hereinafter referred to as the "**Landlord**"), and **NAVY LAND PARTNERS, L.P.**, a Delaware limited partnership (hereinafter referred to as the "**Tenant**").

### WITNESSETH

1. Premises: The Landlord hereby leases to the Tenant, and the Tenant hereby leases from the Landlord, that certain parcel on the former Navy Yard, located in North Charleston, South Carolina which is identified as Charleston County TMS # 400-00-00-062 and being more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as "**Premises**" or "**Property**").

TO HAVE AND TO HOLD THE PREMISES upon the terms and conditions hereinafter set forth.

2. Term; Transfer, Grant and/or Dedication the Premises: The term of this Lease shall be for a period of twenty (20) years, beginning on the Effective Date and ending at midnight on December 31, 2043 (the "**Expiration Date**") unless sooner terminated as hereinafter provided. Notwithstanding the foregoing, Tenant may, so long as it is not then in default under this Lease beyond any applicable cure periods, transfer, grant and/or dedicate the Premises to the City of North Charleston, South Carolina Department of Transportation (SCDOT), or similar public agency upon the earlier to occur of: (a) completion of the improvements to the Premises to be performed by Tenant (as contemplated herein), and (b) the Expiration Date. If the City of North Charleston, SCDOT or similar public agency does not accept such transfer, grant and/or dedication, Landlord shall, so long as Tenant is not then in default under this Lease beyond any applicable cure periods, convey the Premises to Tenant by a quit claim deed on the Expiration Date. In either event, any deed, transfer, or dedication shall include a saving and excepting clause or similar language confirming that the Premises shall be and remain open for use by the public in perpetuity. For the avoidance of doubt, upon the City of North Charleston's acceptance of the dedication of the Premises, this Lease shall automatically terminate and be of no further force and effect, without the need for further action by any party.

3. Possession: The Tenant accepts possession of the Premises on the Effective Date specified hereinabove.

4. Rent: The Tenant shall pay to the Landlord without counterclaim, notice, demand, offset, defense, or reduction of any kind whatsoever, an annual rental of One Dollar (\$1.00) (hereinafter referred to as the "**Base Rent**"). Base Rent for the first year of

the term for which rent shall be due shall be paid concurrently with Tenant's execution and delivery of this Lease. All rent payments shall be made to Landlord, at the address set forth in Paragraph 17 of this Lease, or at such other place as the Landlord may designate in writing to Tenant. Alternatively, Tenant shall pay all cumulative rent due at the beginning of the lease term.

5. Use: The Tenant acknowledges that the Premises is a privately owned road; nevertheless, Tenant shall comply with all laws, rules, orders, ordinances, directions, regulations, and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, with respect to the use, occupation or alteration of the Premises. Tenant shall use the Premises as a road and sidewalk and shall not use the Premises for any other use or purpose whatsoever without the prior written consent of Landlord. Tenant shall not deny access to the road to the general public for purposes of transit thereover, except (i) as may be reasonably necessary during any construction, repair, maintenance, or alteration of the Premises (as permitted or contemplated herein), and (ii) that Tenant may restrict truck traffic on the Premises.

6. Assignment and Subletting: The Tenant shall not, without the prior written consent of the Landlord, assign this Lease or any interest therein, or sublet the Premises or any part thereof. Notwithstanding the foregoing, this Lease shall be freely assignable in whole or in part to one or more affiliates of Tenant without the consent of Landlord.

7. Improvements.

a. Improvements by Landlord. None.

b. Improvements by Tenant. Tenant accepts the Premises in the condition existing as of the Effective Date. All other improvements, alterations and additions to the Premises desired by Tenant shall be made at Tenant's expense, in good and workmanlike manner and in accordance with plans and specifications which have been previously approved in writing by the Landlord and shall comply with all applicable statutes, ordinances, regulations and codes. Landlord's approval of the plans, specifications and working drawings for Tenant's alterations and/or Landlord's approval of Tenant's plans for Landlord's work shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency, or compliance with all laws, rules and regulations of governmental agencies or authorities. Landlord reserves the right to require adequate lien waivers, bonds, permits, licenses and insurance. Tenant shall give written notice to the Landlord at least ten (10) business days prior to the commencement of any work relating to alterations or additions to the Premises.

- c. Specific Improvements to be Performed by Tenant. Within three (3) years of the Effective Date of this Lease, Tenant agrees to make and pay for the repaving of those portions of the Premises that are potholed. Also, within five (5) years of the Effective Date of this Lease, Tenant agrees to make and pay for those additional road improvements as specified in the plans and specifications to be delivered by Tenant to Landlord.
- d. Insurance Requirements of Tenant's Contractors. Prior to and at all times during the performance of the work by any of Tenant's contractors or subcontractors, Tenant shall require such contractors to provide insurance coverage reasonably satisfactory to Landlord. Tenant shall require that such contractors' Workers' Compensation Insurance and Commercial General Liability Insurance shall be endorsed specifically to name Landlord as an Additional Insured party. Evidence of such specific endorsements shall be furnished to Landlord prior to commencement of any such work in or on the Premises. Tenant shall not make any alterations, repair or installation, or perform any other work to or in the Premises unless prior to the commencement thereof Tenant's contractor shall have furnished to Landlord evidence of public liability and workmen's compensation insurance to cover every contractor to be employed and shall deliver duplicate originals or certificates of the policies to Landlord which certificates shall name Landlord, its agent and property manager as additional insured parties. The policies shall be non-cancelable without ten (10) days' notice to Landlord and shall be carried with companies, and in coverage limits, reasonably satisfactory to Landlord.

8. Maintenance: Landlord shall have no obligation to repair or maintain any portion of the Property whatsoever and Tenant shall, at its own expense, make all repairs to the Property as may be necessary for safety and use as a road. The Tenant waives the right to make repairs at the Landlord's expense under any law, statute, or ordinance now or hereafter in effect. Tenant shall, at its own expense, keep and maintain the Premises in good order and repair during the term of this Lease.

9. Insurance, Tenant: Tenant shall, at Tenant's expense, obtain and keep in force at all times during the term of this Lease, commercial general liability insurance (including property damage and premises liability coverage) of not less than One Million Dollars (\$1,000,000.00) for any one occurrence with a Two Million Dollar (\$2,000,000.00) aggregate limit insuring Landlord and Tenant against any liability arising out of Tenant's use, occupancy or maintenance of the Premises. The limit of said insurance shall not, however limit the liability of the Tenant hereunder. Tenant may carry said insurance under a blanket policy provided an endorsement naming Landlord as an additional insured is attached thereto. Insurance required hereunder shall be in companies licensed in the

State of South Carolina and shall have a "Best's Insurance Guide" rating of "A" or better. No policy shall be cancelable except after ten (10) days written notice to Landlord, and if such policy is cancelled, Tenant shall be deemed immediately in default as is set forth in Paragraph 19A of this Lease. All policies of insurance maintained by Tenant shall be in a form acceptable to Landlord with satisfactory evidence that all premiums have been paid. Tenant shall provide to Landlord simultaneously with the execution of this Lease, a certificate evidencing that Landlord has been named as an additional insured under the policy described in this paragraph. Tenant agrees not to knowingly violate or permit to be violated any of the conditions or provisions of the insurance policies required to be furnished hereunder, and agrees to promptly notify Landlord of any fire or other casualty.

10. Damage or Destruction by Casualty: If the Premises are wholly or partially destroyed by fire or other casualty, Tenant shall elect either to (i) at its own expense, promptly restore the Premises to substantially the same condition as existed before said damage or destruction, or (ii) terminate this Lease, and neither party shall have any further obligation hereunder.

11. Intentionally Deleted.

12. Landlord's Entry: Landlord may enter the Premises at reasonable times and in a reasonable manner to inspect or exhibit same or exercise Landlord's rights under this Lease Agreement.

13. Default and Remedies: If (a) Tenant shall fail to pay Base Rent when due, or any other sums of money becoming due hereunder, and/or does not remedy such default within five (5) days after written notice thereof, or if (b) Tenant shall default in the performance of any other of the terms, conditions, or covenants contained in this Lease Agreement to be observed or performed by it and does not remedy such default within thirty (30) days after written notice thereof or does not, within such thirty (30) days, commence such act or acts as shall be necessary to remedy a default that is not curable within said thirty (30) days for reasons beyond the control of Tenant, and shall not complete such act or acts within a reasonable period (given the specific circumstances of the default to be cured) after written notice, or if (c) Tenant shall become bankrupt or insolvent, or file any debtor proceedings, or file in any court pursuant to any statute, either of the United States or of any state a petition in bankruptcy or insolvency or for reorganization, or file or have filed against it a petition for the appointment of a receiver or trustee for all or substantially all of the assets of Tenant, or if (d) Tenant makes an assignment in violation of this Lease, or if (e) Tenant shall abandon the Premises, or if (f) the Commercial General Liability Insurance required by Tenant is cancelled as is set forth in Paragraph 9 of this Lease, then in any such event, the Landlord shall have the immediate right of reentry without resort to legal process and the right to terminate and cancel this Lease. Without terminating the Lease, Landlord shall have the right to re-enter and take possession of the Premises or any part thereof and repossess the same as of the Landlord's former estate and expel the Tenant and those claiming through or under the Tenant, and remove the effects of both or either with force, if necessary, without

being deemed guilty in trespass or of a forcible entry or detainer and without prejudice to any remedies for arrears of rent or preceding breach of covenants. In such event, the Landlord shall be entitled to recover from the Tenant all damages actually incurred by the Landlord by reason of the Tenant's default, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, any real estate commission actually paid, the worth at the time of the unpaid rent for the balance of the term. If Landlord should elect to reenter as herein provided, or should it take possession pursuant to legal proceedings, it may either terminate this Lease or it may from time to time without terminating this Lease, relet the Premises for such term and at such rentals and upon such other terms and conditions as the Landlord may deem advisable. If such reletting shall yield rentals insufficient for any month to pay the rental due by Tenant hereunder for that month, Tenant shall be liable to Landlord for the deficiency and same shall be paid monthly. No such reentry or taking possession of the Premises by Landlord shall be construed as an election to terminate this Lease unless written notice of such intention be given by the Landlord to the Tenant at the time of such reentry; but, notwithstanding any such reentry and reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach. If, as a result of Tenant's default hereunder, Landlord shall institute legal proceedings for the enforcement of Tenant's obligations, Tenant shall pay all reasonable, documented, out-of-pocket costs actually incurred by Landlord, including reasonable attorney's fees. Notwithstanding anything to the contrary contained herein, in no event shall either party be liable hereunder for any punitive, special, exemplary, treble or similar type damages.

In the event Landlord defaults in the observance or performance of any provision of this Lease, and the default continues for thirty (30) days after Tenant gives written notice to Landlord specifying the default and demanding that it be cured, then Tenant may: (a) terminate this Lease by giving thirty (30) days' written notice to Landlord; or (b) pursue any other remedies available at law or in equity to Tenant.

14. Intentionally Deleted.

15. Remedies Cumulative; Non-Waiver: No remedy herein or otherwise conferred upon or reserved to Landlord or Tenant shall be considered exclusive of any other remedy, but the same shall be distinct, separate and cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity; and every power and remedy given by this Lease Agreement may be exercised from time to time as often as occasion may arise or as may be deemed expedient. No delay or omission of Landlord to exercise any right or power arising from any default on the part of Tenant shall impair any such right or power, or shall be construed to be a waiver of any such default, or an acquiescence therein. The acceptance of rent by Landlord with knowledge of a default by Tenant hereunder shall not constitute a waiver of such default.

16. Quiet Enjoyment: If Tenant shall pay the rent and perform and observe all of the other covenants and conditions to be performed and observed by it hereunder, Tenant shall at all times during the term hereof have the peaceable and quiet enjoyment of the Premises without interference from Landlord or any person lawfully claiming through Landlord, subject, however, to the terms of this Lease Agreement.

17. Notices: All notices provided for in this Lease Agreement shall be in writing and shall be deemed to be given when sent by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Landlord: S.C. Division of Public Railways  
c/o Sheri Cooper  
540 East Bay St  
Charleston, SC 29403

Copy to:

Department of Administration  
Real Property Services  
1200 Senate Street, 6<sup>th</sup> Floor  
Columbia, South Carolina 29201  
Email: rps@admin.sc.gov

If to Tenant: Navy Yard Partners, L.P.  
Attn: James M. Weaver, Jr.  
1360 Truxtun Avenue, Suite 200  
North Charleston, South Carolina 29405

Notices shall also be sent to the holder or holders of any mortgage or deed of trust covering the Premises at such address as such holder or holders may have given by notice as herein provided. Either party hereto, or any such holder, may from time to time, by notice as herein provided, designate a different address to which notices to it shall be sent.

18. Governing Law: This Lease Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

19. Successors: This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns, except as otherwise provided for in this Lease Agreement.

20. Nature and Extent of Agreement: This Lease Agreement, including any exhibits attached hereto, contains the complete agreement between the parties regarding the terms and conditions of the lease of the Premises, and there are no oral or written conditions, terms, warranties, understandings or other agreements pertaining thereto

which have not been incorporated herein. This Lease Agreement may be modified only by written instrument duly executed by both parties or their respective successors in interest.

21. Leasehold Mortgages.

- a. Right to Mortgage Leasehold. Tenant shall have the right to mortgage its leasehold interest in the Premises to a bank, insurance company, governmental or other bona fide lender ("**Leasehold Mortgagee**").
- b. Notice to Leasehold Mortgagee. If Tenant shall grant a leasehold mortgage to secure debt ("**Leasehold Mortgage**") in accordance with this Paragraph 21, and if Tenant or the Leasehold Mortgagee shall have notified Landlord, in the manner provided for in Article 17 of this Lease for the giving of notice by Tenant to Landlord, of the existence of such Leasehold Mortgage and of the address to which any notices to the Leasehold Mortgagee are to be mailed, then no notice by Landlord to Tenant under this Lease shall be effective unless and until a copy of such notice has been provided to each Leasehold Mortgagee of which Landlord has received notice from Tenant.
- c. Mortgagee Right to Cure. Leasehold Mortgagees shall have the right, but not the obligation, to remedy any default under this Lease or cause the same to be remedied and Landlord shall accept such performance by or at the instance of such Leasehold Mortgagee as if the same had been made by Tenant. There shall be added to any grace period allowed by the terms of this Lease to Tenant for curing any default, an additional ninety (90) days for such Leasehold Mortgagee to cure the same beyond the time allowed to Tenant.
- d. Foreclosure Action. In the case of a default, other than failure to pay Base Rent or any sum due hereunder, Landlord shall not be empowered to terminate this Lease by reason of the occurrence of such non-monetary default if Leasehold Mortgagee, (a) within ninety (90) days after the giving of notice of such default as provided in Paragraph 21(b), shall commence foreclosure or similar proceedings under the Leasehold Mortgage for the purpose of acquiring Tenant's interest in this Lease and thereafter diligently prosecutes the same, (b) shall bring current and continue to pay timely all payments of Base Rent or any sum due hereunder, and (c) shall cure such non-monetary default within ninety (90) days after the Leasehold Mortgagee or the purchaser at the foreclosure sale first obtains possession of the Premises, whether as mortgagee-in-possession, titleholder or otherwise.

- e. Holder through Foreclosure. The Leasehold Mortgagee or its nominee may become the legal owner and holder of the leasehold estate under this Lease by foreclosure of its leasehold mortgage or as a result of the assignment of this Lease in lieu of foreclosure and, in the event that it does become the legal owner, it shall be required to assume the obligations of the Tenant under this Lease and it shall be subject to all of the terms hereof and be required to perform all of the obligations of Tenant hereunder. To the extent that any loan made by a Leasehold Mortgagee to Tenant is secured by liens, pledges, collateral assignments or security interests in, to or of Tenant's rights in the Premises and/or the Improvements, the term "Leasehold Mortgage" shall be construed to include such other loan documents and any amendment or modifications thereto.
- f. Limitation on Liability of Leasehold Mortgagee. No Leasehold Mortgagee shall be or become liable to Landlord as an assignee of this Lease or otherwise unless it expressly assumes by written instrument executed by Landlord and Leasehold Mortgagee such liability (in which event the Leasehold Mortgagee's liability shall be limited to matters occurring during the period of time during which it is the owner of the leasehold estate created hereby); provided, however, that an assumption shall be assumed upon a foreclosure or other appropriate proceedings in the nature thereof or as the result of any other action or remedy provided for by such Leasehold Mortgage or other instrument or from a conveyance from Tenant pursuant to which the purchaser at foreclosure or grantee shall acquire the rights and interest of Tenant under the terms of this Lease.
- g. Estoppel Certificates. Landlord and Tenant agree that at any time and from time to time upon not less than twenty (20) days' prior written notice by the other party, or upon request from any Leasehold Mortgagee or a permitted assignee or other interested party, Landlord or Tenant will execute, acknowledge and deliver to the other party or to such Leasehold Mortgagee a statement in writing certifying (a) that, if such is the case, this Lease is unmodified and in full force and effect; (b) the date through which Base Rent has been paid; and (c) that, to the knowledge of the certifier (if such be the case), there is no default, set off, defense or other claim against Landlord or Tenant, as applicable, other than those, if any, so specified under the provisions of this Lease. It is intended that any such statement may be relied upon by any persons proposing to acquire the interest of Landlord, Tenant or any Leasehold Mortgagee, as the case may be, in this Lease or by any prospective Leasehold Mortgagee or assignee of any Leasehold Mortgage.

22. Attorney's Fees: If Tenant defaults in the performance of any of the covenants of this Lease and by reason thereof Landlord employs the services of an attorney to enforce performance by Tenant, to evict Tenant, to collect monies due by Tenant, or to perform any service based upon said default, then that Tenant shall pay a reasonable attorney's fee and all reasonable expenses and costs incurred by Landlord pertaining thereto (as ordered by a court of competent jurisdiction in a final, non-appealable judgment).

23. Non-Waiver: The failure of Landlord or Tenant to insist upon strict performance of any of the terms, conditions and covenants herein shall not be deemed to be a waiver of any rights or remedies that Landlord and Tenant may have, and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained except as may be expressly waived in writing.

24. Non-Easement: It is understood and agreed that this Lease does not grant any rights to light and air over property adjoining the land on which the Premises are situated nor are any easement rights granted or implied over, to or through any adjoining land.

25. General:

- a. Time of the Essence. It is understood and agreed between the parties hereto that time is of the essence in all of the terms and provisions of this Lease.
- b. Captions and Titles. The captions and titles appearing within this Lease are for reference only and shall not be considered a part of this Lease or in any way to modify, amend or affect the provisions thereof.
- c. Grammatical Changes. The proper grammatical changes shall be understood and apply where necessary to designate the plural rather than the singular and the masculine or feminine gender.
- d. Recordation. This Lease shall not be recorded, but a memorandum of this Lease, describing the Premises and setting forth the term thereof may be recorded by either party. The recording fees shall be paid by the Tenant.
- e. No Partnership. Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business, or otherwise, or a joint venturer or a member of a joint enterprise with Tenant.

- f. Binding Agreement. The conditions, covenants and agreements contained in this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, executors, administrators and assigns. No rights, however, shall inure to the benefit of any assignee of Tenant unless the assignment to such assignee has been made in accordance with the provisions set out in this Lease.
- g. Partial Invalidity. If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.
- h. Successors and Assigns. Except as otherwise provided herein this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs personal representatives, executors, successors and assigns. Nothing herein shall authorize any transfer of this Lease, any interest in this Lease, or any interest in Tenant.
- i. Survival of Obligations. The provisions of this Lease with respect to any obligation of Tenant to pay any sum owing or to perform any act after a termination of this Lease by Landlord for a Tenant default shall survive the expiration or other termination of this Lease.
- j. Counterparts; Delivery by Electronic Transmission. This Lease may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument. Delivery of this Lease may be accomplished by electronic mail or other electronic transmission.

26. Liens Against the Premises: The Tenant shall keep the Premises and the property free from any liens arising out of any work performed, materials furnished, or obligations incurred by the Tenant. The Tenant shall indemnify, hold harmless, and defend the Landlord from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of the Tenant. Such indemnity shall include, without limitation, reasonable attorney's fees and costs incurred by the Landlord due to the filing of such mechanic's lien or notice thereof. In the event that the Tenant, within forty-five (45) days following the imposition of any such lien, has not caused such lien to be released of record by payment or posting of a proper bond, in addition to all other remedies provided herein and by law, the Landlord shall have the right (but not the

obligation) to cause the same to be released by such means as it shall deem proper, including bonding or payment of the claim giving rise to such lien. All such sums paid by the Landlord and all expenses incurred by it in connection therewith, including reasonable attorney's fees and costs, shall be payable to the Landlord by the Tenant on demand with interest at the rate of eight (8%) percent per annum. The Landlord shall have the right at all times to post and keep posted on the Premises any notice permitted or required by law which the Landlord shall deem proper for the protection of the Landlord and the Premises or any other party having an interest therein from mechanic's and materialmen's liens. The Landlord may, at its option, post the Premises giving all such persons notice of Landlord's nonliability for work performed or materials supplied.

27. Environmental Matters: Tenant represents, warrants and covenants to Landlord throughout the Term as follows:

- a. Tenant agrees to operate the Premises so as to comply with all applicable federal, state and local laws relating to protection of the public health, welfare, and the environment ("**Environmental Law**").
- b. Tenant shall not bring into the Premises, nor shall it allow any of its employees, agents, contractors, sublessee or assignees ("**Occupants**") to bring into the Premises, any chemical, waste material, or other substance that is defined or otherwise classified in any Environmental Laws as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," or "toxic pollutant," except for small quantities of any such substances that are consistent with ordinary roadway use. If any quantity of any such substance is brought into the Premises by Tenant or Occupant for roadway use, Tenant or Occupants shall handle, use, and dispose of such substance in a reasonable and prudent manner and in compliance with all applicable Environmental Laws.
- c. Landlord or its representative may inspect the Premises at reasonable times to ensure compliance with the requirements of this Paragraph 27; provided, however, that Landlord shall not conduct a Phase II Environmental Site Assessment without the prior written consent of Tenant. In the event Landlord determines that Tenant possesses any substances in violation of this Paragraph 27, Landlord shall notify Tenant and Tenant shall promptly remove those substances in compliance with all applicable laws, rules, ordinances, standards and regulations. In the event Tenant fails to comply with the requirements of this Paragraph 27, Landlord and its representative may enter the Premises and provide for the removal and disposal of those substances.

28. Interpretation Presumption: This Lease has been negotiated by the parties hereto and by the respective attorneys for each party. The parties agree that each has, by counsel or otherwise, actively participated in the finalization of this Lease, and in the event of a dispute concerning the interpretation of this Lease, each party hereby waives the doctrine that an ambiguity should be interpreted against the party which has drafted the document.

29. Limitation of Liability: The obligations of the Landlord hereunder shall be binding upon Landlord and each succeeding owner of the Landlord's interest hereunder only during the period of such ownership and Landlord and each succeeding owner shall have no liability whatsoever except for its obligations during each such respective period. Neither Landlord, nor any officer thereof, nor any subsequent Landlord, shall have any personal liability hereunder.

30. Tenant's Representation: The Tenant hereby covenants, represents, and warrants that it is a limited partnership organized under the laws of the State of Delaware, registered to do business and in good standing under the laws of the State of South Carolina, and by proper action has been duly authorized to execute and deliver this Lease, to enter into the transaction contemplated hereby, to carry out its obligations hereunder, and that each person executing this Lease on behalf of Tenant is a representative of Tenant who is duly authorized to execute and deliver this Lease. Upon written request, Tenant shall furnish Landlord with suitable evidence of the above.

31. Jurisdiction: In connection with this Lease, Tenant hereby submits to the jurisdiction and venue of the State Courts of Charleston County, South Carolina in connection with any matter pertaining to this Lease and agrees that service may be had by mailing the same, postage prepaid, addressed to Tenant at Tenant's Notice Address as set forth in Paragraph 24 of this Lease, it being agreed that service shall be deemed to have been made three (3) days after mailing.

32. The parties acknowledge and agree that notwithstanding any law or presumption to the contrary, an electronic or telefaxed signature (hereinafter, an "Electronic Signature") of any party or approver on this Lease shall be deemed valid and binding and admissible by any party against any other party as if same were an original ink signature. The parties further acknowledge and agree that they (a) intend to be bound by any Electronic Signatures affixed to this Lease, (b) are aware that the other party or parties will rely on any such Electronic Signatures, (c) such an electronically signed Lease may not be denied legal effect or enforceability solely because it is in electronic form or signed with an Electronic Signature, and (d) the foregoing provisions regarding Electronic Signature apply solely to the execution of this Lease, and shall in no event be deemed to amend any other written obligations of any party (including, but not limited to, any notice provisions) set forth in this Lease.

**\*\*\*Remainder of Page Intentionally Left Blank\*\*\***  
[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective Hands and Seals on the day and year first written above.

LANDLORD:

**SOUTH CAROLINA DIVISION OF  
PUBLIC RAILWAYS**

By: \_\_\_\_\_  
Name: Sheri Cooper  
Its: CFO  
Date: \_\_\_\_\_

TENANT:

**NAVY LAND PARTNERS, L.P.,**  
a Delaware limited partnership

By: Navy Land Partners GP, L.P.,  
a Delaware limited partnership  
Its: General Partner

By: Navy Yard Master GP, LLC,  
a Delaware limited liability company  
Its: General Partner

By: \_\_\_\_\_  
Name: William S. Cogswell, Jr.  
Title: Authorized Signatory

By: \_\_\_\_\_  
Name: Dana Griffin  
Title: Authorized Signatory

Date: \_\_\_\_\_

This Lease is approved in accordance with the South Carolina Code of Regulations §19-447.1000 by the Department of Administration, Real Property Services, this \_\_\_\_ day of \_\_\_\_\_, 20\_. This Lease was approved by the Joint Bond Review

Committee at its \_\_\_\_\_, 20\_ meeting and by the State Fiscal Accountability Authority at its \_\_\_\_\_, 20\_ meeting.

\_\_\_\_\_  
By: \_\_\_\_\_

Its: \_\_\_\_\_

## EXHIBIT A

### DESCRIPTION OF THE PREMISES

All that certain piece, parcel or tract of land, together with any improvements thereon, situate, lying and being in the City of North Charleston, County of Charleston, State of South Carolina, containing **1.63 acres**, more or less, being located at the former Charleston Naval Base, and being shown as "**LOT I RESIDUAL 1.63 AC 70970 SQ. FT.**" on a plat by Kevin Thewes, SCRLS, of Davis & Floyd, Inc. entitled "Plat Showing the Subdivision of Lot 'I' – TMS #400-00-00-062 Property of Navy Yard at Noisette, LLC Creating • Parcel 20a (0.92 ACRES) • Lot I-1 (0.09 ACRES) • The Residual (1.63 ACRES) Located City North Charleston Charleston County, SC" dated June 30, 2008 and recorded July 16, 2008 in **Plat Book DG, at Page 071** in the ROD Office for Charleston County. Said parcel having such location, buttings, boundings, courses and distances as by reference to said plat will more fully appear.

SAVING AND EXCEPTING from the above described parcel, all that certain piece, parcel or tract of land containing **0.24 acres**, more or less, being located at the former Charleston Naval Base, and being shown as "A Portion of TMS 400-00-00-062 SC Department of Commerce Division of Public Railways 0.24 Acres" on a plat by John L. Hudson, SCPLS, of CDM Smith, entitled "Plat Showing the Subdivision and Combining TMS 400-00-00-117 (0.68 Ac.) with a Portions of TMS 400-00-00-042 (0.52 Ac.) Creating Parcel A Being 1.20 Acres and a Portion of TMS 400-00-00-042 (1.99 Ac.) Creating Parcel B Being 1.99 Acres and Portions of TMS 400-00-00-00-042 (0.89 Ac.), TMS 400-00-00-045 (2.35 Ac.), TMS 400-00-00-049 (0.68 Ac.), TMS 400-00-00-062 (0.24 Ac.), and TMS 400-00-00-127 (0.36 Ac.) Creating Parcel C Being 4.52 Acres Property of South Carolina Department of Commerce Division of Public Railways" dated August 24, 2021 and recorded December 7, 2021 in **Plat Book L21, at Page 0496** in the ROD Office for Charleston County. Said parcel having such location, buttings, boundings, courses and distances as by reference to said plat will more fully appear.

TMS No. 400-00-00-062

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AGENCY: Department of Administration, Facilities Management and Property Services

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SUBJECT: Petition to Request Annexation of Department of Natural Resources Property  
into the Town of Great Falls

The Town of Great Falls is requesting annexation of South Carolina Department of Natural Resources (SCDNR) land into its corporate limits. The SCDNR land consists of approximately 25.8 acres that lies along the Catawba River and adjoins the town limits on the west side and the Great Falls Reservoir on the east side. Duke Energy is constructing kayaking and canoeing channels and associated public facilities at the Reservoir in accordance with the Catawba-Wateree Hydro Project. The annexation will allow the Town to provide emergency management and law enforcement support for these facilities. The South Carolina Department of Natural Resources supports the Town's plans to annex the property and will benefit from law enforcement and emergency services. In addition, the annexation will enhance public recreation opportunities in the Great Falls area and promote enjoyment of the state's natural resources. A public hearing was conducted by the Town of Great Falls on April 3, 2023, and there was no public opposition to the annexation. Additionally, the district's legislative representatives were contacted and have no opposition to the annexation.

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AUTHORITY ACTION REQUESTED:

Approve the petition to request annexation of the Department of Natural Resources land into the Town of Great Falls, as recommended by the Department of Administration, Facilities Management and Property Services.

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ATTACHMENTS:

Agenda item worksheet and attachment

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

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**Meeting Scheduled for: May 23, 2023**

**Regular Agenda**

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**1. Submitted by:**

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



Ashlie Lancaster, Director

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- 2. Subject:** Petition to Request Annexation of Department of Natural Resources Property into the Town of Great Falls
- 

**3. Summary Background Information:**

The Town of Great Falls is requesting annexation of South Carolina Department of Natural Resources (SCDNR) land into its corporate limits. The SCDNR land consists of approximately 25.8 acres that lies along the Catawba River and adjoins the town limits on the west side and the Great Falls Reservoir on the east side. Duke Energy is constructing kayaking and canoeing channels and associated public facilities at the Reservoir in accordance with the Catawba-Wateree Hydro Project. The annexation will allow the Town to provide emergency management and law enforcement support for these facilities. The South Carolina Department of Natural Resources supports the Town's plans to annex the property and will benefit from law enforcement and emergency services. In addition, the annexation will enhance public recreation opportunities in the Great Falls area and promote enjoyment of the state's natural resources. A public hearing was conducted by the Town of Great Falls on April 3, 2023, and there was no public opposition to the annexation. Additionally, the district's legislative representatives were contacted and have no opposition to the annexation.

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- 4. What is the Authority asked to do?** Approve the petition to request annexation of the Department of Natural Resources land into the Town of Great Falls.
- 

- 5. What is recommendation of the submitting agency involved?** Approval of the petition to request annexation of the Department of Natural Resources land into the Town of Great Falls.
- 

**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.

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

(a) Authorized Signature: \_\_\_\_\_

(b) Office Name: \_\_\_\_\_

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**8. List of Supporting Documents:**

- (a) Letters from Town of Great Falls dated April 20, 2023
- (b) Letter from Department of Natural Resources dated March 3, 2023
- (c) Letter from Representative Thomas R. "Randy" Ligon dated February 23, 2023
- (d) Letter from Senator Mike Fanning dated February 21, 2023
- (e) Petition for Annexation
- (f) Map
- (g) Code Section 5-3-140



# *Town of Great Falls*

PO BOX 177  
810 DEARBORN STREET  
GREAT FALLS, SOUTH CAROLINA 29055

803.482.2055  
FAX 803.482.6767

Ken Prosser  
South Carolina Department of Natural Resources  
1000 Assembly St  
Columbia, SC 29201

April 20, 2023

Dear Mr. Prosser,

The Town of Great Falls is interested in annexing the area in Chester County where Duke Energy is building the whitewater area and the other recreation amenities around the Catawba River. A small portion of the area is already within the town limits, but the majority is not.

Jurisdiction for emergency management and law enforcement is the primary reason for the annexation. The most straightforward way to achieve this annexation is to have the property owner execute an annexation petition.

Attached is a list of all parcel numbers as well as a map of each parcel the town is wanting to annex that is owned by South Carolina Department of Natural Resources. The Parcel Numbers included are approx. 25.8 acres of TMS 169-00-00-005-000 and TMS 202-07-01-00-000.

Once the Petition is executed, it should be submitted to the Town of Great Falls at 810 Dearborn St Great Falls, SC 29055. Then receipt, and two readings of the ordinance in our monthly council meetings, the annexation will be approved, and the Town will notify the necessary state agencies, as well as the county, sheriff, fire departments, etc.

Please let us know if you need any additional information, and we greatly appreciate all that you do!

Sincerely,

Joshua Brantley  
Great Falls Mayor



## South Carolina Department of Natural Resources

---

Robert H. Boyles, Jr.  
Director

April 21, 2023

Ashlie Lancaster, Director  
Division of Facilities Management & Property Services  
SC Department of Administration  
1200 Senate Street, 6<sup>th</sup> Floor  
Columbia, South Carolina 29201

RE: Proposed Annexation of SCDNR Property by Town of Great Falls (±25.8 ac)

Dear Ms. Lancaster:

The Town of Great Falls has requested annexation of approximately 25.8 acres of SCDNR land in Chester County along the Catawba River. The property, delineated as TMS Numbers 169-00-00-005 and 202-07-01-00-000, adjoins the town limits on the west side and the Great Falls Reservoir on the east side.

Duke Energy is constructing kayaking and canoeing channels and associated public facilities at the Reservoir in accordance with their new license to manage hydropower stations and reservoirs associated with the Catawba-Wateree Hydro Project. To provide emergency management and law enforcement support for these facilities, the Town has requested jurisdiction over the subject parcel. SCDNR has evaluated the request and supports the proposal. Besides providing emergency services, approval of the request will enhance public recreation opportunities in the Great Falls area and promote enjoyment of the state's natural resources.

Following Department of Administration policy for annexation requests, attached please find letters of support from Senator Mike Fanning and Representative Randy Ligon, a written legal description of the property proposed for annexation, a map of the site incorporating the town limits, and a tax map of the property.

If everything is in order, please place this item on the meeting agenda for consideration by the State Fiscal Accountability Authority.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon F. Bobertz".

Shannon F. Bobertz  
Chief of Staff

cc: Emily Cope, Ken Prosser, Van Winklehead, Kevin Ryan

Thomas R. "Randy" Ligon  
District No. 43-Chester & York  
Counties  
PO Box 4815  
Rock Hill, SC 29732

Committee:  
Labor, Commerce and Industry



**House of Representatives**  
State of South Carolina

306-C Blatt Building  
Columbia, SC 29201

Tel. (803) 212-6972

Bus: (803) 366-3535  
Home: (803) 377-1284

RandyLigon@schouse.gov

April 21, 2023

Mr. Robert H. Boyles, Jr.  
Director  
South Carolina Department of Natural Resources  
1000 Assembly Street  
Columbia, South Carolina 29201

**RE: Great Falls Annexation Petition – State-Owned (SCDNR) Property**

Dear Director Boyles:

I represent the portion of the South Carolina Department of Natural Resources "Heritage Tract" (25.89 acres. Chester County Parcel # 169-00-00-005-000 and 202-07-01-001-000) that is being proposed for annexation into the municipality of Great Falls. I am pleased to submit this letter of endorsement regarding the annexation of this state-owned property to support newly expanded recreational opportunities related to the Catawba-Wateree Hydro Project.

Being able to have emergency response/management and law enforcement support from the Town of Great Falls within the full footprint of these expanded outdoor recreational amenities will be of tremendous benefit to the citizens of South Carolina who utilize these facilities.

Thank you for your support in this proposed annexation, and please let me know how I can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Randolph Ligon". The signature is stylized and fluid, written over a horizontal line.

T. Randolph (Randy) Ligon

TRL:gm

**MIKE FANNING**

SENATOR: CHESTER, FAIRFIELD, & YORK COUNTIES  
SENATORIAL DISTRICT 17

**COMMITTEES:**

AGRICULTURE AND NATURAL RESOURCES  
FAMILY & VETERANS' SERVICES  
FINANCE  
FISH, GAME AND FORESTRY



**COLUMBIA ADDRESS:**

502 GRESSETTE SENATE BUILDING  
POST OFFICE BOX 142  
COLUMBIA, SC 29202  
TEL: (803) 212-6108  
FAX: (803) 212-6299  
EMAIL: MIKEFANNING@SCSENATE.GOV

**HOME ADDRESS:**

7825 CAMP WELFARE RD.  
GREAT FALLS, SC 29055

February 21, 2023

Robert H. Boyles, Jr.  
Director  
S.C. Department of Natural Resources  
1000 Assembly Street  
Columbia, South Carolina 29201

RE: Great Falls Annexation PJtition - State-Owned (SCDNR) Property

Director Boyles,

I represent the portion of the South Carolina Department of Natural Resources' "Heritage Tract" (25.8 acres, Chester County Parcel/TMS # 169-00-00-005-000 and # 202-07-01-001-000) that is being proposed for annexation into the municipality of Great Falls. I am pleased to submit this letter of endorsement regarding the annexation of this state-owned property to support newly expanded recreational opportunities related to the Catawba-Wateree Hydro Project.

Emergency response/management and law enforcement support from the Town of Great Falls within the full footprint of these expanded outdoor recreational amenities will be of tremendous benefit to the citizens of South Carolina who utilize these facilities.

Thank you for your support of this proposed annexation and please let me know how I can be of assistance.

Most sincerely,

A handwritten signature in blue ink, appearing to read "Mike Fanning".

Mike Fanning

MF/wt

STATE OF SOUTH CAROLINA    )  
  )  
COUNTY OF CHESTER         )         PETITION FOR ANNEXATION

TO THE HONORABLE MAYOR AND TOWN COUNCIL OF GREAT FALLS, SOUTH CAROLINA

WHEREAS, Section 5-3-140 of the Code of Laws of South Carolina provides for the annexation of property owned by the State of South Carolina which is contiguous to a city or town by filing with the municipal governing body a petition executed by the State Fiscal Accountability Authority requesting annexation; and

WHEREAS, The State of South Carolina, owns the below-described properties and the same is contiguous to the corporate limits of the Town of Great Falls and

WHEREAS, the undersigned is hereby requesting that the below-described properties be annexed to the Town of Great Falls and be zoned R-1 – Rural One District;

NOW, THEREFORE, the undersigned does hereby petition the Great Falls Town Council to annex the below-described areas into the Town of Great Falls, to wit:

Tract 7-5-Tract 5304.04:

Approximately 25.8 acres located in Rossville Township, Chester County, South Carolina, consisting of the following nine (9) tracts of land: (i) that tract designated as "AREA = 0.63 ACRE" on plat recorded in Plat Cabinet D, Slide 67, Pages 9 and 10 in the Chester Clerk's Office ("Plat 6"); (ii) that tract designated as "AREA = 0.57 ACRE" on Plat 6; (iii) that tract designated as "AREA = 0.04 ACRE" on Plat 6; (iv) that tract designated as "AREA = 0.35 ACRE" on Plat 6; (v) that tract designated as "AREA = 10.60 ACRES" on Plat 6; (vi) that tract designated as "AREA = 0.49 ACRE" on Plat 6; (vii) that tract designated as "AREA = 4.38 ACRES" on Plat 6; (viii) that area designated as "AREA = 5.61 ACRES" on Plat 6; and (ix) that tract designated as "AREA = 3.13 ACRES" on Plat 6; AND BEING all or a portion of the land conveyed to Duke Power Company (presently known as Duke Energy Corporation) by deed from Republic Cotton Mill (D-590) recorded in Deed Book 329, Page 314 in the Chester Clerk's Office; by deed to Southern Power Company (presently known as Duke Energy Corporation) from W. Gill Wylie (D-37) recorded in Deed Book 103, Page 367 in the Chester Clerk's Office, by deed to Southern Power Company from Eunice Cloud (WA-4D-4) recorded in Deed Book 103, Page 576 in the Chester Clerk's Office; and by deed to Crescent Land & Timber Corp. (presently known as Crescent Resources, LLC) from Duke Power Company recorded in Deed Book 444, Page 549 in the Chester Clerk's Office.

This being a portion of the same property conveyed to the South Carolina Department of Natural Resources from Crescent Resources, LLC, by deed dated June 28, 2007, and recorded on June 29, 2007, in Deed Book 946 at Page 1 in the Chester County Clerk of Court's Office.

Tax Map No. 169-00-00-005-000 and 202-07-01-001-000

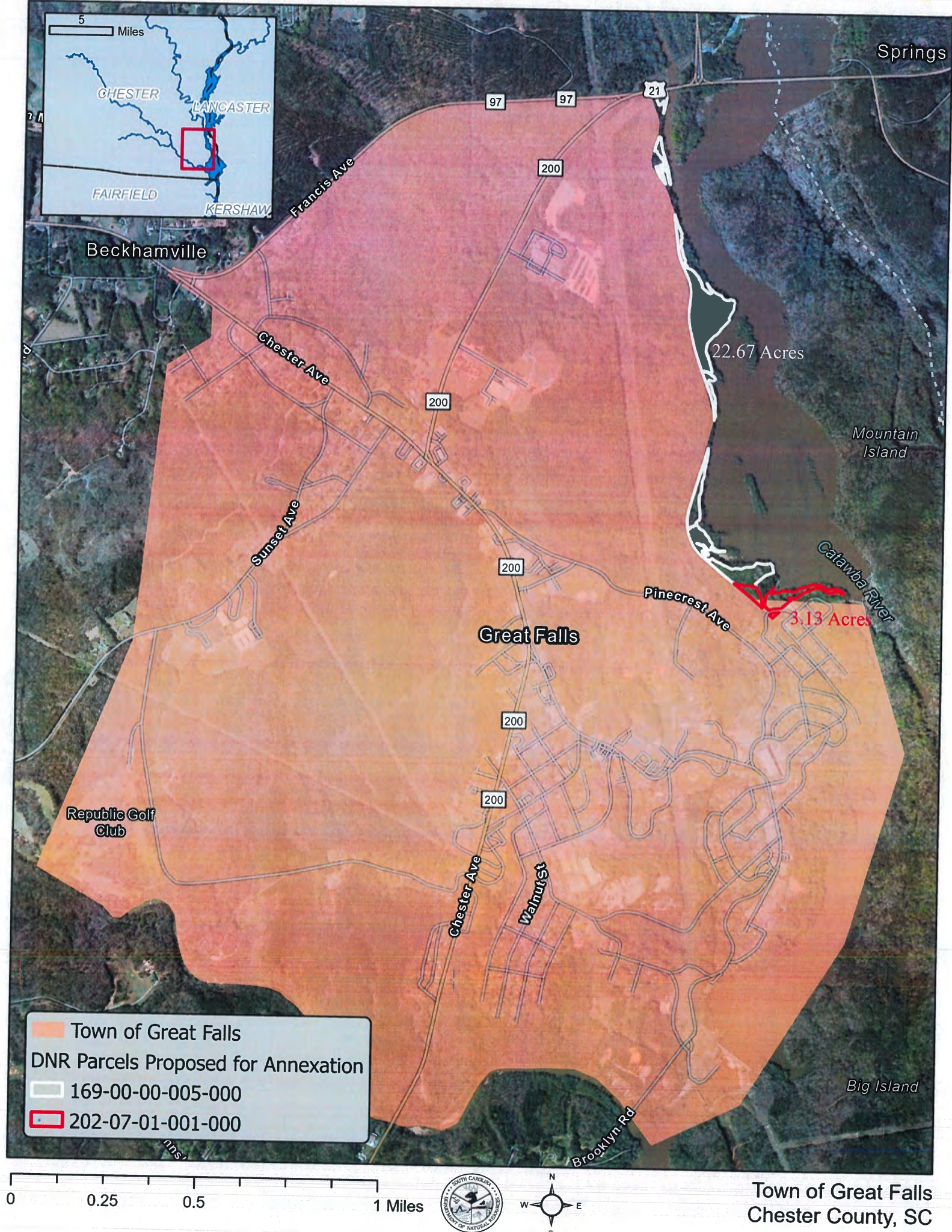
WHEREAS, Consent by the State Fiscal Accountability Authority to annexation of State property is conditioned upon a waiver by the municipality, in perpetuity, of any right to levy, collect or charge, directly or indirectly, any franchise, storm water drainage or other fee or cost upon the State for services provided to the State or its agencies or the subject property for as long as the property is owned by the State of South Carolina.

This annexation request was approved by the State Fiscal Accountability Authority at its meeting held on \_\_\_\_\_, 20\_\_\_\_.

STATE OF SOUTH CAROLINA,  
BY AND THROUGH THE  
STATE FISCAL ACCOUNTABILITY AUTHORITY

By: \_\_\_\_\_

Delbert H. Singleton, Jr.  
Secretary for the Authority



Town of Great Falls  
 DNR Parcels Proposed for Annexation  
 169-00-00-005-000  
 202-07-01-001-000

0 0.25 0.5 1 Miles  



**Town of Great Falls  
Chester County, SC**

## **SOUTH CAROLINA CODE OF LAWS**

**SECTION 5-3-140.** Alternate method when entire area proposed to be annexed owned by Federal or State Government.

If the territory proposed to be annexed belongs entirely to the federal government or to the State of South Carolina and is adjacent to a municipality, it may be annexed upon the petition of the federal government or of the State to the city or town council thereof. As used in this section, a petition by the State shall mean a petition executed by the State Fiscal Accountability Authority. Upon agreement of the city or town council to accept the petition and the passage of an ordinance to that effect, the annexation is complete.

**HISTORY:** 1962 Code Section 47-19.2; 1967 (55) 952; 1971 (57) 798; 2000 Act No. 250, Section 3.

### **Code Commissioner's Note**

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

STATE FISCAL ACCOUNTABILITY AUTHORITY  
MEETING OF May 23, 2023

REGULAR SESSION  
ITEM NUMBER 8

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AGENCY: Patriots Point Development Authority

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SUBJECT: Report Regarding Lease to Patriots Annex, LLC

On October 5, 2017, the State Fiscal Accountability Authority (the Authority) approved a lease agreement between Patriots Point Development Authority (PPDA) and Patriots Annex, LLC. The approval required PPDA to submit a report to the Authority each year prior to March 31<sup>st</sup> regarding the status of the proposed lease. The attached report, dated March 27, 2023, provides an update on the status of the development.

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AUTHORITY ACTION REQUESTED:

Receive as information, a report from Patriots Point Development Authority updating the status of the Patriots Annex development.

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ATTACHMENTS:

03/27/2023 Letter from Allison Hunt, Executive Director, PPDA

# PATRIOTS POINT

★HOME OF THE USS YORKTOWN★

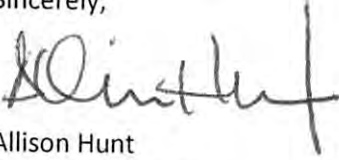
March 27, 2023

Mr. Grant Gillespie  
Executive Director  
State Fiscal Accountability Authority  
P. O. Box 12444  
Columbia, SC 29211

Dear Mr. Gillespie,

The State Fiscal Accountability Authority approved a lease agreement between Patriots Point Development Authority and Patriots Annex LLC on October 5, 2017. The attached report provides an update on the status of this development. This same report has been submitted to the Joint Bond Review Committee. The report is in the format previously provided by JBRC with our updates annotated after each item.

Sincerely,



Allison Hunt  
Executive Director

cc:

Mr. Wayne Adams, Interim Chairman, PPDA Board of Directors (via E-mail)  
Mr. William Craver, Esq., PPDA Legal Counsel (via E-mail)  
Mr. Terry Ansley, PPDA Director of Property Manager, (via E-mail)

**Annual Report to JBRC and SFAA  
Lease Between Patriots Point Development Authority and Patriots Annex, LLC  
(as of March 31, 2023)**

**I. Financial Information**

**A. A report concerning the amount of Rent generated by the Lease in the prior 12 months, including:**

- (1) The amount of Minimum Rent received; and**
- (2) The amount of Percentage Rent received, broken down into the various categories of Percentage Rent. The Percentage Rent will be further broken down to show how much Percentage Rent is being generated by each improvement on the property**
- (3) Patriots Point Development Authority's ("PPDA") use/expenditure of the revenue received in the prior 12 months, including carry-forward balances.**

**PPDA Response:** In accordance with the provisions of the Lease and applicable time tables, monthly rent payments have been due and payable for the last 12 months. Minimum Rent and Additional Rent due in the 12 months from April 2022 through March 2023 total \$398,764.14, all of which has been paid at the time of this report. Monthly Rent in this stage of the Lease is Minimum Rent based on Fair Market Rent with no Percentage Rent being payable until the applicable percentages of Gross Sales from the Premises exceed Minimum Rent. At this point, there are no Gross Sales. All Rents received by PPDA under the Lease with Patriots Annex, LLC are being used in the general budget for ongoing PPDA operations.

**B. A projection of the Rent PPDA expects the Lease to generate in the next 12 months.**

**PPDA Response:** Per the terms of the Lease, rent is currently being paid at 50% of Fair Market Rent (FMR) for the year October 5, 2022 through October 4, 2023. FMR was pre-determined through formal appraisals and is adjusted annually with CPI increases. For the 6-month period April 1 – September 30, 2023, rent will be due at a rate of \$38,214.10 per month. On October 1,

2023, Fair Market Rent will be increased by the change in CPI, conservatively anticipated to be in the range of approximately 4%. Minimum Rent for the period October 1, 2023 – September 30, 2024 will be paid at 60% of Fair Market Rent. The resulting monthly payments of \$48,149.77 will be due for the 6-month period October 1, 2023 – March 31, 2024. The combined total rent expected to be received over the 12-month period April 1, 2023 – March 31, 2024 is estimated to be \$518,183.24.

- C. An estimate of the local and state tax revenue generated by the activity on the Premises during the prior 12 months.

PPDA Response: No revenue-producing Gross Sales have occurred on the Premises that would generate sales or hospitality taxes. Property taxes have been paid in the amount of \$14,172.80, along with Storm Water Fees of \$3,707.98.

- D. An estimate of the number of people employed by the businesses operating on the Premises.

PPDA Response: None. No businesses are operating on the Premises.

## II. Development

- A. An overview of the current Master Plan (or Conceptual Master Plan if no Master Plan is in place yet), including any subdivision of the Premises approved by PPDA in the prior 12 months.

PPDA Response: The Conceptual Master Plan that was prepared in accordance with the Lease and unanimously approved by the PPDA Board on March 15, 2019 remains in place and unchanged.

- B. The status of each project shown on the Master Plan (or Conceptual Master Plan), including:

- (1) The status of Mt. Pleasant and/or Charleston County approvals required to commence construction.

PPDA Response: The Town of Mount Pleasant has previously approved Waterfront Gateway District zoning, impact assessment, building heights within the Premises, a Development Agreement, and a fee-in-lieu-of-taxes agreement for elements of the Conceptual Master Plan. Patriots

Annex, LLC has all of the approvals necessary to proceed with the Town of Mount Pleasant's design review process and will be working within new meeting and presentation schedules and protocols.

(2) The status of any improvements currently under construction.

PPDA Response: Construction is underway on the new visitor parking lot with completion expected in October as a part of the first phase. This parking lot is being relocated to make room for the construction of a multitude of buildings. Design work continues to be finalized for the master infrastructure systems to support the entire development, which construction will commence immediately follow completion of the new relocated visitor parking lot.

(3) The status of any improvements completed and operational within the prior 12 months.

PPDA Response: None.

(4) Any change in the status of operating improvements.

PPDA Response: None.

(5) The status of any major repairs or renovations to improvements that required PPDA's approval in the prior 12 months.

PPDA Response: None.

C. An update concerning the Lease's various development-related deadlines.

PPDA Response: The "Lease Commencement Date" was October 5, 2017, when SFAA approved and signed the Lease.

The "Inspection Period" ended on January 17, 2020, when the final negotiated agreement with Charleston County was fully-executed.

The "Minimum Rent Commencement Date" was October 5, 2020.

The deadline for "Commencement of Construction" was January 17, 2023 and construction commenced in October 2022.

D. Milestones expected in the upcoming 12 months.

PPDA Response: PPDA expects Patriots Annex, LLC to complete the development and construction of the relocated visitor parking lot by late 2023 in order to take possession of the existing PPDA visitor parking lot and move forward site and infrastructure construction. PPDA anticipates Patriots Annex, LLC commencing clearing, grading and infrastructure construction for the entire site encompassing the Conceptual Master Plan in the next 12 months.

E. An update concerning the PPDA improvements affected by the Lease, including:

(1) Any improvements vacated by PPDA in the prior 12 months.

PPDA Response: PPDA vacated and removed office trailers and storage buildings in the PPDA staff parking lot in order to clear a pedestrian access corridor from the planned temporary parking lot to the pier head and Patriots Point Naval and Maritime Museum.

(2) The status of any improvements currently being relocated or constructed.

PPDA Response: The PPDA visitor parking lot is being relocated and is currently under construction.

(3) The status of any improvements, the relocation or construction of which was completed in the prior 12 months.

PPDA Response: None.

(4) An update concerning the various deadlines for PPDA to vacate or relocate its improvements affected by the Lease.

PPDA Response: PPDA continues to use a portion of the Premises for the operation and support of its museums and administrative functions. At Lease Commencement, the portions of the property used by PPDA for its operations were excluded from the Premises, and Patriots Annex, LLC is not responsible for paying rent with regard to that land. Patriots Annex, LLC's initial plans include construction of infrastructure systems to support the overall development plan for Patriots Annex, LLC. Prior to commencement of construction, Patriots Annex, LLC will give PPDA a required notice, after

which time PPDA will be obligated to relocate the specific use, and that portion of the Premises will be added to the leased Premises. Any relocation by PPDA to other portions of the Premises will cause those portions of the Premises to be deleted for rent purposes. PPDA and Patriots Annex, LLC continue to have ongoing dialogue regarding expectations for anticipated notices and construction. Discussions include alternative locations and options for PPDA facilities.

Current Primary Landlord Facility. Patriots Annex, LLC must give PPDA a 12-month prior notice of the anticipated date for commencement of construction for the first phase of improvements to be constructed by Patriots Annex, LLC on the Premises. PPDA must vacate its current primary no later than 3 months plus 60 days after Patriots Annex, LLC actually commences construction of the first phase of improvements on the Premises. PPDA has not received the 12-month prior notice of the anticipated date for commencement of construction for the first phase of improvements.

Pier Facility. PPDA's current pier facility is located at the head of the pier leading to the Yorktown. PPDA's new pier facility will be located in approximately the same location and also will include some of the land between the head of the pier and the PPDA's new primary facility. The Landlord Pier Boardwalk is the only new element of the PPDA's pier facilities. If the Conceptual Master Plan and the Master Plan include the Tenant Pier Boardwalk and the Landlord Pier Boardwalk, PPDA has 30 days from receipt of the notice of the anticipated date for the Commencement of Construction of the first phase of improvements to be constructed on the Premises to commence the process required by South Carolina law for PPDA to obtain approval from the applicable State authorities for PPDA to construct the Landlord Pier Boardwalk. PPDA shall have constructed the Landlord Pier Boardwalk as of the later of (i) six (6) months after the Current Primary Landlord Facility Vacancy Deadline, (ii) twelve (12) months after PPDA receives approval for construction of the Landlord Pier Boardwalk, or (iii) a later date agreed to by PPDA and Patriots Annex, LLC to coordinate Landlord's construction of the Landlord Pier Boardwalk with Patriots Annex, LLC's construction schedule. PPDA has not received a 12-month prior notice of the anticipated date for commencement of construction.

PPDA's storage and maintenance facility and PPDA's Vietnam Support Base exhibit. These two facilities are going to be relocated onto a portion of Parcel 2A, which is currently subject to a conservation easement with South Carolina Department of Natural Resources. South Carolina Department of

Natural Resources extended the term of the term of the Conservation Easement to January 20, 2048. There has been no change in applicable deadlines in the prior 12 months.

PPDA's personnel parking and PPDA's visitor parking. The Temporary PPDA visitor parking lot is under construction with an anticipated completion date of the end of 2023. At that time, the current visitor parking lot will be released to Patriots Annex, LLC and all PPDA visitors will utilize the new lot. The PPDA personnel parking area will be relocated to a portion of Parcel 2A which is currently subject to a conservation easement with South Carolina Department of Natural Resources. South Carolina Department of Natural Resources extended the term of the term of the Conservation Easement to January 20, 2048.

III. Legal/Miscellaneous.

- A. An overview of any Sublease or Subparcel Sublease transfers that have occurred in the prior 12 months.

PPDA Response: None.

- B. An overview of any tenant equity interest transfers that have occurred in the prior 12 months.

PPDA Response: None.

- C. Any changes in the status of the Conservation Easement or the Federal Land Water Conservation Fund restrictions.

PPDA Response: South Carolina Department of Natural Resources extended the term of the term of the Conservation Easement to January 20, 2048. PPDA has negotiated an Amended and Restated Conservation Easement with DNR to release from the Conservation Easement approximately 4.696 acres for use for a storm drainage canal and service drive, sewer lift station, PPDA personnel parking, PPDA storage and maintenance facility and PPDA Vietnam Experience, and to add to the Conservation Easement Parcels 4A, 5, and 6 containing 8.393 acres. The Amended and Restated Conservation Easement is being finalized and executed to be submitted to the Department of Administration for approval.

- D. Any update concerning all loans secured by the leasehold estate.

PPDA Response: No loans are currently in place.

STATE FISCAL ACCOUNTABILITY AUTHORITY  
MEETING OF May 23, 2023

REGULAR SESSION  
ITEM NUMBER 9

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AGENCY: Division of Procurement Services

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SUBJECT: Audit and Certification - The Citadel

At its January 31, 2023, meeting, the Authority directed The Citadel to provide a written corrective action plan regarding organization and filing of procurement workpaper files to the Division of Procurement Services (DPS) for submittal to the Authority. Attached is the College's written correction action plan.

---

AUTHORITY ACTION REQUESTED:

Receive The Citadel's corrective action plan for information only, as recommended by the Division of Procurement Services.

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ATTACHMENTS:

Agenda item worksheet and attachment

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

**Meeting Scheduled for:** May 23, 2023

**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:**

At its January 31, 2023, meeting, the Authority directed The Citadel to provide a written corrective action plan regarding organization and filing of procurement workpaper files to the Division of Procurement Services (DPS) for submittal to the Authority. Attached is the College's written correction action plan.

**4. What is Authority asked to do?**

Receive the College's corrective action plan for information only.

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

The Division recommends that the Authority receive the College's corrective action plan for information only.

**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:**

Corrective action plan for the organization and filing of procurement workpaper files.

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



# THE CITADEL

February 28, 2023

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

Subject: Corrective Action Plan

Dear Mr. White,

The Citadel developed and implemented the enclosed procedures that establish a consistent methodology for organizing and locating required documentation of procurement activity as required by the Procurement Code.

Respectfully,

Jessica Favor, CPPO, CPPB, NIGP-CPP

Procurement Director

Col. Charles L. Cansler

VP of Finance & Business

**Office of the Vice President for Finance and Business**

171 Moultrie Street, Charleston, SC 29409 | 843-953-6779 | FAX 843-953-6767 | [citadel.edu](http://citadel.edu)

## **Procurement Documentation and Filing Process**

Procurement Officers must retain Electronic copies of all procurement related information on the Bunker Server "S" drive. The naming and folders will also follow the naming conventions outlined in this section. The Procurement Officer will create an individual folder for each solicitation and purchase order in the corresponding fiscal year for each solicitation and purchase order issued. The solicitation folder will be labeled "Last two digits of the Fiscal Year, plus the sequential number of solicitation ex. 23001- Followed with initials of Procurement Officer (23001-JF), and NAME OF SOLICITATION". Within the respective Fiscal Year, the created solicitation folder, the Procurement Officer will create four folders labeled "Solicitation Documents," "Evaluation Documents," "Contract Documents," and "FOIA" respectively. Each of these will have a series of subfolders as described below. This filing system serves as the official Procurement File.

### **Working Procurement File**

The Procurement Officer must maintain all working procurement files on the Bunker "S" drive for every solicitation. Procurement Officers must not maintain the working procurement file on their personal network drives or their hard drives. Procurement Officers must also use the established file structure. This is to ensure consistency in documentation and allow for management to monitor progress or respond to inquiries in the event the Procurement Officer is unavailable.

### **File Content**

The files should contain all relevant documents from the time the solicitation request is received through award/contract completion. In the event of an award or contract controversy, documentation is essential. The Procurement Officer must ensure that folders contain only pertinent information. Working papers, drafts, and other non-essential documents should be excluded from the official file. Procurement Officers will use their judgement regarding what is and what is not pertinent to the award/contract. All relevant documents must be included in the appropriate folders.

Below is an outline of the folder structure for each solicitation. General information to be included in each subfolder is listed. Some folders may not contain documents based on the source selection method. Folders may not contain every item listed or may contain additional items, at the discretion of the Procurement Officer:

- **Solicitation Documents Folder:**
  - Subfolder – 1 Determinations
    - Business Case
    - Brand Name/Make and Model Justification
    - Multi Term Determination
    - Source Selection Determination
    - Determination to cancel solicitation
    - Sole Source Determination
    - Exemption Determinations
    - Approval of Delegation to Solicit Above Authority Level
    - Seven Year or greater Contract Request from the requesting entity & approval from CPO or the Authority

- Subfolder – 2 Correspondence
  - Department approvals to release solicitation/amendments
  - The department's original specifications
  - Any corrections or modifications to the requisition or specifications
  - A list of potential Vendors (if provided)
  - Service Level Agreement Attachment and any revisions
  - Solicitation drafts
  - Q&A Submitted by Potential Bidders/Offerors
  - Answers Provided by the requesting entity
  - Amendment drafts
- Subfolder – 3 Public Meetings
  - Notices of Pre Solicitation, Pre Submission, or Site Visits
  - Pre Solicitation, Pre Submission, or Site Visit Sign-In Sheets
  - Minutes from Pre Solicitation, Pre Submission, or Site Visits
- Subfolder – 4 Web/Posted Docs
  - SCBO Ad
  - Solicitation documents actually posted on the web site:
    - IFB, BVB, FPB, RFP, Request for Qualification, etc.
    - Amendments
    - Attachments
    - Statement of Award / Intent to Award
- Subfolder – 5 Protest Docs
  - Any protests of the solicitation or amendments under 11-35-4210(1)(a)
- **Evaluation Documents Folder - (after Opening Date and during Evaluation phase):**
  - Subfolder 1 - Correspondence
    - Material communications with department/offerors
    - Department approvals for award/Record of Negotiation
  - Subfolder 2 - Solicitation Responses (Subfolders by Vendor)
    - Offers
    - Redacted versions of offers
    - Discussions – Vendor response
    - Any Bidder/Offeror withdrawal letters and Procurement Officer withdrawal acceptance notifications
    - Bid Corrections
    - RFQ Responses
    - Requests for, and Responses to, Best and Final Offers (BAFOs)
  - Subfolder 3 – Evaluation Meetings
    - Agenda(s)
    - Sign-In Sheet(s)
    - Panel Briefing Instructions
    - Signed Panel Documents (Conflict of Interest, Non-Disclosure)
    - Meeting minutes
  - Subfolder 4 – Responsibility Checks
    - References
    - Financial Analysis
    - Secretary of State validation
    - Dun & Bradstreet Report

- Cost & Pricing Analysis
- Subfolder 5 – Tab, Score, and Summary Sheets
  - Bid Tab
  - Preference calculations
  - Evaluator Score Sheet with Explanation
  - Price Calculations/Score Sheet
  - Composite Score Sheet
- Subfolder 6 – Negotiations
  - Final/Executed Record of Negotiations
  - Attachments to RON (if applicable)
- Subfolder 7 – D & F
  - Determinations of Non-Responsibility
  - Non-Responsive Determinations
  - Any Negotiation Determinations (to move to next Bidder/Offeror or issue a request for BAFOs - not public information prior to award)
  - Determination to Award
- Subfolder 8 - Award
  - Award Extensions
  - Statement of Award or Intent to Award as posted on the Website
  - Stay of Award, Reinstatement of Award, Cancellation of Award
- Subfolder 9 – Protest Documents
  - Any protests of the award under 11-35-4210
  - Documentation of any attempt to resolve
- **Contract Documents Folder - (all Contract Documents after Award)**
  - Subfolder 1 - Change Orders
  - Subfolder 2 - Contract Modifications
  - Subfolder 3 - Failure to Perform
  - Subfolder 4 - Contract Cancellations
  - Subfolder 5 - Contract Assignment
  - Subfolder 6 – Insurance Certificates & Bonds
  - Subfolder 7 – Performance Metrics
    - Business reviews
    - Reports
- **FOIA Requests Folder**
  - No Subfolders required – Copies of submitted FOIA requests

## Procurement Documentation and Filing Process

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The Procurement Officer must maintain all working procurement files on the Bunker “S” drive for every solicitation. Procurement Officers must not maintain the working procurement file on their personal network drives or their hard drives. Procurement Officers must also use the established file structure. This is to ensure consistency in documentation and allow for management to monitor progress or respond to inquiries in the event the Procurement Officer is unavailable.

## File Content

The files should contain all relevant documents from the time the solicitation request is received through award/contract completion. In the event of an award or contract controversy, documentation is essential. The Procurement Officer must ensure that folders contain only pertinent information. Working papers, drafts, and other non-essential documents should be excluded from the official file. Procurement Officers will use their judgement regarding what is and what is not pertinent to the award/contract. All relevant documents must be included in the appropriate folders.

Below is an outline of the folder structure for each solicitation. General information to be included in each subfolder is listed. Some folders may not contain documents based on the source selection method. Folders may not contain every item listed or may contain additional items, at the discretion of the Procurement Officer:

- **Solicitation Documents Folder:**
  - Subfolder – 1 Determinations
    - Business Case
    - Brand Name/Make and Model Justification
    - Multi Term Determination
    - Source Selection Determination
    - Determination to cancel solicitation
    - Sole Source Determination
    - Exemption Determinations
    - Approval of Delegation to Solicit Above Authority Level
    - Seven Year or greater Contract Request from the requesting entity & approval from CPO or the Authority

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Corrective Active Plan for Procurement Workpaper Organization and Filing

- Subfolder – 2 Correspondence
  - Department approvals to release solicitation/amendments
  - The department's original specifications
  - Any corrections or modifications to the requisition or specifications
  - A list of potential Vendors (if provided)
  - Service Level Agreement Attachment and any revisions
  - Solicitation drafts
  - Q&A Submitted by Potential Bidders/Offerors
  - Answers Provided by the requesting entity
  - Amendment drafts
- Subfolder – 3 Public Meetings
  - Notices of Pre Solicitation, Pre Submission, or Site Visits
  - Pre Solicitation, Pre Submission, or Site Visit Sign-In Sheets
  - Minutes from Pre Solicitation, Pre Submission, or Site Visits
- Subfolder – 4 Web/Posted Docs
  - SCBO Ad
  - Solicitation documents actually posted on the web site:
    - IFB, BVB, FPB, RFP, Request for Qualification, etc.
    - Amendments
    - Attachments
    - Statement of Award / Intent to Award
- Subfolder – 5 Protest Docs
  - Any protests of the solicitation or amendments under 11-35-4210(1)(a)
- **Evaluation Documents Folder - (after Opening Date and during Evaluation phase):**
  - Subfolder 1 - Correspondence
    - Material communications with department/offerors
    - Department approvals for award/Record of Negotiation
  - Subfolder 2 - Solicitation Responses (Subfolders by Vendor)
    - Offers
    - Redacted versions of offers
    - Discussions – Vendor response
    - Any Bidder/Offeror withdrawal letters and Procurement Officer withdrawal acceptance notifications
    - Bid Corrections
    - RFQ Responses
    - Requests for, and Responses to, Best and Final Offers (BAFOs)
  - Subfolder 3 – Evaluation Meetings
    - Agenda(s)
    - Sign-In Sheet(s)
    - Panel Briefing Instructions
    - Signed Panel Documents (Conflict of Interest, Non-Disclosure)
    - Meeting minutes
  - Subfolder 4 – Responsibility Checks
    - References
    - Financial Analysis

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Corrective Active Plan for Procurement Workpaper Organization and Filing

- Secretary of State validation
  - Dun & Bradstreet Report
  - Cost & Pricing Analysis
- Subfolder 5 – Tab, Score, and Summary Sheets
  - Bid Tab
  - Preference calculations
  - Evaluator Score Sheet with Explanation
  - Price Calculations/Score Sheet
  - Composite Score Sheet
- Subfolder 6 – Negotiations
  - Final/Executed Record of Negotiations
  - Attachments to RON (if applicable)
- Subfolder 7 – D & F
  - Determinations of Non-Responsibility
  - Non-Responsive Determinations
  - Any Negotiation Determinations (to move to next Bidder/Offeror or issue a request for BAFOs - not public information prior to award)
  - Determination to Award
- Subfolder 8 - Award
  - Award Extensions
  - Statement of Award or Intent to Award as posted on the Website
  - Stay of Award, Reinstatement of Award, Cancellation of Award
- Subfolder 9 – Protest Documents
  - Any protests of the award under 11-35-4210
  - Documentation of any attempt to resolve
- **Contract Documents Folder - (all Contract Documents after Award)**
  - Subfolder 1 - Change Orders
  - Subfolder 2 - Contract Modifications
  - Subfolder 3 - Failure to Perform
  - Subfolder 4 - Contract Cancellations
  - Subfolder 5 - Contract Assignment
  - Subfolder 6 – Insurance Certificates & Bonds
  - Subfolder 7 – Performance Metrics
    - Business reviews
    - Reports
- **FOIA Requests Folder**
  - No Subfolders required – Copies of submitted FOIA requests

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AGENCY: Division of Procurement Services

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SUBJECT: Audit and Certification - Department of Health and Environmental Control (DHEC)

The S.C. Consolidated Procurement Code and ensuing regulations (Procurement 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. Code Ann. §§ 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 June 27, 2018, the Authority delegated procurement authority to The Department of Health and Environmental Control (DHEC) as follows:

**Certification Limits**

Drugs, Biological for Human use; Contraceptives, Biochemicals, And Biochemical Research	\$12,000,000 per commitment
All other Supplies and Services	\$2,000,000 per commitment
Consulting Services	\$ 250,000 per commitment
Information Technology	\$ 225,000 per commitment

Per SC Code Ann. § 11-35-1210 (1) (b) and Regulation 19-445.2020B, the Director of the Division of Procurement Services (DPS) may authorize a governmental body to make direct procurements not under term contracts in an amount up to one hundred fifty thousand dollars. At the request of DHEC and with the concurrence of the Office of the State Engineer, the Director of DPS authorized an increase in DHEC's procurement authority for Construction Services on February 11, 2020, for award of small Construction Contracts up to \$100,000.<sup>1</sup>

In accordance with S.C. Code Ann. § 11-35-1230, DPS audited the procurement operating policies and procedures of DHEC to determine whether the Agency's system of internal controls over procurement was adequate to ensure compliance, in all material respects, with the Procurement Code. DPS found DHEC's system of internal controls over procurement was adequate to ensure compliance with the Procurement Code, with minor exceptions as described in the audit report. DHEC has either implemented or initiated implementation of the recommended improvements.

Per S.C. Code Ann. §11-35-1210, The Department of Health and Environmental Control requests that the Authority reauthorize it to make direct procurements and increase the certification limits for All other Supplies & Services and Information Technology.

<sup>1</sup> \$100,000 is the small procurement limit for construction. Up to this amount, the agency need only make a written request for written quotes and obtain three or more quotes.

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AGENCY: Division of Procurement Services

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SUBJECT: Audit and Certification - Department of Health and Environmental Control  
(DHEC)

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AUTHORITY ACTION REQUESTED:

As recommended by the Division of Procurement Services, authorize The Department of Health and Environmental Control to make direct procurements at the following limits for three years from date of approval:

	<u>Certification Limits</u>
Drugs, Biological for Human use; Contraceptives, Biochemicals, And Biochemical Research	\$12,000,000 per commitment
All Other Supplies and Services <sup>2</sup>	*\$ 3,000,000 per commitment
Information Technology <sup>3</sup>	*\$ 500,000 per commitment
Construction Contract Award	*\$ 100,000 per commitment

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

<sup>2</sup> Supplies and Services includes non-IT consulting services.

<sup>3</sup> Information Technology includes consultant assistance for any aspect of information technology, systems, and networks.

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ATTACHMENTS:

Agenda item worksheet and attachment

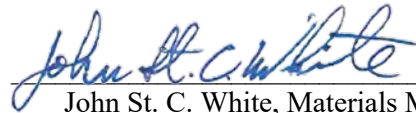
**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

**Meeting Scheduled for:** May 23, 2023

**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 ensuing regulations (Procurement 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. Code Ann. §§ 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 June 27, 2018, the Authority delegated procurement authority to The Department of Health and Environmental Control (DHEC) as follows:

**Certification Limits**

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In accordance with S.C. Code Ann. § 11-35-1230, DPS audited the procurement operating policies and procedures of DHEC to determine whether the Agency's system of internal controls over procurement was adequate to ensure compliance, in all material respects, with the Procurement Code. We found DHEC's system of internal controls over procurement was adequate to ensure compliance with the Procurement Code, with minor exceptions as described in the audit report. DHEC has either implemented or initiated implementation of the recommended improvements.

Per S.C. Code Ann. §11-35-1210, The Department of Health and Environmental Control requests that the Authority reauthorize it to make direct procurements and increase the certification limits for All other Supplies & Services and Information Technology.

<sup>1</sup> \$100,000 is the small procurement limit for construction. Up to this amount, the agency need only make a written request for written quotes and obtain three or more quotes.

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

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**4. What is Authority asked to do?**

Authorize The Department of Health and Environmental Control to make direct procurements at the following limits for three years from date of approval:

	<u><b>Certification Limits</b></u>
Drugs, Biological for Human use; Contraceptives, Biochemicals, And Biochemical Research	\$12,000,000 per commitment
All Other Supplies and Services <sup>2</sup>	*\$ 3,000,000 per commitment
Information Technology <sup>3</sup>	*\$ 500,000 per commitment
Construction Contract Award	*\$ 100,000 per commitment

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

<sup>2</sup> Supplies and Services includes non-IT consulting services.

<sup>3</sup> Information Technology includes consultant assistance for any aspect of information technology, systems, and networks.

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

Authorize The Department of Health and Environmental Control to make direct procurements at the limits set forth above for three years.

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**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.**



**South Carolina  
Department of Health and Environmental Control**

**INDEPENDENT PROCUREMENT AUDIT REPORT**

**for the Audit Period:  
January 1, 2019 to March 31, 2022**

Office of Audit & Certification  
Division of Procurement Services  
February 3, 2023

## TABLE OF CONTENTS

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## ABBREVIATIONS

CG	– SC Comptroller General
Code	– SC Consolidated Procurement Code and ensuing Regulations
COTS	– Commercially Available Off-the-Shelf
CPO	– Chief Procurement Officer
DHEC	– Department of Health and Environmental Control
DPS	– Division of Procurement Services
ITMO	– Information Technology Management Office
PI Manual	– Manual for Planning and Execution of State Permanent Improvements
MBE	– Minority Business Enterprise
MCCs	– Merchant Category Codes
MMO	– Materials Management Office
OCG	– Office of the Comptroller General
OSE	– Office of State Engineer
PCA	– Purchasing Card Administrator
P-Card	– Purchasing Card
PO	– Purchase Order
SCEIS	– South Carolina Enterprise Information
SFAA	– State Fiscal Accountability Authority
SMBCC	– Small and Minority Business Contracting and Certification
SPO	– Surplus Property Office
State PO Policy	– State of South Carolina Statewide Purchase Order Policy

## INTRODUCTION

Per SC Code Ann. § 11-35-1230 and Regulation 19-445.2020, DPS audited DHEC's internal procurement operating policies and procedures, as outlined in their internal Procurement Operating Procedures Manual.

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

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

- Identifying the agency's procurement activities and understanding and complying with the Code
- Establishing and maintaining an effective organization structure and system of internal control over procurement activities that provide reasonable assurance that the agency administers its procurement programs in compliance with the Code
- Establishing clear lines of authority and responsibility for making and approving procurements
- Documenting the agency's system of internal control over its procurement activities in an internal procurement procedure manual
- Taking corrective action when instances of noncompliance are identified, including corrective action for the 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 June 27, 2018 the SFAA granted DHEC the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CURRENT CERTIFICATION LIMITS</u>
Drugs, Biological for Human use; Contraceptives, Biochemicals, And Biochemical Research	*\$12,000,000 per commitment
All other Supplies and Services	*\$ 2,000,000 per commitment
Consultant Services	*\$ 250,000 per commitment
Information Technology	*\$ 225,000 per commitment

On February 11, 2020 the Director of DPS granted DHEC the following certification:

Construction Contract Award	*\$ 100,000 per commitment
-----------------------------	----------------------------

During the audit DHEC requested the following certification limits

<u>PROCUREMENT AREAS</u>	<u>REQUESTED CERTIFICATION LIMITS</u>
Drugs, Biological for Human use; Contraceptives, Biochemicals, And Biochemical Research	*\$12,000,000 per commitment
All other Supplies and Services	*\$ 3,000,000 per commitment
Information Technology	*\$ 500,000 per commitment
Construction Contract Award	*\$ 100,000 per commitment

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

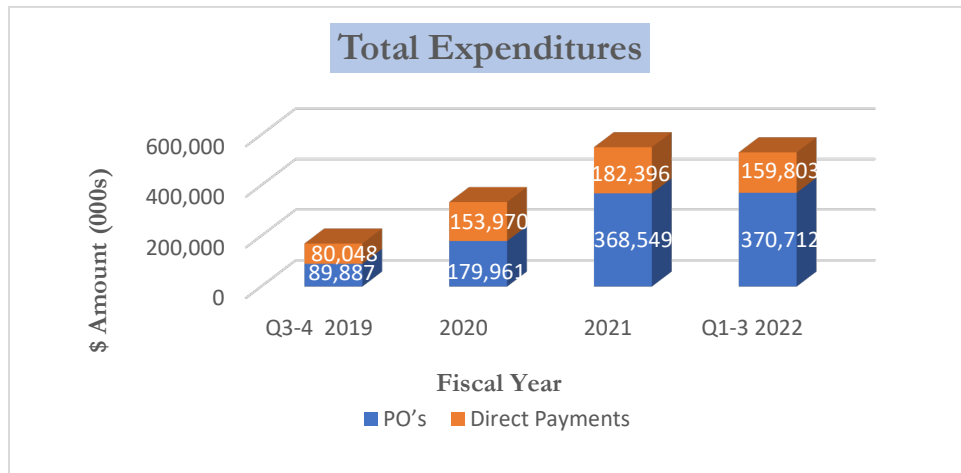
## SCOPE

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 DHEC's compliance with the Code for the period January 1, 2019 through March 31, 2022, 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.

### Total Expenditures

During the audit period, the agency made expenditures as follows:

	<b>\$ Amount (000s)</b>				
	<b>Q3, 4</b>			<b>Q1, 2,3</b>	
	<b>FY2019</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>Total</b>
POs <sup>1</sup>	89,887	179,961	368,549	370,712	1,009,109
Direct Pay <sup>2</sup>	80,048	153,970	182,396	159,803	576,217
<b>Total Spend</b>	<b>169,935</b>	<b>333,931</b>	<b>550,945</b>	<b>530,515</b>	<b>1,585,326</b>



<sup>1</sup> **POs** represents all expenditures made with a Purchase Order. These are required for most contract purchases by the terms of the contract and is the preferred procurement instrument when a government unit orders or procures supplies or services from a vendor.

<sup>2</sup> **Direct Pays** are made without purchase order based on the State Purchase Order Policy. These may occur with purchases of supplies or services that are exempt from the Code or for such things as payment for P-Card purchases or purchases less than \$2500.

## SUMMARY OF RESULTS

	<u>PAGE</u>
<b>I. <u>Procurement Manual</u></b> .....	7
Our review of DHEC's internal procurement procedure manual did not identify any compliance issues.	
<b>II. <u>Supplies and Services</u></b> .....	7
Our review of DHEC's Supplies and Services did not identify any compliance issues.	
<b>III. <u>Sole Source Procurements</u></b>	
<u>Lacked Proper Public Notice</u> .....	7
DHEC did not include written determinations, or instructions on how to obtain one, in its SCBO advertisements for 67 sole source procurements.	
<b>IV. <u>Emergency Procurements</u></b> .....	8
Our review of DHEC's Emergency Procurements did not identify any compliance issues.	
<b>V. <u>Construction</u></b> .....	8
Our review of DHEC's Construction Projects did not identify any compliance issues.	
<b>VI. <u>P-Cards</u></b>	
<u>Program Administration</u>	
Without adequate management oversight, there is increased risk of P-Card misuse or abuse.	
A. <u>Span of Control for P-Card Oversight Was Not Manageable</u> .....	8
Three liaisons were responsible for reviewing from 19 to 45 cardholder transactions monthly. In addition, 28 out of 30 liaisons were the liaison of their own cards.	
B. <u>Independent Audit of P-Cards Not Performed</u> .....	9
DHEC did not perform periodic independent audits of the P-Card program as required.	
C. <u>Inactive P-Cards Not Cancelled</u> .....	10
Sixteen P-Cards listed as active had not been used within the most recent 6 months.	
D. <u>No Documented Liaison Reviews</u> .....	10
DHEC did not provide evidence of liaison reviews for 10 out of 27 cardholder statements reviewed.	

## SUMMARY OF RESULTS

### PAGE

#### Transaction Testing

<u>Blocked MCCs</u> .....	11
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DHEC made purchases with blocked MCCs in violation of the State P-Card Policy.

VII. <u>Unauthorized or Illegal Procurements</u> .....	12
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Our testing of unauthorized or illegal procurements did not identify any compliance issues.

VIII. <u>Surplus Property</u> .....	12
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Our testing of surplus property did not identify any compliance issues.

#### IX. MBE Reports

<u>Required MBE Reporting Not Submitted to SMBCC</u> .....	12
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MBE Annual Utilization Plans and Quarterly Progress reports were not submitted timely.

**Note:** The agency's responses to issues raised in this report have been inserted immediately following the recommendations in the body of the report.

# RESULTS OF AUDIT

## **I. Procurement Manual**

We reviewed the agency's internal procurement procedures manual to evaluate its effectiveness in documenting the agency's system of internal controls over procurement.

Our review of DHEC's internal procurement procedure manual did not identify any compliance issues.

## **II. Supplies and Services**

We audited expenditures exceeding \$10,000 made with POs, and expenditures made without a PO to determine compliance with the Code.

Our review of DHEC's Supplies and Services did not identify any compliance issues.

## **III. Sole Source Procurements**

We evaluated written determinations for all sole source procurements pursuant to SC Code Ann. § 11-35-1560, to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports required by § 11-35-2440. During the audit period DHEC reported 614 sole source procurements totaling approximately \$50.8M to DPS.

### **Sole Source Procurements Lacked Adequate Public Notice**

DHEC did not include a written determination or instructions on how to obtain one in its public notice for all 67 sole source procurements greater than \$50k as required by Regulation 19-445-2105.D(2).

**Recommendation:** We recommend DHEC update its Procurement Manual to include procedures for compliance with Regulation 19-445-2105.D(2) and provide training for procurement personnel on the revised procedures.

### **Agency Response**

We concur with the finding. This new requirement became effective in the Regulation when revised June 26, 2020. We did not recognize this change and act on it. In recent months, this has been added to the SCBO online form for Sole Source advertisements, making compliance easier. Additionally, this information has been updated in our Procurement Procedures Manual which will be published on March 8, 2023

## RESULTS OF AUDIT

### IV. Emergency Procurements

All written determinations for emergency procurements made pursuant to SC Code Ann. § 11-35-1570 were evaluated to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports required by § 11-35-2440. DHEC reported 351 emergency procurements totaling approximately \$537.3M to DPS during the audit period.

Our review of DHEC's Emergency Procurements did not identify any compliance issues.

### V. Construction

We tested construction, and architectural/engineer and related professional service contracts for compliance with the Code and the PI Manual. Our review of DHEC's Construction projects did not identify any compliance issues.

### VI. P-Cards

DHEC had 208 P-Cards in use during the audit period and spent approximately \$9.3M in 38,677 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 DHEC's P-Card Policy and Procedures for compliance with the State P-Card Policy and identified areas of non-compliance.

#### A. Span of Control for P-Card Oversight Was Not Manageable

DHEC did not have adequate oversight over its P-Card program as required by State P-Card Policy, Section V. (A). DHEC had 30 liaisons, 28 of which were the liaisons of their own cards. Additionally, three liaisons were responsible for 19, 20, and 45 cardholders. Span of control of these liaisons was too broad to maintain adequate oversight as required by State P-Card Policy, Section III. A .3.

**Recommendation:** We recommend DHEC revise its internal P-Card policies and procedures to include roles and responsibilities for all P-Card personnel, including Liaisons, and provide for adequate separation of cardholder, supervisor, and Liaison

## RESULTS OF AUDIT

duties. We further recommend establishing appropriate limits on the number of Cardholders assigned to Liaisons (span of control).

### Agency Response

Concur. Liaison who managed 19 cardholders now manages 12 cardholders. Liaison who managed 20 cardholders now manages 13 cardholders. Liaison who managed 45 cardholders has been reduced to 35. We are currently working to split those 35 cardholders between 3 liaisons, each having 11 or 12 cardholders, but this will not be completed until a vacancy is filled and the person trained. We expect this to be completed by not later than June 1, 2023. We will revise our internal P-Card policies in order to include roles and responsibilities for all P-Card personnel to include liaisons and the appropriate number of cardholders assigned to them (span of control) in the next revision of our Procurement Procedures Manual, scheduled for March 8, 2023

### B. Independent Audit of P-Cards Not Performed

DHEC did not perform or have performed annual independent P-Card audits as required by Section V. A (6) of the State P-Card and DHEC's Internal Policy. Management provided documentation of DHEC's most recent yearly review dated March 2, 2022, which tested 39 out of 779 (5%) transactions for December 2020. No other P-Card reviews were performed during the audit period. The review was not completed until 15 months later and did not address all the required criteria for a yearly audit per the State P-Card Policy, including a review of adequacy of internal policies and procedures. DHEC's internal policy is vague on what a P-Card audit should review; only stating that there should be a review of the P-Card Program by the P-Card Coordinator.

**Recommendation:** We recommend DHEC comply with the State P-Card and internal policy regarding independent audits or reviews. Reviews should be performed at least annually and include program administration and transaction testing. To improve the effectiveness of these audits, we further recommend that these audits be performed by individuals not associated with the P-Card program.

### Agency Response

Concur. The cited section from the State P-Card Policy, Section V. A. 6 requires "an annual independent audit or review of the P-Card Program by the P-Card Administrator, Internal Audit unit, or other unit assigned audit responsibilities." Audits have been

## RESULTS OF AUDIT

completed by the P-Card Administrator on a yearly basis, though some were delayed due to COVID. We now understand that these audits are best performed not by the P-Card Administrator but should instead be performed by another person or 3 of 4 entity not associated with the P-Card Program. Now that we have a better understanding of the expectation of the audits, we will add a provision for audits, at least annually, by individuals not associated with the P-Card program to our Procedures Manual in our upcoming revision and will communicate this at our March 8 training.

### C. Inactive P-Cards Not Cancelled

DHEC had 16 cards inactive for greater than six months (ranging from 7 to 89 months). The State P-Card Policy, Section III (A).1.(a) xi. requires monitoring for inactive cards and promptly closing accounts and cards no longer needed. DHEC's Internal Policy does not address monitoring for inactive cards.

**Recommendation:** We recommend DHEC comply with the State P-Card Policy and revise DHEC's internal policy to address monitoring for inactive cards. We further recommend these cardholder accounts be reviewed to determine if they should be closed.

### **Agency Response**

Concur. We have examined the situation with all 16 identified inactive cards and 11 of those 16 cards have been deactivated. The remaining 5 need to maintain cards to be used in the event of an Emergency or as back-up due to staff shortages and turnover. We will revise internal policy to address the monitoring for inactive cards and what justification may be needed for a card to remain open. This policy update will be presented at our scheduled update to agency staff on March 8, 2023.

### D. No Documented Liaison Reviews

DHEC did not provide documented liaison reviews for 10 out of 27 cardholder statements as required by Part III(C) of the State P-Card Policy. The agency's internal policy includes a liaison role for reconciling the p-card statements but does not require that the review be documented.

**Recommendation:** We recommend DHEC assign Liaisons in accordance with the State P-Card Policy and update its internal P-Card Policy to provide for a documented monthly review by Liaisons that ensures effective reviews are consistently performed for unallowable purchases, split transactions, and the use of blocked MCC codes. Accepted

## RESULTS OF AUDIT

practice is to use a checklist to document and ensure an effective review of business need and required documentation for each purchase.

### Agency Response

Concur. This State P-Card Policy on this topic was overlooked. It was implemented as soon as it was brought to our attention. A Checklist for Liaisons to use was created and distributed to liaisons for their immediate use in September 2022. This requirement has been updated in our Procurement Procedures Manual which will be published on March 8, 2023.

### P-Card Transaction Testing

We performed tests of P-Card transactions to ensure compliance with State and agency P-Card policies and procedures. Transaction testing identified an area of non-compliance, which was not identified by the PCAs or supervisor/approvers during the monthly review and reconciliation of cardholder statements.

### Blocked MCCs

DHEC made 500 purchases with blocked MCCs during the audit period. We tested a sample of 42 transactions for proper approvals to unblock the MCC codes prior to purchase. Nine out of 42 purchases tested were made without prior approvals from the CG's office to unblock the MCC codes. DHEC's P-Card Manual does not list purchases made with blocked MCC codes as prohibited, nor does their policy require liaisons to review for purchases made with blocked MCC codes.

**Recommendation:** We recommend DHEC revise its internal P-Card policies to prohibit the use of blocked MCC codes. Additionally, we recommend implementing checklists in the monthly liaison review to identify purchases that violate State and internal P-Card policies. After the procedure manual has been revised, we recommend DHEC retrain cardholders and reviewers to ensure compliance with State and internal P-Card Policy.

### Agency Response

Concur. Transactions were made with merchants with blocked Merchant Category Codes (MCC), but fortunately there is no evidence that any of these purchases were for improper items. There is no explanation as to how the transactions that did not receive proper "lifts" (9 out of 42 sampled) went through except for the fact that there were several

## RESULTS OF AUDIT

time periods where the bank's software failed and allowed certain MCCs through without proper approvals. Closer daily scrutiny by the agency, however, could have caught these. We have reviewed our procedures and will add to our internal policies manual that blocked MCCs are prohibited without proper authorization from the CGO. We will also revise our internal policies to include the State P-Card policy on unblocking MCCs, located on Page 5, #4 of the State P-Card Policy Manual. These Procedure Manual changes will be made and reviewed with staff at our March 8, 2023 Update. In addition, Purchasing Card Administrator will closely monitor the WORKS summary emails each day and utilize the WORKS reports tool to run blocked MCC reports to prevent this from happening in the future.

### **VII. Unauthorized or Illegal Procurements**

We tested Unauthorized or Illegal Procurements to determine compliance with the Procurement Code and Regulations. Our testing of reported unauthorized or illegal procurements did not identify any compliance issues.

### **VIII. Surplus Property**

We tested asset disposals to determine compliance with the Procurement Code and State policies and procedures. Our testing of asset disposals did not identify any compliance issues.

### **IX. MBE Reports**

We requested copies of the agency's Annual MBE utilization plans and quarterly progress reports to assess compliance with the Code.

#### **Required MBE Reporting Not Submitted to SMBCC**

DHEC did not provide one out of four annual MBE utilization plans, and the three provided were not submitted to SMBCC timely. The agency did not provide six out of 13 quarterly progress reports, and five out of the seven that were provided were not submitted to SMBCC timely as required by SC Code Ann. § 11-35-5240.

**Recommendation:** We recommend DHEC develop and implement procedures, including management review and approval, for submitting annual utilization plans and quarterly progress reports to the SMBCC as required by the Procurement Code.

## RESULTS OF AUDIT

### Agency Response

Concur. DHEC will implement procedures for submitting annual utilization plans and quarterly reports on a timely basis.

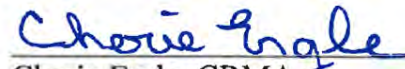
## CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations in this report will make DHEC'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 SC Department of Environmental Control's procurement authority to make direct agency procurements be certified up to the following limits for three years:

<u>PROCUREMENT AREAS</u>	<u>RECOMMENDED CERTIFICATION LIMITS</u>
Drugs, Biological for Human use; Contraceptives, Biochemicals, And Biochemical Research	*\$12,000,000 per commitment
All other Supplies and Services <sup>3</sup>	*\$ 3,000,000 per commitment
Information Technology <sup>4</sup>	*\$ 500,000 per commitment
Construction Contract Award	*\$ 100,000 per commitment

\* 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

<sup>3</sup> Supplies and Services includes non-IT consulting services

<sup>4</sup> Information Technology includes consulting services for any aspect of information technology, systems and networks

**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.

Agencies

May 23, 2023 PROCUREMENT AREA/ COMMODITY CLASS

CERTIFICATION \$ AMOUNT															
AGENCY	Active	Supplies and Services	Supplies	All other Supplies and Services	Services	Consultant Services	Information Technology	Construction Contract Award	Construction Contract Change Order	Architect/ Engineer Contract Amendment	Drugs, Biological for Human use; Contraceptives, Biochemicals and Research	Food Products	Major Fire Fighting Equipment	School Bus Supplies & Maintenance	
ADJUTANT GENERAL, OFFICE OF THE	Y	100,000						100,000							
ARTS COMMISSION	Y	100,000					100,000								
COMMERCE, DEPT. OF	Y	100,000					100,000								
CORRECTIONS, SC DEPT. OF	Y	1,000,000				100,000	100,000	100,000	100,000	50,000		1,500,000			
EDUCATION, SC DEPT. OF	Y	150,000					100,000							400,000	
FORESTRY COMMISSION	Y	200,000					100,000	100,000					1,000,000		
HEALTH & ENVIRONMENTAL CONTROL, DEPT. OF	Y			2,000,000		250,000	225,000				12,000,000				
	Y							100,000							
	Recommended			3,000,000			500,000	100,000			12,000,000				
JUVENILE JUSTICE, DEPT. OF	Y	500,000						100,000	25,000	5,000					
LABOR, LICENSING & REGULATION, DEPT. OF	Y	100,000				100,000									
MOTOR VEHICLES, DEPT. OF	Y	350,000					150,000								
NATURAL RESOURCES, DEPT. OF	Y	300,000						250,000	50,000						
PARKS, RECREATION & TOURISM, DEPT. OF	Y	250,000						250,000	250,000	50,000					
PUBLIC SAFETY, DEPT. OF	Y	500,000					100,000		25,000	5,000					
STATE LAW ENFORCEMENT DIVISION (SLED)	Y	250,000					100,000								
TRANSPORTATION, DEPT. OF	Y		1,000,000		500,000		100,000	500,000	100,000	25,000					
VOCATIONAL REHABILITATION	Y	250,000					100,000	250,000	100,000	25,000					

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AGENCY: Division of Procurement Services

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SUBJECT: Audit and Certification - Tri-County Technical College

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The S.C. Consolidated Procurement Code and ensuing 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. Code Ann. §§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. Tri-County Technical College (TCTC) has never asked the Authority for delegation of additional procurement authority.

Per SC Code Ann. § 11-35-1210 (1) (b) and Regulation 19-445.2020B, the Director of Procurement Services may authorize a governmental body to make direct procurements not under term contracts in an amount up to one hundred fifty thousand dollars. At the request of TCTC and with the concurrence of the Office of the State Engineer, the Director of the Division of Procurement Services (DPS) authorized an increase in TCTC's procurement authority for Construction Services on December 17, 2019, for award of small Construction Contracts up to \$100,000.<sup>1</sup>

Per S.C. Code Ann. §11-35-1210, TCTC requests that the Authority approve the direct procurements for Supplies & Services, Information Technology and Construction Services.

	<b><u>Certification \$ Limits</u></b>
Supplies and Services <sup>2</sup>	250,000 per commitment*
Information Technology <sup>3</sup>	150,000 per commitment*
Construction Contract Award	150,000 per commitment*

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

In accordance with S.C. Code Ann. § 11-35-1230, the Division of Procurement Services (DPS) audited the procurement operating policies and procedures of TCTC to determine whether the internal controls of the College's procurement system were adequate to ensure compliance, in all material respects, with the Procurement Code. We found that TCTC's system of internal controls over procurement was adequate to ensure compliance with the Procurement Code as described in the audit report. However, we identified opportunities for improvement and made recommendations.

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AGENCY: Division of Procurement Services

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SUBJECT: Audit and Certification - Tri-County Technical College

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**AUTHORITY ACTION REQUESTED:**

As recommended by the Division of Procurement Services, authorize Tri-County Technical College to make direct procurements at the following limits, similar to authorization granted to other South Carolina technical colleges, for three years from date of approval:

	<b><u>Certification \$ Limits</u></b>
Supplies and Services <sup>2</sup>	250,000 per commitment*
Information Technology <sup>3</sup>	150,000 per commitment*
Construction Contract Award	150,000 per commitment*

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

- <sup>1</sup> \$100,000 is the small procurement limit for construction. Up to this amount, the agency need only make a written request for written quotes and obtain three or more quotes.
- <sup>2</sup> Supplies and Services includes non-IT consulting services.
- <sup>3</sup> Information Technology includes consultant assistance for any aspect of information technology, systems, and networks.

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**ATTACHMENTS:**

Agenda item worksheet and attachment

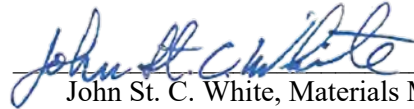
**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

**Meeting Scheduled for:** May 23, 2023.

**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 ensuing 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. Code Ann. §§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. Tri-County Technical College (TCTC) has never asked the Authority for delegation of additional procurement authority.

Per SC Code Ann. § 11-35-1210 (1) (b) and Regulation 19-445.2020B, the Director of Procurement Services may authorize a governmental body to make direct procurements not under term contracts in an amount up to one hundred fifty thousand dollars. At the request of TCTC and with the concurrence of the Office of the State Engineer, the Director of the Division of Procurement Services (DPS) authorized an increase in TCTC's procurement authority for Construction Services on December 17, 2019, for award of small Construction Contracts up to \$100,000.<sup>1</sup>

Per S.C. Code Ann. §11-35-1210, TCTC requests that the Authority approve the direct procurements for Supplies & Services, Information Technology and Construction Services.

	<b><u>Certification \$ Limits</u></b>
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Construction Contract Award	150,000 per commitment*

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

In accordance with S.C. Code Ann. § 11-35-1230, the Division of Procurement Services (DPS) audited the procurement operating policies and procedures of TCTC to determine whether the internal controls of the College's procurement system were adequate to ensure compliance, in all material respects, with the Procurement Code. We found that TCTC's system of internal controls over procurement was adequate to ensure compliance with the Procurement Code as described in the audit report. However, we identified opportunities for improvement and made recommendations.

**4. What is Authority asked to do?**

Authorize Tri-County Technical College to make direct procurements at the following limits, similar to authorization granted to other South Carolina technical colleges, for three years from date of approval:

	<b><u>Certification \$ Limits</u></b>
Supplies and Services <sup>2</sup>	250,000 per commitment*
Information Technology <sup>3</sup>	150,000 per commitment*
Construction Contract Award	150,000 per commitment*

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

<sup>1</sup> \$100,000 is the small procurement limit for construction. Up to this amount, the agency need only make a written request for written quotes and obtain three or more quotes.

<sup>2</sup> Supplies and Services includes non-IT consulting services.

<sup>3</sup> Information Technology includes consultant assistance for any aspect of information technology, systems, and networks.

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

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

Authorize Tri-County Technical College to make direct procurements at the limits set forth above for three years.

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**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.**



**Tri-County Technical College**

# **INDEPENDENT PROCUREMENT AUDIT REPORT**

**For the Audit Period:  
July,1 2019 to June 30, 2022**

**Office of Audit & Certification  
Division of Procurement Services  
March 13, 2023**

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## ABBREVIATIONS

Code	– SC Consolidated Procurement Code and ensuing Regulations
COTS	– Commercially Available Off-the-Shelf
CPO	– Chief Procurement Officer
DPS	– Division of Procurement Services
ITMO	– Information Technology Management Office
PI Manual	– Manual for Planning and Execution of State Permanent Improvements
MBE	– Minority Business Enterprise
MMO	– Materials Management Office
OCG	– Office of the Comptroller General
OSE	– Office of State Engineer
PCA	– Purchasing Card Administrator
P-Card	– Purchasing Card
PO	– Purchase Order
SCEIS	– South Carolina Enterprise Information
SMBCC	– Small and Minority Business Contracting and Certification
SPO	– Surplus Property Office
State PO Policy	– State of South Carolina Statewide Purchase Order Policy
STL	– Single Transaction Limits

## INTRODUCTION

On January 6, 2020, the Director of DPS certified Tri-County Technical College (the College) to make direct procurements of construction up to \$100,000 per his authority under S.C. Code Ann. § 11-35-1210(1)(b) and Reg. 19-445.2020(B)(1)(b), and upon recommendation of the State Engineer. On July 28, 2022, the College submitted a general request for certification in all areas. As a result of this request and per S.C. Code Ann. §11-35-1210(1)(a) and Reg. 19-445.2020, DPS audited the College's internal procurement operating policies and procedures, as outlined in their internal Procurement Operating Procedures Manual.

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

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

- Identifying the college's procurement activities and understanding and complying with the Code.
- Establishing and maintaining an effective organization structure and system of internal control over procurement activities that provide reasonable assurance that the college administers its procurement programs in compliance with the Code.
- Establishing clear lines of authority and responsibility for making and approving procurements.
- Documenting the college's system of internal control over its procurement activities in an internal procurement procedure manual.
- Taking corrective action when instances of noncompliance are identified, including corrective action for the 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 at the College's request to determine if certification under SC Code Ann. § 11-35-1210 is warranted.

On January 6, 2020, the Director of DPS granted the College the following procurement certification:

<u>PROCUREMENT AREAS</u>	<u>CURRENT CERTIFICATION \$ LIMITS</u>
Construction Contract Award	100,000 per commitment*

The College requests procurement certification at the following limits:

<u>PROCUREMENT AREAS</u>	<u>REQUESTED CERTIFICATION \$ LIMITS</u>
Supplies and Services	250,000 per commitment*
Information Technology	150,000 per commitment*
Construction Contract Award	150,000 per commitment*

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

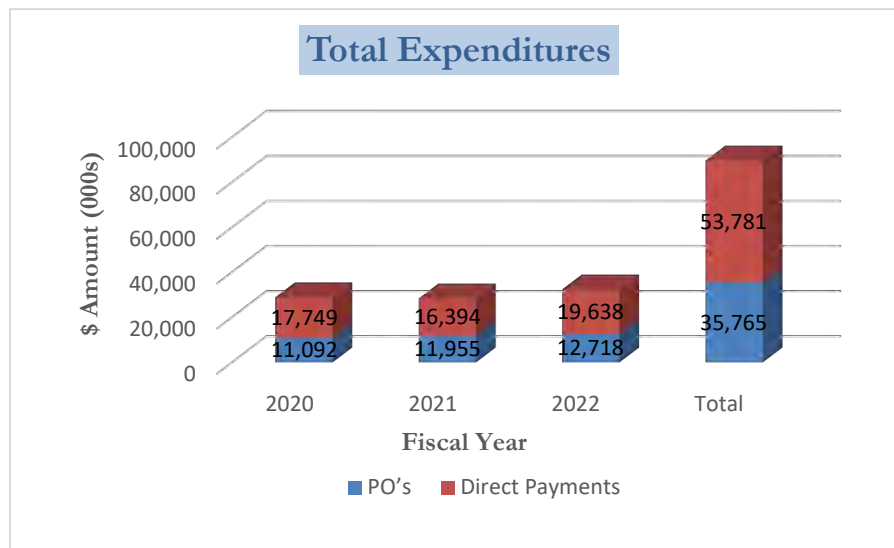
## SCOPE

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 the College's compliance with the Code for the period July 1, 2019 through June 30, 2022, 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.

### Total Expenditures

During the audit period, the college made expenditures as follows:

	<b>\$ Amount (000s)</b>			
	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>Total</b>
POs <sup>1</sup>	11,092	11,955	12,718	35,765
Direct Pay <sup>2</sup>	17,749	16,394	19,638	53,781
<b>Total Spend</b>	<b>28,841</b>	<b>28,349</b>	<b>32,356</b>	<b>89,546</b>



<sup>1</sup> **POs** represents all expenditures made with a Purchase Order. These are required for most contract purchases by the terms of the contract and is the preferred procurement instrument when a government unit orders or procures supplies or services from a vendor.

<sup>2</sup> **Direct Pays** are made without purchase order based on the State Purchase Order Policy. These may occur with purchases of supplies or services that are exempt from the Code or for such things as payment for P-Card purchases or purchases less than \$2500.

## SUMMARY OF RESULTS

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The College's internal procurement procedure manual is inadequate to support the application of key provisions of the Code with increased certification.	
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Our testing of supplies & services did not identify any compliance issues.	
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Our testing of emergency procurements did not identify any compliance issues.	
<b>V. <u>Construction</u></b> .....	8
Our testing of construction did not identify any compliance issues.	
<b>VI. <u>P-Cards</u></b>	
<b><u>Program Administration</u></b>	
Without adequate management oversight, there is increased risk of P-Card misuse or abuse.	
<b>A. <u>Independent Audits of P-Cards Not Performed</u></b> .....	9
The College had not performed Periodic independent audits of their P-Card program.	
<b>B. <u>Increased STL's not Approved</u></b> .....	9
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<b><u>Transaction Testing</u></b> .....	10
Our testing of P-Card transactions did not identify any compliance issues.	
<b>VII. <u>Unauthorized or Illegal Procurements</u></b> .....	10
Our testing of unauthorized procurements did not identify any compliance issues.	
<b>VIII. <u>Surplus Property</u></b> .....	10
Our testing of surplus property did not identify any compliance issues.	
<b>IX. <u>Assistance to Minority Business Enterprises (MBE)</u></b> .....	11
The College did not submit three annual utilization plans in a timely manner.	

## SUMMARY OF RESULTS

Note: The College's responses to issues raised in this report have been inserted immediately following the recommendations in the body of the report.

## RESULTS OF AUDIT

### I. Procurement Manual

Audit & Certification reviewed the college's internal procurement procedures manual to evaluate its effectiveness in documenting the college's system of internal controls over procurement. The College's procurement authority falls completely within the small purchase procedures of S.C. Code Ann. §11-35-1550 and the sole source and emergency procurement procedures of §§11-35-1560 and 1570. We did not identify any compliance issues in the College's procurements in these areas. However, the College's Procurement Procedures Manual required by SC Regulation 19-445.2005, dated February 2020, did not provide for key provisions of the Procurement Code, including:

- 1) Roles and responsibilities for performance, review, and approval of the various aspects of procurement by position for accountability.
- 2) A system for organizing and retaining procurement files.
- 3) Small purchase procedures including the purchase of COTS products per SC Regulations 19-445.2141.
- 4) Procedures for public notice of intent to award Sole Source and Emergency Procurements without competition greater than \$50,000 as required by SC Code Ann. §§ 11-35-1560 and 1570.
- 5) Procedures for the use of revenue generating contracts per SC Regulations 19-445.2000 E (3).

With increased certification, the College will be better served with an updated Procurement Procedures Manual.

**Recommendation:** We recommend the College revise its internal procurement procedures manual as required by SC Code Ann. § 11-35-540 (3) and Reg. 19-445.2005 to provide an adequate system of internal control over its procurement activities. Procurement Services' website has a procurement manual checklist that may serve as a guide in revising the college's' manual.

### **College Response**

We concur with the finding and recommendation. The College will update and revise our procurement manual to comply with SC Code 11-35-540 (3) and Reg. 19-445.2005 and will use the Procurement Services procurement manual checklist as a guide to ensure its effectiveness in documenting our system of internal controls. The College will complete the procurement manual revision no later than June 30, 2023.

## RESULTS OF AUDIT

### **II. Supplies & Services**

We audited expenditures exceeding \$10,000 made with POs, and expenditures made without a PO to determine compliance with the Code.

Our testing of supplies & services did not identify any compliance issues.

### **III. Sole Source Procurements**

Written determinations for all sole source procurements pursuant to SC Code Ann. § 11-35-1560, were evaluated to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports required by § 11-35-2440.

During the audit period the College reported 55 sole source procurements totaling approximately \$2.2M to DPS.

Our testing of sole source procurements did not identify any compliance issues.

### **IV. Emergency Procurements**

Written determinations for all emergency procurements made pursuant to SC Code Ann. § 11-35-1570 were evaluated to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports required by § 11-35-2440.

The College conducted one emergency procurement totaling approximately \$12k during the audit period.

Our testing of emergency procurements did not identify any compliance issues.

### **V. Construction**

We tested construction, and architectural/engineer and related professional service contracts for compliance with the Code and the Manual.

Our testing of construction procurements did not identify any compliance issues.

### **VI. P-Cards**

The College had 256 P-Cards in use during the audit period and spent approximately \$6.4M in 22,185 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.

# RESULTS OF AUDIT

## Program Administration

### A. Independent Audit of P-Cards Not Performed

Independent audits of P-Card activity had not been performed by the College as required. Section V (6) of the State P-Card Policy requires the college to create a “provision for an annual independent audit or review of the P-Card Program by the P-Card Administrator, Internal Audit unit, or other unit assigned audit responsibilities”. The College's internal P-Card Manual does not address an annual provision for the audit or independent review of the P-Card program.

**Recommendation:** We recommend that the College develop and implement procedures to require independent audits of the P-Card program are conducted, at least annually, including program administration and transaction testing. We further recommend that these audits be performed by individuals not associated with the P-Card program.

### **College Response**

We concur with the finding and recommendation. The College does currently perform monthly reviews of p-card transactions. However, this review is performed by an individual with P-Card privileges. The monthly reviews do not include documentation of a review of the overall Program Administration. Effective March 22, 2023, the College removed P-Card privileges for the individual who performs the role of the Internal P-Card Auditor. The audit procedures will be updated to ensure Program Administration is reviewed at least annually. Additionally, the College will revise the P-Card Manual to outline our audit program procedures. The revised manual will be completed no later than June 30, 2023.

### B. Increased STL's Not Approved

The College did not document the required approvals for authorization of P-Cards with an STL greater than \$2,500 as required by Section II (B) (2) of the State P-Card Policy. The College's internal P-Card Manual does not address the requirement that all cardholders that have an STL greater than \$2,500 have board or agency head approval. The College President delegated signing authority for all procurement related reports to the VP of Business Affairs.

## RESULTS OF AUDIT

**Recommendation:** We recommend the College develop and implement procedures to ensure compliance with the State P-Card Policy that require requests for governing board or agency head authorization of procurement cards with single transaction limits exceeding \$2,500.

### College Response

We concur with the finding and recommendation. On March 21, 2023, the College's Finance Committee of the Commission approved a recommendation to delegate the authority to approve requests for individuals to temporarily increase their STL greater than \$2,500 to the VP level as a matter of operational expediency. Additionally, the Finance Committee approved the recommendation to approve three individual positions within the College to have permanent STL greater than \$2,500. The Committee recommendation will be presented to the full Board for approval on April 10, 2023. The College's P-Card manual will be revised to include the process by which STL increases can be requested and approved. Appropriate documentation of authorizations will be maintained in individual cardholder files. The revised manual will be completed no later than June 30, 2023.

### P-Card Transaction Testing

We performed tests of P-Card transactions to ensure compliance with State and college P-Card policies and procedures. Our testing did not identify any compliance issues.

### **VII. Unauthorized or Illegal Procurements**

We tested Unauthorized or Illegal Procurements to determine compliance with the Code and Regulations.

All reported unauthorized or illegal procurements were properly resolved.

### **VIII. Surplus Property**

We tested asset disposals to determine compliance with the Code and State policies and procedures.

Our testing of surplus property did not identify any compliance issues.

## RESULTS OF AUDIT

### **IX. Assistance to Minority Business Enterprises (MBE)**

We requested copies of the college's Annual MBE utilization plans and quarterly progress reports to assess compliance with the Code.

#### **Required MBE Reporting Not Submitted to SMBCC**

The College did not submit three Annual MBE Utilization Plans in a timely manner as required by SC Code Ann. § 11-35-5240.

**Recommendation:** We recommend the College develop and implement procedures, including management review, for submitting Annual Utilization Plans to the SMBCC as required by SC Code Ann. § 11-35-5240.

#### **College Response**

We concur with the finding and recommendation. The College will create a procedure to document the process for submission of this report to include report generation, timeline of preparation, and management review. The procedure will be completed by June 30, 2023. The College has implemented a revised internal due date for submission of all Annual MBE Utilization Plans to ensure timely compliance with SC Code 11-35-5240 and to allow for management review of the report submission.

## CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations in this report will make Tri-County Technical College'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 Tri-County Technical College procurement authority to make direct procurements be approved up to the following limits for three years:

### PROCUREMENT AREAS

Supplies and Services<sup>3</sup>

Information Technology<sup>4</sup>

Construction Contract Award

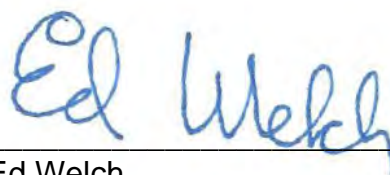
### RECOMMENDED CERTIFICATION \$ LIMITS

250,000 per commitment\*

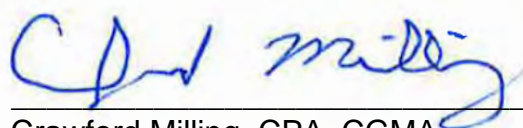
150,000 per commitment\*

150,000 per commitment\*

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



Ed Welch  
Audit Manager,  
Audit & Certification



Crawford Milling, CPA, CGMA  
Director, Audit & Certification

<sup>3</sup> Supplies and Services includes non-IT consulting services

<sup>4</sup> Information Technology includes consulting services for any aspect of information technology, systems and networks

**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.

Technical Colleges

May 23, 2023 PROCUREMENT AREA/ COMMODITY CLASS

CERTIFICATION \$ AMOUNT						
AGENCY	Active	Architect/ Engineer Contract Amendment				
		Supplies and Services	Information Technology	Construction Contract Award	Construction Contract Change Order	
GREENVILLE TECHNICAL COLLEGE	Y	250,000	150,000	100,000	50,000	25,000
HORRY-GEORGETOWN TECH	Y	250,000	150,000	150,000	25,000	10,000
MIDLANDS TECHNICAL COLLEGE	Y	350,000	150,000	100,000	50,000	10,000
SPARTANBURG COMMUNITY COLLEGE	Y	225,000	225,000	250,000	50,000	10,000
TRI-COUNTY TECHNICAL COLLEGE	Recommended	250,000	150,000	150,000		
TRIDENT TECHNICAL COLLEGE	Y	750,000	350,000	100,000	100,000	50,000

STATE FISCAL ACCOUNTABILITY AUTHORITY  
MEETING OF May 23, 2023

REGULAR SESSION  
ITEM NUMBER 12

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AGENCY: Division of Procurement Services

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SUBJECT: Audit Update for Florence Darlington Technical College Gift Card Program

At its January 31, 2023, meeting, the Authority required Florence Darlington Technical College (the College) to have an independent audit of its gift card program to determine whether the College used gift cards for any improper purpose. Attached is the completed audit report by Mauldin & Jenkins (M&J).

---

AUTHORITY ACTION REQUESTED:

Receive the Mauldin & Jenkins' audit report for information only, as recommended by the Division of Procurement Services.

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ATTACHMENTS:

Agenda item worksheet and attachment

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

**Meeting Scheduled for:** May 23, 2023

**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 Update for Florence Darlington Technical College Gift Card Program

**3. Summary and Background Information:**

At its January 31, 2023, Meeting, the Authority required Florence Darlington Technical College (the College) to have an independent audit of its gift card program to determine whether the College used gift cards for any improper purpose. Attached is the completed audit report by Mauldin & Jenkins (M&J).

**4. What is Authority asked to do?**

Receive Mauldin & Jenkins' audit report for information only.

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

Receive Mauldin & Jenkins' audit report for information only.

**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:**

M&J Gift Card Audit Report for the College.

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

# Florence-Darlington Technical College Gift Card Audit

Prepared for:

**The South Carolina State Fiscal  
Accountability Authority**

May 15, 2023



# Florence-Darlington Technical College Gift Card Audit

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## Background:

Florence-Darlington Technical College (“FDTC” or “College”) is located in Florence, SC and is a part of the South Carolina Technical College System. FDTC’s student enrollment is approximately 6,000 students and the College offers programs including two-year degree programs, one-year diploma programs, and one-year certificate programs.

The South Carolina State Fiscal Accountability Authority (“SFAA” or “Authority”) consists of the Governor, the Treasurer, the Comptroller General, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee – all of whom serve ex-officio. Part of the SFAA mission is to provide fiscal oversight for the State of South Carolina and meet the needs of the private sector by delivering quality procurement services. The South Carolina Materials Management Office (“MMO”) is a part of the SFAA and is headed by the Materials Management Officer, who also serves as the State’s Chief Procurement Officer for Supplies and Services. Per S.C. Code Ann. § 11-35-1230 and Regulation 19-445.2020, each State entity must be audited by the MMO at least once every five years. The MMO Independent Procurement Audit is a mandatory review of the governmental body’s entire internal procurement operation. The results of the audit include findings and recommendations from the MMO. The recommendations are presented to the SFAA which has the authority to require compliance with recommendations the Authority deems justified.

The MMO performed an Independent Procurement Audit of FDTC in 2022 and presented the audit report to the SFAA on October 10, 2022. One recommendation from the 2022 MMO Procurement Audit was for an additional audit to be performed on FDTC focusing on whether gift cards were properly purchased and sold. In order to fulfill the aforementioned recommendation of the 2022 MMO Procurement Audit, SFAA engaged Mauldin & Jenkins (“M&J”) to conduct an independent audit of FDTC’s gift card program (“Gift Card Audit”) which included gift card purchases, resales, inventory management, related processes, and compliance with applicable governance.

## Scope and Approach:

SFAA engaged Mauldin & Jenkins to conduct a Gift Card Audit of FDTC to further understand issues identified during the 2022 MMO Procurement Audit of FDTC. The Gift Card Audit assessed fiscal trends, financial processes, and compliance with South Carolina laws and regulations.

### *Scope*

M&J conducted the Gift Card Audit utilizing the following scope and developed meaningful recommendations to improve operations and management and identified additional areas for improvement. The Gift Card Audit scope included:

- Documenting gift card purchases made by FDTC in the past four fiscal years
- Documenting gift cards resold in the bookstore
- Documenting gift cards sold to other units of FDTC, or that may have been sold outside of regular commercial resale procedures
- Documenting gift cards used as giveaways or incentives to students and/or employees at FDTC, and attempting to confirm receipt of gift cards by students and/or employees
- Identifying and counting any remaining gift cards
- Documenting financial processes/controls related to the purchase, inventory management, and distribution of the gift cards

### *Approach*

In order to achieve all of the proposed objectives, Mauldin & Jenkins completed the following procedures:

- Met with MMO staff to receive an overview of and supporting documents related to the 2022 MMO Procurement Audit
- Reviewed and analyzed supporting documents from the 2022 MMO Procurement Audit, including:
  - SFAA Independent Procurement Audit Report of FDTC (October 1, 2018 - September 30, 2021)
  - SFAA Independent Procurement Audit Report of FDTC (July 1, 2014 - December 31, 2016)
  - Procurement signatory approval list for 2021
  - List of all FDTC campus locations
  - Documentation of all gift card purchases (October 1, 2018 - September 30, 2021)

- Individual aggregate resale records for 13 different gift card types (October 1, 2018 - September 30, 2021)
- Documentation of internal payment for gift cards related to the COVID-19 vaccination incentive program
- FDTC bookstore Gift Card Weekly Count document for January 2023
- Reviewed FDTC submitted information which supplemented and updated information received from MMO, including:
  - Gift card receiving log (July 1, 2018 – March 31, 2023)
  - Gift card weekly counts (January 30, 2023 – April 3, 2023)
  - Gift card purchasing records (January 1, 2018 – December 31, 2022)
  - Individual sales records for all varieties of gift cards (July 1, 2018 – March 31, 2023)
  - FDTC departmental bookstore budgets (FY 2019 – FY 2022)
  - Total bookstore sales by tender (July 1, 2018 – March 31, 2023)
  - COVID -19 vaccine gift card winner announcement/acceptance documents
  - COVID-19 vaccine gift card winner’s contact information
  - Draft Purchasing Manual
  - Purchasing Card Manual
- Analyzed FDTC submitted information, including:
  - Reconciling gift card inventory, purchases, and resales
  - Evaluating departmental bookstore budgets and departmental purchasing records
  - Verifying COVID-19 vaccine gift card winners
- Completed a guided walkthrough of the bookstore
- Coordinated and completed on-campus interviews with FDTC employees, including College leadership and bookstore and procurement staff

## FDTC Bookstore and Procurement Audit History:

Based on Mauldin & Jenkins' review of the provided documentation and understanding gained from employee interviews, the following sections describe the history of the FDTC gift card resale program and a summary of the 2022 MMO Procurement Audit of FDTC.

### *FDTC Bookstore Organization*

The FDTC bookstore is a unit of the College but does not receive College funding. The bookstore is responsible for generating adequate revenue to fund operations. Among other responsibilities, the Vice President of Business Affairs oversees the operations of the bookstore. The Director of Auxiliary Services is the direct supervisor of bookstore operations and reports to the Vice President of Business Affairs. The bookstore currently maintains three additional full-time employees and one work-study part-time student position.

### *FDTC Gift Card History*

The FDTC bookstore began reselling gift cards in 2011, starting with gift cards for the on-campus Chick-fil-A. Over the next 12 years, bookstore staff purchased additional gift card types for resale in an effort to meet the anticipated needs of the students. Prior to the beginning of the Gift Card Audit period (7/1/2018) the on-campus Chick-fil-A closed and was replaced with a Subway. During the Gift Card Audit period, the FDTC bookstore purchased gift cards from Belk, BP, Food Lion, Olive Garden, Subway, and TJ Maxx. The purchased gift cards ranged in value from \$10 to \$100. Bookstore staff made the decision to purchase certain gift cards without conducting a formal assessment of need or interest.

Bookstore staff purchased Subway gift cards directly from the on-campus Subway located next to the bookstore and purchased Food Lion gift cards online directly from Food Lion, which were shipped to the bookstore. All other gift cards were purchased from a third-party vendor. Subway and BP gift cards were purchased at face value, while all others were purchased at a five percent discount.

All gift cards purchased by the FDTC bookstore were active or “loaded” when purchased by FDTC, as opposed to being activated or “loaded” at the time of sale at the bookstore. While the bookstore purchased most gift card types at five percent below face value, gift cards are sold to students at ten percent over face value. Students can purchase gift cards from the bookstore using a number of payment methods, such as financial aid, cash, or check. When purchasing gift cards, the majority of students utilize financial aid to make their purchases. During the Gift Card Audit period, 14,521 of the 23,082 total gift cards sold were paid for using financial aid. By purchasing the gift cards using the funds in financial aid accounts, students are able to utilize financial aid for off campus purchases such as food, clothing, and gas.

The bookstore occasionally applies discounts and markdowns at point of sale but there is no written policy regarding discounts and markdowns. Based on M&J communications with the Director of Auxiliary Services, markdowns represent when the price of an item has been reduced for all purchasers, and discounts represent an individual reduction of sales price for that individual transaction. Utilizing Point of Sale (“POS”) system purchasing records, M&J noted numerous transactions that received a 100% reduction of price throughout the audit period as shown in the following table.

Table 1 - Gift Cards Receiving a Full Reduction of Price (7/1/2018 - 3/31/2023)				
Fiscal Year	Gift Card Type	Quantity	Sales Price	Price Reduction
FY 2019	BP \$100 GAS CARD	2	\$ 220	\$ (220)
	BP \$50 GAS CARD	1	\$ 55	\$ (55)
	BP \$25 GAS CARD	3	\$ 83	\$ (83)
	FOOD LION \$50 GIFT CARD	1	\$ 55	\$ (55)
	OLIVE GARDEN \$50 GIFT CARD	2	\$ 220	\$ (220)
	SUBWAY \$100 GIFT CARD	6	\$ 660	\$ (660)
	SUBWAY \$10 GIFT CARD	3	\$ 33	\$ (33)
	<b>FY 2019 Total:</b>	<b>18</b>	<b>\$ 1,326</b>	<b>\$ (1,326)</b>
FY 2020	BELK \$50 GIFT CARD	1	\$ 55	\$ (55)
	BP \$25 GAS CARD	2	\$ 55	\$ (55)
	FOOD LION \$50 GIFT CARD	1	\$ 55	\$ (55)
	OLIVE GARDEN \$50 GIFT CARD	5	\$ 275	\$ (275)
	SUBWAY \$50 GIFT CARD	3	\$ 33	\$ (33)
	SUBWAY \$10 GIFT CARD	1	\$ 55	\$ (55)
	TJ MAXX \$25 GIFT CARD	2	\$ 110	\$ (110)
	<b>FY 2020 Total:</b>	<b>15</b>	<b>\$ 638</b>	<b>\$ (638)</b>
FY 2021	BELK \$50 GIFT CARD	1	\$ 55	\$ (55)
	BP \$50 GAS CARD	1	\$ 55	\$ (55)
	OLIVE GARDEN \$50 GIFT CARD	4	\$ 220	\$ (220)
	OUTBACK STEAKHOUSE \$50 GIFT CARD	2	\$ 220	\$ (220)
	SUBWAY \$100 GIFT CARD	4	\$ 440	\$ (440)
	<b>FY 2021 Total:</b>	<b>12</b>	<b>\$ 990</b>	<b>\$ (990)</b>
FY 2022	BELK \$50 GIFT CARD	1	\$ 55	\$ (55)
	OLIVE GARDEN \$50 GIFT CARD	2	\$ 220	\$ (220)
	SUBWAY \$100 GIFT CARD	2	\$ 220	\$ (220)
	<b>FY 2022 Total:</b>	<b>5</b>	<b>\$ 495</b>	<b>\$ (495)</b>
FY 2023	<b>FY 2023 (7/1/22 - 3/31/23) Total:</b>	<b>0</b>	<b>\$ -</b>	<b>\$ -</b>
<b>7/1/2018 - 3/31/2023 Total</b>		<b>50</b>	<b>\$ 3,449</b>	<b>\$ (3,449)</b>

With the exception of a FY 2019 departmental transaction of a \$25 BP Gas Card utilizing Accounts Receivable (“AR”) as tender, all of the above noted transactions utilized cash as the tender. The table above shows the number of gift cards receiving a full reduction of price for FY 2019 – FY 2022. Of the \$1,368,212 total gift card revenue generated from July 1, 2018 – March 31, 2023, the price reduction of \$3,449 shown above is not significant. However, because there is no policy regarding gift cards receiving a full reduction of price there is the potential for fraud, waste, and abuse.

#### 2022 MMO Procurement Audit

The MMO conducted a Procurement Audit of FDTC in 2022 for the audit period of October 1, 2018, through September 30, 2021. During the 2022 MMO Procurement Audit, MMO documented multiple findings of the College’s improper procurement processes related to gift card purchases, including:

- Procurement files not including approvals required by the College’s internal policies for ten purchases for the bookstore;
- Lacking a procedure to reconcile the gift card purchases and sales reports to beginning and/or ending quantities on hand;
- Records of bookstore purchases of gift cards failing to satisfy the requirement of the Procurement Code to “maintain procurement files sufficient to satisfy the requirements of external audit.” S.C. Reg. 19-445.2005B;
- Treating gift card purchases as exempt from the Procurement Code because they were intended for resale in the bookstore. (The College also gave away gift cards to students and employees. The purchase of gift cards for the purpose of giving them away is not subject to the “articles for commercial sale” exemption from the Procurement Code).

MMO recommended the College take the following actions:

- Terminate the gift card resale program;
- Comply with the Procurement Code when combining the purchase of exempt and non-exempt items into a single acquisition;
- Comply with its policies regarding bookstore purchases and ensure proper approvals;
- Maintain procurement files sufficient to satisfy the requirements of an external audit;
- Arrange for an independent audit to determine whether these gift cards were properly purchased and sold.

During the January 31, 2023, SFAA meeting, all recommendations of the 2022 FDTC Procurement Audit were approved.

SFAA engaged M&J to conduct the Gift Card Audit of gift card transactions, as recommended in the 2022 MMO Procurement Audit. The focus of this Gift Card Audit is on understanding the conditions and environment that led to the 2022 Procurement Audit findings related to the purchase of gift cards.

## Documentation of the Financial Processes/Controls and Inventory Management of Gift Cards:

Based on Mauldin & Jenkins’ review of the provided documentation and understanding gained from employee interviews, the following sections describe the financial processes and controls and inventory management methods the FDTC bookstore had in place for gift cards.

### *Financial Processes/Controls*

Per S.C. Code Ann. § 11-35-710, articles for commercial sale by all governmental bodies are exempt from the South Carolina procurement process. The majority of purchases made by the FDTC bookstore are made for the purpose of resale. Because the purchases are intended for resale, these FDTC bookstore purchases are exempt from the procurement process.

When the decision is made by bookstore staff to purchase gift cards, the Bookstore Manager checks with the vendor for gift card availability and requests an invoice. After the FDTC bookstore confirms gift card availability, the Bookstore Manager creates a purchase order (“PO”) in the POS system (Total Computing Solutions) based on the information received from the vendor. The Bookstore Manager prints the PO and takes it to the Director of Auxiliary Services along with the invoice. The Director of Auxiliary Services reviews the documents for completeness and accuracy before signing to document approval. Once approved by the Director of Auxiliary Services, bookstore staff takes the PO to the Business Affairs Office Accounts Payable (“AP”) staff for a check to be issued. For commercial resale expenditures there is no review by the Vice President of Business Affairs or procurement staff. When ordered gift cards are received by FDTC, the gift cards are entered in the POS Inventory Receiving Log by bookstore staff.

### *Purchase Limitations*

Bookstore staff informally impose a daily limit of \$500 on the purchase of gift cards by students paying with financial aid and the College procedure is to allow \$2,500 in financial aid to be used for bookstore purchases by each student per semester. The POS system is programmed to communicate with Ellucian, the college’s financial software, to limit financial aid spending and will not allow a student to use more than \$2,500 in financial aid at the bookstore but the POS system is not programmed to prohibit over \$500 in gift cards purchases being purchased by a student with financial aid during a single day. FDTC bookstore staff maintain the responsibility to enforce the \$500 per day limit on gift card purchases by students using financial aid. A student may request more financial aid be made available for bookstore purchases through the Business Affairs Office.

### *Inventory Management*

Prior to the 2022 MMO Procurement Audit, gift cards were stored in the office of the Bookstore Manager. At the time of this report, gift cards are stored in a safe located in the office of the Director of Auxiliary Services. The safe is concealed by a wooden structure that is designed to appear to be a cabinet. Along with gift cards, the safe also contains register tills with \$125 each in various bills and coins. While M&J was onsite, the safe was not locked. Staff report that the safe is generally locked, however, was opened prior to M&J's arrival. All full-time bookstore staff maintain the combination to the safe. The gift cards located in the bookstore safe while M&J was on site were valued at over \$90,000.

At the beginning of semesters and other busy times in the bookstore, gift cards may be displayed behind the register counter, however, during most times the gift cards remain in the safe until they are requested by a customer. The gift cards are active when purchased by FDTC, as opposed to being activated or "loaded" at the time of sale at the bookstore. Bookstore staff stated that the decision to purchase active or "preloaded" gift cards was made due to the potential costs associated with modifying the existing POS system to allow for activations to occur at the time of sale.

Following the 2022 MMO Procurement Audit, bookstore staff began a weekly hand count of all gift cards on hand. The hand count is performed by a full-time bookstore staff member and although no one is designated to oversee the process, another full-time bookstore staff member is typically in the room while the hand count is taking place. A review of the weekly gift card hand count sheets showed an error where the count for a specific card went down one week before going back up the following week with no sales or purchases being recorded. The count on January 9, 2023, was 114, January 23, 2023, was 12, and January 26, 2023, was 56. This count discrepancy shows that while hand counts are being conducted, they are not being checked against purchasing and resale records to ensure reconciliation among the hand count, purchasing, and resale records.

The bookstore is equipped with two sets of security cameras. One set of cameras is operated by the FDTC Security Department and includes two cameras positioned in the direction of the cash registers. The other set of security cameras is operated by the bookstore and includes 16 cameras located throughout the bookstore. While cameras are located throughout the sales floor, no cameras are located in staff offices or the warehouse.

## Documentation of Gift Card Transactions:

Based on Mauldin & Jenkins’ review and independent analysis of the provided documentation, understanding gained from employee interviews, and a walkthrough of the bookstore, the documentation of gift card transactions section is organized into the following categories:

- Documentation of gift card purchases and resales
- Gift card returns
- Departmental supply and material purchases from the bookstore
- Departmental purchases of gift cards
- Documentation of gift cards used as promotional prizes
- Current count of remaining gift cards

### *Documentation of Gift Card Purchases and Resales*

In response to the recommendation from the 2022 MMO Procurement Audit that the College terminate the gift card program, the bookstore stopped purchasing gift cards for resale in October 2022. Bookstore staff stated that purchases of gift cards have historically been completed on an as-needed basis. Given the various dates associated with purchasing records, the Gift Card Audit utilized receiving log entry dates to track gift card purchases with all purchases logged on the receiving log on the same date being treated as a single purchase of gift cards. The following graphic shows a timeline of receiving log entries.

**Graphic 1 – Timeline of Receiving Log Entries**



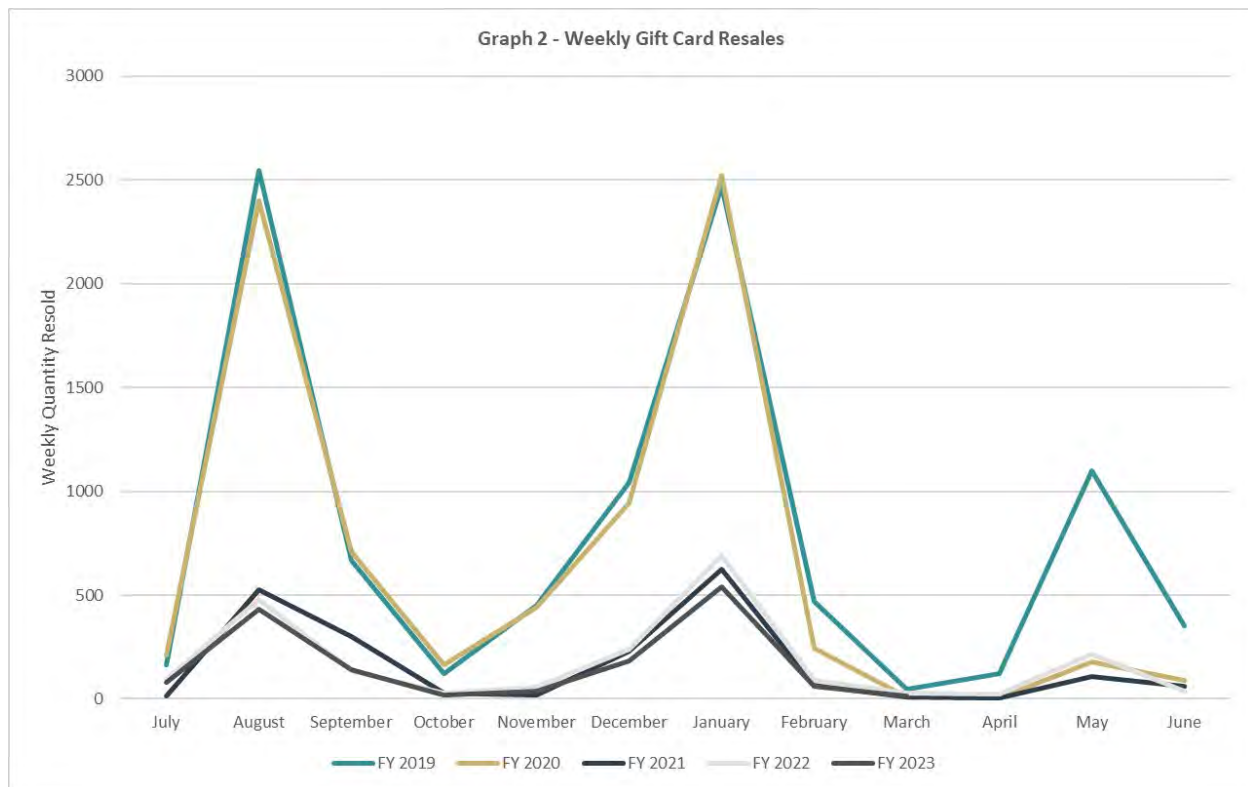
FDTC's fiscal year is July 1 to June 30. In FY 2019 and FY 2022, the bookstore made four entries of gift card purchases each year. In FY 2020 and FY 2021, the bookstore made three entries of gift card purchases. Prior to October 2022 during FY 2023, when MMO recommended FDTC terminate the gift card resale program, the bookstore made two entries of gift card purchases. In total, from July 1, 2018, through April 4, 2023, the bookstore made 15 entries of gift card purchases including 17,230 gift cards at a cost of \$915,313. Purchase entries ranged in quantity of gift cards from 100 to 3,100 gift cards. During FY 2021, the quantity of gift cards purchased reduced significantly from prior years. Bookstore staff noted that this reduction was due to fewer students being on campus following the COVID-19 social distancing guidelines.

Bookstore staff generally entered gift cards in the receiving log between three and six weeks after the PO date. However, in one instance, a PO dated August 2018 for 500 Subway gift cards was not entered in the receiving log until February 2019. The following tables show the quantity of gift cards purchased and cost of the gift cards for each purchase made grouped by receiving log entry date during the Gift Card Audit period as well as the total quantity and cost for each type of gift card purchased during the Gift Card Audit period. The costs shown in the following tables represent the gift card costs – the bookstore also incurred additional costs for shipping. Additional tables displaying the quantity of gift cards purchased and costs associated with each purchase made during the Gift Card Audit period by fiscal year are available in Appendix A.1.

Table 2 - FDTC Combined Quantity and Cost of Gift Card Purchases		
Receiving Log Entry	Quantity	Gift Card Cost
8/20/2018	1,100	\$ 48,500
9/20/2018	1,700	\$ 89,938
11/26/2018	2,290	\$ 132,575
2/7/2019	2,240	\$ 78,800
8/28/2019	3,100	\$ 171,875
12/10/2019	1,350	\$ 64,625
1/28/2020	1,200	\$ 64,250
8/3/2020	450	\$ 30,000
11/19/2020	400	\$ 28,500
4/27/2021	600	\$ 37,125
8/13/2021	650	\$ 42,375
9/3/2021	400	\$ 28,500
10/13/2021	450	\$ 19,000
3/24/2022	100	\$ 10,000
8/30/2022	1,200	\$ 69,250
<b>Total</b>	<b>17,230</b>	<b>\$ 915,313</b>

Table 3 - FDTC Purchases by Gift Card Type		
7/1/18 - 4/4/23	Quantity	Gift Card Cost
BELK \$50 GIFT CARD	2,400	\$ 114,000
BP \$25 GAS CARD	1,160	\$ 29,000
BP \$50 GAS CARD	3,375	\$ 168,750
BP \$100 GAS CARD	2,975	\$ 297,500
FOOD LION \$50 GIFT CARD	1,100	\$ 52,250
FOOD LION \$100 GIFT CARD	1,100	\$ 104,500
OLIVE GARDEN \$50 GIFT CARD	1,430	\$ 67,925
SUBWAY \$10 GIFT CARD	500	\$ 5,000
SUBWAY \$25 GIFT CARD	500	\$ 12,500
TJ MAXX \$25 GIFT CARD	2,690	\$ 63,888
<b>Total</b>	<b>17,230</b>	<b>\$ 915,313</b>

The following graph shows FDTC bookstore weekly resales of gift cards by fiscal year. Individual fiscal year graphs are available in Appendix A.2.



Weekly gift card resales demonstrate a clear pattern. For each fiscal year, gift card resales peaked at the start of each semester, August and January, and then showed a smaller increase in May. The number of gift cards sold in FY 2019 and FY 2020 was significantly higher than the following fiscal years. The initial reduction can likely be attributed to the onset of the COVID-19 pandemic and the reduction of in-person learning but resales have not rebounded since in-person learning has returned. Gift card purchases followed the resales trend with significantly lower quantities of gift cards purchased in FY 2021 and FY 2022 than purchased in FY 2019 and FY 2020.

At the start of the Gift Card Audit period, inventory records show the quantity on hand of gift cards was 4,939. Over the course of the Gift Card Audit period, FDTC purchased 17,230 gift cards total and sold 23,082. The M&J hand count of gift cards completed on April 4, 2023, showed 1,069 gift cards on hand. The quantity on hand on July 1, 2018, (4,939) combined with the quantity purchased between July 1, 2018, and April 4, 2023, (17,230) is 22,169 gift cards. This number of gift cards should equal the quantity sold during the same period (23,082) combined with the quantity remaining on hand on April 4, 2023 (1,069), which totals 24,151 gift cards. The total discrepancy of 1,982 gift cards is significant and includes gift card types having more sold than should have been available for sale and gift card types having fewer currently on hand than records support.

The following table shows the quantity on hand at the start of the Gift Card Audit period, July 1, 2018; purchases made from July 1, 2018, through April 4, 2023; sales made from July 1, 2018, through April 4, 2023; and the quantity on hand on April 4, 2023, by gift card type.

Table 4 - Gift Card Reconciliation					
	On Hand 7/1/2018	Quantity Purchased	Quantity Sold	On Hand 4/4/2023	Discrepancy
BELK \$50 GIFT CARD	0	2,400	2,815	40	455
BP \$100 GAS CARD	536	2,975	3,851	0	340
BP \$50 GAS CARD	1,034	3,375	4,571	208	370
BP \$25 GAS CARD	829	1,160	2,123	0	134
FOOD LION \$100 GIFT CARD	0	1,100	1,170	0	70
FOOD LION \$50 GIFT CARD	0	1,100	1,150	18	68
OLIVE GARDEN \$50 GIFT CARD	0	1,430	1,341	46	(43)
OUTBACK \$50 GIFT CARD	0	0	207	0	207
SUBWAY \$100 GIFT CARD	1,339	0	572	725	(42)
SUBWAY \$50 GIFT CARD	805	0	795	0	(10)
SUBWAY \$25 GIFT CARD	189	500	687	0	(2)
SUBWAY \$10 GIFT CARD	207	500	686	0	(21)
TJ MAXX \$25 GIFT CARD	0	2,690	3,114	32	456
<b>TOTAL</b>	<b>4,939</b>	<b>17,230</b>	<b>23,082</b>	<b>1,069</b>	<b>1,982</b>

The discrepancies shown in Table 4 demonstrate a lack of inventory control and a lack of adequate sale and purchasing records. For eight of the 13 types of gift cards sold by the bookstore during the Gift Card Audit period, more gift cards were reportedly sold than were available to be sold, based on inventory and receiving log data. The five other gift card types sold had fewer gift cards on hand on April 4, 2023, than inventory, purchasing, and sales records indicate there should be.

Outback \$50 gift cards were sold by the bookstore during the Gift Card Audit period however, there were no Outback \$50 gift cards on hand on July 1, 2018, and Outback \$50 gift cards were not entered in the receiving log. Outback \$50 gift cards were included on an August 12, 2019 PO with a quantity of zero but Outback \$50 gift cards were not included on the corresponding invoice. Other than the August 12, 2019 PO, there is no other mention of Outback \$50 gift cards in purchasing documents from the Gift Card Audit period. College staff is not able to provide an explanation for how the Outback \$50 gift cards were resold but stated that the Outback \$50 gift card inventory tag may have been placed on another type of gift card or that the Outback \$50 gift cards may have been misplaced and newly discovered during the audit time period.

Additional tables showing the reconciliation of gift card inventory, purchases, and resales for each audit period fiscal year are detailed in Appendix A.3.

#### *Gift Card Returns*

The bookstore allows gift cards to be returned. Gift cards returned prior to the purchaser leaving the store do not require additional verification prior to the return being processed. Bookstore staff noted that when students purchase gift cards without knowledge of their bookstore financial aid balance the decision to return the gift cards is sometimes made when the purchasing student notices a bookstore financial aid balance that is less than the student expected. Gift cards returned after the purchaser has left the bookstore require verification that no purchases were made using the gift card prior to return or, if the purchaser states the gift card did not work, verification that the balance is zero and no transactions have occurred is required. To verify no purchases were made using the gift card following the purchase of the gift card from the bookstore, the Bookstore Manager calls the gift card processor at the phone number located on the back of the gift card and requests the transaction history of the gift card. Returns of gift cards being sold with a zero balance are rare according to the Bookstore Manager. During the Gift Card Audit period, POS records show 305 gift cards being returned through 180 transactions. Of the 180 transactions, 164 were made with financial aid, six were made with a combination of financial aid and cash, three were made with a check, three were made using AR, two were made with cash, and two were made with credit cards.

### *Departmental Supply and Material Purchases from the Bookstore*

FDTC departments can choose to allocate a portion of their annual budget to their bookstore budget.

When FDTC departments make purchases from the bookstore against the department bookstore budget AR is the payment method used in the POS system. Annual AR account bookstore budgets vary from less than \$100 to over \$10,000. The average annual budget of AR accounts having funds allocated for bookstore purchases is \$1,308 and the median annual budget is \$500.

There are no restrictions placed on the departments regarding what may be purchased from the bookstore utilizing the budgeted bookstore funds. Bookstore staff stated that department purchases are usually made for FDTC branded apparel and office supplies. The FDTC Procurement Department creates blanket purchase orders for office supplies through one of the statewide contracts for departments to utilize on an as-needed basis. During FY 2019, FY 2020, FY 2021, and FY 2022 combined, the total FDTC departmental spend in the bookstore, including all purchases, was \$296,919 which represents over four percent of the total sales of the bookstore for that same period. By not utilizing the Procurement Department and the statewide contracts for office supplies the FDTC departments purchasing office supplies from the bookstore are buying the supplies at full retail value and not receiving the agreed-upon discounted pricing from the state contracts. The Gift Card Audit analysis did not include itemized purchase details, therefore the total amount of office supplies purchased from the bookstore by departments was not determined.

The following table shows the total amount of purchases charged to AR accounts for each fiscal year of the Gift Card Audit. Each department maintains a corresponding AR account number and AR account numbers are also issued for federal and other funds. The table also shows the number of AR accounts making purchases for each fiscal year and the number of AR accounts which spent more than \$1,000, \$5,000, and \$10,000 in the fiscal year.

Table 5 - Accounts Receivable Bookstore Purchases by Fiscal Year					
	# of AR Accounts Making Purchases	# With Purchases Totaling Over \$1,000	# With Purchases Totaling Over \$5,000	# With Purchases Totaling Over \$10,000	Total Bookstore Spend
FY 2019	93	26	3	1	\$ 101,341
FY 2020	87	21	4	2	\$ 93,664
FY 2021	72	11	1	0	\$ 41,620
FY 2022	80	14	3	0	\$ 60,294

Of the average 83 AR accounts (average number of accounts making purchases for each FY between FY 2019 and FY 2022) being charged for purchases each fiscal year, three surpassed \$10,000 in purchases during a single fiscal year and on average 18 (average number of accounts with purchases totaling more than \$1,000 for each FY between FY 2019 and FY 2022) surpassed \$1,000 in purchases each year. While bookstore purchases of office supplies may not be the main method departments use to purchase office supplies, the fact that FDTC departments regularly purchase office supplies from the bookstore rather than through one of the two statewide office supply procurement contracts is noteworthy. Given the scope of the Gift Card Audit, M&J did not analyze office supplies purchased by departments or the availability of purchased office supplies through the statewide office supply contracts.

#### *Departmental Purchases of Gift Cards*

Departmental purchases of gift cards were identified during our review of transactions occurring during the Gift Card Audit period – M&J identified 32 transactions that included gift cards where AR was utilized as the payment type; three of these transactions were returns. The returns of gift cards made by FDTC departments included the return of two gift cards purchased for the FDTC Stinger Vaccination Incentives Program but not claimed as prizes and the return of three gift cards originally purchased at full retail price then returned and repurchased at face value.

The FDTC Stinger Vaccination Incentives Program took place in October, November, and December of 2021 and awarded ten COVID-19 vaccinated winners each month with gift cards valued at \$100. Net of returns, the 32 FDTC department purchases of gift cards included 79 gift cards. FDTC departments purchased 30 gift cards in FY 2019, zero gift cards in FY 2020, two gift cards in FY 2021, 45 gift cards, including the 28 gift cards used for the FDTC Stinger Vaccination Incentives Program, in FY 2022, and two gift cards through March of FY 2023. The following table shows the quantity of gift card resales to FDTC departments during the Gift Card Audit period, less the returned gift cards.

Table 6 - Gift Card Resales to Departments (7/1/2018 - 3/28/2023)		
Fiscal Year	Gift Card Type	Quantity
FY 2019	BP \$50 GAS CARD	1
	BP \$25 GAS CARD	9
	SUBWAY \$50 GIFT CARD	1
	SUBWAY \$25 GIFT CARD	5
	SUBWAY \$10 GIFT CARD	14
	<b>FY 2019 Total:</b>	<b>30</b>
FY 2020	<b>FY 2020 Total:</b>	<b>0</b>
FY 2021	BP \$50 GAS CARD	2
	<b>FY 2021 Total:</b>	<b>2</b>
FY 2022	BP \$100 GAS CARD	24
	BP \$50 GAS CARD	3
	FOOD LION \$50 GIFT CARD	2
	FOOD LION \$50 GIFT CARD	5
	TJ MAXX \$25 GIFT CARD	8
	<b>FY 2022 Total:</b>	<b>42</b>
FY 2023	BP \$50 GAS CARD	2
	<b>FY 2023 (7/1/22 - 3/28/23) Total:</b>	<b>2</b>

Based on informal FDTC policy, gift card resales to FDTC departments are supposed to be at a reduced price to remove the ten percent markup and allow internal sales to be made at face value. As the following table indicates, the reduction of price on gift cards resold to FDTC departments was not consistent through the Gift Card Audit period.

Table 7 - Gift Card Resales to Departments by Value (7/1/2018 - 3/28/2023)		
Fiscal Year	Transaction Value	Quantity
FY 2019	Face Value	3
	Retail Value	26
	Full Price Reduction	1
	<b>FY 2019 Total:</b>	<b>30</b>
FY 2020	<b>FY 2020 Total:</b>	<b>0</b>
FY 2021	Retail Value	2
	<b>FY 2021 Total:</b>	<b>2</b>
FY 2022	Face Value	32
	Retail Value	13
	Returned at Retail Value	(1)
	Returned at Face Value	(2)
	<b>FY 2022 Total:</b>	<b>42</b>
FY 2023	Retail Value	2
	<b>FY 2023 (7/1/22 - 3/28/23) Total:</b>	<b>2</b>

Of the 30 gift cards resold to FDTC departments in FY 2019, 3 received a ten percent price reduction from retail price and were purchased at face value, one received a full reduction of price and was acquired at no cost, and the remaining 26 were purchased at retail price. The two gift cards resold to an FDTC department in FY 2021 and FY 2023 did not receive a price reduction being resold at full retail price.

Of the 45 gift cards resold to FDTC departments, including three returned, in FY 2022, 13 did not receive a price reduction and were resold at full retail price. The remaining 32 gift cards received a ten percent reduction of price and were resold at face value. The gift cards that received a ten percent reduction of price were all used for the FDTC Stinger Vaccination Incentives Program. Three gift cards were returned by a department for the same value as they were purchased.

### *Documentation of Gift Cards Used as Promotional Prizes*

During October, November, and December of 2021, FDTC held the FDTC Stinger Vaccination Incentives Program. To participate, employees and students were required to register for the FDTC Stinger Vaccination Incentives Program on the FDTC website. Ten names were randomly selected each month from the pool of participating students and employees and each winner was eligible to receive a prize valued at \$100. The program also included a grand-prize-winning employee and student, selected in December of 2021. To receive a prize, the selected student or employee had to go to the Business Affairs Office and provide their driver's license or other identification and proof of receiving a COVID-19 vaccination to staff in that office.

In total, 32 gift cards were purchased to be used as giveaways for the FDTC Stinger Vaccination Incentives Program, and were purchased from the FDTC bookstore using Federal Higher Education Emergency Relief Fund ("HEERF") money. The purchases were made through the bookstore POS system utilizing AR as payment type and the purchase was directed to the account established for HEERF funds. Five \$100 Subway, three \$100 BP, two \$50 Food Lion, and two \$50 BP were purchased on September 29, 2021, for the October 2021 drawing. Twenty BP \$100 gift cards were purchased for the November 2021 and December 2021 prizes on November 1, 2021, and December 3, 2021, respectively.

Through the course of the three-month FDTC Stinger Vaccination Incentives Program giveaway, two winners did not collect their prize gift cards. As shown in Table 7, the two unclaimed BP \$100 gift cards were returned to the bookstore and a refund was issued to the HEERF fund AR budget on June 14, 2022.

M&J received documentation from FDTC of a printout listing prize winners from each month showing check marks next to the names. Staff stated that the check marks were made by the Business Affairs Office staff member who was present when the winners claimed their prize. Monthly prize winners received gift cards with a value of \$100. The grand prize winners, who won \$500, were verified by payroll records and records of a check being distributed. M&J requested contact information for all prize winners from FDTC and received email addresses for 26 of the 30 winners who FDTC reported as having claimed their prizes and phone numbers for 29 of the 30 reported winners. Contact information was not provided for one employee winner who no longer works at FDTC.

M&J sent an email to the 24 monthly prize winners and the two grand prize winners whose email address was provided explaining the reason for the email and asking recipients to respond to the email with a statement of 'Yes, I did receive a prize gift card' or 'No, I did not receive a prize gift card'.

14 of the 26 winners who were sent an email responded that they received a \$100 gift card and 12 did not respond. No winners responded by email stating that they did not receive their prize gift card.

M&J then called the 15 winners who did not respond to the email or for whom an email address was not provided at the phone number provided by FDTC and spoke with one of the winners. Of the 14 other winners, 12 did not answer and two were calls to wrong numbers. The winner M&J spoke with stated that she did not receive a \$100 gift card. The name of the one winner who stated that she did not receive a prize gift card was checked off like all other winners who FDTC reported had claimed their prize on the documentation we received from FDTC.

Grand Prize winners received \$500. The employee received the prize through payroll with a net total after taxes of \$500. The student winner received the \$500 prize as a check. Both grand prize winners confirmed receipt of the \$500 prize.

Table 8 - FDTC Stinger Vaccination Incentives Program Prize Receipt Confirmation	
Total Winners Reported to Receive Prize:	30
Contact Information Provided:	29
Confirmed Receipt of Gift Card by Email:	14
Confirmed Receipt of Gift Card by Phone:	0
Denied Receipt of Gift Card by Phone:	1
Contact not Made:	14

### *Current Count of Remaining Gift Cards*

Currently, all remaining gift cards are located in a safe within the office of the Director of Auxiliary Services. All full-time staff members have the combination to this safe. Part-time and work-study employees are not given the combination to the safe. The Director stated that the safe is the only place that the gift cards are held.

On April 4, 2023, M&J conducted a hand count of the remaining gift cards located in the office of the Director of Auxiliary Services. While stored in the safe, the cards were arranged by type and were separated in groups. Two M&J team members each independently counted the cards to ensure accuracy. The engagement team's hand count was in agreement with the count most recently conducted by bookstore staff.

The table below illustrates the results of M&J's hand count of gift cards located in the office safe of the Director of Auxiliary Services.

Table 9 - 4/4/2023 Count of Gift Cards on Hand		
Card Type	Count	Total Value
BELK \$50 GIFT CARD	40	\$ 2,000
BP \$50 GAS CARD	208	\$ 10,400
FOOD LION \$50 GIFT CARD	18	\$ 900
OLIVE GARDEN \$100 GIFT CARD	46	\$ 4,600
SUBWAY \$100 GIFT CARD	725	\$ 72,500
TJ MAXX \$25 GIFT CARD	32	\$ 800
<b>TOTALS</b>	<b>1,069</b>	<b>\$ 91,200</b>

## Additional Items of Note:

During the Gift Card Audit, additional items of note were discovered. The following list identifies and explains these additional items of note.

- Purchases exempt from the South Carolina Procurement Code through the “articles for commercial sale” exemption cannot be comingled with items not sold through commercial sale. Given the various discounts and reductions of price, in some cases full reductions of price, applied to FDTC bookstore merchandise for departmental purchases, it is unclear as to whether these marked down/discounted “purchases” fall under the definition of a “commercial sale.” Unless the inventory of an item is liquidated prior to FDTC purchasing more of that item, the purchase date of individual items resold in the bookstore is not known because the bookstore logs all purchases in the receiving log in bulk and does not individually identify items based on purchase date, nor at the time of resale. Therefore, individual items resold in a transaction that may not have met the definition of a “commercial sale” cannot be attributed to an individual purchase order to distinguish which bookstore purchases may have comingled commercial sale and non-commercial sale inventory. Items sold during transactions that do not meet the definition of a “commercial sale” are not eligible to receive the “articles for commercial sale” exemption from the South Carolina Procurement Code at the time of purchase.
- FDTC departmental purchases of office supplies from the FDTC bookstore occur on a regular basis. The State Procurement Code requires that office supplies be purchased through one of the statewide contracts for office supplies. There are exceptions to this requirement but given the scope of the Gift Card Audit, analysis was not completed to determine whether the office supply purchases made by FDTC departments from the bookstore met the governing requirements.
- During the Gift Card Audit, attempts were made to determine if FDTC pursues reimbursement from gift card vendors for gift cards that are found to have been purchased with a zero-dollar value. During the Gift Card Audit, no documents were found showing a credit back to FDTC for defective gift cards and staff did not indicate that the bookstore was otherwise made whole for purchased gift cards with no value.
- Departmental gift card purchases from the FDTC bookstore received inconsistent reductions of price/discounts. It is bookstore policy to reduce the resale price of gift cards for departments ten percent but that did not always occur. The Gift Card Audit did not analyze departmental purchases of all merchandise; however, the inconsistent treatment found in applying reductions of price/discounts on gift cards could extend to other bookstore merchandise purchased by FDTC departments as well.

# Observations and Recommendations:

## *Gift Card Related Observations and Recommendations*

**Observation 1:** The 2022 MMO Procurement Audit of FDTC recommended the College terminate the gift card resale program. The MMO recommendation to terminate the gift card resale program was approved by the SFAA during the January 2023 board meeting. Following the 2022 MMO Procurement Audit, FDTC stopped purchasing gift cards but are continuing to sell the remaining inventory.

**Recommendation 1:** FDTC should seek guidance and alignment with SFAA in writing as to whether the College should:

- a) fully terminate the gift card resale program,
- b) continue to sell off remaining inventory before terminating the gift card resale program, or
- c) resume the gift card resale program once appropriate controls are in place.

**Observation 2:** FDTC bookstore staff made the decision to purchase certain types of gift cards without conducting a formal assessment of need or interest.

**Recommendation 2:** Should FDTC continue the gift card resale program based on the results of Recommendation 1, bookstore staff should conduct a needs assessment to determine if students have a true need/desire and if so, what types of gift cards should be available in the bookstore.

**Observation 3:** FDTC purchased gift cards are active and “loaded” at the time of bookstore purchase.

**Recommendation 3:** Should FDTC continue the gift card resale program based on the results of Recommendation 1, FDTC should conduct gift card market research and POS research to determine if it is economically viable for modifying its existing POS system or procuring a new POS system allowing FDTC to purchase gift cards that are inactive at the time of bookstore purchase and activated at the time of resale. If the research shows that it is not economically viable, FDTC should discontinue the gift card program, or draft and implement policy regarding the timing, amount, and approval of gift card purchases as well as inventory management.

**Observation 4a:** Purchases of gift cards are completed on an as-needed basis.

**Observation 4b:** Bookstore staff purchased gift cards at a five percent discount (except Subway and BP gift cards which they purchased at face value), yet sold gift cards to students at ten percent over face value.

**Recommendation 4:** Should FDTC continue the gift card resale program based on the results of Recommendation 1, FDTC should conduct gift card market research to determine a pricing model that is appropriate based on the College's business and values models. FDTC should then consider if such a pricing model aligns with student demand.

**Observation 5:** Based on informal FDTC policy, bookstore staff are supposed to reduce the price of gift card resales to FDTC departments to remove the ten percent markup, allowing those sales to be made at face value. The reduction of price on gift cards resold to FDTC departments was not consistent through the Gift Card Audit period.

**Recommendation 5:** Should FDTC continue the gift card resale program, FDTC should draft and implement procedures that ensure bookstore staff are adhering to the policy of marking down gift cards to face value for all gift cards resold to FDTC departments. FDTC should also conduct research on POS system capabilities to determine the most effective and efficient method for ensuring all approved price reductions and discounts are consistently applied and incorporate those findings into policies and procedures as applicable.

**Observation 6:** During July 1, 2018 – March 31, 2023, 50 gift cards received a full reduction of price, resulting in unrealized sales of \$3,449. However, because there is no bookstore policy regarding gift cards receiving a full reduction of price, FDTC has increased exposure to potential for fraud, waste, and abuse.

**Recommendation 6:** Should FDTC continue the gift card resale program, FDTC should draft and implement a policy regarding if and when price reductions and discounts are appropriate for gift cards and whether the Vice President of Business Affairs or other FDTC leadership should be responsible for approving all or select price reductions and discounts.

**Observation 7:** The POS system is not programmed to prohibit a student from purchasing over \$500 in gift cards in a single day using financial aid. FDTC bookstore staff have the responsibility to enforce the prohibition against students using financial aid to spend more than \$500 per day on gift card purchases.

**Recommendation 7:** Should FDTC continue the gift card resale program based on the results of Recommendation 1, FDTC should draft and implement a policy regarding gift card purchases using financial aid. If a dollar limit cap is implemented, FDTC should research and include in the policy the most efficient and effective method for enforcing the cap.

**Observation 8a:** A review of the weekly gift card count sheets showed week-to-week discrepancies (where the count for a specific card went down one week before going back up the following week) without recorded sales or purchases.

**Observation 8b:** There is a lack of gift card inventory control and a lack of adequate sale and purchasing records. For eight of the 13 types of gift cards the bookstore sold during the Gift Card Audit period, more gift cards were reportedly sold than were recorded as purchased and available for sale. The five other gift card types sold had fewer gift cards on hand on April 4, 2023 than listed in combined inventory, purchasing, and sales records. The five gift card types reflecting a smaller inventory than supported by combined inventory, purchasing, and sales records may be the result of fraud, waste, or abuse.

**Observation 8c:** The bookstore sold Outback \$50 gift cards during the Gift Card Audit period, however, there were reportedly no Outback \$50 gift cards on hand on July 1, 2018, and no reported purchases of Outback \$50 gift cards. College staff is not able to provide an explanation for how the Outback \$50 gift cards were resold but stated that the Outback \$50 gift card inventory tag may have been placed on another type of gift card or that the Outback \$50 gift cards may have been misplaced and newly discovered during the audit time period.

**Recommendation 8:** FDTC should draft and implement a policy and procedure regarding the weekly gift card count including the method and personnel involved in the count and the most effective and efficient means to ensure a weekly reconciliation of inventory, sales, and purchases. The weekly gift card count policy should include procedures to identify the cause of all discrepancies and ensure the cause of discrepancies is documented and resolved.

**Observation 9:** Bookstore staff generally entered gift cards in the receiving log between three and six weeks after PO date. However, in one instance, a PO dated August 2018 for 500 Subway gift cards was not entered in the receiving log until February 2019.

**Recommendation 9:** Should FDTC continue the gift card resale program based on the results of Recommendation 1, FDTC should draft and implement a policy regarding the complete, timely, and accurate entry of gift cards to the receiving log.

**Observation 10:** The bookstore allows customers to return gift cards. Gift cards returned prior to the purchaser leaving the store do not require additional verification prior to staff processing the return. For gift cards returned after the purchaser has left the bookstore, staff should verify that no purchases were made on the gift card prior to accepting a return, or, if the purchaser states the gift card did not work, staff must verify the balance is zero and that no transaction has occurred.

**Recommendation 10:** Should FDTC continue the gift card resale program based on the results of Recommendation 1, FDTC should draft and implement a policy regarding the return of gift cards ensuring that the return process is completed in an efficient and effective manner and that the financial interests of the College are met.

#### *Bookstore Related Observations and Recommendations*

**Observation 11:** Current bookstore practice allows for individualized decisions related to discounts and reductions of price for items resold to FDTC departments. These discounts and price reductions may result in a violation of the “articles of commercial sale” exemption from Procurement Code.

**Recommendation 11:** FDTC should evaluate it’s practice of offering discounts and price reductions for departmental purchases from the bookstore to determine if these discounts and price reductions conform with the “articles of commercial sale” exemption from Procurement Code. FDTC should then document it’s practice relating to discounts and price reductions for departmental bookstore purchases and confirm in writing with SFAA as to whether the FDTC bookstore departmental purchase discount and price reduction practice is acceptable for maintaining the “articles of commercial sale” exemption from the Procurement Code.

**Observation 12:** There are no FDTC- restrictions placed on departments regarding what they may purchase utilizing the budgeted bookstore funds. Bookstore staff stated that department purchases are typically made for FDTC apparel and office supplies. FDTC departments purchasing office supplies without utilizing the Procurement Department and one of the statewide contracts for office supplies result in departments buying supplies at full retail value and not receiving the agreed-upon discounted pricing from state contracts.

**Recommendation 12:** FDTC should draft and implement a policy regarding departmental purchases from the bookstore ensuring that departmental purchases made from the bookstore are in the best interest of the College and that all requirements of the Procurement Code are met.

### *General Observation and Recommendation*

**Observation 13:** One monthly winner of the FDTC Stinger Vaccination Incentives Program stated that she did not receive a \$100 gift card. The documentation received from FDTC showed the name of the one winner who stated that she did not receive a prize gift card checked off in the same manner as all other winners who FDTC reported had claimed their prize.

**Recommendation 13:** FDTC should draft and implement a policy and procedures regarding prize giveaways in general, and ensure that the policy and procedures include adequate record keeping, winner identification, and prize distribution confirmation.

## Conclusion:

The FDTC bookstore has been purchasing and reselling active gift cards for 12 years. The purchase and resale of gift cards reportedly began in an effort by bookstore staff to meet the needs of students by allowing the students to utilize financial aid funds to purchase gift cards to retail establishments.

Our analysis of inventory, purchasing, and resale records found an overall lack of controls within the gift card resale program. As stated in the 2022 MMO Procurement Audit, active gift cards have a high level of inherent risk for fraud. This risk would be significantly reduced if the gift cards were activated at the time of purchase/resale within the bookstore. However, the Gift Card Audit identified other notable areas of concern such as lack of controls and formal policies and procedures which resulted in issues related to inventory management and financial management.

The 2022 MMO Procurement Audit of FDTC recommended the College terminate the gift card resale program. The MMO recommendation to terminate the gift card resale program was approved by the SFAA during the January 2023 board meeting. Following the 2022 MMO Procurement Audit, FDTC stopped purchasing gift cards but are continuing to sell the remaining inventory. FDTC should seek guidance and alignment with SFAA in writing as to whether the College should:

- a) fully terminate the gift card resale program,
- b) continue to sell off remaining inventory before terminating the gift card resale program, or
- c) resume the gift card resale program once appropriate controls are in place.

We encourage the SFAA, MMO, and FDTC to review the Gift Card Audit recommendations contained in this report and for FDTC to seek guidance from the SFAA in writing for specific next steps and actionable items.

## Appendix A.1 - Gift Card Purchases by Date of Receiving Log Entry by Fiscal Year

The costs shown in the following tables represent the gift card costs – the bookstore also incurred additional costs for shipping.

### *FY 2019 Gift Card Purchases by Date of Receiving Log Entry*

8/20/2018 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	400	\$ 47.50	\$ 19,000
BP \$100 GAS CARD	100	\$ 100.00	\$ 10,000
BP \$50 GAS CARD	200	\$ 50.00	\$ 10,000
TJ MAXX \$25 GIFT CARD	400	\$ 23.75	\$ 9,500
	<b>1,100</b>		<b>\$ 48,500</b>

9/20/2018 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	350	\$ 47.50	\$ 16,625
BP \$100 GAS CARD	400	\$ 100.00	\$ 40,000
BP \$25 GAS CARD	200	\$ 25.00	\$ 5,000
BP \$50 GAS CARD	400	\$ 50.00	\$ 20,000
TJ MAXX \$25 GIFT CARD	350	\$ 23.75	\$ 8,313
	<b>1,700</b>		<b>\$ 89,938</b>

11/26/2018 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	230	\$ 47.50	\$ 10,925
BP \$100 GAS CARD	375	\$ 100.00	\$ 37,500
BP \$25 GAS CARD	260	\$ 25.00	\$ 6,500
BP \$50 GAS CARD	375	\$ 50.00	\$ 18,750
FOOD LION \$100 GIFT CARD	100	\$ 95.00	\$ 9,500
FOOD LION \$100 GIFT CARD	200	\$ 95.00	\$ 19,000
FOOD LION \$50 GIFT CARD	100	\$ 47.50	\$ 4,750
FOOD LION \$50 GIFT CARD	200	\$ 47.50	\$ 9,500
OLIVE GARDEN \$50 GIFT CARD	230	\$ 47.50	\$ 10,925
TJ MAXX \$25 GIFT CARD	220	\$ 23.75	\$ 5,225
	<b>2,290</b>		<b>\$ 132,575</b>

2/7/2019 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	220	\$ 47.50	\$ 10,450
BP \$100 GAS CARD	200	\$ 100.00	\$ 20,000
BP \$25 GAS CARD	150	\$ 25.00	\$ 3,750
BP \$50 GAS CARD	200	\$ 50.00	\$ 10,000
OLIVE GARDEN \$50 GIFT CARD	250	\$ 47.50	\$ 11,875
SUBWAY \$10 GIFT CARD	300	\$ 10.00	\$ 3,000
SUBWAY \$10 GIFT CARD	200	\$ 10.00	\$ 2,000
SUBWAY \$25 GIFT CARD	200	\$ 25.00	\$ 5,000
SUBWAY \$25 GIFT CARD	300	\$ 25.00	\$ 7,500
TJ MAXX \$25 GIFT CARD	220	\$ 23.75	\$ 5,225
	<b>2,240</b>		<b>\$ 78,800</b>

*FY 2020 Gift Card Purchases by Date of Receiving Log Entry*

8/28/2019 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BP \$100 GAS CARD	400	\$ 100.00	\$ 40,000
BP \$25 GAS CARD	200	\$ 25.00	\$ 5,000
BP \$50 GAS CARD	400	\$ 50.00	\$ 20,000
BELK \$50 GIFT CARD	400	\$ 47.50	\$ 19,000
OLIVE GARDEN \$50 GIFT CARD	400	\$ 47.50	\$ 19,000
TJ MAXX \$25 GIFT CARD	500	\$ 23.75	\$ 11,875
FOOD LION \$100 GIFT CARD	200	\$ 95.00	\$ 19,000
FOOD LION \$50 GIFT CARD	200	\$ 47.50	\$ 9,500
FOOD LION \$100 GIFT CARD	200	\$ 95.00	\$ 19,000
FOOD LION \$50 GIFT CARD	200	\$ 47.50	\$ 9,500
	<b>3,100</b>		<b>\$ 171,875</b>

12/10/2019 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	300	\$ 47.50	\$ 14,250
BP \$100 GAS CARD	200	\$ 100.00	\$ 20,000
BP \$25 GAS CARD	150	\$ 25.00	\$ 3,750
BP \$50 GAS CARD	200	\$ 50.00	\$ 10,000
OLIVE GARDEN \$50 GIFT CARD	200	\$ 47.50	\$ 9,500
TJ MAXX \$25 GIFT CARD	300	\$ 23.75	\$ 7,125
	<b>1,350</b>		<b>\$ 64,625</b>

1/28/2020 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	200	\$ 47.50	\$ 9,500
BP \$100 GAS CARD	300	\$ 100.00	\$ 30,000
BP \$25 GAS CARD	200	\$ 25.00	\$ 5,000
BP \$50 GAS CARD	300	\$ 50.00	\$ 15,000
TJ MAXX \$25 GIFT CARD	200	\$ 23.75	\$ 4,750
	<b>1,200</b>		<b>\$ 64,250</b>

*FY 2021 Gift Card Purchases by Date of Receiving Log Entry*

8/3/2020 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BP \$100 GAS CARD	150	\$ 100.00	\$ 15,000
BP \$50 GAS CARD	300	\$ 50.00	\$ 15,000
	<b>450</b>		<b>\$ 30,000</b>

11/19/2020 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
FOOD LION \$100 GIFT CARD	200	\$ 95.00	\$ 19,000
FOOD LION \$50 GIFT CARD	200	\$ 47.50	\$ 9,500
	<b>400</b>		<b>\$ 28,500</b>

4/27/2021 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	100	\$ 47.50	\$ 4,750
BP \$100 GAS CARD	200	\$ 100.00	\$ 20,000
BP \$50 GAS CARD	200	\$ 50.00	\$ 10,000
TJ MAXX \$25 GIFT CARD	100	\$ 23.75	\$ 2,375
	<b>600</b>		<b>\$ 37,125</b>

*FY 2022 Gift Card Purchases by Date of Purchase*

8/13/2021 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BP \$100 GAS CARD	250	\$ 100.00	\$ 25,000
BP \$50 GAS CARD	300	\$ 50.00	\$ 15,000
TJ MAXX \$25 GIFT CARD	100	\$ 23.75	\$ 2,375
	<b>650</b>		<b>\$ 42,375</b>

9/3/2021 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
FOOD LION \$100 GIFT CARD	200	\$ 95.00	\$ 19,000
FOOD LION \$50 GIFT CARD	200	\$ 47.50	\$ 9,500
	<b>400</b>		<b>\$ 28,500</b>

10/13/2021 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	100	\$ 47.50	\$ 4,750
OLIVE GARDEN \$50 GIFT CARD	250	\$ 47.50	\$ 11,875
TJ MAXX \$25 GIFT CARD	100	\$ 23.75	\$ 2,375
	<b>450</b>		<b>\$ 19,000</b>

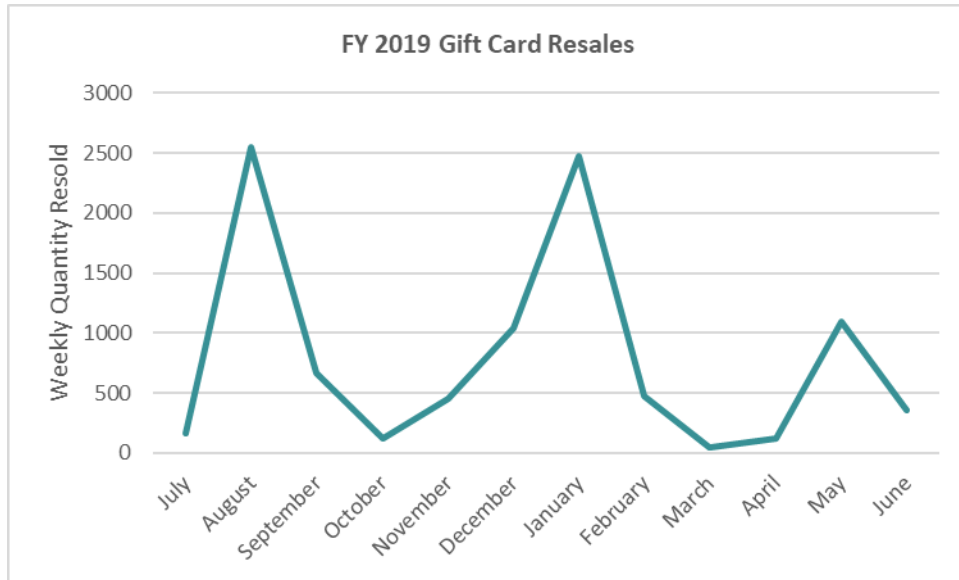
3/24/2022 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BP \$100 GAS CARD	100	100.00	10,000
	<b>100</b>		<b>\$ 10,000</b>

*FY 2023 Gift Card Purchases by Date of Purchase*

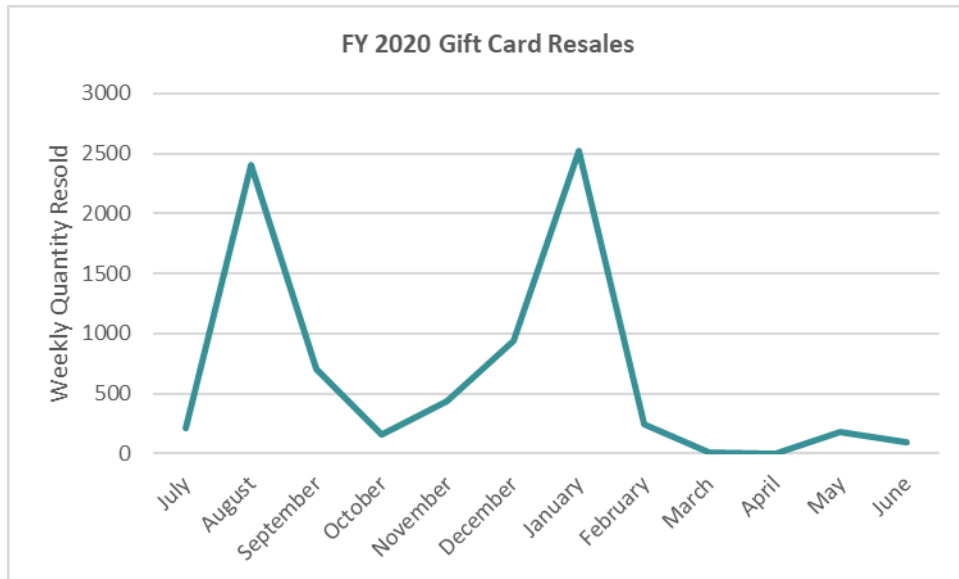
8/30/2022 Receiving Log Entry			
Card Type	Quantity	Unit Cost	Gift Card Cost
BELK \$50 GIFT CARD	100	\$ 47.50	\$ 4,750
BP \$100 GAS CARD	300	\$ 100.00	\$ 30,000
BP \$50 GAS CARD	500	\$ 50.00	\$ 25,000
OLIVE GARDEN \$50 GIFT CARD	100	\$ 47.50	\$ 4,750
TJ MAXX \$25 GIFT CARD	200	\$ 23.75	\$ 4,750
	<b>1,200</b>		<b>\$ 69,250</b>

## Appendix A.2 – Gift Card Resales (Number of Cards Resold Weekly) by Fiscal Years

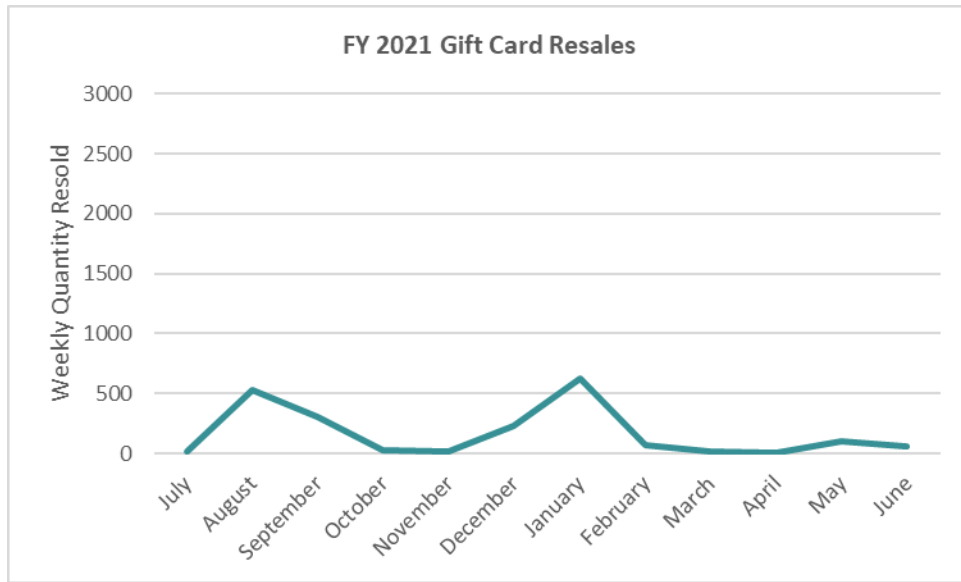
*FY 2019 Gift Card Resales*



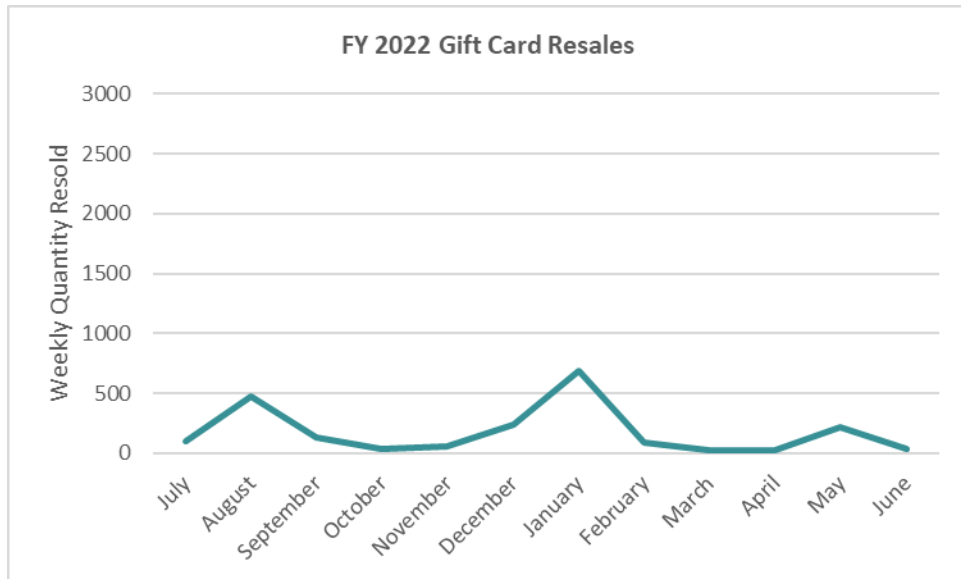
*FY 2020 Gift Card Resales*



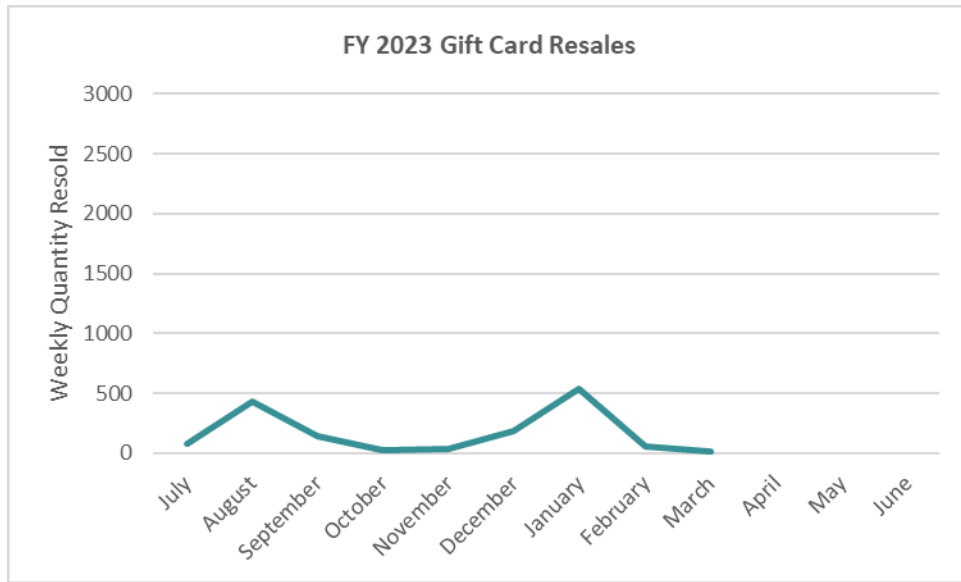
### *FY 2021 Gift Card Resales*



### *FY 2022 Gift Card Resales*



*FY 2023 Gift Card Resales*



## Appendix A.3 – Gift Card Reconciliation by Fiscal Year

### *FY 2019 Gift Card Reconciliation*

FY 2019 Gift Card Reconciliation					
	On Hand 7/1/2018	Quantity Purchased	Quantity Sold	On Hand 6/30/2019	Discrepancy
BELK \$50 GIFT CARD	0	1,200	1,165	25	(10)
BP \$100 GAS CARD	536	1,075	1,558	3	(50)
BP \$50 GAS CARD	1,034	1,175	1,996	203	(10)
BP \$25 GAS CARD	829	610	1,151	280	(8)
FOOD LION \$100 GIFT CARD	0	600	300	0	(300)
FOOD LION \$50 GIFT CARD	0	0	299	0	299
OLIVE GARDEN \$50 GIFT CARD	0	480	393	0	(87)
OUTBACK \$50 GIFT CARD	0	0	0	0	0
SUBWAY \$100 GIFT CARD	1,339	0	189	1,135	(15)
SUBWAY \$50 GIFT CARD	805	0	449	352	(4)
SUBWAY \$25 GIFT CARD	189	500	603	84	(2)
SUBWAY \$10 GIFT CARD	207	500	283	412	(12)
TJ MAXX \$25 GIFT CARD	0	1,190	1,168	0	(22)
<b>TOTAL</b>	<b>4,939</b>	<b>7,330</b>	<b>9,554</b>	<b>2,494</b>	<b>(221)</b>

### *FY 2020 Gift Card Reconciliation*

FY 2020 Gift Card Reconciliation					
	On Hand 7/1/2019	Quantity Purchased	Quantity Sold	On Hand 6/30/2020	Discrepancy
BELK \$50 GIFT CARD	25	900	921	271	267
BP \$100 GAS CARD	3	900	1,091	0	188
BP \$50 GAS CARD	203	900	1,292	0	189
BP \$25 GAS CARD	280	550	972	0	142
FOOD LION \$100 GIFT CARD	0	400	471	0	71
FOOD LION \$50 GIFT CARD	0	400	474	0	74
OLIVE GARDEN \$50 GIFT CARD	0	600	464	242	106
OUTBACK \$50 GIFT CARD	0	0	167	0	167
SUBWAY \$100 GIFT CARD	1,135	0	142	1,025	32
SUBWAY \$50 GIFT CARD	352	0	301	0	(51)
SUBWAY \$25 GIFT CARD	84	0	84	0	0
SUBWAY \$10 GIFT CARD	412	0	403	0	(9)
TJ MAXX \$25 GIFT CARD	0	1,000	1,137	161	298
<b>TOTAL</b>	<b>2,494</b>	<b>5,650</b>	<b>7,919</b>	<b>1,699</b>	<b>1,474</b>

*FY 2021 Gift Card Reconciliation*

FY 2021 Gift Card Reconciliation					
	On Hand 7/1/2020	Quantity Purchased	Quantity Sold	On Hand 6/30/2021	Discrepancy
BELK \$50 GIFT CARD	271	100	276	296	201
BP \$100 GAS CARD	0	350	391	158	199
BP \$50 GAS CARD	0	500	535	0	35
BP \$25 GAS CARD	0	0	0	0	0
FOOD LION \$100 GIFT CARD	0	200	141	59	0
FOOD LION \$50 GIFT CARD	0	200	28	172	0
OLIVE GARDEN \$50 GIFT CARD	242	0	154	38	(50)
OUTBACK \$50 GIFT CARD	0	0	40	0	40
SUBWAY \$100 GIFT CARD	1,025	0	93	880	(52)
SUBWAY \$50 GIFT CARD	0	0	25	0	25
SUBWAY \$25 GIFT CARD	0	0	0	0	0
SUBWAY \$10 GIFT CARD	0	0	0	0	0
TJ MAXX \$25 GIFT CARD	161	100	305	144	188
<b>TOTAL</b>	1,699	1,450	1,988	1,747	586

*FY 2022 Gift Card Reconciliation*

FY 2022 Gift Card Reconciliation					
	On Hand 7/1/2021	Quantity Purchased	Quantity Sold	On Hand 6/30/2022	Discrepancy
BELK \$50 GIFT CARD	296	100	270	125	(1)
BP \$100 GAS CARD	158	350	510	1	3
BP \$50 GAS CARD	0	300	458	0	158
BP \$25 GAS CARD	0	0	0	0	0
FOOD LION \$100 GIFT CARD	59	200	204	54	(1)
FOOD LION \$50 GIFT CARD	172	200	95	275	(2)
OLIVE GARDEN \$50 GIFT CARD	38	250	147	129	(12)
OUTBACK \$50 GIFT CARD	0	0	0	0	0
SUBWAY \$100 GIFT CARD	880	0	88	785	(7)
SUBWAY \$50 GIFT CARD	0	0	0	20	20
SUBWAY \$25 GIFT CARD	0	0	0	0	0
SUBWAY \$10 GIFT CARD	0	0	0	0	0
TJ MAXX \$25 GIFT CARD	144	200	336	0	(8)
<b>TOTAL</b>	1,747	1,600	2,108	1,389	150

*FY 2023 Gift Card Reconciliation*

FY 2023 Gift Card Reconciliation					
	On Hand 7/1/2022	Quantity Purchased	Quantity Sold	On Hand 4/4/2023	Discrepancy
BELK \$50 GIFT CARD	125	100	183	40	(2)
BP \$100 GAS CARD	1	300	301	0	0
BP \$50 GAS CARD	0	500	290	208	(2)
BP \$25 GAS CARD	0	0	0	0	0
FOOD LION \$100 GIFT CARD	54	0	54	0	0
FOOD LION \$50 GIFT CARD	275	0	254	18	(3)
OLIVE GARDEN \$50 GIFT CARD	129	100	183	46	0
OUTBACK \$50 GIFT CARD	0	0	0	0	0
SUBWAY \$100 GIFT CARD	785	0	60	725	0
SUBWAY \$50 GIFT CARD	20	0	20	0	0
SUBWAY \$25 GIFT CARD	0	0	0	0	0
SUBWAY \$10 GIFT CARD	0	0	0	0	0
TJ MAXX \$25 GIFT CARD	0	200	168	32	0
<b>TOTAL</b>	1,389	1,200	1,513	1,069	(7)

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AGENCY: Division of Procurement Services

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SUBJECT: Exemption from Articles 9 and 10 of the Consolidated Procurement Code for the Department of Health and Environmental Control (DHEC) to acquire engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program

Section 11-35-710 authorizes the State Fiscal Accountability Authority (the “Authority”) to “exempt specific supplies, services, information technology, or construction from the purchasing procedures” of the South Carolina Consolidated Procurement Code. At its May 2, 2017 meeting, the Authority granted DHEC’s request for an exemption from Articles 9 and 10 of the Consolidated Procurement Code for the Department of Health and Environmental Control (DHEC) to acquire engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program. However, the Authority provided that the exemption would sunset in five years unless reauthorized by the Authority. This exemption expired on May 2, 2022. DHEC requests that the Authority reauthorize the exemption. Reauthorization will allow DHEC to contract ahead of time for contractors who will be on standby and available to respond immediately in the event an emergency situation related to a DHEC regulated dam arises in the future.

The South Carolina Dams and Reservoirs Safety Act vests the South Carolina Dams and Reservoirs Safety Program (housed in the Department of Health and Environmental Control) with regulatory authority over certain dams in the State. This authority includes the power to conduct inspections and take enforcement actions among other things. When DHEC finds that the condition of a dam presents such a “danger to the safety of life or property as not to permit time for the issuance and enforcement of a repair order,” Section 49-11-190 of the act allows DHEC to issue emergency orders. When DHEC cannot locate an owner or an owner fails to comply with an emergency order, DHEC may enter onto the property and take immediate action to protect life and property. Such actions include a wide range of potential activities up to and including removal of the dam. These activities typically require engineering and construction services.

In response to both the October 2015 flood and the October 2016 hurricane, the engineering and construction needs were met in accordance with the Emergency procurement procedures set forth in §11-35-1570. However, as expectations of the South Carolina Dams and Reservoirs Safety Program evolved in light of these two events, there is an ongoing expectation for DHEC to intervene when critical situations are identified, posing a threat to public safety, and where the dam owner will not or cannot implement corrective actions to make their dam safe.

Rather than procuring engineering and construction services on an emergency basis, DHEC prefers to procure and contract for these services in advance to be prepared to respond to urgent situations as they arise. These contracts would provide for services on an as needed/as requested basis. However, Article 9 of the Consolidated Procurement Code, which governs the procurement of construction services, does not provide for contracts for services on an as needed/as requested basis. Article 9 also contains provisions intended to protect state property and mechanics performing work on state property. Even though this is a small percentage of

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AGENCY: Division of Procurement Services

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SUBJECT: Exemption from Articles 9 and 10 of the Consolidated Procurement Code for the Department of Health and Environmental Control (DHEC) to acquire engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program

total cost, DHEC does not believe the added cost to DHEC of these requirements is necessary for work ordered by the South Carolina Dams and Reservoirs Safety Program on dams that the State does not own. Especially since DHEC anticipates that in the majority, if not all cases, it will only make one payment to the contractor on any one project. Finally, Article 10 of the Consolidated Procurement Code, which does provide for contracts for construction services on an as needed/as requested basis, places strict limits on expenditures on any one project which will be problematic if a future project exceeds this limit. Article 10 also requires a secondary level of competition for construction which may delay a response to an emergency situation.

For the foregoing reasons, DHEC requests an exemption from the procedures of Articles 9 and 10 of the Consolidated Procurement Code to procure engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program. DHEC will procure such engineering, construction, and related services pursuant to Article 5 of the Consolidated Procurement. Moreover, DHEC will acquire engineering services based on the qualifications of offerors using qualification based selection criteria similar to those set forth in Section 11-35-3220(5)(a).

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AGENCY: Division of Procurement Services

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SUBJECT: Exemption from Articles 9 and 10 of the Consolidated Procurement Code for the Department of Health and Environmental Control (DHEC) to acquire engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program

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AUTHORITY ACTION REQUESTED:

As recommended by the Division of Procurement Services, under authority of S.C. Code Section 11-35-710, approve an exemption from the procedures of Articles 9 and 10 of the Consolidated Procurement Code to procure construction and architect-engineer and land surveying services for the South Carolina Dams and Reservoirs Safety Program. Further require that:

1. Contracts awarded pursuant to this exemption must be used only for actions taken pursuant to Section 49-11-190(D) that are “necessary to provide protection to life or property,” as referred to in that Section;
2. Use of this exemption for construction is conditioned on conducting the procurement in accordance with Article 5 of the Procurement Code, and for acquisitions of professional services, on using only the selection criteria authorized by Section 11-35-3220(5)(a);
3. DHEC submit quarterly reports of their acquisitions under this exemption to the Division of Procurement Services, and
4. This exemption shall sunset in five years unless reauthorized by the Authority.

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ATTACHMENTS:

Agenda item worksheet and attachment

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
AGENDA ITEM WORKSHEET**

**Meeting Scheduled for: 5/23/2023**

**Regular Agenda**

**1. Submitted by:**

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

  
John St. C. White, Materials Management Officer

**2. Subject: Other-Specify**

Exemption from Articles 9 and 10 of the Consolidated Procurement Code for the Department of Health and Environmental Control (DHEC) to acquire engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program.

**3. Summary and Background Information:**

Section 11-35-710 authorizes the State Fiscal Accountability Authority (the "Authority") to "exempt specific supplies, services, information technology, or construction from the purchasing procedures" of the South Carolina Consolidated Procurement Code. At its May 2, 2017 meeting, the Authority granted DHEC's request for an exemption from Articles 9 and 10 of the Consolidated Procurement Code for the Department of Health and Environmental Control (DHEC) to acquire engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program. However, the Authority provided that the exemption would sunset in five years unless reauthorized by the Authority. This exemption expired on May 2, 2022. DHEC requests that the Authority reauthorize the exemption. Reauthorization will allow DHEC to contract ahead of time for contractors who will be on standby and available to respond immediately in the event an emergency situation related to a DHEC regulated dam arises in the future.

The South Carolina Dams and Reservoirs Safety Act vests the South Carolina Dams and Reservoirs Safety Program (housed in the Department of Health and Environmental Control) with regulatory authority over certain dams in the State. This authority includes the power to conduct inspections and take enforcement actions among other things. When DHEC finds that the condition of a dam presents such a "danger to the safety of life or property as not to permit time for the issuance and enforcement of a repair order," Section 49-11-190 of the act allows DHEC to issue emergency orders. When DHEC cannot locate an owner or an owner fails to comply with an emergency order, DHEC may enter onto the property and take immediate action to protect life and property. Such actions include a wide range of potential activities up to and including removal of the dam. These activities typically require engineering and construction services.

In response to both the October 2015 flood and the October 2016 hurricane, the engineering and construction needs were met in accordance with the Emergency procurement procedures set forth in §11-35-1570. However, as expectations of the South Carolina Dams and Reservoirs Safety Program evolved in light of these two events, there is an ongoing expectation for DHEC to intervene when critical situations are identified, posing a threat to public safety, and where the dam owner will not or cannot implement corrective actions to make their dam safe.

Rather than procuring engineering and construction services on an emergency basis, DHEC prefers to procure and contract for these services in advance to be prepared to respond to urgent situations as they arise. These contracts would provide for services on an as needed/as requested basis. However, Article 9 of the Consolidated Procurement Code, which governs the procurement of construction services, does not provide for contracts for services on an as needed/as requested basis. Article 9 also contains provisions intended to protect state property and mechanics

performing work on state property. Even though this is a small percentage of total cost, DHEC does not believe the added cost to DHEC of these requirements is necessary for work ordered by the South Carolina Dams and Reservoirs Safety Program on dams that the State does not own. Especially since DHEC anticipates that in the majority, if not all cases, it will only make one payment to the contractor on any one project. Finally, Article 10 of the Consolidated Procurement Code, which does provide for contracts for construction services on an as needed/as requested basis, places strict limits on expenditures on any one project which will be problematic if a future project exceeds this limit. Article 10 also requires a secondary level of competition for construction which may delay a response to an emergency situation.

For the foregoing reasons, DHEC requests an exemption from the procedures of Articles 9 and 10 of the Consolidated Procurement Code to procure engineering, construction, and related services for the South Carolina Dams and Reservoirs Safety Program. DHEC will procure such engineering, construction, and related services pursuant to Article 5 of the Consolidated Procurement. Moreover, DHEC will acquire engineering services based on the qualifications of offerors using qualification based selection criteria similar to those set forth in Section 11-35-3220(5)(a).

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**4. What is the Authority asked to do?** Under authority of S.C. Code Section 11-35-710, approve an exemption from the procedures of Articles 9 and 10 of the Consolidated Procurement Code to procure construction and architect-engineer and land surveying services for the South Carolina Dams and Reservoirs Safety Program. Further require that:

1. Contracts awarded pursuant to this exemption must be used only for actions taken pursuant to Section 49-11-190(D) that are “necessary to provide protection to life or property,” as referred to in that Section;
2. Use of this exemption for construction is conditioned on conducting the procurement in accordance with Article 5 of the Procurement Code, and for acquisitions of professional services, on using only the selection criteria authorized by Section 11-35-3220(5)(a);
3. DHEC submit quarterly reports of their acquisitions under this exemption to the Division of Procurement Services, and
4. This exemption shall sunset in five years unless reauthorized by the Authority.

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**5. What is recommendation of the submitting agency involved?** The Chief Procurement Officer for Construction recommends the Authority grant DHEC’s requested exemption as set forth in item four above.

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**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.

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

- (a) Authorized Signature: \_\_\_\_\_
- (b) Office Name: \_\_\_\_\_

---

**8. List of Supporting Documents:**

A - Sections 11-35-710

B - Request from the Department of Health and Environmental Control

C – Section 49-11-190

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

# Exhibit A

## SECTION 11-35-710. Exemptions.

(A) The board, upon the recommendation of the chief procurement officer, may exempt governmental bodies from purchasing certain items through the respective chief procurement officer's area of responsibility. The board may exempt specific supplies, services, information technology, or construction from the purchasing procedures required in this chapter and for just cause by unanimous written decision limit or may withdraw exemptions provided for in this section. The following exemptions are granted from this chapter:

(1) the construction, maintenance, and repair of bridges, highways, and roads; vehicle and road equipment maintenance and repair; and other emergency-type parts or equipment utilized by the Department of Transportation or the Department of Public Safety;

(2) the purchase of raw materials by the South Carolina Department of Corrections, Division of Prison Industries;

(3) South Carolina State Ports Authority;

(4) Division of Public Railways of the Department of Commerce;

(5) South Carolina Public Service Authority;

(6) 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, except as the funds are used for the procurement of construction, architect-engineer, construction-management, and land surveying services;

(7) livestock, feed, and veterinary supplies;

(8) articles for commercial sale by all governmental bodies;

(9) fresh fruits, vegetables, meats, fish, milk, and eggs;

(10) South Carolina Arts Commission and South Carolina Museum Commission for the purchase of one-of-a-kind items such as paintings, antiques, sculpture, and similar objects. Before a governmental body procures the objects, the head of the purchasing agency shall prepare a written determination specifying the need for the objects and the benefits to the State. The South Carolina Arts Commission shall review the determination and forward a recommendation to the board for approval;

(11) published books, periodicals, and technical pamphlets;

(12) South Carolina Research Authority;

(13) the purchase of supplies, services, or information technology by state offices, departments, institutions, agencies, boards, and commissions or the political subdivisions of this State from the South Carolina Department of Corrections, Division of Prison Industries;

(14) Medical University Hospital Authority, if the Medical University Hospital Authority has promulgated a procurement process in accordance with its enabling provision;

(15) if approved in writing by the State Engineer in advance, and if some aspect of the overall transaction is otherwise approved by the board in advance of the acquisition, an acquisition of construction from an eleemosynary corporation or foundation, or a wholly owned business thereof, established solely for the governmental body's benefit, but only if the eleemosynary corporation or foundation acquires the construction on behalf of or for the use of the governmental body and does so pursuant to this code, as required by Section 11-35-40(4).

(B) The State Fiscal Accountability Authority shall maintain and post publicly a running list of all currently effective actions taken by the board pursuant to subsection (A).



May 1, 2023

Mr. John St. C. White, PE  
Materials Management Officer and State Engineer  
Division of Procurement Services  
SC State Fiscal Accountability Authority  
1201 Main Street, Suite 600  
Columbia, SC 29201 Dear

Mr. White:

Under the SC Dams and Reservoirs Safety Act (S.C. Code of Laws, Title 49, Section 49-11-110, et seq.) and Dams and Reservoirs Safety Act Regulations (R.72-1, et seq.), the South Carolina Dam Safety Program (housed in the Department of Health and Environmental Control) is vested with the authority to oversee over 2,200 state-regulated dams and responsibility to enter and immediately take actions necessary to provide protection to life or property (including removal of the dam) when the dam owner fails in their responsibility for maintaining the dam, reservoir and appurtenant works in a properly functioning and safe condition. To fulfill this obligation, DHEC must have at its disposal expertise and resources to render safe a dam that is in an unsafe condition.

The 2015 Flood highlighted DHEC's inadequacy - at the time - to fulfill this responsibility and prompted DHEC to seek an Exemption from Articles 9 and 10 of the Procurement Code in 2017. Prior to the Exemption, necessary actions would be to first assess the dam and the hazards to downstream life and property, then create a plan to render the dam safe, and finally implement the plan. The expertise and resources necessary to accomplish this mission are:

- 1) a SC-licensed Professional Engineer or engineering firm with expertise in dam design, hydraulics, hydrology, soils, structures, and surveying, not to mention liability protection, to assess the unsafe condition and determine the most prudent remedial/corrective actions to eliminate the unsafe condition, and;
- 2) a construction contractor that is licensed, bonded, and insured; is technically competent; can perform work safely; has experience working on hydraulic structures (dams, ideally) and in wet environments; and has the necessary heavy equipment for earth moving, grading, compaction, installing pipe, placing rip rap, etc.

In response to both the October 2015 flood and the October 2016 hurricane, the engineering and construction needs were met in accordance with the Emergency procurement procedures set forth in §11-35-1570. We believe that an ongoing strategy of using the Emergency procurements procedure to respond to each of these events is not prudent, nor does it promote competition. A preferred strategy is to procure and contract these services in advance to be prepared to respond to urgent situations as

they arise. Engineering services have been procured following all applicable requirements of the State Procurement Code, and an engineering consultant is under contract for supporting the Dam Safety Program. We find, however, that Article 9 of the Consolidated Procurement Code, "Construction, Architect-Engineer, Construction Management, and Land Surveying Services," and Article 10, "Indefinite Delivery Contracts," are not conducive to emergency response situations at dams because of the variability of each situation.

We recognize that much of this work, by definition, would be defined as Construction and Engineering, but believe that it could be more efficiently procured using other procedures in the Consolidated Procurement Code for Goods and Services.

In 2017, at the request of this Department and with your assistance, an Exemption to the Consolidated Procurement Code was approved by the State Fiscal Accountability Authority. That Exemption read as follows:

*The Authority, pursuant to S.C. Code Section 11-35-710, approved an exemption from the procedures of Articles 9 and 10 of the Consolidated Procurement Code to procure engineering, construction, and related services procured for the South Carolina Dams and Reservoirs Safety Program.*

Two construction contractors were procured under this exemption and awarded contracts for up to five years. The Department has relied heavily on its construction contractors since contracts were executed on March 23, 2018. In the response to Hurricane Florence in September 2018 and in responding to non-hurricane related situations at dams where the dam owners could not or would not fulfill their responsibilities, these contractors have provided services that include dam removal, pumping and siphoning to dewater reservoirs, and underwater dam inspection. Not having access to contractors that can perform these and similar services on a few moments' notice is an unacceptable risk to public safety and prevents the Department from fully executing its mission as authorized in the Dams and Reservoirs Safety Act.

The 2017 Exemption contained a sunset provision which established that it would end after five (5) years unless reauthorized by the Authority. That five-year period ended in May 2022 and our two construction contracts ended in March 2023. It is our desire to seek reauthorization of the Exemption after which we plan to resolicit for these services.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward D. Simmer", written in a cursive style.

Edward D. Simmer

Attachment

## **Details regarding incidents and costs under Procurement Exemption**

### **D4186 Fiddlers Cove Dam**

- 11/7/2018 Invoice from Crowder Construction company covering work performed between 5/22/2018 and 6/15/2018.
  - o Total Invoiced cost: **\$224,743.02**
  - o Activities: Emergency dam repairs to address concerns with the dam noted in a 5/18/2018 DHEC Emergency Order. This invoice included equipment, labor, and material expenditures. The work conducted included the installation of a pump and siphons and alteration of the existing and obstructed discharge pipe in order to dewater the reservoir and reduce the immediate downstream threat.

### **D0577 Adams Pond Dam**

- 5/7/2020 invoice from Crowder Construction Company covering work performed between 7/29/2019 and 2/5/2020
  - o Total invoiced cost: **\$49,853.77**
  - o Activities: Emergency Dam Repairs. This invoice included equipment, labor, and material expenditures. The work conducted included coring in weir wall as well as removal of part of it, a dive inspection of piping and drain gate, and excavations.

### **D4886 Anne Parks Short Branch Dam**

- 6/15/2021 invoice from Crowder Construction Company covering work performed between 3/9/2021 and 4/22/2021.
  - o Total invoiced cost: **\$18,393.67**
  - o Activities: Emergency dam repairs to address concerns with the dam noted in a 3/8/2021 DHEC Emergency Order. This invoice included equipment, labor, and material expenditures. The work conducted included clearing a pipe of debris and restarting a siphon, cleaning out an emergency overflow, and clearing general debris around the dam to restore a low water level in the reservoir and reduce the immediate downstream threat.

### **D4885 Wesley North Pond Dam**

- 11/30/2018 invoice from Phillips & Jordan, Inc for work performed between 8/28/2018 and 9/24/2018.
  - o Total invoiced cost: **\$60,730.11**
  - o Activities: Construction actions to formally decommission the dam as an impounding structure and address concerns noted in a 5/1/2017 DHEC Emergency Order. This invoice included equipment, labor, and material expenditures. To remove the dam, the contractor conducted actions including preparatory engineering and layout prior to construction, clearing trees and brush, draining the reservoir, excavating the designed breach, grading the sides of the breach, and seeding to restore vegetative cover and stabilize the site.

### **D0558 Springwood Lake Dam**

- 4/24/2018 invoice from Phillips & Jordan, Inc for work performed 3/22/2018 to 3/28/2018
  - o Total invoiced cost: **\$20,343.38**
  - o Activities: Actions to address concerns noted in a 3/22/2018 DHEC Emergency Order. This invoice included equipment, labor, and material expenditures. Activities included assessing the site, installing a pump to bring down the lake water level, installing a siphon

and putting it into operation, and pulling boards in order to lower the water level in the reservoir and reduce the immediate downstream threat.

- 3/4/2019 invoice from Phillips & Jordan, Inc for work performed 1/4/2019 to 1/5/2019
  - o Total invoiced cost: **\$11,148.15 minus \$1,672.22 for retainage = \$9,475.63**
  - o Activities: Actions to address concerns noted in a 3/22/2018 DHEC Emergency Order. This invoice included equipment, labor, and material expenditures. Activities including siphon part purchase and installation of new siphons and repair of existing siphons.
- 4/30/2019 invoice from Phillips and Jordan for retainage on 3/4/2019 invoice
  - o Total invoiced cost: **\$1,672.22**
- Total project cost covered under exemption: **\$44,328.10**

#### **D4361 Upper North Lake Dam**

- A 7/22/2019 invoice from Phillips and Jordan, Inc for work performed 4/24/2019 to 5/31/2019.
  - o Total invoiced cost: **\$3,878.00**
  - o Activities: Actions to address concerns noted in a 10/15/2015 DHEC Emergency Order. This invoice covers equipment and labor expenditures. Activities included pertain to various dam site visits and other meetings associated with the proposed dam removal.
- A 4/4/2023 invoice from Phillips and Jordan, Inc for work performed 10/28/2021 to 4/15/2022.
  - o Total invoiced cost: **\$216,263.90**
  - o Activities: Actions to address concerns noted in a 10/15/2015 DHEC Emergency Order. This invoice covers equipment, labor, and material expenditures. To remove the dam, the contractor conducted actions including site prep, removal of the existing siphon, pumping to lower water level in the reservoir, excavating the designed breach, and seeding to restore vegetative cover and stabilize the site.
- Total project cost covered under exemption: **\$220,141.90**

#### **General (purchase of surplus siphon materials for readiness)**

- A 3/22/2019 invoice from Crowder Construction Company.
  - o Total invoiced cost: **\$7,407.54**
  - o Activities: Covered the purchase by DHEC of siphon pipe and valves prior to the arrival of Hurricane Florence in preparation for potential flooding
- 12/1/2018 invoice from Phillips & Jordan Inc
  - o Total invoiced cost: **\$17,069.17 minus \$2,560.38 retainage = \$14,508.79**
  - o Activities: Covered the purchase by DHEC of siphon pipe and valves prior to the arrival of Hurricane Florence in preparation for potential flooding
- 3/20/2019 invoice from Phillips & Jordan Inc for retainage on 12/1/2018 invoice
  - o Total invoiced cost: **\$2,560.38**
- Total for Siphon Materials procured under exemption: **\$24,476.71**



April 19, 2023

DHEC's Dam Safety Program regulates approximately 2200 dams across the state. The Department routinely encounters dams at risk of failure and an owner who is unable/unwilling, or simply cannot be ascertained or found, to take actions needed to make the situation safe. The frequency at which such situations arise was highlighted by the flooding in the fall of 2015 and again in the fall of 2016 when Hurricane Matthew struck the state. The SC Dams and Reservoirs Safety Act and supporting regulations charge DHEC's Dam Safety Program with the responsibility to **immediately** step in to take actions necessary to protect life or property when a dam is at risk of failure and an owner does not take responsibility.

During October 2015's historic flood and Hurricane Matthew in 2016, DHEC had at its disposal engineers and contractors who could quickly evaluate and stabilize failing dams. These contracts were established using the Emergency Procurement procedures in the S.C. Consolidated Procurement Code. The use of the Emergency Procurement procedures as an ongoing strategy to deal with such situations is not prudent, however, since Emergency Procurements typically have less or no competition, resulting in higher costs, and may result in greater legal risks and liability as the contracts are executed hastily.

In seeking a more appropriate procurement mechanism, in 2017 DHEC sought an Exemption from Articles 9 and 10 of the Procurement Code for purchases of these services. On May 2, 2017, the State Fiscal Accountability Authority approved the Exemption, but with a provision that the Exemption would sunset after five years unless reauthorized by the Authority. Therefore, the Exemption ended on May 1, 2022.

Without the Exemption or a declared Emergency, the Department is subject to Articles 9 and 10 of the S.C. Consolidated Procurement Code to hire contractors for "construction services." Following such procedures can take weeks or months to complete. During an instance in 2014, it took the Department a protracted time to hire a contractor to simply install siphons on a High Hazard dam that was in the process of failing. At present, the department must present to the Office of State Engineer a well-defined scope of work for contractors to bid, then advertise the work, and finally open and review bids. This process does not fit the urgent time frame and unique services required to deal with a failing dam. It should be noted that DHEC has a similar exemption to allow its CERCLA cleanup program the ability to respond with trained consultants and contractors when soil contamination puts the health and safety of the public at risk.

DHEC is requesting reauthorization of an exemption that was approved by the Authority in 2017 for a 5-year term. This is an Exemption, not from the entire Procurement Code, but from only Articles 9 and 10, to meet the critical timelines necessary to protect life and property from dam failures. If reauthorized, the Department would have the flexibility to select and maintain, through a qualifications-based and fiscally responsible process, contractors who are "on-call" to immediately respond to the Department's needs. The contracts for emergency services would provide for:

1. Ability to retain multiple contractors to utilize pumps or siphons to lower water levels, remove spillway boards, open gate valves, install rip rap for stabilization or other actions deemed necessary by engineers;
2. Provide resources who are available to the Department 24 hours a day, 7 days a week, who can deploy to a dam within 12 hours.

## Exhibit C

**SECTION 49-11-190.** Emergency orders; owner to notify department of emergency; action when owner is unknown or fails to comply with order.

(A) The department immediately shall order remedial measures necessary to protect life or property if the condition of a dam or reservoir is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of a repair order or passing or imminent floods threaten overtopping erosion or destruction of a dam or reservoir capable of danger to life or property.

(B) In applying emergency measures the department has the following limited powers to order the owner to:

(1) lower the water level by releasing water from the reservoir;

(2) empty the reservoir completely;

(3) take other steps essential to safeguard life and property.

(C) For an emergency where the owner finds repairs are necessary to safeguard life or property, he may start the repairs immediately but shall notify the department at once of the proposed repair and work underway.

(D) When the owner fails to comply with the emergency order or cannot be ascertained or found, the department or its authorized agents may enter and immediately take actions necessary to provide protection to life or property, including removal of the dam. The department may recover from the owner, in the name of the State, the expenses incurred in taking the action in the same manner debts are recoverable by law.

STATE FISCAL ACCOUNTABILITY AUTHORITY  
MEETING OF May 23, 2023

REGULAR SESSION

ITEM NUMBER 14

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AGENCY: Clemson University

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SUBJECT: Not exceeding \$30,500,000 of General Obligation State Institution Bonds (Issued on Behalf of Clemson University), of the State of South Carolina

The Authority is asked to adopt a resolution making provision for the issuance and sale of not exceeding \$30,500,000 of General Obligation State Institution Bonds (Issued on Behalf of Clemson University), of the State of South Carolina.

The proceeds of the bonds will defray the costs: (i) to construct, reconstruct, and improve chilled water plant, thermal energy, and utility piping facilities, and related improvements and infrastructure, on the campus of the University; (ii) to reimburse the University for expenses incurred in anticipation of the issuance of such State Institution Bonds and (iii) to pay for expenses related to the issuance of such State Institution Bonds.

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AUTHORITY ACTION REQUESTED:

Adopt a resolution making provision for the issuance and sale of not exceeding \$30,500,000 of General Obligation State Institution Bonds (Issued on Behalf of Clemson University), of the State of South Carolina.

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ATTACHMENTS:

Pope 4/17/2023 letter; SFAA Resolution; NDIF



# OFFICE OF STATE TREASURER

## New Debt Information Form (NDIF) - Initial Form

SFAA Approval Date: 05/23/23

Final Version Date: 00/00/00

### 1. AGENCY/ISSUER & FINANCING INFORMATION

Agency #: H12 Issuer: State of South Carolina Series: 2023  
 Borrower (if not Issuer): Clemson University  
 Bond Caption: General Obligation State Institution Bonds (Issued on Behalf of Clemson University)  
 Bond Resolution Amount: \$ 30,500,000 Est. Production/Par Amt: \$ 25,875,000

(\* Used to calculate initial COI percentages; STO bond issues must use Par Amt \*)

#### Submitted By:

ENTITY: Clemson University  
 BY: Rick Petillo  
 ITS: Chief Financial Officer  
 Tel: 864-656-2591  
 Email: rpetill@clemson.edu

Final Production/Par Amt: \$ -

#### Transaction Type/Method of Sale:

☒ Public Offering: Competitive: ☒ Negotiated: ☐  
☐ Direct Placement: Competitive: ☐ Negotiated: ☐  
☐ Governmental Loan/Governmental Purchaser  
☐ Other:

MSRB (EMMA) Continuing Disclosure Requirement (Y/N): Y

MSRB (EMMA) Continuing Disclosure Responsible Party: Office of State Treasurer

### 2. FINANCING (NEW PORTION)

Project #: 9963 Project Name: Chiller Plants Expansions and Upgrades  
 Project Address/Location: Main Campus, Clemson University Amount: \$ 30,000,000  
 Project Type: Expand and Upgrade Existing Facilities County: Pickens  
 Projected Avg Interest Rate: 3.28% (All-In TIC) Final Maturity: 4/1/2043 (Preliminary)

### 3. FINANCING (REFUNDED PORTION)

Series to be Refunded	Refunded Maturities	Principal Refunded	IR of Refunded Bds	Est. Yield of Refunding Bds	Est NPV Svgs. (\$)	Est NPV Svgs. (% of Ref. Bds)
		\$ -			\$ -	
		-			-	
		-			-	
Total		\$ -	*****	*****	\$ -	

### 4. FINANCING WORKING GROUP

Financial Advisor: PRAG Disclosure Counsel: Howell Linkous  
 Bond Counsel: Pope Flynn, LLC Issuer's Counsel: SC Attorney General  
 Underwriter: TBD - Competitive Sale Trustee: N/A  
 Paying Agent: US Bank Other: N/A

### 5. FINANCING/PROJECT DESCRIPTION

(Briefly, explain the financing/project, the anticipated costs, & the basis for these cost estimates. Use an attachment if needed)

The bonds will provide proceeds necessary to upgrade and enlarge three existing chilled water facilities to provide for current needs and future growth. Costs of issuance of the bonds are calculated at the anticipated par amount of \$25.9 million in accordance with the approved fee schedule for counsel, published schedules of rating agencies, past experience, and to take into account that certain larger items, such as the underwriter's discount, will not be known until the pricing of the bonds and will vary with market conditions. Costs of issuance as listed in Section 9 assume a stand-alone issuance. The Office of State Treasurer may issue the bonds as part of a larger transaction to reduce costs if appropriate.

### 6. FINANCING/PROJECT APPROVAL DATES

Financing Approvals	Notes:
Issuer/Borrower Approval: 02/03/23	Adopted
JBRC Approval: 05/16/23	Proposed
SFAA Approval: 05/23/23	Proposed

Project Approvals - Phase II (State Entities Only)	Notes:
Issuer/Borrower Approval: 02/03/23	Adopted
JBRC Approval: 05/16/23	Proposed
SFAA Approval: 05/23/23	Proposed

### 7. TAX AND ARBITRAGE MATTERS & SPEND DOWN SCHEDULE

a. Is any portion of the project, once completed, to be managed by a third-party pursuant to a management contract? (if yes, please attach copy)

Yes No  
☐ ☒

b. Will any third-party payments (from support organizations, private entities or the federal government) related to the facility, however indirectly, be used to pay debt service on the bonds?

☐ ☒

c. If yes to any of the above, please provide a square footage and cost estimate of the portion affected.

Sq. Footage -   
 Cost Estimate - \$

Est. Expenditures - Through 6 Months  
 Est. Expenditures - Through 12 Months  
 Est. Expenditures - Through 18 Months  
 Est. Expenditures - Through 24 Months  
 Est. Expenditures - Through 36 Months  
 Est. Expenditures - Through 48 Months  
 - Estimated Expenditures: Thru FY:

Bond Proceeds	FYE	Spend Down Schedule Notes
\$ 868,443	6/30/2024	Costs of issuance and project costs (incl. reimbursement)
2,000,000	6/30/2024	Project costs
3,600,000	6/30/2025	Project costs
6,350,000	6/30/2025	Project costs
8,700,000	6/30/2026	Project costs
8,809,196	6/30/2026	Project costs
<b>\$ 30,327,639</b>		

## 8. ESTIMATED/ACTUAL PROJECT SOURCES AND USES

Sources	Est. Project Budget (Sources)	Est. Project Budget (Uses)	Uses
(1) Bond Proceeds: (a) Par	\$ 25,875,000	\$ 30,000,000	Project Fund
(b) Premium/Accr. Int.	4,452,639	-	Capitalized Interest Fund
(2) Issuer/Borrower Contr.	-	-	Debt Service Reserve Fund
(3) Debt Service Fund Trans.	-	-	Redemption Price/Escrow Deposit
(4) Debt Service Reserve Fund Contribution	-	327,639	Cost of Issuance (Incl. UW Disc.)
(5) Other (Specify)		-	Accrued Interest
Type -	-	-	Other
Type -	-	-	Other
(6) SCHFDA MFHRB Sources		-	Other
(a) LIHTC	-	-	Other
(a) State Housing TC	-	-	Other
(c) Owner's Equity/Other	-	-	Other
<b>Total Project Sources</b>	<b>\$ 30,327,639</b>	<b>\$ 30,327,639</b>	<b>Total Project Uses</b>
Surplus/Deficit		\$ -	

## 9. ESTIMATED/ACTUAL BOND COI EXPENDITURES (\*\* Added COI entities beyond the following need an attached description \*\*)

COI Entity	Selected COI Vendor	Vendor #	Engagement Date (w/Engagement Ltr Attached)	Est. Fee For Services	Act. Fee For Services	(\$ Δ)
Financial Advisor	PRAG			\$ 35,000	\$ -	\$ 35,000
Bond Counsel	Pope Flynn, LLC			25,000	-	25,000
Disclosure Counsel	Howell Linkous & Nettles			25,000	-	25,000
Issuer's Counsel				-	-	-
Underwriter's Counsel				-	-	-
Transaction Counsel				-	-	-
Legal Expenses				-	-	-
				-	-	-
Rating Agency - S&P				36,000	-	36,000
Rating Agency - Moody's				28,000	-	28,000
Rating Agency - Fitch				27,000	-	27,000
Underwriter's Compensation	TBD - Competitive			129,375	-	129,375
Registrar / Paying Agent	U.S. Bank National Assoc.			10,000	-	10,000
Escrow Agent				-	-	-
Accountant				-	-	-
Verification Agent				-	-	-
Printing	ImageMaster			3,000	-	3,000
Publishing	IPREO			1,500	-	1,500
Advertising	Bond Buyer			1,500	-	1,500
Contingency				6,264	-	6,264
Issuer's Fee	SC JEDA / SC SHFDA			-	-	-
				<b>\$ 327,639</b>	<b>\$ -</b>	<b>\$ 327,639</b>

Est. / Actual COI Fees (% of Transaction):

Financial Advisor: % of Transaction

Bond Counsel: % of Transaction

Total Legal Costs: % of Transaction

Rating Agencies: % of Transaction

0.14%	#DIV/0!
0.10%	#DIV/0!
0.19%	#DIV/0!
0.35%	#DIV/0!

UW Comp: % of Transaction

Other COI: % of Transaction

Total COI: % of Transaction

0.50%	#DIV/0!
0.09%	#DIV/0!
1.27%	#DIV/0!



Pope Flynn, LLC  
1411 Gervais Street, Suite 300  
Post Office Box 11509 (29211)  
Columbia, SC 29201  
MAIN 803.354.4900  
FAX 803.354.4899  
www.popeflynn.com

April 17, 2023

Mr. Delbert H. Singleton, Jr.  
Assistant Executive Director and Authority Secretary  
South Carolina State Fiscal Accountability Authority  
1200 Senate Street, Suite 600  
Columbia, South Carolina 29201

Re Not Exceeding \$30,500,000 of General Obligation State Institution Bonds (Issued on Behalf of Clemson University) of the State of South Carolina

Dear Delbert:

On behalf of Clemson University, in connection with the authorization of the above-referenced bonds (the "Bonds"), and in anticipation of the South Carolina State Fiscal Accountability Authority (the "Authority") meeting scheduled for May 23, 2023, we respectfully enclose the following for consideration by the Authority:

1. An executed Bond Transmittal Form;
2. A resolution adopted by the Board of Trustees of Clemson University on February 3, 2023, making application to the Authority in connection with the Bonds;
3. A proposed form of opinion of Bond Counsel; and
4. A proposed form of Bond Resolution of the Authority (an electronic copy is being provided contemporaneously with this letter).

We have provided the Office of State Treasurer with copies of the Bond Counsel request form, the New Debt Information Form (NDIF) – Initial Form, and a copy of this submission package. Please let us know should you require anything further or if you have any questions regarding the enclosed.

Best regards,

A handwritten signature in blue ink, appearing to read "G. Pope, Jr.", is written over the typed name.

Gary T. Pope, Jr.

c: Robert Macdonald, Director, Debt Management Division, Office of State Treasurer  
Rick Petillo, Chief Financial Officer, Clemson University

Enclosures

## BOND TRANSMITTAL FORM

**TO:** Delbert H. Singleton, Jr., Authority Secretary  
State Fiscal Accountability Authority  
600 Wade Hampton Building (29201)  
P.O. Box 12444  
Columbia, SC 29211

**DATE:** 4/17/2023

**Submitted for SFAA Meeting on:**  
5/23/2023

**FROM:** Pope Flynn, LLC

1411 Gervais Street, Suite 300  
P.O. Box 11509  
Columbia, SC 29211

**RE:** Not Exceeding \$30,500,000 General Obligation State Institution Bonds (Issued on Behalf of Clemson University) of the State of South Carolina

**Project Name:** Chiller Plants Expansions and Upgrades

**Documents enclosed (executed original and two copies of each):**

*(ALL documents required for state law approval; A and C only for ceiling allocation only; must check K or L)*

- A. ☐ Petition
- B. ☒ Resolution or Ordinance
- C. ☒ Inducement Resolution or comparable preliminary approval
- D. ☐ Department of Health and Environmental Control Certificate *if required*
- E. ☒ State Fiscal Accountability Authority Resolution ~~and Public Notice~~ (original)  
*Plus 3 copies for certification and return to bond counsel*
- F. ☒ Draft bond counsel opinion letter
- G. ☐ Signed SFAA Reliance letter
- H. ☐ DHEC Certificate of Need (C.O.N.)
- I. ☐ Debt Questionnaire
- J. ☐ Processing Fee

**Amount:** \$Click or tap here to enter text. **Check No:** Click or tap here to enter text.

**Payor:** Click or tap here to enter text.

- K. ☒ No Private Participant will be known at the time the Authority considers this agenda item.
- L. ☐ This agenda item is accompanied by the applicable Private Party Disclosure form for each private participant

Bond Counsel: Gary T. Pope, Jr.  
Typed Name of Bond Counsel

By:   
Signature

STATE OF SOUTH CAROLINA  
CLEMSON UNIVERSITY

A RESOLUTION

REQUESTING THE ISSUANCE OF NOT EXCEEDING THIRTY  
MILLION FIVE HUNDRED THOUSAND DOLLARS (\$30,500,000)  
AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION  
STATE INSTITUTION BONDS ON BEHALF OF CLEMSON  
UNIVERSITY PURSUANT TO CHAPTER 107, TITLE 59, CODE OF  
LAWS OF SOUTH CAROLINA 1976, AS AMENDED

February 3, 2023

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## A RESOLUTION

REQUESTING THE ISSUANCE OF NOT EXCEEDING THIRTY MILLION FIVE HUNDRED THOUSAND DOLLARS (\$30,500,000) AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION STATE INSTITUTION BONDS ON BEHALF OF CLEMSON UNIVERSITY PURSUANT TO CHAPTER 107, TITLE 59, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF CLEMSON UNIVERSITY IN A MEETING DULY ASSEMBLED:

SECTION 1. Findings of Fact. As an incident to the adoption of this Resolution, the Board of Trustees of Clemson University (the "Board of Trustees"), the governing body of Clemson University (the "University") hereby finds and determines as follows:

(a) This Resolution is adopted by the Board of Trustees pursuant to Title 59, Chapter 107, Code of Laws of South Carolina 1976, as amended (the "Enabling Act").

(b) Pursuant to Section 59-107-40 of the Enabling Act, the Board of Trustees is authorized to make application to the South Carolina State Fiscal Accountability Authority (the "State Authority") for the issuance of General Obligation State Institution Bonds ("State Institution Bonds"), the proceeds of which may be used: (i) to construct, reconstruct, maintain, improve, furnish, and refurnish the buildings of and other permanent improvements to the University; (ii) to defray the costs of acquiring or improving land needed as sites for such improvements or for the campus of the University; and (iii) to reimburse the University for expenses incurred in anticipation of the issuance of such bonds.

(c) The Board of Trustees has determined that a current need exists to construct, reconstruct, and improve chilled water plant, thermal energy, and utility piping facilities, and related improvements and infrastructure, on the campus of the University (the "Project").

(d) The University estimates that the total cost of the Project will be approximately \$30,000,000. In order to fund a portion of the projected costs of the Project, and taking into account other available resources, the Board of Trustees now desires to make application to the State Authority to issue not exceeding Thirty Million Five Hundred Thousand Dollars (\$30,500,000) aggregate principal amount of General Obligation State Institution Bonds (Issued on Behalf of Clemson University) of the State of South Carolina (the "Bonds") pursuant to the Enabling Act, on the basis that a definite and immediate need exists for constructing, improving, and furnishing the Project, and therefore for issuing such Bonds. The proceeds of the Bonds shall be applied to defray a portion of the costs of the Project, to reimburse the University for expenses incurred in anticipation of the issuance of the Bonds, and to pay the costs of issuance of the Bonds.

(e) Accordingly, this Resolution is adopted pursuant to Section 59-107-40 of the Enabling Act, in order to make formal application to the State Authority for the issuance of the Bonds, the proceeds of which will be used for the purposes set forth in paragraph (d) of this Section 1.

SECTION 2. Application for Issuance of State Institution Bonds. The Board of Trustees hereby makes formal application to the State Authority for funds through the issuance of the Bonds pursuant to the

provisions of the Enabling Act, in order that the proceeds thereof may be used for the purposes set forth in paragraph (d) of Section 1 hereof.

SECTION 3. Tuition Fees Received in Previous Fiscal Year. Based on tuition fees as defined in the Enabling Act and as described in Section 4 below, for fiscal year July 1, 2021 through June 30, 2022, tuition fees available to pay debt service on State Institution Bonds amounted to the sum of \$54,118,535.

SECTION 4. Current Schedule of Tuition Fees. The schedule of tuition fees, as defined in the Enabling Act and as now in effect at the University, is as set forth as Exhibit A to this Resolution, which schedule is hereby reaffirmed and approved.

SECTION 5. Maturity Schedule for Bonds. The suggested maturity schedule for the Bonds requested to be issued pursuant to this Resolution is set forth as Exhibit B to this Resolution. Said Exhibit B assumes that the principal amount of the Bonds will be \$30,500,000.

SECTION 6. Debt Service on Outstanding State Institution Bonds. A statement showing all State Institution Bonds heretofore issued on behalf of the University now outstanding and not defeased, together with the annual interest and principal payments to become due thereon, is set forth as Exhibit C to this Resolution.

SECTION 7. Debt Service on Outstanding Bonds Including Bonds Authorized Hereby. A table showing debt service on all State Institution Bonds to be outstanding for the University following the issuance of the Bonds (at an assumed principal amount of the Bonds of \$30,500,000 and at prevailing rates of interest) is set forth as Exhibit D to this Resolution. Upon the issuance of the Bonds, the maximum annual debt service on all State Institution Bonds secured by tuition fees of the University may not be greater than 90% of the tuition fees received by the University for the preceding fiscal year.

A calculation establishing the right of the University to seek the issuance of Bonds to the extent set forth in this Resolution is set forth as Exhibit E to this Resolution.

SECTION 8. Request for Issuance of Bonds and Bond Anticipation Notes.

(a) The State Authority is requested to make the findings required by the Enabling Act and to request the Governor and the State Treasurer to provide for the issuance of the Bonds by the State of South Carolina (the "State"). If the State Treasurer should determine that all or a portion of the proceeds needed to defray the costs of the Project should be funded by the issuance of bond anticipation notes (the "Notes") pursuant to Chapter 17, Title 11 of the Code of Laws of South Carolina 1976, as amended (the "BAN Act") rather than the Bonds and that the issuance of the Notes would be in the best interest of the State under prevailing market conditions or, in light of the subsequent borrowings necessary to finance the completion of the Project, would be more efficient than issuing Bonds at this time, the Governor and the State Treasurer are further requested to effect the issuance of Notes pursuant to the BAN Act. If Notes are issued and if, upon maturity thereof, the State Treasurer should determine that further issuance of Notes rather than the Bonds would be in the best interest of the State under prevailing market conditions, the Governor and the State Treasurer are requested to continue the issuance of Notes, in a principal amount not to exceed \$30,500,000 until the Governor and the State Treasurer determine to issue the Bonds on the basis as aforesaid, and the Bonds are issued.

(b) The Board of Trustees hereby covenants and agrees that the University will, and hereby directs the President and the Executive Secretary to the Board of Trustees of the University to deposit and designate or cause to be deposited and designated sufficient tuition fees during each fiscal year to satisfy the requirement that debt service on all State Institution Bonds issued on behalf of the University (including

the Bonds herein requested) shall not exceed 90% of such tuition fees so deposited and designated. The President and the Executive Secretary are hereby authorized and directed to certify the amount so deposited and designated to the State Authority. In the event this application is submitted to the State Authority, or the Bonds herein requested are delivered, in a fiscal year subsequent to the fiscal year in which this Resolution is adopted, the request herein made is expressly conditioned on such certification being made and showing that debt service on all State Institution Bonds issued on behalf of the University (including the Bonds herein requested) does not exceed 90% of such tuition fees so deposited and designated.

SECTION 9. Covenant to Impose Tuition Fees Sufficient to Pay Bonds. The Board of Trustees hereby covenants and agrees that the schedule of tuition fees now in effect at the University will be revised from time to time and whenever necessary in order to provide the annual principal and interest requirements of all State Institution Bonds now or hereafter to be outstanding, which have been or will be issued on behalf of the University.

SECTION 10. Tax Covenants. To the extent that the State Authority provides for the issuance of Bonds on a federally tax-exempt basis, the University will covenant as follows:

(a) Federal Guarantee Prohibition. The University shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the “Code”), and regulations promulgated thereunder (the “Regulations”).

(b) Private Business Limitation. The University shall ensure that (i) not in excess of 10% of the amount actually or constructively received from the sale of the Bonds, together with the investment earnings thereon (“Net Proceeds”), is used directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public but not use by the federal government of the United States of America or any agency or instrumentality thereof (“Private Business Use”), if, in addition, the payment of more than ten percent of the principal or ten percent of the interest due on the Bonds during the term thereof is, under the terms thereof or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the State, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) in the event that both (a) in excess of five percent of the Net Proceeds are used for a Private Business Use, and (b) an amount in excess of five percent of the principal or five percent of the interest due on the Bonds during the term thereof is, under the terms thereof or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the State, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said five percent of Net Proceeds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of a portion of the facilities financed with the proceeds of the Bonds and shall not exceed the proceeds used for the governmental use of the portion of the undertaking to which such Private Business Use is related.

(c) Private Loan Limitation. The University shall ensure that not in excess of the lesser of (i) \$5,000,000 or (ii) 5% of the Net Proceeds will be used, directly or indirectly, to make or finance a loan to persons other than state or local government units.

(d) No Arbitrage. The University represents that it does not expect any portion of the proceeds of the Bonds to be used directly or indirectly to acquire higher yielding investments, or to replace funds which were used directly or indirectly to acquire higher yielding investments for other than a “temporary

period” as defined in the Code and the Regulations. The University further covenants that it will not intentionally use any portion of the proceeds of the Bonds to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments. In making the foregoing representation and covenant, the University understands and intends that words or phrases contained herein have meanings provided therefor under Section 148 of the Code and under the Regulations.

SECTION 11. Executive Secretary to Present Resolution to State Authority. The Executive Secretary to the Board of Trustees is hereby directed to present a certified copy of this Resolution, together with the Exhibits and any certification required by Section 8 to this Resolution, to the State Authority as evidence of the Board of Trustees’ formal request for the issuance of the Bonds on behalf of the University, and as evidence that all conditions precedent to the issuance of such Bonds have been met prior to the issuance of the Bonds. The date of application for purposes of the Enabling Act shall be such date as this Resolution and any certificate required by Section 8 hereof is submitted to the State Authority.

SECTION 12. Execution of Closing Documents and Certificates. The Chairman of and the Executive Secretary to the Board of Trustees, and all other officers of the University, are fully authorized and empowered to take such further action and to execute and deliver such closing documents as may be necessary and proper in order to complete the borrowing herein authorized and the action of such officers or any one or more of them in executing and delivering any of such documents in such form as he or they shall approve, is hereby fully authorized. In particular, such officers of the University are authorized to abide by covenants made by or on behalf of the State Authority in connection herewith relating to Sections 9 and 10 hereof or relating to Rule 15c2-12 of the United States Securities and Exchange Commission or relating to Section 11-1-85 of the Code of Laws of South Carolina 1976, as amended.

SECTION 13. Reimbursement Declaration. The University hereby declares its intention to reimburse itself for a portion of the costs of the Project with the proceeds of the Bonds or the Notes, as the case may be, requested to be issued herein. To that end, the Board of Trustees determines and declares as follows:

(a) no funds from any sources other than the Bonds or the Notes, as the case may be, are, or are reasonably expected to be, reserved, allocated on a long-term basis or otherwise set aside by the University pursuant to the budget or financial policies of the University for the financing of the portion of the costs of constructing, reconstructing, improving, furnishing or refurnishing of the Project to be funded with the Bonds or the Notes, as the case may be;

(b) the University reasonably expects that all or a portion of the expenditures incurred for the Project and the issuance of the Bonds or the Notes, as the case may be, will be paid prior to the issuance of the Bonds or the Notes, as the case may be;

(c) the University intends and reasonably expects to reimburse itself for all such expenditures paid by it with respect to the Project prior to the issuance of the Bonds or the Notes, as the case may be, from the proceeds of the Bonds or the Notes, as the case may be, and such intention is consistent with the budgetary and financial circumstances of the University;

(d) all of the costs to be paid or reimbursed from the proceeds of the Bonds or the Notes, as the case may be, will be for costs incurred in connection with the issuance of the Bonds or the Notes, as the case may be, or will, at the time of payment thereof, be properly chargeable to the capital account of the Project (or would be so chargeable with a proper election) under general federal income tax principles; and

(e) this Resolution shall constitute a declaration of official intent under United States Department of the Treasury Regulation Section 1.150-2.

SECTION 14. Law and Place of Enforcement of this Resolution. This Resolution shall be construed and interpreted in accordance with the laws of the State. All suits and actions arising out of this Resolution shall be instituted in a court of competent jurisdiction in the State.

SECTION 15. Effect of Section Headings. The heading or titles of the several Sections hereof are solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Resolution.

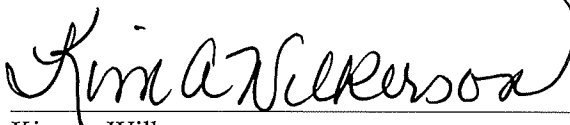
SECTION 16. Repeal of Inconsistent Resolutions. All resolutions of the Board of Trustees, and any part of any resolution, inconsistent with this Resolution are hereby repealed to the extent of such inconsistency.

SECTION 17. Effectiveness of this Resolution. This Resolution shall become effective upon its adoption.

DONE IN MEETING DULY ASSEMBLED this 3rd day of February 2023.

CLEMSON UNIVERSITY, SOUTH CAROLINA

(SEAL)



Kim A. Wilkerson  
Chair of the Board of Trustees

Attest:



Henry C. "Hank" Morrow  
Executive Secretary to the Board of Trustees

EXHIBIT A

CLEMSON UNIVERSITY  
SCHEDULE OF TUITION FEES IN EFFECT FOR PURPOSES OF  
TITLE 59, CHAPTER 107 OF THE CODE OF LAWS OF  
SOUTH CAROLINA 1976, AS AMENDED

	<u>In-State</u>	<u>Out-of-State</u>
Undergraduate		
Full-Time <sup>1</sup>	\$ 860	\$ 2,323
Matriculation <sup>1</sup>	5	5
Part-Time <sup>2</sup>	77	204
Matriculation <sup>1</sup>	5	5
Graduate		
Full-Time <sup>1</sup>	860	2,085
Matriculation <sup>1</sup>	5	5
Part-Time <sup>2</sup>	77	184
Matriculation <sup>1</sup>	5	5
Graduate Assistant <sup>1</sup>	10	10
Matriculation <sup>1</sup>	5	5

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<sup>1</sup> Per Semester.

<sup>2</sup> Per Credit Hour.

For the fiscal year ended June 30, 2022, the amount of receipts designated as tuition for state institution bonds purposes was not less than the sum of \$54,118,535. The tuition and fees generated for the 2022 summer term are not included.

The maximum principal and interest debt service payment prior to the issuance contemplated herein is \$26,576,063, which occurs in the fiscal year ending June 30, 2027.

The maximum principal and interest debt service payment after the issuance contemplated herein is anticipated to be \$28,802,772\*, which is anticipated to occur in the fiscal year ending June 30, 2027.

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\* Preliminary, subject to change.

EXHIBIT B

CLEMSON UNIVERSITY  
PRO-FORMA DEBT SERVICE REQUIREMENTS OF  
NOT EXCEEDING \$30,500,000 STATE OF SOUTH CAROLINA  
GENERAL OBLIGATION STATE INSTITUTION BONDS,  
COMPUTED AT PREVAILING RATES OF INTEREST

Fiscal Year Ending	New Issue Debt Service*		Total Debt Service
	Principal	Interest	
June 30, 2024	\$ 1,095,000	\$ 1,132,252	\$ 2,227,252
June 30, 2025	1,280,000	946,456	2,226,456
June 30, 2026	1,310,000	914,328	2,224,328
June 30, 2027	1,345,000	881,709	2,226,709
June 30, 2028	1,380,000	848,084	2,228,084
June 30, 2029	1,410,000	813,308	2,223,308
June 30, 2030	1,450,000	777,494	2,227,494
June 30, 2031	1,485,000	740,374	2,225,374
June 30, 2032	1,525,000	701,764	2,226,764
June 30, 2033	1,565,000	660,894	2,225,894
June 30, 2034	1,605,000	618,326	2,223,326
June 30, 2035	1,655,000	570,497	2,225,497
June 30, 2036	1,710,000	516,875	2,226,875
June 30, 2037	1,770,000	456,683	2,226,683
June 30, 2038	1,835,000	391,547	2,226,547
June 30, 2039	1,905,000	321,817	2,226,817
June 30, 2040	1,980,000	247,903	2,227,903
June 30, 2041	2,055,000	169,495	2,224,495
June 30, 2042	2,140,000	86,884	2,226,884
Total	<u>\$ 30,500,000</u>	<u>\$ 11,796,690</u>	<u>\$ 42,296,690</u>

\* Preliminary, subject to change.

EXHIBIT C

DEBT SERVICE REQUIREMENTS  
ON ALL STATE INSTITUTION BONDS  
ISSUED BY THE STATE OF SOUTH CAROLINA  
ON BEHALF OF CLEMSON UNIVERSITY

Fiscal Year Ending	Existing Debt Service		Total Debt Service
	Principal	Interest	
June 30, 2023	\$ 15,695,000	\$ 6,049,131	\$ 21,744,131
June 30, 2024	15,260,000	11,313,513	26,573,513
June 30, 2025	16,020,000	10,550,513	26,570,513
June 30, 2026	16,820,000	9,749,513	26,569,513
June 30, 2027	17,650,000	8,926,063	26,576,063
June 30, 2028	18,420,000	8,148,213	26,568,213
June 30, 2029	19,215,000	7,353,413	26,568,413
June 30, 2030	19,485,000	6,780,325	26,265,325
June 30, 2031	19,835,000	5,925,625	25,760,625
June 30, 2032	15,660,000	5,148,269	20,808,269
June 30, 2033	16,080,000	4,580,794	20,660,794
June 30, 2034	16,525,000	3,991,481	20,516,481
June 30, 2035	14,600,000	3,379,069	17,979,069
June 30, 2036	14,995,000	2,829,700	17,824,700
June 30, 2037	11,750,000	2,258,450	14,008,450
June 30, 2038	7,070,000	1,787,250	8,857,250
June 30, 2039	7,405,000	1,450,450	8,855,450
June 30, 2040	7,350,000	1,097,400	8,447,400
June 30, 2041	7,215,000	739,500	7,954,500
June 30, 2042	7,575,000	378,750	7,953,750
Total	<u>\$ 284,625,000</u>	<u>\$ 102,437,419</u>	<u>\$ 387,062,419</u>

EXHIBIT D

SCHEDULE SHOWING PRO-FORMA TOTAL DEBT SERVICE REQUIREMENTS OF  
ALL GENERAL OBLIGATION STATE INSTITUTION BONDS  
ISSUED BY THE STATE OF SOUTH CAROLINA  
ON BEHALF OF CLEMSON UNIVERSITY  
INCLUDING THE PROPOSED ISSUE OF  
\$30,500,000 OF GENERAL OBLIGATION STATE INSTITUTION BONDS  
COMPUTED AT PREVAILING RATES OF INTEREST

Fiscal Year Ending	Combined Debt Service*		Total Debt Service
	Principal	Interest	
June 30, 2023	\$ 15,695,000	\$ 6,049,131	\$ 21,744,131
June 30, 2024	16,355,000	12,445,764	28,800,764
June 30, 2025	17,300,000	11,496,969	28,796,969
June 30, 2026	18,130,000	10,663,841	28,793,841
June 30, 2027	18,995,000	9,807,772	28,802,772
June 30, 2028	19,800,000	8,996,297	28,796,297
June 30, 2029	20,625,000	8,166,721	28,791,721
June 30, 2030	20,935,000	7,557,819	28,492,819
June 30, 2031	21,320,000	6,665,999	27,985,999
June 30, 2032	17,185,000	5,850,033	23,035,033
June 30, 2033	17,645,000	5,241,688	22,886,688
June 30, 2034	18,130,000	4,609,807	22,739,807
June 30, 2035	16,255,000	3,949,566	20,204,566
June 30, 2036	16,705,000	3,346,575	20,051,575
June 30, 2037	13,520,000	2,715,133	16,235,133
June 30, 2038	8,905,000	2,178,797	11,083,797
June 30, 2039	9,310,000	1,772,267	11,082,267
June 30, 2040	9,330,000	1,345,303	10,675,303
June 30, 2041	9,270,000	908,995	10,178,995
June 30, 2042	9,715,000	465,634	10,180,634
Total	<u>\$ 315,125,000</u>	<u>\$ 114,234,108</u>	<u>\$ 429,359,108</u>

\* Preliminary, subject to change.

EXHIBIT E

CLEMSON UNIVERSITY  
PROOF SHOWING COMPLIANCE WITH  
TITLE 59, CHAPTER 107 OF THE CODE OF  
LAWS OF SOUTH CAROLINA 1976, AS AMENDED

Aggregate of tuition fees received by the University during preceding fiscal year ended June 30, 2022	\$ 54,118,535
Multiplied by	90%
Produces	\$ 48,706,682
Maximum annual debt service on all State Institution Bonds of the University (including the proposed issue of not exceeding \$30,500,000 of General Obligation State Institution Bonds issued on behalf of the University)	<u>\$ 28,802,772*</u>
Margin	\$ 19,903,910

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\* Preliminary, subject to change.

A RESOLUTION

TO PROVIDE FOR THE ISSUANCE AND SALE OF NOT EXCEEDING THIRTY MILLION FIVE HUNDRED THOUSAND DOLLARS (\$30,500,000) AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION STATE INSTITUTION BONDS (ISSUED ON BEHALF OF CLEMSON UNIVERSITY), OF THE STATE OF SOUTH CAROLINA; TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS SHALL BE EXPENDED; TO PROVIDE FOR THE PAYMENT THEREOF; AND OTHER MATTERS RELATING THERETO.

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BOND RESOLUTION

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Adopted May 23, 2023

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## A RESOLUTION

TO PROVIDE FOR THE ISSUANCE AND SALE OF NOT EXCEEDING THIRTY MILLION FIVE HUNDRED THOUSAND DOLLARS (\$30,500,000) AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION STATE INSTITUTION BONDS (ISSUED ON BEHALF OF CLEMSON UNIVERSITY), OF THE STATE OF SOUTH CAROLINA; TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS SHALL BE EXPENDED; TO PROVIDE FOR THE PAYMENT THEREOF; AND OTHER MATTERS RELATING THERETO.

### ARTICLE I FINDINGS OF FACT

As an incident to the adoption of this resolution (this “Resolution”) and the issuance of the bonds provided for herein, the South Carolina State Fiscal Accountability Authority (the “Authority”) finds that the facts set forth in this Article exist, and that the statements made with respect thereto are true and correct. Capitalized terms used and not otherwise defined herein have the meanings given to such terms in Article II of this Resolution.

#### Section 1.01    General Findings of Authorization.

(a)     The Authority is authorized by Title 59, Chapter 107 of the Code of Laws of South Carolina 1976, as amended (the “Enabling Act”) to make provision for the issuance of General Obligation State Institution Bonds (“State Institution Bonds”) on behalf of state institutions (the “Institutions”) of the State of South Carolina (the “State”), including Clemson University (the “University”), the proceeds of which may be used for any one or more of the following purposes:

- (1)     to construct, reconstruct, maintain, improve, furnish and refurnish the buildings and other permanent improvements for the Institutions,
- (2)     to defray the costs of acquiring or improving land needed as sites for such improvements or for the campus of any of the Institutions,
- (3)     to reimburse the Institutions for expenses incurred in anticipation of the issuance of State Institution Bonds, or
- (4)     to refund State Institution Bonds heretofore issued for the Institutions and which shall on such occasion be outstanding.

Pursuant to the provisions of a resolution adopted by the Board of Trustees of the University (the “Board of Trustees”) on February 3, 2023 (the “Board Resolution”), the Board of Trustees has requested the Authority to authorize the Governor and the State Treasurer (each as defined herein) to issue General Obligation State Institution Bonds pursuant to the Enabling Act in the aggregate principal amount of not exceeding \$30,500,000 to provide funds: (i) to construct, reconstruct, and improve chilled water plant, thermal energy, and utility piping facilities, and related improvements and infrastructure, on the campus of the University; (ii) to reimburse the University for expenses incurred in anticipation of the issuance of such State Institution Bonds ((i) and (ii), collectively, the “Project”); and (iii) to pay for expenses related to the issuance of such State Institution Bonds. Moreover, the Board Resolution constituted the application to the Authority required by Section 59-107-40 of the Enabling Act and the provisions thereof contained all information necessary for the Authority to approve the application and authorize the issuance of such State Institution Bonds.

(c)     The Authority has reviewed the Board Resolution and has determined to cause the issuance of not exceeding Thirty Million Five Hundred Thousand Dollars (\$30,500,000) aggregate principal amount

General Obligation State Institution Bonds (Issued on Behalf of Clemson University), of the State of South Carolina (the “Bonds”), or one or more BANs (as defined herein) in anticipation thereof, for the purposes described in paragraph (b) above.

Section 1.02 Findings Required by the Enabling Act.

The Authority makes the following findings pursuant to Section 59-107-50 of the Enabling Act in connection with the application of the University for issuance of General Obligation State Institution Bonds in the amount of not exceeding \$30,500,000, which sum will be used to pay all or a portion of the costs of the Project and to pay the costs of issuance of the Bonds.

- (a) That a definite and immediate need for the Project exists;
- (b) There are presently outstanding \$271,300,000 aggregate principal amount State Institution Bonds secured by the Tuition Fees (as hereinafter defined) of the University as set forth in Exhibit A attached hereto;
- (c) A satisfactory and proper schedule of Tuition Fees as set forth in Exhibit B attached hereto is in effect at the University;
- (d) A pro forma debt service table setting forth annual principal and interest requirements of the Bonds based on prevailing rates of interest per annum is set forth on Exhibit C attached hereto. Exhibit D attached hereto sets forth the aggregate debt service requirements of the outstanding State Institution Bonds issued on behalf of the University and the Bonds at prevailing rates of interest. Exhibit E attached hereto shows the sums received by the University as Tuition Fees for the Fiscal Year (as hereinafter defined) ended June 30, 2022, and establishes that, based on prevailing rates of interest per annum on the Bonds, the maximum annual debt service on the outstanding State Institution Bonds issued on behalf of the University and the Bonds will not be greater than 90% of the Tuition Fees received by the University for the Fiscal Year ended June 30, 2022;
- (e) The University has agreed that the schedule of the Tuition Fees for the University shall be revised from time to time and whenever necessary to provide not less than the sum needed to pay the annual principal and interest requirements on the Bonds and on all outstanding State Institution Bonds issued on behalf of the University; and
- (f) The Authority has made the findings required of it by Section 59-107-50 of the Enabling Act, and has accepted the Board Resolution as the application required by Section 59-107-40 of the Enabling Act.

Section 1.03 Determination of Compliance with Debt Limitation.

Section 59-107-90 of the Enabling Act and Section 11-27-30(4) of the South Carolina Code, each provide that the debt limitation applicable to State Institution Bonds is that sum resulting from the provisions of subparagraph (b) of paragraph 6 of Section 13 of Article X of the South Carolina Constitution, which provides that the maximum annual debt service on State Institution Bonds issued for an Institution may not be greater than 90% of the sum of the Tuition Fees received by such Institution for the preceding Fiscal Year. The table set forth in Exhibit E attached hereto demonstrates that the maximum annual debt service on all State Institution Bonds issued on behalf of the University following the issuance of the Bonds will not exceed the proviso contained in the preceding sentence with respect to outstanding State Institution Bonds and the Bonds with interest calculated thereon at prevailing rates of interest. Further, the Authority finds that the total aggregate principal amount of State Institution Bonds issued on behalf of the University to be outstanding, following the issuance of the Bonds at prevailing rates of interest authorized by the

provisions of this Resolution, will not exceed \$301,800,000.\*

Section 1.04    Determination of Amount of Bonds Herein Authorized.

The Authority finds that it is necessary to issue the Bonds in the aggregate principal amount of not exceeding \$30,500,000 or one or more BANs in anticipation thereof, in order to provide funds which will be used to pay all or a portion of the costs of the Project, to pay the principal of and interest on the BANs, if any, and to pay the costs of issuance of such BANs or the Bonds.

[End of Article I]

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\* Preliminary, subject to change.

ARTICLE II  
DEFINITIONS AND CONSTRUCTION

Section 2.01    Definitions.

As used in this Resolution unless the context otherwise requires, the following terms shall have the following respective meanings:

“Authority” means the South Carolina State Fiscal Accountability Authority.

“Authorized Investments” means and includes any securities that are at the time legal for investment of the State’s funds.

“Authorized Officer” means the Governor, the Secretary of State and the State Treasurer, a deputy or Assistant State Treasurer, and any other officer or employee of the State designated from time to time by the State Treasurer as an Authorized Officer, and when used with reference to any act or document also means any other person authorized by resolution of the Authority to perform such act or sign such document.

“BAN” or “BANs” means any of the bond anticipation notes issued hereunder and pursuant to the BAN Act.

“BAN Act” means Title 11, Chapter 17 of the Code of Laws of South Carolina 1976, as amended.

“Bond” or “Bonds” means any of the General Obligation State Institution Bonds (Issued on Behalf of Clemson University), authorized by this Resolution, and also means, if the context so requires, any BAN or BANs issued in anticipation of the issuance of such Bonds.

“Bondholder” or “Holder” or “Holders of Bonds” or “Owner” or similar term means, when used with respect to a Bond or Bonds or BANs, any person who shall be registered as the owner of any Bond or BAN Outstanding.

“Bond Payment Date” means each date determined by the State Treasurer on which interest on any of the Bonds shall be payable or on which both the Principal Installment and interest shall be payable on any of the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended.

“Continuing Disclosure Undertaking” means that undertaking which is to be executed by the State Treasurer in form substantially similar to that appearing as Exhibit H hereto, and delivered at or prior to the closing of the Bonds as required by United States Securities and Exchange Commission Rule 15c2-12, as amended, and as such undertaking may be from time to time amended in accordance with the terms thereof.

“Corporate Trust Office”, when used with respect to any Paying Agent, Registrar, or Escrow Agent means the office at which its principal corporate trust business shall be administered.

“Dated Date” means such date as the State Treasurer shall determine to be the date of issue of the Bonds or BANs.

“Enabling Act” means Title 59, Chapter 107 of the Code of Laws of South Carolina 1976, as amended.

“Escrow Agent” means the Paying Agent or such entity or entities, as the case may be, designated by the State Treasurer to serve as escrow agent or escrow agents pursuant to one or more escrow deposit agreements.

“Fiduciary” means the Paying Agent, the Registrar, and any Escrow Agent and their successors and assigns.

“Fiscal Year” means the period of twelve (12) calendar months, beginning July 1 of each year and ending on June 30 of the next year.

“Government Obligations” means and includes direct general obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which is fully and unconditionally guaranteed by the United States of America.

“Governor” means the Governor of the State.

“Outstanding” means, when used in this Resolution with respect to Bonds or BANs, as of any date, all Bonds or BANs theretofore authenticated and delivered pursuant to this Resolution except Bonds or BANs (or portions thereof):

- (1) cancelled or delivered to the Registrar for cancellation on or before such date;
- (2) deemed to have been paid in accordance with the provisions of Section 7.01 hereof; and
- (3) in lieu of or in exchange for which another Bond or BAN shall have been authenticated and delivered pursuant to Article III of this Resolution.

“Paying Agent” means any bank, trust company, or national banking association which is authorized to pay the principal or Redemption Price of, or interest on any Bonds or BANs, and having the duties, responsibilities and rights provided for in this Resolution, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Resolution. The institution named as Paying Agent may also act as Registrar.

“Person” means an individual, a partnership, a corporation, a trust, a trustee, an unincorporated organization, or a government or an agency or political subdivision thereof.

“Principal Installment” means, as of any date of calculation, the principal amount of all Bonds due on a specified date.

“Private Business Use” means “private business use” as that term is defined in Section 141 of the Code, any successor provision and any regulations promulgated thereunder.

“Record Date” means the 15th day immediately preceding each Bond Payment Date.

“Redemption Price” when used with respect to a Bond or portion thereof to be redeemed, means the principal amount of such Bond or such portion thereof plus the applicable premium, if any, payable upon redemption thereof pursuant to this Resolution.

“Registrar” means any bank, trust company, or national banking association which is authorized to maintain an accurate list of those who from time to time shall be the Holders of the Bonds or BANs and shall effect the exchange and transfer of the Bonds or BANs in accordance with the provisions of this Resolution and having the duties, responsibilities, and rights provided for in this Resolution and its

successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Resolution. The institution named as Registrar may also act as Paying Agent.

“Resolution” means this Resolution as the same may be amended or supplemented from time to time in accordance with the terms hereof.

“Secretary of State” means the Secretary of State of the State of South Carolina.

“Series” or “Series of Bonds” means a series of Bonds issued pursuant to the authorizations of the Enabling Act and this Resolution.

“South Carolina Code” means the Code of Laws of South Carolina 1976, as amended.

“State” means the State of South Carolina.

“State Request” means a written request of the State signed by an Authorized Officer.

“State Treasurer” means the Treasurer of the State of South Carolina.

“Taxable Series” means a Series of Bonds so designated by the State Treasurer, the interest upon which is not excludable from income for federal income tax purposes.

“Tuition Fees” means those fees charged by the University for tuition, matriculation and registration. The term does not include sums charged for enrolling in courses or classes offered for any summer school term or any special seminar, nor shall the term relate to or include fees levied or charged for purposes other than for the purposes of the Enabling Act.

#### Section 2.02 Construction.

In this Resolution, unless the context otherwise requires:

(a) Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Resolution.

(b) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms refer to this Resolution, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of adoption of this Resolution.

(c) Words of the masculine gender shall mean and include correlative words of the female and neuter genders, and words importing the singular number shall mean and include the plural number and *vice versa*.

(d) Any Fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this Resolution, even though such Authorized Investment is evidenced only by a book entry or similar record of investment.

[End of Article II]

## ARTICLE III ISSUANCE OF BONDS

### Section 3.01     Request to Governor and State Treasurer.

The Governor and the State Treasurer are hereby requested to effect the issuance of not to exceed \$30,500,000 principal amount of General Obligation State Institution Bonds in accordance with the provisions of this Resolution.

### Section 3.02     Ordering the Issuance of Bonds; Principal Amount.

Pursuant to the provisions of the Enabling Act, and for the purpose of obtaining funds to pay all or a portion of the costs of the Project and to pay certain costs of issuance of the Bonds described in Section 1.02 hereof, there shall be issued not exceeding Thirty Million Five Hundred Thousand Dollars (\$30,500,000) aggregate principal amount of general obligation bonds of the State, designated "General Obligation State Institution Bonds (Issued on Behalf of Clemson University), Series 2023." Notwithstanding the foregoing, however, the State Treasurer may, in his discretion, modify the Series designation of the Bonds herein authorized as appropriate and, in such event, all references to the Bonds herein shall be deemed to reference such modified Series designation. The Bonds may be issued as a single Series or in two or more separate Series or may be issued in combination with other issues of State general obligation bonds, as determined by the State Treasurer. The final principal amount of the Bonds shall be determined by the State Treasurer.

### Section 3.03     Maturity Schedule of Bonds.

The Bonds shall mature in each of the Fiscal Years and in the Principal Installments determined by the State Treasurer, provided that the aggregate principal amount of Bonds issued hereunder does not exceed \$30,500,000. The Bonds shall bear interest at rates determined in the manner prescribed by Section 3.16 hereof. The State Treasurer is hereby authorized to adjust the maturity schedule as to the principal amount maturing in a particular year and as to the dates on which the principal is to be repaid in order to: (i) limit net Bond proceeds; (ii) maintain compliance with constitutional and statutory debt limitations; (iii) maintain level annual debt service within each Fiscal Year; and (iv) achieve a more favorable interest rate at the sale of the Bonds.

### Section 3.04     Provision for Payment of Interest on the Bonds.

The Bonds shall be authenticated on such dates as they shall, in each case, be delivered. The Bonds shall bear interest from the Bond Payment Date to which interest has been paid next preceding the authentication date thereof, unless the authentication date thereof is a Bond Payment Date, in which case, from such authentication date, or if authenticated prior to the first Bond Payment Date for the Bonds, then from the Dated Date. The interest to be paid on any Bond Payment Date shall be paid to the Person in whose name such Bond is registered at the close of business on the Record Date next preceding such Bond Payment Date.

### Section 3.05     Medium of Payment; Form and Denomination of Bonds; Place of Payment of Principal.

(a) The Bonds shall be payable as to Principal Installment, Redemption Price and interest at the rates per annum determined in the manner prescribed by Section 3.16 hereof (on the basis of a 360-day year of twelve 30-day months) in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

(b) The Bonds shall be issued in the form of fully registered Bonds. The Bonds shall be issued in the denomination of \$1,000 or any whole multiple thereof, not exceeding the principal amount of the

Bonds maturing in such year. The Bonds shall be numbered from R-1 upwards in such fashion as to maintain a proper record thereof.

(c) The Principal Installment or Redemption Price of all Bonds shall be payable at the Corporate Trust Office of the Paying Agent and payment of the interest on each Bond shall be made by the Paying Agent to the Person appearing on each Record Date on the registration books of the State, which books shall be held by the Registrar as provided in Section 3.09 hereof, as the registered Owner thereof, by check or draft mailed to such registered Owner at his address as it appears on such registration books in sufficient time to reach such registered Owner on the Bond Payment Date. Payment of the Principal Installment or Redemption Price of all Bonds shall be made upon the presentation and surrender for cancellation of such Bonds as the same shall become due and payable.

Section 3.06 Agreement to Maintain Registrar and Paying Agent.

As long as any of the Bonds remain Outstanding, there shall be a Registrar and a Paying Agent, each of which shall be a financial institution maintaining Corporate Trust Offices where (i) the Bonds may be presented for registration of transfers and exchanges, (ii) notices and demands to or upon the State in respect of the Bonds may be served, and (iii) the Bonds may be presented for payment, exchange and transfer. The State Treasurer is hereby authorized to determine the institution which shall initially exercise the functions of Registrar and Paying Agent. In the event that Bonds are issued in two or more Series, references in this Resolution to the Registrar and Paying Agent shall mean the Registrar and Paying Agent for a given Series.

Section 3.07 Execution and Authentication.

(a) The Bonds shall be executed in the name and on behalf of the State by the manual or facsimile signatures of the Governor and of the State Treasurer, attested by the manual or facsimile signature of the Secretary of State with the Great Seal of the State (or a facsimile thereof) impressed, imprinted or otherwise reproduced thereon. Bonds bearing the manual or facsimile signature of any Person who shall have held such office at the time such Bonds were so executed shall bind the State notwithstanding the fact that he may have ceased to be such officer prior to the authentication and delivery of such Bonds or was not such officer at the date of the authentication and delivery of the Bonds.

(b) No Bond shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless there shall be endorsed on such Bond a certificate of authentication in the form set forth in the form of the Bond attached to this Resolution as Exhibit F, duly executed by the manual signature of the Registrar and such certificate of authentication upon any Bond executed on behalf of the State shall be conclusive evidence that the Bond so authenticated has been duly issued hereunder and that the Holder thereof is entitled to the benefit of the terms and provisions of this Resolution.

Section 3.08 Exchange of Bonds.

Bonds, upon surrender thereof at the Corporate Trust Office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered Holder or his duly authorized attorney, may, at the option of the registered Holder thereof, be exchanged for an equal aggregate principal amount of Bonds in authorized denominations of the same interest rate and maturity. So long as any of the Bonds remain Outstanding, the State shall make all necessary provisions to permit the exchange of the Bonds at the Corporate Trust Office of the Registrar.

Section 3.09 Transferability and Registry.

All Bonds shall at all times, when the same are Outstanding, be payable, both as to Principal Installment, Redemption Price and interest to a Person, and shall be transferable, only in accordance with

the provisions for registration and transfer contained in this Resolution and in the Bonds. So long as any of the Bonds remain Outstanding, the State shall maintain and keep, at the Corporate Trust Office of the Registrar, books for the registration and transfer of Bonds, and, upon presentation thereof for such purpose at the Corporate Trust Office of the Registrar, the State shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it or the Registrar may prescribe, any Bond, except that under no circumstances shall any Bond be registered or transferred to bearer. So long as any of the Bonds remain Outstanding, the State shall make all necessary provisions to permit the transfer of the Bonds at the Corporate Trust Office of the Registrar.

#### Section 3.10    Transfer of Bonds.

Each Bond shall be transferable only upon the books of the State, which shall be kept for such purpose at the Corporate Trust Office of the Registrar, upon presentation and surrender thereof by the Holder of such Bond or by his attorney duly authorized in writing, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered Holder or his duly authorized attorney. Upon surrender for transfer of any such Bond, the State shall execute and the Registrar shall authenticate and deliver, in the name of the Person who is the transferee, one or more new Bonds of the same aggregate principal amount and maturity and rate of interest as the surrendered Bond. All action taken by the Registrar pursuant to this section shall be deemed to be the action of the State.

#### Section 3.11    Regulations with Respect to Exchanges and Transfers.

All Bonds surrendered in any exchanges or transfers shall forthwith be cancelled by the Registrar. For each such exchange or transfer of the Bonds, the State or the Registrar may make a charge sufficient to reimburse it or them for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the Holder requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The State shall not be obligated (i) to issue, exchange or transfer any Bond during the 15 days next preceding any Bond Payment Date, (ii) to issue, exchange or transfer any Bonds during a period beginning at the opening of business 15 days next preceding any selection of Bonds to be redeemed and ending at the close of business on the date of the mailing of notice of such redemption, or (iii) to transfer or exchange any Bonds called or being called for redemption in whole or in part.

#### Section 3.12    Mutilated, Destroyed, Lost and Stolen Bonds.

(a) If any mutilated Bond is surrendered to the Registrar and the Registrar and the State receive evidence to their satisfaction of the destruction, loss or theft of any Bond, and there is delivered to the Registrar or the State such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice that such Bond has been acquired by a bona fide purchaser, the State shall execute and, upon State Request, the Registrar shall authenticate and deliver, in exchange for any such mutilated Bond or in lieu of any such destroyed, lost or stolen Bond, a new Bond of like tenor, and principal amount and redemption provisions, bearing a number unlike that of a Bond contemporaneously Outstanding. The Registrar shall thereupon cancel any such mutilated Bond so surrendered. In case any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the State in its discretion may, instead of issuing a new Bond, pay such Bond.

(b) Upon the issuance of any new Bond under this Section 3.12, the State may require the payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees or other fees, of the State or the Registrar connected therewith.

(c) Each new Bond issued pursuant to this Section in lieu of any destroyed, lost or stolen Bond shall constitute an additional contractual obligation of the State, whether or not the destroyed, lost or stolen

Bond shall at any time be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with any and all other Bonds duly issued pursuant to this Resolution. All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds and shall preclude (to the extent lawful) all other rights or remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds.

Section 3.13     Holder as Owner of Bond.

The State, the Registrar and any Paying Agent may treat the Holder of any Bond as the absolute owner thereof, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the Principal Installment, Redemption Price and interest on such Bond and for all other purposes, and payment of the Principal Installment, Redemption Price and interest shall be made only to, or upon the order of, such Holder. All payments to such Holder shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the State nor any Paying Agent shall be affected by any notice to the contrary.

Section 3.14     Cancellation of Bonds.

The Registrar shall destroy all Bonds surrendered to it for cancellation and shall deliver a certificate to that effect to the State. No such Bonds shall be deemed Outstanding under this Resolution and no Bonds shall be issued in lieu thereof.

Section 3.15     Payments Due on Saturdays, Sundays and Holidays.

In any case where the Bond Payment Date or redemption date shall be a Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions are authorized by law to close, then payment of the interest on or Principal Installment or Redemption Price of the Bonds need not be made on such date but may be made on the next succeeding business day not a Saturday, Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close, with the same force and effect as if made on the Bond Payment Date and no interest shall accrue for the period after such date.

Section 3.16     Conditions Relating to Naming of Interest Rates.

The Bonds shall bear such rate or rates of interest as shall at the sale of such Bonds reflect the lowest interest cost to the State at a price of not less than par, but:

- (1) all Bonds of the same maturity shall bear the same rate of interest;
- (2) no rate of interest named shall be more than six (6.00) percentage points;
- (3) a zero (0.0) percentage point rate of interest is not permitted;
- (4) each interest rate named shall be a multiple of 1/8th or 1/20th of one (1) percentage point;  
and
- (5) any premium offered must be paid in cash as a part of the purchase price;

provided, however, that the State Treasurer may determine, in his discretion and upon advice received, to waive, modify, amend, or vary the conditions described above (whether prior to the offer for sale of the Bonds, or subsequent to such offer but prior to the award of the Bonds), in order to (i) limit net Bond proceeds, (ii) maintain compliance with constitutional and statutory debt limitations, (iii) maintain level annual debt service

within each Fiscal Year, (iv) achieve a more favorable interest rate at the sale of the Bonds and (v) establish a maximum interest rate or maximum interest rates as necessary to maintain compliance with the provisions of the Enabling Act. In addition to the foregoing, the State Treasurer may establish additional terms and conditions for the sale of the Bonds, not inconsistent herewith, prior to the publication of the Notice of Sale (as defined herein).

#### Section 3.17 Tax Exemption in South Carolina.

Both the Principal Installments and interest on the Bonds shall be exempt from all State, county, municipal, school district, and all other taxes or assessments imposed by the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer or certain franchise taxes.

#### Section 3.18 Pledge of Full Faith, Credit and Taxing Power.

For the payment of the Principal Installment and interest on the Bonds as the same respectively mature, the full faith, credit and taxing power of the State are hereby irrevocably pledged and in addition thereto, but subject to the provisions of the Enabling Act, all Tuition Fees received by the University are also pledged. In accordance with the provisions of Section 11-29-30 of the South Carolina Code, and in order to provide for the punctual payment of the Principal Installments and interest on the Bonds herein authorized, the State Treasurer is directed to set aside from the Tuition Fees received in each Fiscal Year in which the interest on and Principal Installment of the Bonds are due or will become due so much of the revenues derived from such Tuition Fees as may be necessary in order to pay the interest on and the Principal Installment of all Bonds falling due in such Fiscal Year and the State Treasurer shall thereafter apply such moneys to the punctual payment of such principal and interest as the same respectively fall due. In the event that the revenues derived from the Tuition Fees so pledged prove insufficient to meet the payments of the interest on and the Principal Installment of such Bonds in such Fiscal Year, then the State Treasurer is authorized and directed to set aside from the general tax revenues of the State received in such Fiscal Year so much of such general tax revenues as become needed for such purpose and to apply the same to the punctual payment of the interest on and the Principal Installment of such Bonds due or to become due in such Fiscal Year.

In accordance with the provisions of Article X, Section 13, Paragraph 4 of the South Carolina Constitution if any time any payment of Principal Installment of or interest on the Bonds shall not be paid as and when the same become due and payable, the State Comptroller General shall forthwith levy and the State Treasurer shall collect an *ad valorem* tax without limit as to rate or amount upon all taxable property within the State sufficient to meet the payment of the Principal Installments and interest on the Bonds then due.

#### Section 3.19 Tuition Fee Deposits.

As provided in Section 59-107-180 of the Enabling Act, the State Treasurer shall establish a special fund into which all Tuition Fees shall be deposited and applied to the payment of principal, interest and premium, if any, on the Bonds. The State Treasurer further shall establish for the Bonds a “special debt service and reserve fund” within this special fund as prescribed by Section 59-107-180 of the Enabling Act. Such special fund and the “special debt service and reserve fund” therein shall be maintained at all times as provided in said Section 59-107-180 of the Enabling Act.

#### Section 3.20 Bonds Issued in Book-Entry Only Form.

(a) Unless otherwise determined by the State Treasurer, the Bonds will initially be issued under a book-entry only system in fully registered form, registered in the name of Cede & Co. as the registered owner and securities depository nominee of The Depository Trust Company, New York, New

York (“DTC”), which will act as initial securities depository for the Bonds. So long as the Bonds are being held under a book-entry system of a securities depository, transfers of beneficial ownership of the Bonds will be effected pursuant to rules and procedures established by such securities depository. DTC and any successor securities depositories are hereinafter referred to as the “Securities Depository.” Cede & Co. and successor securities depository nominees are hereinafter referred to as the “Securities Depository Nominee.”

(b) So long as a book-entry system is in effect for the Bonds, the Securities Depository Nominee will be recognized as the Holder of the Bonds for the purposes of (i) paying the Principal Installment or Redemption Price of and interest on such Bonds, (ii) if Bonds are to be redeemed in part, selecting the portions of such Bonds to be redeemed, (iii) giving any notice permitted or required to be given to Bondholders under this Resolution, (iv) registering the transfer of Bonds, and (v) requesting any consent or other action to be taken by the Holders of such Bonds, and for all other purposes whatsoever, and the State shall not be affected by any notice to the contrary.

(c) The State shall not have any responsibility or obligation to any participant, any beneficial owner or any other person claiming a beneficial ownership in any Bonds which are registered to a Securities Depository Nominee under or through the Securities Depository with respect to any action taken by the Securities Depository as Holder of such Bonds.

(d) The State shall pay the Principal Installment, Redemption Price and interest on Bonds issued under a book-entry system only to the Securities Depository or the Securities Depository Nominee, as the case may be, for such Bonds, and all such payments shall be valid and effectual to fully satisfy and discharge the obligations with respect to the Principal Installment and interest on such Bonds.

(e) In the event that the State determines that it is in the interest of the State to discontinue the book-entry system of transfer for the Bonds, or that the interests of the beneficial owners of the Bonds may be adversely affected if the book-entry system is continued, then the State shall notify the Securities Depository of such determination. In such event, the Registrar and Paying Agent shall authenticate, register and deliver physical certificates for the Bonds in exchange for the Bonds registered in the name of the Securities Depository Nominee.

(f) In the event that the Securities Depository for the Bonds discontinues providing its services, the State shall either engage the services of another Securities Depository or arrange with a Registrar and Paying Agent for the delivery of physical certificates in the manner described in subsection (e) above.

(g) In connection with any notice or other communication to be provided to the Holders of Bonds by the State or by the Registrar and Paying Agent with respect to any consent or other action to be taken by the Holders of Bonds, the State or the Registrar and Paying Agent, as the case may be, shall establish a record date for such consent or other action and give the Securities Depository Nominee notice of such record date not less than 15 days in advance of such record date to the extent possible.

(h) At the closing of the Bonds and the delivery of the same to the purchaser thereof through the facilities of DTC, the Paying Agent and Registrar may maintain custody of Bond certificates on behalf of DTC in accordance with DTC’s “FAST” closing procedures.

(i) For as long as the Bonds are being held under a book-entry system of a securities depository, the State shall remit to the Paying Agent and Registrar by 1:00 p.m. New York time on each Bond Payment Date funds for all principal and interest payments due thereupon, or at such earlier time as required by the Paying Agent and Registrar to guarantee that DTC or successor Securities Depository will receive payment in same-day funds by 2:30 p.m. New York time on such Bond Payment Date. In addition, automated payment details receipt shall be provided by the Paying Agent by 12:00 noon New York time of

each Bond Payment Date for interest payments and by 2:30 p.m. New York time for redemption and corporate action payments.

Section 3.21    Form of Bonds.

The form of the Bonds and registration provisions to be endorsed thereon shall be substantially as set forth in Exhibit F attached hereto and made a part of this Resolution.

Section 3.22    Borrowing in Anticipation of Issuance of Bonds.

Pursuant to the BAN Act, there may be issued from time to time at the discretion of the Governor and the State Treasurer BANs in aggregate principal amount not exceeding \$30,500,000 in anticipation of the issuance of Bonds. If BANs are issued and if, upon the maturity thereof the Governor and the State Treasurer should determine that it would be in the best interest of the State to renew or refund the BANs, they are authorized to renew or refund the BANs from time to time until the Governor and the State Treasurer determine to issue the Bonds on the basis as aforesaid, and the Bonds are issued.

(a)    The BANs shall be dated and bear interest from the Dated Date thereof, payable upon the stated maturity thereof and shall mature on such dates as determined by the State Treasurer, provided that no BAN shall mature on a date which is later than one year following the issuance thereof. Interest on the BANs shall be calculated on the basis of a 360-day year of twelve 30-day months. The BANs shall be payable, both as to principal and interest, in legal tender upon maturity, at the principal office of the Paying Agent. The BANs may be issued in denominations of \$1,000 and integral multiples thereof. The BANs shall be executed in the name and on behalf of the State by the manual or facsimile signature of the Governor and the State Treasurer with the Great Seal of the State (or a facsimile thereof) impressed, imprinted or otherwise reproduced thereon and attested by the Secretary of State. BANs bearing the manual or facsimile signature of any Person who shall have been such an Authorized Officer at the time such BANs were so executed shall bind the State notwithstanding the fact that he may have ceased to be such Authorized Officer prior to the authentication and delivery of such BANs or was not such Authorized Officer at the date of the authentication and delivery of the BANs.

(b)    The State Treasurer shall serve, or shall appoint a financial institution maintaining corporate trust offices to serve, as Registrar and Paying Agent for the BANs.

(c)    The Authority hereby authorizes the State Treasurer to cause to be prepared and to “deem final” within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission a preliminary official statement relating to the BANs and to cause to be prepared and to approve a final official statement following the sale of the BANs. The Authority hereby authorizes the use of said preliminary official statement and final official statement and the information contained therein in connection with the public offering and sale of the BANs. If the BANs are offered and sold to a financial institution to be held for its own account, the State Treasurer will not be required to (i) prepare a preliminary official statement or final official statement if such purchaser executes and delivers an investment letter in form and content acceptable to the State Treasurer, or (ii) undertake any obligation to deliver a Continuing Disclosure Undertaking.

(d)    The BANs may be sold at public or private sale. Bids therefor shall be received until such time and date to be selected by the State Treasurer. Notice of sale of the BANs shall be given in a manner determined by the State Treasurer. Upon receipt of bids for the BANs, the Governor and the State Treasurer shall, and they are hereby authorized to, award the BANs to the bidder offering the lowest interest cost therefor, the method of calculation of which shall be set forth in the notice of sale and determined at the State Treasurer’s discretion, without further action on the part of the Authority if the Governor and the State Treasurer shall determine that it is in the interest of the State to make such award.

(e) The BANs shall be issued in such form and with such terms and conditions, not inconsistent with this Resolution, as shall be determined by the State Treasurer. No BAN shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless there shall be endorsed on such BAN a certificate of authentication duly executed by the manual signature of the Registrar and such certificate of authentication upon any BAN executed on behalf of the State shall be conclusive evidence that the BAN so authenticated has been duly issued hereunder and that the Holder thereof is entitled to the benefit of the terms and provisions of the Resolution.

(f) The BANs shall be issued in fully registered form either (i) under a book-entry only system, registered in the name of Cede & Co. as the registered owner and securities depository nominee of DTC, or (ii) in physical form registered the name of the Holder, as specified by the Governor and the State Treasurer, who may permit the purchaser to make such determination. Conditions as to ownership, exchange, transfer, replacement and payment of BANs shall be as provided for Bonds herein, except as expressly provided in this Resolution to the contrary. The BANs may, at the discretion of the State Treasurer, be subject to redemption prior to their stated maturity, on such terms and conditions as the State Treasurer may prescribe, except that the maximum premium to be paid for prior redemption shall not exceed one half of one per centum (1/2%).

(g) For the payment of the principal of and interest on the BANs as the same shall fall due, the full faith, credit, and taxing power of the State shall be pledged. In addition thereto, so much of the principal proceeds of the Bonds when issued shall and is hereby directed to be applied, to the extent necessary, to the payment of the BANs; and, further, the State covenants and irrevocably pledges to effect the issuance of the Bonds or, in the alternative, to refund or renew Outstanding BANs in order that the proceeds thereof will be sufficient to provide for the retirement of any BANs issued pursuant hereto.

(h) Proceeds from the sale of the BANs shall be applied in the manner as provided by Section 6.01 herein for Bonds.

(i) Both the principal of and interest on the BANs shall be exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except estate or other transfer taxes, and certain fees or franchise taxes.

(j) The form of the BAN shall be approved by the State Treasurer.

(k) Without limiting the generality or specifics of any other provision in this Resolution, the term "Bonds" as used in Articles VII, VIII, IX and X shall include BANs.

[End of Article III]

ARTICLE IV  
REDEMPTION OR PURCHASE OF BONDS

Section 4.01     Authorization of Redemption.

The Bonds may be subject to redemption, in whole or in part, at any time in any order of maturity to be determined by the State Treasurer, upon such dates and at such Redemption Prices as shall be determined by the State Treasurer.

Section 4.02     State's Election to Redeem.

In the event that the State shall elect to redeem Bonds, it shall give notice by State Request to the Registrar and Paying Agent of each optional redemption, which notice may be conditional in the discretion of the State Treasurer. Each State Request shall specify the date fixed for redemption and the Bonds which are to be redeemed. Such notice shall be given at least 60 days prior to the date fixed for redemption or such lesser number of days as shall be acceptable to the Registrar.

Section 4.03     Notice of Redemption.

(a) When any Bonds are to be redeemed, the Registrar shall give notice of the redemption of the Bonds in the name of the State specifying: (i) the Bonds, the particular Series thereof, and maturities to be redeemed; (ii) the redemption date; (iii) the Redemption Price; (iv) the numbers and other distinguishing marks of the Bonds to be redeemed unless all of the Bonds Outstanding are to be redeemed; (v) the place or places where amounts due upon such redemption will be payable; (vi) whether the redemption of the Bonds is conditioned upon any event; and (vii) in the case of Bonds to be redeemed in part only, the respective portions of the principal thereof to be redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, together with interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue; provided, however, that in the event of any conditional provision in the notice, the Bonds will not become due and payable as provided in this section unless such condition has been satisfied as of the redemption date. The Registrar shall mail by registered mail a copy of such notice, postage prepaid, not less than 30 days before the redemption date to the registered Holders of all the Bonds or portions of the Bonds which are to be redeemed at their addresses which appear upon the registration books, but failure to so mail any such notice to any of such Holders shall not affect the validity of the proceedings for the redemption of the Bonds held by Holders to whom written notice has been mailed. The obligation of the Registrar to give the notice required by this Section shall not be conditioned upon the prior payment to the Paying Agent of money or the delivery to the Paying Agent of Authorized Investments or Government Obligations sufficient to pay the Redemption Price of the Bonds to which such notice relates or the interest thereon to the redemption date.

(b) Notice of redemption having been given as provided in subsection (a) hereof, the Bonds or portions thereof so to be redeemed shall, on the date fixed for redemption, become due and payable at the Redemption Price specified therein plus accrued interest to the redemption date, and upon presentation and surrender thereof at the place specified in such notice, such Bonds or portions thereof shall be paid at the Redemption Price, plus accrued interest to the redemption date; provided, however, that in the event of any conditional provision in the notice, the Bonds will not become due and payable as provided in this section until such condition has been satisfied as of the redemption date. On and after the redemption date (unless the State shall default in the payment of the Redemption Price and accrued interest, or any conditional provision in the notice shall not have been satisfied as of the redemption date), such Bonds shall cease to bear interest, and such Bonds shall no longer be considered as Outstanding hereunder. If money sufficient to pay the Redemption Price and accrued interest has not been made available by the State to the Paying Agent on the redemption date, such Bonds shall continue to bear interest until paid at the same rate as they would have borne, had they not been called for redemption, until the same shall have been paid.

Section 4.04     Selection by Registrar of Bonds to be Redeemed.

(a)     If less than all of the Bonds of like maturity are to be redeemed, the particular Bonds or portions of the Bonds to be redeemed shall be selected, not less than 45 days prior to the date fixed for redemption, by the Registrar by lot or in such other manner as the Registrar may deem to be appropriate, provided, however, that for so long as the Bonds are held in book-entry only form, the selection of Bonds to be redeemed hereunder shall be in accordance with the rules of the Securities Depository.

(b)     In making such selection, the Registrar shall treat each Bond to be redeemed as representing that number of Bonds of the lowest authorized denomination as is obtained by dividing the principal amount of such Bond by such denomination. If any Bond is to be redeemed in part, the portion to be so redeemed shall be in a principal amount of an authorized denomination.

(c)     The Registrar shall promptly notify the State in writing of the Bonds so selected for redemption.

Section 4.05     Deposit of Redemption Price.

On or before any date fixed for redemption of any Bonds, cash and/or a principal amount of non-callable Government Obligations maturing or redeemable at the option of the Holder thereof not later than the date fixed for redemption which, together with income to be earned on such Government Obligations prior to such date fixed for redemption, will be sufficient to provide cash to pay the Redemption Price of and accrued interest on all Bonds or portions thereof which are to be redeemed on such date, shall be deposited with the Paying Agent unless such amount shall have been previously deposited with the Paying Agent. Provided, however, that in the event of a conditional redemption such condition is not met, this Section 4.05 is inapplicable.

Section 4.06     Partial Redemption of Bonds.

In the event part but not all of a Bond Outstanding shall be selected for redemption, upon presentation and surrender of such Bond by the Holder thereof or his attorney duly authorized in writing (with, if the State or the Registrar so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the State and the Registrar duly executed by, the Holder thereof or his attorney duly authorized in writing) to the Registrar, the State shall execute and the Registrar shall authenticate and deliver to or upon the order of such Holder, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds of any authorized denomination of like tenor. Bonds so presented and surrendered shall be cancelled in accordance with Section 3.14 hereof.

Section 4.07     Purchases of Bonds Outstanding.

Purchases of Bonds Outstanding may also be made by the State at any time with money available to it from any source. Upon any such purchase the State shall deliver such Bonds to the Registrar for cancellation.

[End of Article IV]

## ARTICLE V SALE OF BONDS

### Section 5.01     Determination of Time to Receive Bids; Form of Notice of Sale.

(a) The Bonds shall be sold at public sale on such terms as may be prescribed by the State Treasurer. Bids shall be received until such time and date to be selected by the State Treasurer. The form of the notice of sale shall be substantially similar to that set forth in Exhibit G attached hereto (the “Notice of Sale”) and made a part hereof. The Notice of Sale, or, at the election of the State Treasurer, a summary thereof, shall be published in a financial paper published in the City of New York, New York, which regularly publishes notices of sale of state or municipal bonds, which Notice of Sale shall each appear at least once and not less than seven (7) days before the date set for said sale. The Notice of Sale may be combined with a notice of sale for other general obligation bonds of the State being offered for sale at the same time, if any.

(b) The Bonds authorized hereby, if so determined by the State Treasurer, may be issued in the form of a single instrument, subject to the following terms and conditions: (i) the Dated Date of the Bond shall be the date determined by the State Treasurer, and the Bond shall bear interest from such date; (ii) the references to “Bonds” throughout the Resolution shall be understood to refer to the single instrument authorized by this Section 5.01(b); (iii) the State Treasurer may require that the Bond bear a single, fixed rate of interest; (iv) the form of the Bonds as set forth in Exhibit F hereto and the Notice of Sale as set forth in Exhibit G hereto shall be appropriately modified; (v) the State Treasurer may determine that the State will not undertake any obligation to deliver a Continuing Disclosure Undertaking as provided in Exhibit H hereto; (vi) the State Treasurer may determine that the Bond shall not be issued in book-entry-only form, and, in lieu thereof, shall be registered directly in the name of the Holder as directed by the purchaser thereof; and (vii) the State Treasurer may determine that an official statement shall not be prepared in connection with the sale of the Bond.

### Section 5.02     Award of Bonds.

Upon receipt of bids for the Bonds, the Governor and the State Treasurer shall, and they are hereby authorized to, award the Bonds to the bidder offering the lowest interest cost therefor, the method of calculation of which shall be set forth in the Notice of Sale and determined at the State Treasurer’s discretion, without further action on the part of the Authority if the Governor and the State Treasurer shall determine that it is in the interest of the State to make such award. The State shall have the right to reject all proposals and to re-advertise the Bonds for sale. Any proposal not conforming to the Notice of Sale may be rejected, but the State shall have the right to waive technicalities.

### Section 5.03     Official Statement.

The Authority hereby authorizes the State Treasurer to prepare or cause to be prepared and to “deem final,” within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission, a preliminary official statement relating to the Bonds and to prepare or cause to be prepared and to approve a final official statement following the sale of the Bonds. The Authority hereby authorizes the use of said preliminary official statement and final official statement and the information contained therein in connection with the public offering and sale of the Bonds.

Section 5.04    Combined Sales.

If the State Treasurer deems it prudent, the Bonds may be sold in combination with other series of general obligation bonds of the State, the issuance of which shall have been properly authorized and the form and details for which may be provided for in the same preliminary official statement and same final official statement as that for the Bonds.

[End of Article V]

ARTICLE VI  
DISPOSITION OF PROCEEDS OF SALE OF BONDS

Section 6.01     Disposition of Bond Proceeds Including Temporary Investments.

- (a)     The proceeds derived from the sale of the Bonds shall be applied and disposed of as follows:
  - (1)     accrued interest, if any, shall be applied to the payment of the first installment of interest to become due on the Bonds;
  - (2)     the premium, if any, shall be applied as determined by the State Treasurer;
  - (3)     the remaining proceeds of the Bonds shall be segregated by the State Treasurer for the account of the University and shall be applied to pay all or a portion of the costs of the Project or to repay the BANs, as applicable; and
  - (4)     any remaining proceeds may be used for the payment of the costs of issuing the Bonds.
- (b)     Pending the use of Bond proceeds as provided in Sections 6.01(a) of this Section, the same shall be invested and reinvested by the State Treasurer in Authorized Investments. The investment earnings therefrom may be used either for any lawful purpose of the State, including for the purposes described in Section 6.01(a) above, or, if so required by the Code, to make any necessary rebate to the United States Government.
- (c)     Neither the purchaser of the Bonds nor any registered Holder of the Bonds shall be liable for the proper application of the proceeds of the Bonds or the BANs.

[End of Article VI]

ARTICLE VII  
DEFEASANCE OF BONDS

Section 7.01     Discharge of Resolution; Where and How Bonds Are Deemed to Have Been Paid and Defeased.

If all of the Bonds issued pursuant to this Resolution, and all interest thereon shall have been paid and discharged, then the obligations of the State under this Resolution and all other rights granted herein shall cease and determine. The Bonds shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances, viz.:

(a)     The Paying Agent or an Escrow Agent shall hold, at the stated maturities of the Bonds, in trust and irrevocably appropriated thereto, sufficient moneys for the payment of the Principal Installment and interest thereof; or

(b)     The Paying Agent or Escrow Agent shall hold in an irrevocable trust moneys which shall be sufficient, or Government Obligations, the principal of and interest on which when due will provide moneys, which together with moneys, if any, deposited with said Escrow Agent at the same time, shall be sufficient to pay when due the principal of and interest on the Bonds; or

(c)     If default in the payment of the principal of the Bonds or the interest thereon shall have occurred on any Bond Payment Date, and thereafter tender of such payment shall have been made, and at such time as the Paying Agent or Escrow Agent shall hold in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of such payment; or

(d)     Subject to the provisions of Section 59-107-200 of the Enabling Act, if applicable, if the State shall elect to provide for the payment of the Bonds prior to their stated maturities and shall have deposited with the Escrow Agent in an irrevocable trust moneys which shall be sufficient, or Government Obligations, the principal of and interest on which when due will provide moneys, which together with moneys, if any, deposited with said Escrow Agent at the same time, shall be sufficient to pay when due the Principal Installment or Redemption Price to become due on their maturity dates or redemption dates, as the case may be, on the Bonds on and prior to their maturity dates or redemption dates, and interest due on the Bonds on or prior to their maturity or redemption dates, as the case may be. In the event that the State shall elect to redeem Bonds prior to their stated maturities, the State shall proceed in the manner prescribed by Article IV hereof, subject to the provisions of Section 3.20 in the event that at the time of such election the Bonds Outstanding are issued in book-entry only form.

Neither the Government Obligations nor moneys deposited with the Paying Agent or Escrow Agent pursuant to this Section nor the principal or interest payments thereon shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Principal Installment or Redemption Price, and interest on said Bonds; provided, however, that any cash received from such principal or interest payments on Government Obligations deposited with the Paying Agent or Escrow Agent, if not then needed for such purpose, shall, to the extent practicable, be invested and reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the Principal Installment or Redemption Price, and interest to become due on said Bonds on and prior to the maturity date or redemption date thereof, as the case may be, and interest earned from such reinvestments not required for the payment of the Principal Installment or Redemption Price, and interest may be paid over to the State, as received by the Paying Agent or Escrow Agent, free and clear of any trust, lien or pledge.

Section 7.02    Notice of Defeasance.

Upon the defeasance of the Bonds, all notices required by the South Carolina Code and the Continuing Disclosure Undertaking shall be given.

[End of Article VII]

ARTICLE VIII  
CONCERNING THE FIDUCIARIES

Section 8.01     Fiduciaries; Appointment and Acceptance of Duties.

Each Fiduciary shall accept the duties and trusts imposed upon it by this Resolution and shall agree in writing to perform such trusts but only upon the terms and conditions set forth in this Article VIII. Similarly, each financial institution appointed as a successor Registrar, a successor Paying Agent or successor Escrow Agent shall signify its acceptance of the duties and trusts imposed by this Resolution by a written acceptance.

Section 8.02     Responsibilities of Fiduciaries.

The recitals of fact herein and in the Bonds contained shall be taken as the statements of the State and no Fiduciary assumes any responsibility for the correctness of the same except in respect of the authentication certificate of the Registrar endorsed on the Bonds. No Fiduciary makes any representations as to the validity or sufficiency of this Resolution or of any Bonds or as to the security afforded by this Resolution, and no Fiduciary shall incur any liability in respect thereof. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof or to advance any of its own moneys, unless indemnified to its reasonable satisfaction. No Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct.

Section 8.03     Evidence on Which Fiduciaries May Act.

(a) Each Fiduciary, upon receipt of any notice, resolution, request, consent order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of this Resolution, shall examine such instrument to determine whether it conforms to the requirements of this Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be counsel to the State, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Resolution in good faith and in accordance therewith.

(b) Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Officer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Resolution upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable.

(c) Except as otherwise expressly provided in this Resolution any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the State to any Fiduciary shall be sufficiently executed if executed in the name of the State by an Authorized Officer.

#### Section 8.04 Compensation.

The State shall pay to each Fiduciary from time to time reasonable compensation based on the then standard fee schedule of the Fiduciary for all services rendered under this Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under this Resolution; provided, however, that any specific agreement between the State and a Fiduciary with respect to the compensation of such Fiduciary shall control the compensation to be paid to such Fiduciary.

#### Section 8.05 Certain Permitted Acts.

Any Fiduciary may become the Owner or underwriter of any Bonds, notes or other obligations of the State or conduct any banking activities with respect to the State, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depository for, and permit any of its officers or directors to effect or aid in, any reorganization growing out of the enforcement of the Bonds or this Resolution.

#### Section 8.06 Resignation of Any Fiduciary.

Any Fiduciary may at any time resign and be discharged of the duties and obligations created by this Resolution by giving not less than 60 days written notice to the State and not less than 30 days written notice to the Holders of the Bonds as established by the books of registration prior to the next succeeding Bond Payment Date and such resignation shall take effect upon the date specified in such notice unless previously a successor shall have been appointed by the State pursuant to Section 8.08 hereof, in which event such resignation shall take effect immediately on the appointment of such successor. In no event, however, shall such a resignation take effect until a successor has been appointed.

#### Section 8.07 Removal of Fiduciary.

Any Fiduciary may be removed at any time by an instrument or concurrent instruments in writing, filed with the State and such Fiduciary and, as the case may be, signed by an Authorized Officer or the Bondholders representing a majority in principal amount of the Bonds then Outstanding or their attorneys in fact duly authorized, excluding any Bonds held by or for the account of the State.

#### Section 8.08 Appointment of Successor Fiduciaries.

(a) In case any Fiduciary hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor shall be appointed by the State Treasurer. Every such Fiduciary appointed pursuant to the provisions of this Section shall be a trust company or bank organized under the laws of the United States of America or any state thereof and which is in good standing, within or outside the State, having a stockholders' equity of not less than \$75,000,000 if there be such an institution willing, qualified and able to accept the trust upon reasonable and customary terms.

(b) If in a proper case, no appointment of a successor Fiduciary shall be made by the State Treasurer pursuant to the foregoing provisions of this Section within 45 days after any Fiduciary shall have given to the State Treasurer written notice as provided in Section 8.06 hereof or after a vacancy in the office of such Fiduciary shall have occurred by reason of its removal or inability to act, the former Fiduciary or any Bondholder may apply to any court of competent jurisdiction to appoint a successor. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor.

Section 8.09     Transfer of Rights and Property to Successor.

Any successor Fiduciary appointed under this Resolution shall execute, acknowledge and deliver to its predecessor, and also to the State, an instrument accepting such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Fiduciary, with like effect as if originally named in such capacity; but the Fiduciary ceasing to act shall nevertheless, upon State Request, or of the successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the right, title and interest of the predecessor Fiduciary in and to any property held by it under this Resolution, and shall pay over, assign and deliver to the successor Fiduciary any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the State be required by such successor Fiduciary for more fully and certainly vesting in and confirming to such successor any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the State. Any such successor Fiduciary shall promptly notify the other Fiduciaries, if any, and any depository of its appointment as Fiduciary.

Section 8.10     Merger or Consolidation.

Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it may be party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act; provided, however, such company shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association, and shall be authorized by law to perform all the duties imposed upon it by this Resolution; and further provided, however, that such company otherwise meets the qualifications for successor Fiduciaries set forth in Section 8.08 herein.

Section 8.11     Adoption of Authentication.

In case any of the Bonds contemplated to be issued under this Resolution shall have been authenticated but not delivered, any successor Registrar may adopt the certificate of authentication of any predecessor Registrar so authenticating such Bonds and deliver such Bonds so authenticated. In case any such Bonds shall not have been authenticated, any successor Registrar may authenticate such Bonds in the name of the predecessor Registrar or in the name of the successor Registrar, and in all such cases such certificate shall be of full force and effect.

[End of Article VIII]

ARTICLE IX  
FEDERAL TAX CONSIDERATIONS

Section 9.01    Compliance with the Code.

The State will comply with all requirements of the Code in order to preserve the tax-exempt status of interest on the Bonds, including without limitation, (i) the requirement to file Form 8038-G, *Information Return for Tax-Exempt Government Obligations*, with the Internal Revenue Service, and (ii) the requirement to rebate certain arbitrage earnings to the United States Government pursuant to Section 148(f) of the Code. In this connection, the State covenants to execute any and all agreements, certificates and other documentation as it may be advised by bond counsel will enable it to comply with this Article IX, and such agreements, certificates and other documentation may be executed by an Authorized Officer.

Section 9.02    Tax Representations and Covenants.

The State hereby represents and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bonds to become includable in the gross income of the Holders thereof for federal income tax purposes pursuant to the provisions of the Code and the United States Treasury Regulations (the “Regulations”). Without limiting the generality of the foregoing, the State represents and covenants that:

(a) All property financed or refinanced with the proceeds of the Bonds will be owned by the State or a political subdivision thereof so long as the Bonds are Outstanding in accordance with the rules governing the ownership of property for federal income tax purposes.

(b) The State shall not use, and will not permit any party to use, the proceeds of the Bonds in any manner that would result in (i) five percent (5%) or more of such proceeds being considered as having been used in a Private Business Use; or (ii) an amount greater than the lesser of five percent (5%) of such proceeds or \$5,000,000 being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

(c) The State is not a party to, and will not enter into or permit any other party to enter into, any contract with any person involving the management of any facility financed or refinanced with the proceeds of the Bonds or by notes paid by the Bonds that does not conform to the guidelines set forth in Revenue Procedure 2017-13, or a successor revenue procedure, Code provision or Regulations.

(d) The State will not sell, or permit any other party to sell, any property financed or refinanced with the Bonds to any person unless it obtains an opinion of nationally recognized bond counsel that such sale will not affect the tax-exempt status of the Bonds.

(e) The Bonds will not be “federally guaranteed” within the meaning of Section 149(b) of the Code. The State shall not enter into, or permit any other party to enter into, any leases or sales or service contract with any federal government agency with respect to any facility financed or refinanced with the proceeds of the Bonds and will not enter into any such leases or contracts unless it obtains the opinion of nationally recognized bond counsel that such action will not affect the tax-exempt status of the Bonds.

Section 9.03     Arbitrage Bonds.

The State hereby covenants and agrees with the Holders of the Bonds that no use of the proceeds of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Bonds, would have caused the Bonds to be “arbitrage bonds,” as defined in the Code, and to that end the State hereby shall:

(a)        comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any Regulations so long as the Bonds are Outstanding;

(b)        establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code and Regulations relating to required rebate of certain amounts to the United States Government;

(c)        make such reports of such information at the time and places required by the Code and Regulations; and

(d)        take such other action as may be required to assure that the tax-exempt status of the Bonds will not be impaired.

Section 9.04     Taxable Series and Taxable BANS; Inapplicability of this Article.

The State Treasurer is hereby authorized to designate a Series of Bonds as a Taxable Series. The provisions of the preceding Sections of this Article IX shall not apply to Bonds of a Taxable Series.

[End of Article IX]

ARTICLE X  
MISCELLANEOUS

Section 10.01 Failure to Present Bonds.

Any money held by the Paying Agent in trust for the payment and discharge of any of the Bonds, or the interest thereon, which remains unclaimed for such period of time, after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, that the Holder thereof shall no longer be able to enforce the payment thereof, the Paying Agent shall at the written request of the State pay such money to the State as its absolute property and free from trust, and the Paying Agent shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the State for the payment of such Bonds; provided, however, the Paying Agent shall forward to the State all moneys which remain unclaimed during a period five (5) years from a Bond Payment Date; and further provided, however, that before being required to make any such payment to the State, the Paying Agent, at the expense of the State, may conduct such investigations as may in the opinion of the Paying Agent be necessary to locate the Holders of those who are entitled to take such funds.

Section 10.02 Severability of Invalid Provisions.

If any one or more of the covenants or agreements provided in this Resolution should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Resolution.

Section 10.03 Resolution to Constitute Contract.

In consideration of the purchase and acceptance of the Bonds by those who shall purchase and hold the same from time to time, the provisions of this Resolution, with the exception of the findings of fact in Article I hereof, shall be deemed to be and shall constitute a contract between the State and the Holders from time to time of the Bonds, and such provisions are covenants and agreements with such Holders which the State hereby determined to be necessary and desirable for the security and payment thereof. The pledge hereof and the provisions, covenants, and agreements herein set forth to be performed on behalf of the State shall be for the equal benefit, protection, and security of the Holders of any and all of the Bonds, all of which shall be of equal rank without preference, priority or distinction of any Bonds over any other Bonds.

Section 10.04 Execution of Closing Documents and Certificates.

The Governor, the State Treasurer, the Secretary of State and any other officers or employees of the State are fully authorized and empowered to take such further action and to execute and deliver such closing documents and certificates as may be necessary and proper in order to complete the issuance of the Bonds herein authorized and the action of such officers or any one or more of them in executing and delivering any of such documents, in such form as he or they shall approve, is hereby fully authorized.

#### Section 10.05 Filing of Copies of Resolution.

Copies of this Resolution shall be filed in the offices of the Authority, the office of the Secretary of State (as a part of the Transcript of Proceedings filed for each Series of Bonds), and with the offices of each Paying Agent and Registrar for each Series of Bonds.

#### Section 10.06 Benefits of Resolution Limited to the State and Holders of the Bonds.

With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Resolution or the Bonds is intended or should be construed to confer upon or give to any Person other than the State and the Holders of the Bonds, any legal or equitable right, remedy or claim under or by reason of or in respect to this Resolution or any covenant, condition, stipulation, promise, agreement or provision herein contained. This Resolution and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the State and the Holders from time to time of the Bonds as herein and therein provided.

#### Section 10.07 No Personal Liability.

No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the State contained in this Resolution or the Bonds, against any member of the Authority, any officer or employee, as such, in his or her individual capacity, past, present or future, of the State, either directly or through the State, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Resolution and the Bonds are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee as such, past, present or future, of the State, either directly or by reason of any of the obligations, covenants, promises or agreements entered into between the State and Bondholders or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member, officer and employee is, by the adoption of this Resolution and the execution of the Bonds, and as a condition of, and as a part of the consideration for, the adoption of this Resolution and the execution of the Bonds, expressly waived and released. The immunity of members of the Authority, officers and employees of the State under the provisions contained in this Section shall survive the termination of this Resolution.

#### Section 10.08 Continuing Disclosure.

(a) In accordance with Section 11-1-85 of the South Carolina Code, the Authority hereby covenants to file with a central repository for availability in the secondary bond market when requested: (i) an annual independent audit, within thirty days of the State's receipt of the audit; and (ii) event specific information, within thirty days of an event adversely affecting more than five percent of the State's revenue or tax base. The only remedy for failure by the State to comply with the covenant in this Section 10.08 shall be an action for specific performance of this covenant. The Authority specifically reserves the right to amend this covenant to reflect any change in said Section 11-1-85 without the consent of any Bondholder.

(b) In addition, the State hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Undertaking. Failure of the State to comply with the Continuing Disclosure Undertaking shall not be considered an event of default hereunder; provided, however, any Bondholder may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the State to comply with its obligations under this Section 10.08(b). The Continuing Disclosure Undertaking shall be executed by the State Treasurer prior to the delivery of the Bonds and shall be substantially in such form as is set forth in Exhibit H hereto, together with such modifications and amendments thereto as shall be deemed necessary by the State Treasurer upon advice of counsel. Additionally, the form of the Continuing Disclosure Undertaking shall be amended and modified as necessary to comply with any rules or regulations promulgated by the United

States Securities and Exchange Commission. The execution of the Continuing Disclosure Undertaking shall constitute conclusive evidence of the approval by the State Treasurer of any and all modifications and amendments thereto.

Section 10.09 Law and Place of Enforcement of the Resolution.

This Resolution shall be construed and interpreted in accordance with the laws of the State and all suits and actions arising out of this Resolution shall be instituted in a court of competent jurisdiction in the State.

Section 10.10 Effect of Article and Section Headings and Table of Contents.

The heading or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Resolution.

Section 10.11 Repeal of Inconsistent Resolutions.

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

Section 10.12 Effectiveness of this Resolution.

This Resolution shall become effective upon its adoption.

[End of Article X]

EXHIBIT A

DEBT SERVICE REQUIREMENTS  
ON ALL STATE INSTITUTION BONDS  
ISSUED BY THE STATE OF SOUTH CAROLINA  
ON BEHALF OF CLEMSON UNIVERSITY

Fiscal Year Ending	Existing Debt Service		Total Debt Service
	Principal	Interest	
June 30, 2023	\$ 2,370,000	\$ 652,100	\$ 3,022,100
June 30, 2024	15,260,000	11,313,513	26,573,513
June 30, 2025	16,020,000	10,550,513	26,570,513
June 30, 2026	16,820,000	9,749,513	26,569,513
June 30, 2027	17,650,000	8,926,063	26,576,063
June 30, 2028	18,420,000	8,148,213	26,568,213
June 30, 2029	19,215,000	7,353,413	26,568,413
June 30, 2030	19,485,000	6,780,325	26,265,325
June 30, 2031	19,835,000	5,925,625	25,760,625
June 30, 2032	15,660,000	5,148,269	20,808,269
June 30, 2033	16,080,000	4,580,794	20,660,794
June 30, 2034	16,525,000	3,991,481	20,516,481
June 30, 2035	14,600,000	3,379,069	17,979,069
June 30, 2036	14,995,000	2,829,700	17,824,700
June 30, 2037	11,750,000	2,258,450	14,008,450
June 30, 2038	7,070,000	1,787,250	8,857,250
June 30, 2039	7,405,000	1,450,450	8,855,450
June 30, 2040	7,350,000	1,097,400	8,447,400
June 30, 2041	7,215,000	739,500	7,954,500
June 30, 2042	7,575,000	378,750	7,953,750
Total	<u>\$ 271,300,000</u>	<u>\$ 97,040,388</u>	<u>\$ 368,340,388</u>

CLEMSON UNIVERSITY  
 SCHEDULE OF TUITION FEES IN EFFECT FOR PURPOSES OF  
 SECTIONS 59-107-10 ET SEQ., CODE OF LAWS OF  
 SOUTH CAROLINA 1976, AS AMENDED

	<u>In-State</u>	<u>Out-of-State</u>
Undergraduate		
Full-Time <sup>1</sup>	\$ 860	\$ 2,323
Matriculation <sup>1</sup>	5	5
Part-Time <sup>2</sup>	77	204
Matriculation <sup>1</sup>	5	5
Graduate		
Full-Time <sup>1</sup>	860	2,085
Matriculation <sup>1</sup>	5	5
Part-Time <sup>2</sup>	77	184
Matriculation <sup>1</sup>	5	5
Graduate Assistant <sup>1</sup>	10	10
Matriculation <sup>1</sup>	5	5

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<sup>1</sup> Per Semester.

<sup>2</sup> Per Credit Hour.

For the fiscal year ended June 30, 2022, the amount of receipts designated as tuition for state institution bonds purposes was not less than the sum of \$54,118,535. The tuition and fees generated for the 2022 summer term are not included.

The maximum principal and interest debt service payment prior to the issuance contemplated herein is \$26,576,063, which occurs in the fiscal year ending June 30, 2027.

The maximum principal and interest debt service payment after the issuance contemplated herein is anticipated to be \$28,635,092\*, which is anticipated to occur in the fiscal year ending June 30, 2027.

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\* Preliminary, subject to change.

CLEMSON UNIVERSITY  
PRO-FORMA DEBT SERVICE REQUIREMENTS OF  
NOT EXCEEDING \$30,500,000 STATE OF SOUTH CAROLINA  
GENERAL OBLIGATION STATE INSTITUTION BONDS,  
COMPUTED AT PREVAILING RATES OF INTEREST

Fiscal Year Ending	New Issue Debt Service*		Total Debt Service
	Principal	Interest	
June 30, 2024	\$ 1,050,000	\$ 711,957	\$ 1,761,957
June 30, 2025	1,250,000	807,903	2,057,903
June 30, 2026	1,280,000	780,653	2,060,653
June 30, 2027	1,305,000	754,029	2,059,029
June 30, 2028	1,330,000	727,538	2,057,538
June 30, 2029	1,360,000	700,539	2,060,539
June 30, 2030	1,385,000	673,067	2,058,067
June 30, 2031	1,415,000	645,367	2,060,367
June 30, 2032	1,440,000	616,784	2,056,784
June 30, 2033	1,470,000	587,264	2,057,264
June 30, 2034	1,505,000	556,688	2,061,688
June 30, 2035	1,540,000	520,417	2,060,417
June 30, 2036	1,580,000	479,145	2,059,145
June 30, 2037	1,625,000	432,693	2,057,693
June 30, 2038	1,680,000	381,668	2,061,668
June 30, 2039	1,735,000	326,732	2,061,732
June 30, 2040	1,790,000	268,783	2,058,783
June 30, 2041	1,855,000	206,670	2,061,670
June 30, 2042	1,920,000	141,189	2,061,189
June 30, 2043	1,985,000	72,453	2,057,453
Total	<u>\$ 30,500,000</u>	<u>\$ 10,391,535</u>	<u>\$ 40,891,535</u>

\* Preliminary, subject to change.

EXHIBIT D

SCHEDULE SHOWING PRO-FORMA TOTAL PRINCIPAL AND INTEREST REQUIREMENTS OF  
ALL GENERAL OBLIGATION STATE INSTITUTION BONDS  
ISSUED BY THE STATE OF SOUTH CAROLINA  
ON BEHALF OF CLEMSON UNIVERSITY  
INCLUDING THE PROPOSED ISSUE OF  
THIRTY MILLION FIVE HUNDRED THOUSAND DOLLARS (\$30,500,000)  
OF GENERAL OBLIGATION STATE INSTITUTION BONDS,  
AT PREVAILING RATES OF INTEREST

Fiscal Year Ending	Combined Debt Service*		Total Debt Service
	Principal	Interest	
June 30, 2023	\$ 2,370,000	\$ 652,100	\$ 3,022,100
June 30, 2024	16,310,000	12,025,470	28,335,470
June 30, 2025	17,270,000	11,358,416	28,628,416
June 30, 2026	18,100,000	10,530,166	28,630,166
June 30, 2027	18,955,000	9,680,092	28,635,092
June 30, 2028	19,750,000	8,875,750	28,625,750
June 30, 2029	20,575,000	8,053,951	28,628,951
June 30, 2030	20,870,000	7,453,392	28,323,392
June 30, 2031	21,250,000	6,570,992	27,820,992
June 30, 2032	17,100,000	5,765,052	22,865,052
June 30, 2033	17,550,000	5,168,057	22,718,057
June 30, 2034	18,030,000	4,548,169	22,578,169
June 30, 2035	16,140,000	3,899,486	20,039,486
June 30, 2036	16,575,000	3,308,845	19,883,845
June 30, 2037	13,375,000	2,691,143	16,066,143
June 30, 2038	8,750,000	2,168,918	10,918,918
June 30, 2039	9,140,000	1,777,182	10,917,182
June 30, 2040	9,140,000	1,366,183	10,506,183
June 30, 2041	9,070,000	946,170	10,016,170
June 30, 2042	9,495,000	519,939	10,014,939
June 30, 2043	1,985,000	72,453	2,057,453
Total	<u>\$ 301,800,000</u>	<u>\$ 107,431,922</u>	<u>\$ 409,231,922</u>

\* Preliminary, subject to change.

EXHIBIT E

CLEMSON UNIVERSITY  
PROOF SHOWING COMPLIANCE WITH  
TITLE 59, CHAPTER 107, CODE OF LAWS OF  
SOUTH CAROLINA 1976, AS AMENDED

Aggregate of tuition fees received by the University during preceding fiscal year ended June 30, 2022	\$ 54,118,535
Multiplied by	90%
Produces	\$ 48,706,682
Maximum annual debt service on all State Institution Bonds of the University (including the proposed issue of not exceeding Thirty Million Five Hundred Thousand Dollars (\$30,500,000) General Obligation State Institution Bonds issued on behalf of the University)	\$ 28,635,092*
	<hr/>
Margin	\$ 20,071,590

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\* Preliminary, subject to change.

(FORM OF BOND)  
(FACE OF BOND)UNITED STATES OF AMERICA  
GENERAL OBLIGATION STATE INSTITUTION BOND  
(ISSUED ON BEHALF OF CLEMSON UNIVERSITY), SERIES 20\_\_  
OF THE STATE OF SOUTH CAROLINA

No. R-1

<u>Rate of Interest</u>	<u>Maturity Date</u>	<u>Dated Date</u>	<u>CUSIP</u>
	____ 1, 20__	____ 1, 20__	

Registered Holder: CEDE & CO.Principal Amount: \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

THE STATE OF SOUTH CAROLINA (the "State") acknowledges itself indebted and for value received hereby promises to pay, solely as hereinafter provided, to the Registered Holder named above, or registered assigns, the Principal Amount stated above, on the Maturity Date set forth above, unless this Bond be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, upon presentation and surrender of this Bond at the Corporate Trust Office of \_\_\_\_\_, in the City of \_\_\_\_\_, State of \_\_\_\_\_ (the "Paying Agent"), and to pay interest on such Principal Amount at the Rate of Interest set forth above (calculated on the basis of a 360-day year consisting of twelve 30-day months), until the obligation of the State with respect to the payment of such Principal Amount shall be discharged.

So long as Cede & Co., as nominee of The Depository Trust Company ("DTC"), is the Registered Owner of the Bonds, references in this Bond to the Bondholders or Registered Owners of the Bonds shall mean Cede & Co. and shall not mean the beneficial owners.

The State, the Registrar and the Paying Agent may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purpose of the payment of the principal of or interest or premium, if any, on the Bonds, giving any notice permitted or required to be given to Bondholders under the Resolution, hereinafter defined, registering the transfer of Bonds, obtaining any consent or action to be taken by Bondholders and for all other purposes whatsoever, and shall not be affected by any notice to the contrary. The State, the Registrar and the Paying Agent shall not have any responsibility or obligation to any direct participant, any person claiming a beneficial ownership in the Bonds under or through DTC or any Direct Participant or any other person which is not shown on the Registration Books of the State (kept by the Registrar) as being a Bondholder with respect to: the accuracy of any records maintained by DTC or any Direct Participant; the payment by DTC or any Direct Participant of any amount in respect of the principal of or interest or premium, if any, on the Bonds; any notice which is permitted or required to be given to Bondholders thereunder or under the conditions for transfers or exchanges adopted by the State; or any consent given or other action taken by DTC as a Bondholder.

Interest on the Bonds is payable on \_\_\_\_ 1 and \_\_\_\_ 1 of each year (the "Bond Payment Dates") beginning \_\_\_\_ 1, 20\_\_. The interest payable on any Bond Payment Date for any Bond shall be paid to the

person in whose name the Bond is registered at the close of business on the 15<sup>th</sup> day next preceding such Bond Payment Date.

Each Bond shall bear interest from \_\_\_\_\_, 20\_\_, if no interest has yet been paid; otherwise from the last Bond Payment Date to which interest has been paid and which Bond Payment Date is on or prior to the authentication date thereof.

Interest hereon will be payable by check or draft mailed at the times provided herein from the office of the Paying Agent to the person in whose name this Bond is registered at the address shown on the registration books. The principal of and interest on this Bond are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of an issue of Bonds in the aggregate principal amount of \_\_\_\_\_ million dollars (\$\_\_\_\_\_,000) of like tenor, except as to registered owner, numbering, rate of interest, redemption provisions, and date of maturity, issued pursuant to and in accordance with the Constitution and statutes of the State of South Carolina, including, particularly the provisions of Chapter 107, Title 59 of the Code of Laws of South Carolina 1976, as amended, as supplemented by Sections 11-27-30 and 11-29-30 of the Code of Laws of South Carolina 1976, as amended, and a resolution (the "Resolution") duly adopted by the South Carolina State Fiscal Accountability Authority on \_\_\_\_\_, 20\_\_.

[Insert Redemption Provisions]

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Resolution. Certified copies of the Resolution are on file in the office of the Registrar, in the office of the Paying Agent and in the office of the Secretary of State of South Carolina.

For the payment of the principal of and interest on this Bond as the same respectively matures, the full faith, credit and taxing power of the State are hereby irrevocably pledged and in addition thereto, but subject to the provisions of the Enabling Act, all Tuition Fees received by the University are also pledged.

This Bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate or transfer taxes.

This Bond is issuable only as a fully registered Bond without coupons in denominations of \$1,000 and any whole multiple of \$1,000. This Bond is transferable, as provided in the Resolution, only upon the registration books kept for that purpose at the Corporate Trust Office of the Registrar by the Registered Holder in person or by his duly authorized attorney, upon (i) surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Holder or his duly authorized attorney; and (ii) payment of the charges, if any, prescribed in the Resolution. Thereupon a new fully registered Bond or Bonds of like series designation, maturity and interest rate, and in a like aggregate principal amount will be issued to the transferee in exchange therefor as provided in the Resolution. The State, the Paying Agent and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

The State shall not be obligated to issue, exchange or transfer this Bond during the 15 days next preceding any Bond Payment Date. For every exchange or transfer of the Bonds, the State, the Paying Agent, or the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and Statutes of the State of South Carolina to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, that the amount of this Bond, together with all other indebtedness of the State of South Carolina, does not exceed any limit prescribed by such Constitution or Statutes, and that provision has been made for the allocation, on an annual basis, of sufficient tax revenues to provide for the punctual payment of the principal of and interest on this Bond and the issue of Bonds of which this Bond is one.

This Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Registrar.

IN WITNESS WHEREOF, the State of South Carolina has caused this Bond to be signed in its name by the manual or facsimile signatures of the Governor of South Carolina and the State Treasurer of South Carolina, the Great Seal of the State of South Carolina to be reproduced hereon and the same to be attested by the manual or facsimile signature of the Secretary of State of South Carolina.

THE STATE OF SOUTH CAROLINA

SEAL

\_\_\_\_\_  
Henry D. McMaster  
Governor

\_\_\_\_\_  
Curtis M. Loftis, Jr.  
State Treasurer

Attest:

\_\_\_\_\_  
Mark Hammond  
Secretary of State

#### CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within mentioned Resolution.

[REGISTRAR], as Registrar

By: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_, 20\_\_

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
(please print or type name and address of Transferee and Social Security or other identifying number of Transferee)

the within Bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_,  
attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution  
in the premises.

Date: \_\_\_\_\_

\_\_\_\_\_  
NOTE: The signature to this assignment must correspond  
with the name(s) on the face of the foregoing bond in  
every particular, without alteration.

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by an  
institution which is a participant in the Securities  
Transfer Agent Medallion Program ("Stamp") or  
similar program.

The following abbreviations shall be construed as though they were written out in full according to  
applicable laws or regulations:

TEN COM --	as tenants in common	UNIF GIFT MIN ACT _____	Custodian _____
TEN ENT --	as tenants by the entireties	(Cust)	(Minor)
JT TEN --	as joint tenants with right of survivorship and not as tenants in common	Under Uniform Gift to Minors Act of the State of _____	

Additional abbreviations may be used though not in the list above.

## (FORM OF OFFICIAL NOTICE OF SALE)

## OFFICIAL NOTICE OF SALE

\$ \_\_\_\_\_ \*

STATE OF SOUTH CAROLINA  
GENERAL OBLIGATION STATE INSTITUTION BONDS  
(ISSUED ON BEHALF OF CLEMSON UNIVERSITY)  
SERIES \_\_\_\_\_

## (BOOK-ENTRY-ONLY)

ELECTRONIC BIDS for the purchase of the \$ \_\_\_\_\_ \* General Obligation State Institution Bonds (Issued on Behalf of Clemson University), Series \_\_\_\_\_ of the State of South Carolina (the "Bonds"), will be received by the Governor of the State of South Carolina (the "Governor") and the State Treasurer of the State of South Carolina (the "State Treasurer"), in the Office of the State Treasurer, Room 121, in the Wade Hampton Office Building, Capitol Complex, Columbia, South Carolina, 29201, until \_\_\_\_\_ a.m. (Eastern Time) on \_\_\_\_\_, \_\_\_\_\_, or on such other date and time as may be established by the Governor and the State Treasurer and communicated by Thomson Municipal Market Monitor ("TM3") not later than 48 hours prior to the time the bids are to be received.

*PARITY® Only.* All bids must be submitted through BiDCOMP/Parity Electronic Bid Submission System ("PARITY®"). No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of PARITY® may be obtained from IPREO, Municipal Services, telephone (212) 404-8102, or parity@ipreo.com.

*Authorization and Security.* The Bonds are issued pursuant to (i) Article X, Section 13(6)(b) of the South Carolina Constitution, and (ii) Title 59, Chapter 107 of the South Carolina Code, as supplemented by Sections 11-27-30 and 11-29-30 of the South Carolina Code, and constitute general obligations of the State. On \_\_\_\_\_, 20\_\_\_\_, the South Carolina State Fiscal Accountability Authority adopted a resolution providing for the issuance of the Bonds.

*Description of the Bonds.* The Bonds will initially be subject to a system of book-entry registration maintained by The Depository Trust Company, New York, New York ("DTC"). Principal of the Bonds when due will be paid upon presentation and surrender of such Bonds at the Corporate Trust Office of the Paying Agent. The Bonds will be dated as of the date of delivery thereof ("Dated Date") expected to be on or about \_\_\_\_\_, 20\_\_\_\_, and bear interest at a rate or rates to be named by the successful bidder (the "Purchaser"). Interest on the Bonds will be payable on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year commencing \_\_\_\_\_ 1, 20\_\_\_\_. Interest on the Bonds will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Both principal of and interest on the Bonds will be paid in any coin or currency of the United States of America, which, at the time of payment, is legal tender for the payment of public and private debts. The Bonds will be issued in denominations of \$1,000 or any multiple thereof. The Bonds will mature on \_\_\_\_\_ 1 in the years and principal amounts as follows:

_____ 1	Principal Amount*	_____ 1	Principal Amount*
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\* Subject to adjustment as set forth herein.

*Optional Redemption.* The Bonds maturing on or prior to \_\_\_\_, 20\_\_, are not subject to optional redemption prior to their maturity date. The Bonds maturing after \_\_\_\_, 20\_\_ are subject to redemption, in whole or in part, at any time in any order of maturity to be determined by the State, on and after \_\_\_\_, 20\_\_, at the redemption price of par plus accrued interest to the date fixed for redemption.

*[Term Bonds.* Bidders may designate in their bid two or more consecutive annual principal payments as a term bond which matures on the last Annual Principal Payment Date of the sequence. Any term bond so designated must be subject to mandatory sinking fund redemptions in each year on the Annual Principal Payment Dates such that the principal amounts subject to mandatory sinking fund redemption match the principal amounts scheduled to mature as set forth in the table above\* and equal, together with the principal amount of such term bond due at its maturity, the principal amount of the term bond. There is no limitation on the number of term bonds.]

*Adjustments to Principal Amounts of the Bonds.* As promptly as reasonably possible after the bids are received, the State will notify the bidder to which the Bonds will be awarded, if and when such award is made, and such bidder, upon such notice, shall advise the State of the initial public offering prices of each maturity of the Bonds (the "Initial Reoffering Prices"). The Initial Reoffering Prices of the Bonds will be used to calculate the final maturity schedules and the final aggregate principal amounts of the Bonds (the "Final Amounts") to achieve the State's debt service objectives. The Purchaser may not withdraw its bid or change the interest rates bid or the Initial Reoffering Prices as a result of any changes made to the revised amounts.

The dollar amount bid by the Purchaser will be adjusted to reflect any adjustments in the aggregate principal amount of the Bonds. Such adjusted bid price will reflect changes in the dollar amount of the underwriter's discount and original issue discount or premium, if any, but will not change the selling compensation per \$1,000 of par amount of the Bonds from the selling compensation that would have been received based on the purchase price for the Bonds of the winning bid and the Initial Reoffering Prices. The interest rate specified by the Purchaser for each maturity of the Bonds at the Initial Reoffering Prices for such maturity will not change.

The Final Amounts and the adjusted purchase price will be communicated to the Purchaser as soon as possible, but no later than 5:00 p.m. (Eastern Time) on the day of the sale.

*Electronic Bidding Procedures.* Bids to purchase Bonds (all or none) must be submitted electronically via PARITY®. Bids will be communicated electronically to the State at \_\_\_\_ a.m. (Eastern Time) on \_\_\_\_, \_\_\_\_\_. Prior to that time, a prospective bidder may (1) submit the proposed terms of its bid via PARITY®, (2) modify the proposed terms of its bid, in which event the proposed terms as last modified will (unless the bid is withdrawn as described herein) constitute its bid for the Bonds or (3) withdraw its proposed bid. Once the bids are communicated electronically via PARITY® to the State, each bid will constitute an irrevocable and unconditional offer to purchase the Bonds on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on PARITY® shall constitute the official time. The State will not accept bids by any means other than electronically via PARITY®.

*Disclaimer.* Each prospective bidder shall be solely responsible to submit its bid via PARITY® as described above. Each prospective bidder shall be solely responsible to make necessary arrangements to access PARITY® for the purpose of submitting its bid in a timely manner and in compliance with the requirements of this Official Notice of Sale. Neither the State nor PARITY® shall have any duty or obligation to provide or assure access to PARITY® to any prospective bidder, and neither the State nor PARITY® shall be responsible for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, PARITY®. The State is using PARITY® as a communication mechanism, and not as the State's agent, to conduct the electronic bidding for the Bonds. The State is not bound by any advice and determination of PARITY® to the effect that any particular bid complies with the terms of this Official Notice of Sale and in particular the "CONDITIONS OF SALE" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their submission of bids via PARITY® are the sole responsibility of the bidders; and the State is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in submitting, modifying, or withdrawing a bid for the Bonds, the bidder should telephone PARITY® at (212) 404-8102 and notify the State's Financial Advisor, Public Resources Advisory Group, Inc., via email at [dforman@pragadvisors.com](mailto:dforman@pragadvisors.com) and [mconley@pragadvisors.com](mailto:mconley@pragadvisors.com). To the extent any instructions or directions set forth in PARITY® conflict with this Official Notice of Sale, the terms of this Official Notice of Sale shall control. For further information about PARITY®, potential bidders may contact PARITY® at (212) 404-8102.

#### CONDITIONS OF SALE

Bidders are invited to name the rate or rates of interest which the Bonds are to bear, and unless all bids are rejected, they will be awarded to the bidder offering to purchase all of the Bonds at the lowest interest cost (as defined below) to the State at a price of not less than the par amount of the Bonds. Bidders may name any number of rates of interest, in any variations selected by the bidder except that:

- (1) All Bonds of the same maturity must bear the same rate of interest;
- (2) No rate of interest named shall be more than six (6.0) percentage points;
- (3) A zero (0.0) percentage point rate of interest is not permitted;
- (4) Each interest rate named must be a multiple of 1/8th or 1/20th of one (1) percentage point;
- (5) Any premium offered must be paid in cash as a part of the purchase price; and

All bids must be for no less than 100 percent of the par value of the Bonds.

[Term bonds are not permitted.]

By submitting a bid, each bidder represents that the bidder's proposal is genuine, and not a sham or collusive, and is not made in the interest of or on behalf of any person not therein named, the bidder has not directly or indirectly induced or solicited any other bidder to submit a sham bid or any other person, firm or corporation to refrain from bidding, and the bidder has not in any manner sought by collusion to secure for it an advantage over any other bidder. By submitting a bid for the Bonds, each bidder also represents and warrants to the State that (i) it has an established industry reputation for underwriting new issuances of municipal bonds; and (ii) such bidder's bid for the purchase of the Bonds (if a bid is submitted in connection with the sale) is submitted for and on behalf of such bidder by an officer or agent who is duly authorized to bind the bidder to a legal, valid and enforceable contract for the purchase of the Bonds.

*Good Faith Deposit.* No good faith deposit will be required.

*Basis of Award.* If at least three bids are received and the competitive sale requirements under provision of Treasury Regulation Section 1.148-1(f)(3)(i) (defining “competitive sale” for purposes of establishing the issue price of the Bonds) are met, the Bonds will be awarded to the bidder offering to purchase all of the Bonds at the lowest interest cost to the State. The lowest interest cost shall be determined in accordance with the true interest cost (TIC) method by doubling the semiannual interest rate, compounded semiannually, necessary to discount the debt service payments from the payment dates to the date of the Bonds and to the amount bid, not including interest accrued to the date of delivery (expected to be on or about \_\_\_\_\_, \_\_\_\_\_), if any.

*Issue Price Determination.* The State expects and intends that the bid for the Bonds will satisfy the federal tax requirements for a qualified competitive sale of bonds, including, among other things, receipt of bids for the Bonds from at least three underwriters, who have established industry reputations for underwriting new issuances of municipal bonds (a “Qualified Competitive Bid”). The State will advise the successful bidder as promptly as possible after the bids are opened whether the bid constitutes a Qualified Competitive Bid, or, in the alternative, a bid that fails to satisfy such requirements (a “Nonqualified Competitive Bid”).

If the bid is a Qualified Competitive Bid, as promptly as possible after the bids are opened, the State will notify the successful bidder, and such bidder, upon such notice, shall advise the State, of the reasonably expected Initial Offering Price, as applicable, of each maturity of each series of the Bonds. In addition, the winning bidder shall be required to provide to the State information to establish the initial expected offering prices for each maturity of each series of the Bonds for federal income tax purposes by completing a certificate acceptable to Bond Counsel to the State, on or before the date of issuance of the Bonds, substantially in the form set forth in Exhibit A to the Official Notice of Sale, with appropriate completions, amendments and attachments.

If the bid is a Nonqualified Competitive Bid, as promptly as possible after the bids are opened, the State will notify the successful bidder, and such bidder, upon such notice, shall advise the State of the initial sale price or Initial Offering Price, as applicable, of each maturity of each series of the Bonds. In addition, the winning bidder shall be required to provide to the State information and assurances to establish the initial sale price or the initial offering price to the public, as applicable, for each maturity of each series of the Bonds for federal income tax purposes by completing a certification acceptable to Bond Counsel in substantially the form set forth in Exhibit B attached to this Supplement to the Official Notice of Sale, with appropriate completions, omissions and attachments. **It is noted that procedures for a Nonqualified Competitive Bid may require the winning bidder and, if applicable, other underwriters of the Bonds, to hold the initial offering prices for certain maturities of a series of the Bonds for up to five business days after the sale date, as further specified in the form of such certification.**

*Undertakings of the Successful Bidder.* The successful bidder (hereafter, the “Purchaser”) agrees to provide certificates, including, but not limited to, an issue price certificate in the form attached hereto either as Exhibit A or as Exhibit B, as applicable.

*Acceptance or Rejection of Bids.* Bids will be accepted or rejected promptly after receipt and not later than by 2:00 p.m. (Eastern Time) on the day of the sale. In the event of tie lowest interest cost bids, the State shall select the Purchaser(s).

*Rights Reserved.* The State reserves the right to reject any and all bids and to reject any bids not complying with this Official Notice of Sale. The State also reserves the right to waive any irregularity or informality with respect to any bid.

*Right to Change this Official Notice of Sale and to Postpone Offering.* The State reserves the right to make changes to this Official Notice of Sale and also reserves the right to postpone, from time to time, the date and time established for the receipt of bids. Any such postponement will be announced via TM3. If any

date and time fixed for the receipt of bids and the sale of the Bonds is postponed, an alternative sale date and time will be announced via TM3 at least 48 hours prior to such alternative sale date. On any such alternative sale date and time, any bidder may submit an electronic bid for the purchase of the Bonds in conformity in all respects with the provisions of this Official Notice of Sale, except for the date and time of sale and except for any changes announced over TM3 at the time the sale date and time are announced.

*Delivery of the Bonds.* The Bonds will be delivered through the facilities of DTC on or about \_\_\_\_\_, against payment of the purchase price therefor in federal funds.

*Documents to be Delivered at Closing.* The State will furnish, without cost to the Purchaser, the Bonds and the opinions as to their validity by Pope Flynn, LLC, Bond Counsel. The State will also furnish opinions of The Honorable Alan Wilson, Attorney General of the State of South Carolina as to the absence of litigation restraining or enjoining the issuance and delivery of the Bonds.

*Tax Opinion.* The opinion of Bond Counsel will state that (a) interest on the Bonds is excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), and is not an item of tax preference for purposes of the federal alternative minimum tax; and (b) the Bonds and the interest thereon are exempt from all State, county, municipal, school district and all other taxes or assessments imposed within the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer or certain franchise taxes. The opinion will further state that the Code establishes certain requirements which must be met subsequent to the issuance and delivery of the Bonds in order that interest on the Bonds remains excluded from gross income for federal income tax purposes. Noncompliance may cause interest on the Bonds to be included in gross income retroactive to the date of issuance of the Bonds, regardless of the date on which such noncompliance occurs or is ascertained. The State has covenanted to comply with the requirements of the Code in the resolutions pursuant to which the Bonds are issued and, in rendering its opinion, Bond Counsel will assume compliance with such covenants.

*CUSIP Numbers.* It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the Purchaser to accept delivery of and pay for the Bonds. The State's Financial Advisor will timely apply for CUSIP numbers with respect to the Bonds as required by MSRB Rule G-34. All expenses in relation to the printing of the CUSIP identification numbers on the Bonds shall be paid by the State. However, the CUSIP Global Services charge for the assignment of such numbers shall be the responsibility of and shall be paid by the Purchaser.

*Official Statement.* A Preliminary Official Statement dated on or about \_\_\_\_\_, 20\_\_, with respect to the Bonds has been prepared by the State, and such Preliminary Official Statement is deemed final by the State for purposes of Rule 15c2-12 of the United States Securities and Exchange Commission (the "Rule"). The only information omitted from the Preliminary Official Statement are those items permitted to be omitted under the Rule. The Preliminary Official Statement will be made available at <http://www.MuniOS.com>. The State designates the Purchaser as its agent for purposes of distributing copies of the final Official Statement. The Purchaser agrees to (1) accept such designation, and (2) assure proper dissemination of the final Official Statement. The State will prepare and provide to the Purchaser, within seven business days after the sale date, a mutually agreed upon number of printed copies of the final Official Statement. The final Official Statement shall be in substantially the same form as the Preliminary Official Statement, subject to any additions, deletions or revisions that the State believes are necessary.

*Continuing Disclosure.* In order to assist the Purchaser in complying with the Rule, the State will undertake, in accordance with the authorizing resolutions pursuant to which the Bonds are issued and a Continuing Disclosure Undertaking, to provide annual reports and notices of certain events. A description of

this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

*Additional Information.* Prospective purchasers may obtain, in advance of the sale, copies of the Preliminary Official Statement relating to the Bonds from (i) the MuniOS website, <http://www.MuniOS.com>; (ii) Robert Macdonald, Director Debt Management Division, Office of State Treasurer, 122 Wade Hampton Office Building, Columbia, South Carolina 29201 (telephone: (803) 734-2677; email: [robert.macdonald@sto.sc.gov](mailto:robert.macdonald@sto.sc.gov)); or (iii) Samuel W. Howell IV, Disclosure Counsel, Howell Linkous & Nettles, LLC, The Lining House, 106 Broad Street, Charleston, South Carolina, 29401 (telephone: (843) 266-3801; email: [samhowell@bond-law.com](mailto:samhowell@bond-law.com)).

Henry D. McMaster, Governor of South Carolina

Curtis M. Loftis, Jr., State Treasurer of South Carolina

Dated \_\_\_\_\_, 20\_\_

FORM OF ISSUE PRICE CERTIFICATE FOR  
QUALIFIED COMPETITIVE BID

ISSUE PRICE CERTIFICATE

\$ \_\_\_\_\_ \*

STATE OF SOUTH CAROLINA  
GENERAL OBLIGATION STATE INSTITUTION BONDS  
(ISSUED ON BEHALF OF CLEMSON UNIVERSITY),  
SERIES 20 \_\_\_\_

The undersigned, a duly authorized officer of \_\_\_\_\_, as the purchaser (the "Purchaser") of the above-captioned obligations (the "Bonds") issued by the State of South Carolina (the "State"), represents and certifies, to establish the "issue price" of the Bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and certain other matters, that:

1. Reasonably Expected Initial Offering Price.

(a) As of the Sale Date, the reasonably expected initial offering prices of the Bonds to the Public by the Purchaser are the prices listed in Schedule A (the "Expected Offering Prices"). The Expected Offering Prices are the prices for the Maturities of the Bonds used by the Purchaser in formulating its bid to purchase the Bonds. Attached as Schedule B is a true and correct copy of the bid provided by the Purchaser to purchase the Bonds.

(b) The Purchaser was not given the opportunity to review other bids prior to submitting its bid.

(c) The bid submitted by the Purchaser constituted a firm offer to purchase the Bonds.

(d) The Purchaser has an established industry reputation for underwriting new issuances of municipal bonds.

2. Defined Terms.

(a) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(b) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50% common ownership, directly or indirectly.

(c) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is \_\_\_\_\_, \_\_\_\_.

(d) *Underwriter* as used herein means (i) any person that agrees pursuant to a written contract with the State (or with the lead Underwriter to form a syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly

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\* Subject to adjustment as set forth herein.

with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Purchaser's interpretation of any laws, including specifically Sections 103 and 148 of the Code and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the State with respect to certain of the representations set forth in the Tax and Arbitrage Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Pope Flynn, LLC, as bond counsel to the State, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the State from time to time relating to the Bonds.

Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

[Purchaser]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Schedule A

Expected Offering Prices

Schedule B

Copy of Winning Bid

FORM OF ISSUE PRICE CERTIFICATE FOR  
NONQUALIFIED COMPETITIVE BID

ISSUE PRICE CERTIFICATE

\$ \_\_\_\_\_<sup>\*</sup>  
STATE OF SOUTH CAROLINA  
GENERAL OBLIGATION STATE INSTITUTION BONDS  
(ISSUED ON BEHALF OF CLEMSON UNIVERSITY),  
SERIES 20 \_\_\_\_

The undersigned, a duly authorized officer of \_\_\_\_\_, as the purchaser (the "Purchaser") of the above-captioned obligations (the "Bonds") issued by the State of South Carolina (the "State"), represents and certifies, to establish the "issue price" of the Bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and certain other matters, that:

1. ***Sale of the General Rule Maturities.*** As of the date of this Certificate, for each Maturity of the General Rule Maturities, the first price at which 10% of such Maturity was sold by the Purchaser to the Public is the respective price listed in Schedule A.

2. ***Initial Offering Price of the Hold-the-Offering-Price Maturities.***

(a) The Purchaser offered the Hold-the-Offering Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the "Initial Offering Prices") on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this Certificate as Schedule B.

(b) As set forth in the Official Notice of Sale and bid award, the Purchaser has agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, it would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the "hold-the-offering-price rule"), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to the foregoing, no Underwriter has offered or sold any Maturity of the Hold-the-Offering Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

3. ***Defined Terms.***

(a) *General Rule Maturities* means those Maturities of each series of the Bonds shown in Schedule A hereto as the "General Rule Maturities."

(b) *Hold-the-Offering-Price Maturities* means those Maturities of each series of the Bonds listed in Schedule A hereto as the "*Hold-the-Offering-Price Maturities*."

(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date, or (ii) the date on which the Purchaser has sold at least 10% of such Hold-the-Offering-Price

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<sup>\*</sup> Subject to adjustment as set forth herein.

Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) *Issuer* means the State of South Carolina.

(e) *Maturity* means Bonds of a series with the same credit and payment terms. Bonds of a series with different maturity dates, or Bonds of a series with the same maturity date but different stated interest rates, are treated as separate Maturities.

(f) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to the Purchaser. The term “related party” for purposes of this Certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is \_\_\_\_\_, \_\_\_\_\_, 20\_\_.

(h) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Purchaser’s interpretation of any laws, including specifically Sections 103 and 148 of the Code and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the State with respect to certain of the representations set forth in the Tax and Arbitrage Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Pope Flynn, LLC, as bond counsel to the State, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the State from time to time relating to the Bonds.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2023.

[Purchaser]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Schedule A

Expected Initial Offering Prices of the Bonds

Schedule B

Copy of Winning Bid

FORM OF CONTINUING DISCLOSURE UNDERTAKING

This Continuing Disclosure Undertaking (this “Disclosure Undertaking”) is executed and delivered this \_\_\_\_ day of \_\_\_\_, 20\_\_, by the State of South Carolina (the “State”) in connection with the issuance of the State’s \$\_\_\_\_\_ General Obligation State Institution Bonds (Issued on Behalf of Clemson University), Series 20\_\_ (the “Bonds”).

The Bonds are being issued pursuant to a resolution adopted on \_\_\_\_, 20\_\_ (the “Resolution”), by the State Fiscal Accountability Authority authorizing the issuance of the Bonds. The State covenants and agrees as follows:

Section 1. Purpose of the Disclosure Undertaking. This Disclosure Undertaking is being executed and delivered by the State for the benefit of the holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriters in complying with the U.S. Securities and Exchange Commission (the “SEC”) Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Resolution or elsewhere in this Disclosure Undertaking, which apply to any capitalized terms used in this Disclosure Undertaking, the following capitalized terms shall have the following meanings:

“Annual Report” means the annual report provided by the State pursuant to, and as described in, Sections 3 and 4 of this Disclosure Undertaking.

“Beneficial Owner” means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Dissemination Agent” means any person designated in writing by the State and which has filed with the State a written acceptance of such designation.

“EMMA” means the Electronic Municipal Market Access system described in SEC Release No. 34-59062 (or any successor electronic information system) and maintained by MSRB as the sole repository for the central filing of electronic disclosure pursuant to the Rule.

“Financial Obligation” as used in this Disclosure Undertaking is defined in the Rule, as may be amended, as (i) a debt obligation; (ii) a derivative instrument entered into in connection with, or pledged as a security or a source of payment for, an existing or planned debt obligation; or (iii) a guarantee of (i) or (ii). The term “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Listed Events” means any of the events listed in Section 5(a) of this Disclosure Undertaking.

“MSRB” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to the Rule. Unless otherwise designated by MSRB or the SEC, filings with the MSRB are to be made through EMMA.

“Official Statement” means the Official Statement dated \_\_\_\_, 20\_\_, prepared in connection with the Bonds.

“Participating Underwriter” means the original underwriters of the Bonds required to comply with the Rule in connection with the offering of the Bonds.

“Rule” means Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” means the State of South Carolina.

Section 3. Provision of Annual Reports. (a) The State shall, not later than seven (7) months after the end of the State’s fiscal year (which shall be January 31 of each year, so long as the State’s fiscal year ends on June 30), commencing with the report for the fiscal year ended June 30, 20\_\_, provide to the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Undertaking. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Undertaking; provided, however, that the audited financial statements of the State for the fiscal year ended June 30, 20\_\_, and for each subsequent fiscal year may be submitted separately from the remainder of the Annual Report, and later than the date required for the filing of the Annual Report if they are not available by that date. If the State’s fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(a) hereof.

(b) The Annual Report shall be submitted to the MSRB either through a web-based electronic submission interface or through electronic computer-to-computer data connections with EMMA in accordance with the submission process, document format and configuration requirements established by the MSRB. The Annual Report shall also include all related information required by the MSRB to accurately identify: (i) the category of information being provided; (ii) the period covered by the Annual Report; (iii) the issues or specific securities to which the Annual Report is related (including CUSIP number, issuer name, state, issue description/securities name, dated date, maturity date, and/or coupon rate); (iv) the name of any obligated person other than the State; (v) the name and date of the document; and (vi) contact information for the Dissemination Agent or the State’s submitter.

(c) If the State is unable to provide to the MSRB an Annual Report by the date required in subsection (a) above, the State shall, in a timely manner, send or cause to be sent to the MSRB, a notice in substantially the form attached hereto as Exhibit A.

(d) In the event that there is a Dissemination Agent, then not later than fifteen (15) business days prior to each due date, the State shall provide the Annual Report to the Dissemination Agent for distribution to the MSRB. In connection with this distribution of the Annual Report, the Dissemination Agent, if any, shall file a report with the State certifying that the Annual Report has been provided pursuant to this Disclosure Undertaking, and stating the date it was provided to the MSRB.

Section 4. Contents of Annual Reports. The Annual Report shall contain or incorporate by reference the following:

(a) The audited Comprehensive Annual Financial Report of the State for the fiscal year ended on the previous June 30, prepared in accordance with accounting principles generally accepted in the United States of America applicable to government entities from time to time by the Governmental Accounting Standards Board. If the State’s audited financial statements are not available by the time the Annual Report is required to be provided to the MSRB pursuant to Section 3(a) hereof, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the Official Statement, and

the audited financial statements shall be provided to the MSRB in the same manner as the Annual Report when they become available;

(b) Revenue by sources in the preceding fiscal year for all governmental fund types, as indicated in Note 1 of the Audited Financial Statements contained as Appendix A in the Official Statement;

(c) Computation of the legal debt margin for General Obligation Bonds as set forth in the Official Statement under the heading “DEBT OF THE STATE OF SOUTH CAROLINA;”

(d) Total outstanding general obligation bonds and annual debt service as set forth in the Official Statement under the headings “OUTSTANDING DEBT OF THE STATE” and “TABLES RELATING TO THE BONDS AND THEIR EFFECT ON THE DEBT OF THE STATE;” and

(e) Total general obligation bonds per capita as set forth in the Official Statement under the heading “TABLES RELATING TO THE BONDS AND THEIR EFFECT ON THE DEBT OF THE STATE-Relationship of Population and Personal Income to General Obligations of the State.”

The Annual Report may consist of one or more documents. Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the State, which have been made available to the public on EMMA. The State shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events. (a) The State shall give or cause to be given notice of the occurrence of any of the following events with respect to the Bonds in a timely manner not later than ten business days after the occurrence of the event:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of security holders, if material;
- (viii) Bond calls, if material and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;

- (xii) bankruptcy, insolvency, receivership or similar event of any obligated person, which event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person;
- (xiii) the consummation of a merger, consolidation or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional trustee or the change of name of trustee, if material;
- (xv) incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the obligated person, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the Financial Obligation of the obligated person, any of which reflect financial difficulties.

Section 6. Format for Filing With the MSRB. All documents provided to the MSRB pursuant to this Disclosure Undertaking shall be submitted in electronic format and shall identify the Bonds by name and CUSIP number or shall be accompanied by such identifying information as described from time to time by the MSRB.

Section 7. Termination of Reporting Obligation. This Disclosure Undertaking shall remain in full force and effect until such time as all principal, redemption premiums, if any, and interest on the Bonds shall have been paid in full or the Bonds shall have otherwise been paid or legally defeased; provided, however, that if the Rule (or any successor provision) shall be amended, modified, or changed so that all or any part of the information currently required to be provided thereunder shall no longer be required to be provided thereunder, then such information shall no longer be required to be provided hereunder; and provided further that if and to the extent the Rule (or any successor provision), or any provision thereof, shall be declared by a court of competent and final jurisdiction to be, in whole or in part, invalid, unconstitutional, null and void, or otherwise inapplicable to the Bonds, then the information required to be provided hereunder, insofar as it was required to be provided by a provision of the Rule so declared, shall no longer be required to be provided hereunder. Upon any legal defeasance, the State shall electronically file notice of such defeasance with the MSRB, and such notice shall state whether the Bonds have been defeased to maturity or to redemption and the timing of such maturity or redemption.

Section 8. Dissemination Agent. The State may, from time to time, appoint or engage a Dissemination Agent to assist in its carrying out its obligations under this Disclosure Undertaking, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the State pursuant to this Disclosure Undertaking.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Undertaking, the State may amend this Disclosure Undertaking, and any provision of this Disclosure Undertaking may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a) hereof, it may only be made in connection with a change in circumstances that arises from a change in legal requirements or change in law;

(b) This Disclosure Undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Undertaking, the State shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the State. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given by filing with the MSRB and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 10. Additional Information. Nothing in this Disclosure Undertaking shall be deemed to prevent the State from disseminating any other information, using the means of dissemination set forth in this Disclosure Undertaking or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Undertaking. If the State chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Undertaking, the State shall have no obligation under this Disclosure Undertaking to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event or any other event required to be reported.

Section 11. Default. In the event of a failure of the State to comply with any provision of this Disclosure Undertaking, any holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking *mandamus* or specific performance by court order, to cause the State to comply with its obligations under this Disclosure Undertaking; provided, however, that any such action may be instituted only in the Federal or State courts located in Columbia, South Carolina. A default under this Disclosure Undertaking shall not be deemed an event of default under the Resolution, and the sole remedy under this Disclosure Undertaking in the event of any failure of the State to comply with this Disclosure Undertaking shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Undertaking, and in any separate written agreement between the Issuer and the Dissemination Agent.

Section 13. Beneficiaries. This Disclosure Undertaking shall inure solely to the benefit of the State, the Dissemination Agent, the Participating Underwriters and holders and Beneficial Owners from time to time

of the Bonds, and shall create no rights in any other person or entity. This Disclosure Undertaking is not intended to create any monetary rights on behalf of any person.

THE STATE OF SOUTH CAROLINA

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
State Treasurer

EXHIBIT A

NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD  
OF FAILURE TO FILE ANNUAL REPORT

Issuer: The State of South Carolina

Obligations: \$\_\_\_\_\_ General Obligation State Institution Bonds (Issued on Behalf of  
Clemson University), Series 20\_\_

Date of Issuance: \_\_\_\_\_, 20\_\_

CUSIP: \_\_\_\_\_

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by the Resolution adopted on \_\_\_\_\_, 20\_\_. The Issuer anticipates that the Annual Report will be filed by \_\_\_\_\_.

THE STATE OF SOUTH CAROLINA

By: \_\_\_\_\_  
State Treasurer

Date: \_\_\_\_\_



Pope Flynn, LLC  
1411 Gervais Street, Suite 300  
Post Office Box 11509 (29211)  
Columbia, SC 29201  
MAIN 803.354.4900  
FAX 803.354.4899  
www.popeflynn.com

[Date of Delivery]

South Carolina State Fiscal Accountability Authority  
Columbia, South Carolina

Re: \$\_\_\_\_\_ General Obligation State Institution Bonds (Issued on Behalf of Clemson University), Series 20\_\_\_, of the State of South Carolina

Ladies and Gentlemen:

We have acted as bond counsel to the State of South Carolina (the “State”) in connection with the issuance of \$\_\_\_\_\_ General Obligation State Institution Bonds (Issued on Behalf of Clemson University), Series 20\_\_\_, of the State of South Carolina (the “Bonds”), dated [Date of Delivery]. In such capacity, we have examined such laws and such certified proceedings and other documents as we have deemed necessary to render this opinion.

The Bonds are issued pursuant to (i) Article X, Section 13(6)(b) of the South Carolina Constitution, (ii) Title 59, Chapter 107 of the South Carolina Code, as supplemented by Section 11-27-30 of the South Carolina Code and Section 11-29-30 of the South Carolina Code (the “Enabling Act”), and (iii) a resolution adopted on May 23, 2023, by the South Carolina State Fiscal Accountability Authority, for the purpose of raising funds for purposes authorized by the Enabling Act, and to pay the costs of issuance of the Bonds.

As to questions of fact material to our opinion, we have relied upon the Transcript of Proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation. We have not been engaged or undertaken to review the accuracy, completeness, or sufficiency of any information provided by the State or others relating to the Bonds, and we express no opinion relating thereto.

Based upon the foregoing, we are of the opinion, as of the date hereof and under existing law, that:

1. The Bonds are valid and legally binding general obligations of the State.
2. The full faith, credit, and taxing power of the State and, in addition, the revenues derived from Tuition Fees received by Clemson University are pledged to the payment of the principal of and interest on the Bonds as they become due and payable. Provision has been made for the allocation, on an annual basis, of sufficient tax revenues to provide for the punctual payment of the principal of and interest on the Bonds.
3. Under existing law, assuming continuing compliance with certain covenants made by Clemson University to satisfy pertinent requirements of the Internal Revenue Code of 1986, as amended (the “Code”), and the applicable regulations promulgated thereunder, and the accuracy

of certain representations of the Clemson University, interest on the Bonds (i) is excluded from gross income for federal income tax purposes and (ii) is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals under the Code. Such income is, however, taken into account in determining the annual adjusted financial statement income of certain applicable corporations (as defined in Section 59(k) of the Code) for the purpose of determining the application of the 15-percent alternative minimum tax imposed on the adjusted financial statement income of such corporations for tax years beginning after December 31, 2022.

4. The Bonds and the interest thereon are exempt from all State of South Carolina, county, school district, municipal and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except for inheritance, estate or transfer taxes, but the interest thereon may be includable for certain franchise fees or taxes.

It is to be understood that the rights of the holders of the Bonds and the enforceability thereof may be subject to judicial discretion, the valid exercise of the sovereign police powers of the State and of the constitutional powers of the United States of America, and to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore and hereafter enacted to the extent constitutionally applicable.

We express no opinion regarding the accuracy, adequacy, or completeness of the Preliminary Official Statement dated \_\_\_\_\_, 20\_\_, or the Official Statement dated \_\_\_\_\_, 20\_\_, relating to the Bonds.

We have examined a specimen Bond of this issue and, in our opinion, it is in due form of law.

This opinion is given as of the date hereof and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

Very truly yours,

Pope Flynn, LLC

STATE FISCAL ACCOUNTABILITY AUTHORITY  
MEETING OF May 23, 2023

REGULAR SESSION  
ITEM NUMBER 15

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AGENCY: University of South Carolina

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SUBJECT: Not Exceeding \$29,000,000 University of South Carolina Higher Education  
Revenue Refunding Bonds, Series 2023

The Authority is asked to adopt a resolution making provision for the issuance and sale of not exceeding \$29,000,000 of University of South Carolina Higher Education Revenue Refunding Bonds, Series 2023.

The proceeds of the bonds will be used to defray a portion of the costs to refund all or a portion of the May 1, 2024, through May 1, 2043, maturities of the \$37,185,000 original principal amount University of South Carolina Higher Education Refunding Revenue Bonds, Series 2013 and to pay the cost of issuance of the Series 2023 Bonds.

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AUTHORITY ACTION REQUESTED:

Adopt a resolution making provision for the issuance not exceeding \$29,000,000 of Higher Education Revenue Refunding Bonds of the University of South Carolina.

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ATTACHMENTS:

Pope 4/17/2023 letter; SFAA Resolution; NDIF



# OFFICE OF STATE TREASURER

## New Debt Information Form (NDIF) - Initial Form

SFAA Approval Date: 05/23/23

Final Version Date: 00/00/00

### 1. AGENCY/ISSUER & FINANCING INFORMATION

Agency #: H27 Issuer: University of South Carolina Series: 2023A  
Borrower (if not Issuer):  
Bond Caption: Higher Education Refunding Revenue Bonds - 2023A  
Bond Resolution Amount: \$ 29,000,000 Est. Production/Par Amt: \$ 24,975,000

(\* Used to calculate initial COI percentages; STO bond issues must use Par Amt \*)

**Submitted By:**

ENTITY University of South Carolina  
BY: Mandy M Kibler  
ITS: Assoc Vice President / Controller  
Tel: 803-777-2123  
Email: [kiblerm@email.sc.edu](mailto:kiblerm@email.sc.edu)

Final Production/Par Amt: \$ -

**Transaction Type/Method of Sale:**

☒ Public Offering: Competitive: ☐ Negotiated: ☒  
☐ Direct Placement: Competitive: ☐ Negotiated: ☐  
☐ Governmental Loan/Governmental Purchaser  
☐ Other:

MSRB (EMMA) Continuing Disclosure Requirement (Y/N): Y

MSRB (EMMA) Continuing Disclosure Responsible Party: University of South Carolina - Mandy Kibler

### 2. FINANCING (NEW PORTION)

Project #: Project Name:  
Project Address/Location: Amount: \$ -  
Project Type: County:  
Projected Avg Interest Rate: Final Maturity: 01/00/00

### 3. FINANCING (REFUNDED PORTION)

Series to be Refunded	Refunded Maturities	Principal Refunded	IR of Refunded Bds	Est. Yield of Refunding Bds	Est NPV Svgs. (\$)	Est NPV Svgs. (% of Ref. Bds)
2013	2024-2043	\$ 28,130,000	3.25-5%	3.24%	\$ 2,348,928	8.35%
Total		\$ 28,130,000	*****	*****	\$ 2,348,928	

### 4. FINANCING WORKING GROUP

Financial Advisor: PFM Disclosure Counsel: Howell Linkous & Nettles  
Bond Counsel: Pope Flynn Issuer's Counsel: General Counsel - Terry Parham  
Underwriter: Barclays Trustee:  
Paying Agent: US Bank Other: Underwriter's Counsel - Maynard Nexsen

### 5. FINANCING/PROJECT DESCRIPTION

(Briefly, explain the financing/project, the anticipated costs, &amp; the basis for these cost estimates. Use an attachment if needed)

The proposed Series 2023 Bonds will provide proceeds to effect a refunding of certain outstanding debt of the University and pay the costs of issuance. The refinancing consists of a tax-exempt current refunding of the callable maturities of the \$37,185,000 original principal amount University of South Carolina Higher Education Refunding Revenue Bonds, Series 2013, presently outstanding in the principal amount of \$28,130,000. Depending on market conditions at the time of sale, the University may elect a partial refunding to avoid maturities with nominal or negative savings. Costs of Issuance of the Series 2023 Bonds are calculated at the anticipated par amount of \$24,975,000 in accordance with the approved fee schedule for counsel, published schedules of rating agencies, and past experience. Costs of issuance as listed in Section 9 assume a stand-alone issuance.

### 6. FINANCING/PROJECT APPROVAL DATES

Financing Approvals		Notes:	Project Approvals - Phase II (State Entities Only)		Notes:
Issuer/Borrower Approval:	10/14/22	Board of Trustees	Issuer/Borrower Approval:	00/00/00	
JBRC Approval:	00/00/00		JBRC Approval:	00/00/00	
SFAA Approval:	05/23/23	Proposed	SFAA Approval:	00/00/00	

### 7. TAX AND ARBITRAGE MATTERS & SPEND DOWN SCHEDULE

a. Is any portion of the project, once completed, to be managed by a third-party pursuant to a management contract? (if yes, please attach copy)

Yes No

☐ ☒

b. Will any third-party payments (from support organizations, private entities or the federal government) related to the facility, however indirectly, be used to pay debt service on the bonds?

☐ ☒

c. If yes to any of the above, please provide a square footage and cost estimate of the portion affected.

Sq. Footage -

Cost Estimate -

  
\$ -

Est. Expenditures - Through 6 Months  
 Est. Expenditures - Through 12 Months  
 Est. Expenditures - Through 18 Months  
 Est. Expenditures - Through 24 Months  
 Est. Expenditures - Through 36 Months  
 Est. Expenditures - Through 48 Months  
 - Estimated Expenditures: Thru FY:

Bond Proceeds	FYE	Spend Down Schedule Notes
\$ 28,674,766	6/30/2024	Redemption price/escrow deposit and costs of issuance paid at
-	00/00/00	
-	00/00/00	
-	00/00/00	
-	00/00/00	
-	00/00/00	
-	00/00/00	
\$ 28,674,766		

## 8. ESTIMATED/ACTUAL PROJECT SOURCES AND USES

Sources	Est. Project Budget (Sources)	Est. Project Budget (Uses)	Uses
(1) Bond Proceeds: (a) Par	\$ 24,975,000	\$ -	Project Fund
(b) Premium/Accr. Int.	3,699,766	-	Capitalized Interest Fund
(2) Issuer/Borrower Contr.	-	-	Debt Service Reserve Fund
(3) Debt Service Fund Trans.	-	28,411,464	Redemption Price/Escrow Deposit
(4) Debt Service Reserve Fund Contribution	-	261,413	Cost of Issuance (Incl. UW Disc.)
(5) Other (Specify)		-	Accrued Interest
Type -	-	1,889	Additional Proceeds
Type -	-	-	Other
(6) SCHFDA MFHRB Sources		-	Other
(a) LIHTC	-	-	Other
(a) State Housing TC	-	-	Other
(c) Owner's Equity/Other	-	-	Other
<b>Total Project Sources</b>	<b>\$ 28,674,766</b>	<b>\$ 28,674,766</b>	<b>Total Project Uses</b>
Surplus/Deficit		\$ -	

## 9. ESTIMATED/ACTUAL BOND COI EXPENDITURES (\*\* Added COI entities beyond the following need an attached description \*\*)

COI Entity	Selected COI Vendor	Vendor #	Engagement Date (w/Engagement Ltr Attached)	Est. Fee For Services	Act. Fee For Services	(\$ Δ)
Financial Advisor	PFM			\$ 25,000	\$ -	\$ 25,000
Bond Counsel	Pope Flynn			25,000	-	25,000
Disclosure Counsel	Howell Linkous & Nettles			25,000	-	25,000
Issuer's Counsel				-	-	-
Underwriter's Counsel	Maynard Nexsen			6,244	-	6,244
Transaction Counsel				-	-	-
Legal Expenses				-	-	-
				-	-	-
Rating Agency - S&P				-	-	-
Rating Agency - Moody's				33,000	-	33,000
Rating Agency - Fitch				30,000	-	30,000
Underwriter's Compensation	Barclays			81,169	-	81,169
Registrar / Paying Agent	US Bank			6,000	-	6,000
Escrow Agent	BNY Mellon			2,500	-	2,500
Accountant				-	-	-
Verification Agent	Causey Demgen & Moore			2,500	-	2,500
Printing	ImageMaster			5,000	-	5,000
Publishing				-	-	-
Advertising				-	-	-
Contingency				20,000	-	20,000
Issuer's Fee	SC JEDA / SC SHFDA			-	-	-
				<b>\$ 261,413</b>	<b>\$ -</b>	<b>\$ 261,413</b>

Est. / Actual COI Fees (% of Transaction):

Financial Advisor: % of Transaction

Bond Counsel: % of Transaction

Total Legal Costs: % of Transaction

Rating Agencies: % of Transaction

0.10%	#DIV/0!
0.10%	#DIV/0!
0.23%	#DIV/0!
0.25%	#DIV/0!

UW Comp: % of Transaction

Other COI: % of Transaction

Total COI: % of Transaction

0.33%	#DIV/0!
0.14%	#DIV/0!
<b>1.05%</b>	<b>#DIV/0!</b>



Pope Flynn, LLC  
1411 Gervais Street, Suite 300  
Post Office Box 11509 (29211)  
Columbia, SC 29201  
MAIN 803.354.4900  
FAX 803.354.4899  
www.popeflynn.com

April 17, 2023

Mr. Delbert H. Singleton, Jr.  
Assistant Executive Director and Authority Secretary  
South Carolina State Fiscal Accountability Authority  
1200 Senate Street, Suite 600  
Columbia, South Carolina 29201

Re: Not Exceeding \$29,000,000 of Higher Education Revenue Refunding Bonds of the University of South Carolina

Dear Delbert:

On behalf of the University of South Carolina, in connection with the authorization of the above referenced bonds (the "Bonds"), and in anticipation of the South Carolina State Fiscal Accountability Authority (the "Authority") meeting scheduled for May 23, 2023, we respectfully enclose the following for consideration by the Authority:

1. An executed Bond Transmittal Form;
2. A copy of a bond resolution dated June 21, 1996, of the Board of Trustees of the University of South Carolina (the "University") providing for the issuance of revenue bonds of the University;
3. A copy of a series resolution adopted by the Board of Trustees of the University on October 14, 2022, authorizing the issuance of the Bonds;
4. A proposed form of opinion of Bond Counsel;
5. An executed opinion of Pope Flynn, LLC relating to the sufficiency of the proceedings and information submitted to the Authority in connection with its consideration of the approval of the Bonds; and
6. A proposed form of resolution of the Authority (an electronic copy is being provided contemporaneously with this letter).

We have provided the Office of State Treasurer with copies of the Bond Counsel Selection Form, the New Debt Information Form (NDIF) – Initial Form, and a copy of this submission package. Please let us know should you require anything further or if you have any questions regarding the enclosed.

Best regards,

A handwritten signature in blue ink, appearing to read "G. Pope, Jr.", is written over the typed name.

Gary T. Pope, Jr.

c: Mandy Kibler, Associate Vice President and University Controller, University of South Carolina  
Robert Macdonald, Director Debt Management Division, Office of State Treasurer

Enclosures

## BOND TRANSMITTAL FORM

**TO:** Delbert H. Singleton, Jr., Authority Secretary  
State Fiscal Accountability Authority  
600 Wade Hampton Building (29201)  
P.O. Box 12444  
Columbia, SC 29211

**DATE:** 4/17/2023

**Submitted for SFAA Meeting on:**  
5/23/2023

**FROM:** Pope Flynn, LLC  
1411 Gervais Street, Suite 300  
P.O. Box 11509  
Columbia, SC 29211

**RE:** Not Exceeding \$29,000,000 of Higher Education Revenue Refunding Bonds of the University of South Carolina

**Project Name:** Refunding of Series 2013 Bonds

**Documents enclosed (executed original and two copies of each):**

*(ALL documents required for state law approval; A and C only for ceiling allocation only; must check K or L)*

- A. ☐ Petition
- B. ☒ Resolution or Ordinance
- C. ☒ Inducement Resolution or comparable preliminary approval
- D. ☐ Department of Health and Environmental Control Certificate *if required*
- E. ☒ State Fiscal Accountability Authority Resolution ~~and Public Notice~~ *(original)*  
*Plus 3 copies for certification and return to bond counsel*
- F. ☒ Draft bond counsel opinion letter
- G. ☒ Signed SFAA Reliance letter
- H. ☐ DHEC Certificate of Need (C.O.N.)
- I. ☐ Debt Questionnaire
- J. ☐ Processing Fee

**Amount:** \$Click or tap here to enter text.    **Check No:** Click or tap here to enter text.

**Payor:** Click or tap here to enter text.

- K. ☒ No Private Participant will be known at the time the Authority considers this agenda item.
- L. ☐ This agenda item is accompanied by the applicable Private Party Disclosure form for each private participant

**Bond Counsel:**      Gary T. Pope, Jr.  
Typed Name of Bond Counsel

By: \_\_\_\_\_

Signature

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AN AMENDATORY AND RESTATED RESOLUTION  
PROVIDING FOR THE ISSUANCE AND SALE OF  
UNIVERSITY OF SOUTH CAROLINA REVENUE BONDS  
AND OTHER MATTERS RELATING THERETO.

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Approved in final form by Executive Committee of  
Board of Trustees on June 13, 1996

Approved in final form by Board of Trustees on  
June 21, 1996

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BOND RESOLUTION OF 1996

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BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE UNIVERSITY OF SOUTH CAROLINA IN MEETING DULY ASSEMBLED:

## ARTICLE I

### FINDINGS OF FACT

#### Section 1.01. Recitals and Statement of Purpose.

Incident to the adoption of this resolution (hereinafter, the "Amendatory and Restated Resolution") amending and restating the resolution entitled "A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF PARKING FACILITIES REVENUE BONDS OF THE UNIVERSITY OF SOUTH CAROLINA AND OTHER MATTERS RELATING THERETO" approved by the Board of Trustees of the University of South Carolina (the "Board of Trustees"), the governing body of the University of South Carolina (the "University"), on October 19, 1995 (the "1995 Bond Resolution") the Board of Trustees finds, as fact, that each of the statements hereinafter set forth in this Article I is in all respects true and correct.

(A) The University is a body politic and corporate of the State of South Carolina (the "State") and an institution of higher learning, having been established pursuant to the authorizations of Act No. 1767 of the General Assembly of the State (the "General Assembly") for the year 1801.

(B) Article X, Section 13 of the Constitution of the State of South Carolina, 1895, as amended, (the "Constitution") provides that the General Assembly may authorize any institutions of the State to incur indebtedness for any public purpose payable solely from a revenue producing project or from a special source, which source does not involve revenue from any tax or license.

(C) The University is under the management and control of the Board of Trustees, comprised in the manner prescribed by Section 59-117-10, Code of Laws of South Carolina, 1976, as amended (the "State Code").

(D) The general powers of the Board of Trustees are set forth in Section 59-117-40 of the State Code as amended.

(E) Section 12.04 of the 1995 Bond Resolution provides as follows:

(1) Notwithstanding anything in the 1995 Bond Resolution to the contrary, the Board of Trustees shall have the right in their sole discretion and without Bondholder consent from time to time to add other activities and facilities and sources of revenue of the University (which at the date of adoption of the 1995 Bond Resolution were not included in the definition of Facilities under the 1995 Bond Resolution) (collectively, the "Additional Facilities") to the definition of Facilities in the 1995 Bond Resolution, if the issuance of bonds secured by a pledge of the Net Revenues of such expanded Facilities is permitted by State law (including Article 3 of Chapter 117 of Title 59 of the State Code, or any other provisions enacted subsequent to the date of the 1995 Bond Resolution), provided that:

- (a) The Board of Trustees shall adopt an appropriate amendatory resolution to the 1995 Bond Resolution; and
- (b) The University and the Trustee shall have received an opinion of Bond Counsel to the effect that such action to be taken under this Section is authorized under this Bond Resolution and the laws of the State and will not adversely affect the excludability of interest on the Bonds from federal income taxation; and
- (c) The University and the Trustee shall have received a report from the Accountants and Chief Financial Officer certifying that the tests set forth in Section 4.02(7) of the 1995 Bond Resolution are met if the Additional Facilities become Facilities and any bonds secured by a pledge of any part of the Additional Facilities become Bonds.

Upon the inclusion of any Additional Facilities as Facilities pursuant to Section 12.04 of the 1995 Bond Resolution, then from that date all references to Facilities in the 1995 Bond Resolution (including, without limitation, all references to Facilities in the definitions of other terms) shall, except as provided in Section 12.04(B)(2) of the 1995 Bond Resolution, include such Additional Facilities; and the Board of Trustees may change terms in the 1995 Resolution to eliminate the reference to "Parking."

(2) When any Additional Facilities are added to the definition of Facilities pursuant to Section 12.04 of the 1995 Bond Resolution and at the time of such addition there are bonds outstanding secured by a pledge of any of the revenues of the Additional Facilities:

- (a) In the event that the proceedings authorizing such previously issued Additional Facilities bonds contain provisions similar to Section 12.04 of the 1995 Bond Resolution, then all such bonds shall be from that date considered Bonds for all purposes of the 1995 Bond Resolution, and all Bonds shall be considered parity bonds with respect to the proceedings authorizing the previously issued Additional Facilities bonds; and
- (b) In the event that the proceedings authorizing such previously issued Additional Facilities bonds do not contain provisions similar to Section 12.04 of the 1995 Bond Resolution, then, until such time as the previously issued Additional Facilities bonds are discharged or such time as the Board of Trustees causes the Additional Facilities bonds to accede to parity status pursuant to Article VI of the 1995 Bond Resolution and simultaneously causes the Bonds to accede to parity status with respect to the Additional Facilities revenues, such previously issued Additional Facilities bonds shall be considered Junior Lien Bonds for all purposes of the 1995 Bond Resolution except for Sections 4.02(7) and 5.01(B) of the 1995 Bond Resolution, and all Bonds shall be considered junior lien bonds with respect to the pledged Additional Facilities revenues. With respect to Sections 4.02(7) and 5.01(B) of the 1995 Bond Resolution, the Additional Facilities bonds shall at all times be considered Bonds and the Additional Facilities shall be considered Facilities.

(3) In the event that State law is amended to permit the further securing of

Bonds by the pledge of, and payment of debt service on the Bonds from, the gross receipts of a source of revenue consisting of a student fee imposed on the basis of matriculation or credit-hour enrollment or similar basis other than for specific services provided or auxiliary facilities used, then the Board of Trustees may in their sole discretion and without the consent of any Bondholder, add such source of revenue to the security and pledge for the Bonds and may covenant to maintain such source of revenue at a particular level; but such source of revenue shall not be considered to be a Facility or a part of Gross Revenues or Net Revenues except for purposes of Sections 8.03, 8.04 and 8.05 of the 1995 Bond Resolution (but only, in the case of the said three (3) Sections to the extent that Net Revenues are otherwise insufficient to meet the requirements of those Sections) and Article XIV of the 1995 Bond Resolution. Also in the event that the definition of Facilities is expanded by the inclusion of a source of revenue consisting of a student fee imposed on the basis of matriculation or credit-hour enrollment or similar basis, then notwithstanding that Bonds may be Outstanding, the University may, at any time, and without limitation, issue "Parity Bonds" secured by a pledge of such student fee, which pledge shall be on a parity in all respects with the pledge of such fee securing the Bonds; provided, however, that the following must be satisfied at the time of issuance of such Parity Bonds:

Gross receipts generated from the fee during the Fiscal Year immediately preceding the Fiscal Year in which such issue of Parity Bonds is to be issued, adjusted in the same manner as the calculation of Net Revenues is adjusted in Section 4.02(7) of the 1995 Bond Resolution, shall be not less than one hundred twenty percent (120%) of the maximum Combined Annual Principal and Interest Requirement for all Bonds and Parity Bonds Outstanding immediately prior to the proposed issuance and on such issue of Parity Bonds; such calculation shall be based upon a report of the Accountants showing actual gross receipts generated from the fee for the Fiscal Year preceding the Fiscal Year in which such issue of Parity Bonds is to be issued."

(F) On April 3, 1996, the General Assembly of the State of South Carolina (the "State") enacted bill H. 4313 which amended Title 59 of the State Code by adding Chapter 147, entitled the Higher Education Revenue Bond Act (the "Higher Education Revenue Bond Act"), as anticipated by Section 12.04 of the 1995 Bond Resolution.

(G) Prior to the enactment of the Higher Education Revenue Bond Act, the University has heretofore issued:

(1) the following (collectively, the "Student and Faculty Housing Revenue Bonds"):

(a) The now outstanding \$1,160,000 principal amount Student and Faculty Housing Revenue Bonds of the University, Series 1971, (the "Series 1971 Bonds");

(b) The now outstanding \$1,955,000 principal amount Student and Faculty Housing Revenue Bonds of the University, Series 1973 (the "Series 1973 Bonds");

(c) The now outstanding \$250,000 principal amount Student and Faculty Housing

Revenue Bonds of the University, Series 1974 (the "Series 1974 Bonds"); and

(d) The now outstanding \$2,796,239 principal amount Student and Faculty Housing Revenue Bonds of the University, Series 1988 (the "Series 1988 Bonds")

which are payable solely from revenues derived from all of the student and faculty housing facilities of the University (the "Student and Faculty Housing Facilities Revenues"). The Student and Faculty Housing Revenue Bonds were authorized by the Student and Faculty Housing Facilities Resolutions (as hereinafter defined).

(2) The now outstanding \$9,735,000 principal amount Parking Facilities Revenue Bonds of the University, Series 1995 (the "Parking Facilities Revenue Bonds") which are payable solely from revenues derived from the University's parking facilities (the "Parking Facilities Revenues") were authorized by the 1995 Bond Resolution and a Series Resolution adopted by the Board of Trustees on October 19, 1995 (the "Parking Facilities Series Resolution").

(H) The Board of Trustees has been advised that it would be in the best interest of the University to redeem, refund (in advance of maturity or otherwise) or legally defease the Student and Faculty Housing Revenue Bonds as provided in the resolutions adopted by the Board of Trustees pursuant to which the Student and Faculty Housing Revenue Bonds were issued, which shall be authorized by a Series Resolution to be adopted by the Board of Trustees supplemental hereto.

(I) The Board of Trustees is authorized by the Higher Education Revenue Bond Act to issue revenue bonds of the University for the purpose of financing or refinancing in whole or in part the cost of acquisition, construction, reconstruction, renovation and improvement of land, buildings, and other improvements to real property and equipment for the purpose of providing facilities serving the needs of the University including, but not limited to, dormitories, apartment buildings, dwelling houses, bookstore and other University operated stores, laundry, dining halls, cafeterias, parking facilities, student recreational, entertainment and fitness related facilities, inns, conference and other nondegree educational facilities and similar auxiliary facilities of the University and other facilities which are auxiliary to any of the foregoing excluding, however, athletic department projects which primarily serve varsity athletic teams of the University. The bonds issued under the Higher Education Revenue Bond Act must be payable solely from the Net Revenues (hereinafter defined) derived by the University from the operation, sale, lease, or other disposition of the Facilities and any other Additional Funds (as such terms are hereinafter defined) of the University.

(J) Pursuant to Section 12.04 of the 1995 Bond Resolution and the Higher Education Revenue Bond Act, the Board of Trustees of the University has determined to amend the 1995 Bond Resolution as follows:

(1) to change the definition of facilities as follows: "Facilities" shall mean (i) student and faculty housing including, but not limited to, dormitories, apartment buildings and dwelling houses, and (ii) parking facilities. Where the context requires, term "Facilities" shall include services provided in or by the Facilities.

(2) to delete all references to "Parking" in the 1995 Bond Resolution, as provided in Section 12.04(A)(1) of the 1995 Bond Resolution.

(3) to provide for a parity status of Bonds issued pursuant to this Resolution with the Parking Facilities Revenue Bonds issued pursuant to 1995 Bond Resolution with respect to the revenues of the Facilities; provided, however, the Parking Facilities Revenue Bonds shall also have a statutory lien on the parking facilities (as defined in the 1995 Bond Resolution).

(4) to pledge Additional Funds which consist of other available funds as described in the Higher Education Revenue Bond Act.

(5) to authorize the issuance of Parity Bonds secured by a pledge of the Additional Funds provided certain requirements are met as set forth in Section 12.04(C) of the 1995 Bond Resolution.

(6) to make such other changes as necessary in order to encompass all the provisions intended by Section 12.04 of the 1995 Bond Resolution and to correct certain ambiguities and inconsistent provisions contained in the 1995 Bond Resolution pursuant to Section 12.04 of the 1995 Bond Resolution.

**THE 1995 BOND RESOLUTION IS HEREBY AMENDED AS SET FORTH IN PARAGRAPH (J) ABOVE AND OTHERWISE AMENDED AND RESTATED AS FOLLOWS:**

[End of Article I]

## ARTICLE II

### DEFINITIONS, CONSTRUCTION AND INTERPRETATIONS

#### Section 2.01. Definition of Bond Resolution.

This resolution, and any amendments or supplements hereto, may be hereafter cited and is hereinafter referred to as the Bond Resolution or the Resolution, and is the resolution pursuant to which all bonds of the University, to be issued pursuant to the Enabling Act, shall be issued and secured, including bonds issued for the purpose of refunding, by exchange or otherwise, all or any of the outstanding bonds issued pursuant to the Enabling Act.

#### Section 2.02. Other Defined Terms.

The following are defined terms under this Resolution and shall for all purposes hereof have the meanings herein specified unless the context clearly requires otherwise:

"Accreted Value" shall mean the amounts set forth in and the amounts computed pursuant to a formula set forth in a Series Resolution authorizing the issuance of Bonds in the form of Capital Appreciation Bonds, the Accreted Value of which is being determined.

"Accountants" shall mean an independent firm of certified public accountants of suitable standing, or the Office of the Auditor of the State of South Carolina, which audits the books and accounts of the University relating to the Facilities.

"Additional Funds" shall mean any funds of the University designated and approved by the University in accordance with Section 59-147-110 of the Enabling Act as set forth in Section 4.24 of this Resolution.

"Annual Budget" shall mean the budget or amended budget for the operation of the Facilities prepared under the supervision of the Chief Financial Officer as a portion of the budget of the University adopted annually by the Board of Trustees for the ensuing Fiscal Year of the University.

"Annual Principal and Interest Requirement" shall mean, with respect to the annual period in question and to a Series of Bonds, an amount equal to the sum of (1) all interest payable on such Series of Bonds during such period (other than amounts paid from proceeds of the Bonds as accrued interest or interest which has been capitalized in accordance with the terms of this Bond Resolution), plus (2) any Principal Installments of such Series of Bonds during such period; provided, however, with respect to Partially Amortizing Bonds, the amount of the principal which would be payable during such Fiscal Year shall be computed as if such principal were amortized from the date of issuance thereof over a period of twenty (20) years or the actual maturity of such Partially Amortizing Bonds, whichever is greater, on a level debt service basis at an interest rate equal to the rate borne by such Partially Amortizing Bonds on the date calculated, except that if the date of calculation is within twelve (12) months of the actual maturity of such Partially Amortizing

Bonds, the full amount of the Principal Installment payable at maturity (less any sinking fund established therefor and deposited with the Paying Agent for such Bonds) shall be included in such calculation. For purposes of computing "Annual Principal and Interest Requirement," the rate of interest used to determine (1) above shall be a rate per annum equal to (a) with respect to any Series of Bonds which bear interest at a fixed rate or rates, the rate or rates of interest borne or to be borne by such Bonds, and (b) with respect to any Series of Variable Rate Bonds, the following methods shall determine the interest rate to be used:

(i) in the case of determining the Annual Principal and Interest Requirement or the Combined Principal and Interest Requirement, as the case may be, for purposes of Sections 4.02(7) of this Bond Resolution, the interest rate shall be equal to the 30-year Revenue Bond Index published by The Bond Buyer no more than two (2) weeks prior to, but in no event after, the sale of the proposed Series of Bonds to be issued; and

(ii) in the case of determining the Combined Annual Principal and Interest Requirement for purposes of applying the rate covenant contained in Section 5.01(B) of this Bond Resolution, the interest rate shall be equal to the maximum interest rate prevailing on such Variable Rate Bonds for the preceding twelve-month period;

provided, however, that if the 30-year Revenue Bond Index referred to in (i) above is no longer published, any reasonably equivalent nationally recognized index published for the periods in question may be selected by the Chief Financial Officer for use in its stead. Where the context requires, references in this definition to "Series Bonds" shall be deemed to include a series of Parity Bonds.

"Authorized Investments" shall mean those investments authorized for investment of State funds under Section 11-9-660 of the Code of Laws of South Carolina 1976, as now or hereafter amended from time to time.

"Board of Trustees" shall mean the Board of Trustees of the University or any successor body.

"Bond Counsel" shall mean any firm of attorneys which is nationally recognized as bond counsel in the field of public finance.

"Bond Payment Date" shall mean the dates on which interest on any of the Bonds shall be payable or on which both principal and interest shall be payable on any of the Bonds, all as set forth in the Series Resolutions authorizing the issuance of the respective Series of Bonds.

"Bondholder" or "Holder", or any similar term, when used with reference to the Bonds, shall mean any person who shall be the registered owner of any Outstanding Bond or in the case of any Bonds issued in bearer form in accordance with Section 4.08(C) hereof, the holder of any such Bond.

"Bonds" shall mean any indebtedness payable from the Net Revenues of the Facilities and

any other sources provided pursuant to Section 4.17 hereof, issued in accordance with the provisions of the Enabling Act, this Bond Resolution and a Series Resolution which includes the Parking Facilities Revenue Bonds.

"Book-Entry Form" or "Book-Entry System" shall mean, with respect to the Bonds, a form or system, as applicable, under which (i) the ownership of beneficial interests in such Bonds may be transferred only through a book-entry, and (ii) physical Bonds in fully registered form are registered only in the name of a Depository or its nominee. The book-entry maintained by the Depository is the record that identifies the owners of participatory interests in such Bonds, when subject to the Book-Entry System.

"Capital Appreciation Bonds" shall mean Bonds that bear interest payable at maturity, upon redemption prior to maturity or prior to maturity at the date set forth in the Series Resolution authorizing the issuance of such Bonds in the amounts determined by reference to the Accreted Value of such Capital Appreciation Bonds in accordance with the provisions of the Series Resolution authorizing the issuance of such Capital Appreciation Bonds.

"Chairman" shall mean the Chairman of the Board of Trustees. The term shall include the Vice Chairman or Acting Chairman whenever by reason of absence, illness or other reason, the person who is the Chairman is unable to act.

"Chief Financial Officer" shall mean the individual to whom the Board of Trustees has delegated the responsibility of supervising and maintaining records and accounts relating to the collection and disbursement of the revenues derived by the University from the operation and maintenance of the Facilities. Such individual presently holds the title of Vice President for Business and Finance.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time. References to the Code and sections of the Code include relevant applicable regulations, temporary regulations and proposed regulations thereunder and under the Internal Revenue Code of 1954, as amended, and any successor provisions to those sections, regulations, temporary regulations or proposed regulations.

"Combined Annual Principal and Interest Requirement" shall mean, with respect to any particular Fiscal Year, the sum of the Annual Principal and Interest Requirements on all Bonds Outstanding (including where the context requires, all Parity Bonds Outstanding).

"Counsel" shall mean an attorney duly admitted to practice law before the highest court in South Carolina, who is not a full-time employee of the University or the State but may include an opinion issued by the Office of the Attorney General of South Carolina.

"Date of Issue" shall mean that date established in any Series Resolution from which interest shall accrue on the Bonds of the applicable Series.

"Debt Service Fund" shall mean the fund so designated pursuant to a Series Resolution and

designed to provide for the payment of the principal of and interest on a particular Series of Bonds issued pursuant to this Bond Resolution, as the same fall due, and as established pursuant to the provisions of Section 7.04 hereof.

"Debt Service Reserve Fund" shall mean the fund, if any, so designated pursuant to a Series Resolution and designed (1) to insure the timely payment of the principal of and interest on a particular Series of Bonds Outstanding and issued pursuant to this Bond Resolution, and (2) to provide for the redemption of such Series of Outstanding Bonds prior to their stated maturity, as established by the provisions of Section 7.05 hereof.

"Defeasance Act" shall mean Chapter 14, Title 11 of the State Code.

"Enabling Act" or "Higher Education Revenue Bond Act" shall mean Title 59, Chapter 147 of the Code of Laws of South Carolina 1976, as amended, except with respect to the Parking Facilities Revenue Bonds, the term "Enabling Act" shall mean Act No. 1396 of the Acts of the General Assembly of the State of South Carolina, 1968, and Title 11, Chapter 21 of the State Code.

"Facilities" shall mean (i) student and faculty housing including, but not limited to, dormitories, apartment buildings and dwelling houses, and (ii) parking facilities. Where the context requires, the term "Facilities" shall include services provided in or by the Facilities.

"Fiscal Year" shall mean the period of twelve (12) calendar months, beginning on July 1 of each year and ending with June 30th of the succeeding year, unless the same shall have been changed by the University pursuant to the authorization of Section 3.01 hereof.

"Fitch" shall mean Fitch Investors Service, L.P., and its successors.

"General Assembly" shall mean the duly constituted legislature of the State of South Carolina.

"Government Obligations" shall mean and include direct noncallable general obligations of the United States of America or noncallable obligations, the payment of principal of or interest on which is fully and unconditionally guaranteed by the United States of America.

"Gross Revenues" shall mean

- (a) all receipts and revenues derived from the operation of the Facilities (including any rents or other fees received in connection with the Facilities not operated directly by the University),
- (b) all proceeds from the sale or other disposition of any property owned directly or beneficially by the University in connection with the operation of the Facilities, and
- (c) all interest and other income received directly or indirectly from the investment of any moneys or accounts relating to the Facilities.

"Junior Lien Bonds" shall mean any revenue bonds, notes or other obligations issued by the University and referred to in Section 6.01 hereof and which are secured by pledges of the liens on the revenues of the Facilities which are junior and subordinate in all respects to the pledges and liens made to secure Bonds.

"Maintenance Reserve Fund" shall mean the fund established pursuant to Section 7.06 hereof.

"Moody's" shall mean Moody's Investors Service, Inc, and its successors.

"Net Revenues" shall mean for the period in question, the net increase/decrease in fund balances for the Facilities (including any rents or other fees received in connection with Facilities not operated directly by the University) determined in accordance with then generally accepted accounting principles; but whether or not generally accepted accounting principles so require, there shall be excluded from the calculation made to determine Net Revenues:

- (i) gains or losses on the sale or other disposition of investments of fixed or capital assets, which do not result from the ordinary course of business;
- (ii) investment income restricted to a purpose inconsistent with the payment of operating expenses or debt service including (whether or not so restricted) interest earned on any construction fund or construction account created with the proceeds of borrowing by the University;
- (iii) any amounts received by way of government grants or subsidies pertaining to the Facilities to the extent that such grants or subsidies are not permitted by law to be pledged to secure the Bonds;
- (iv) amounts paid as debt service on Bonds;
- (v) the amortization of financing expenses, underwriting discounts, call premiums, gains or losses on the extinguishment of debt due to the refinancing of the same, and other related or incidental nonrecurring expenses resulting from the issuance or refinancing of Bonds;
- (vi) depreciation allowances; and
- (vii) transfers to the plant funds.

"Operation and Maintenance Fund" shall mean the fund, account or accounts to be established pursuant to Section 7.03 hereof.

"Outstanding", when used with reference to the Bonds, shall mean, as of any date, all such Bonds theretofore or then being authenticated and delivered except:

- (a) Bonds paid or redeemed and canceled at or prior to such date;

(b) Bonds in lieu of or in substitution for which other bonds shall have been executed and delivered;

(c) Bonds deemed to have been paid as provided in Article XVI hereof; and

(d) for purposes of any consent or other action to be taken by the Holders of a specified percentage of Bonds, Bonds held by, or for the account of, the University, or by any person controlling, controlled by or under common control with the University

"Parity Bonds" shall mean indebtedness payable from all or a portion of the Additional Funds not issued pursuant to the Enabling Act but which satisfies the requirement of Section 6.03 hereof.

"Partially Amortizing Bonds" shall mean a Series of Bonds twenty-five percent (25%) or more of the principal payments of which are due in a single Fiscal Year, which portion of the principal is not required by the Series Resolution providing for their issuance to be paid by redemption prior to such maturity date.

"Parking Facilities Revenue Bonds" shall mean the \$9,735,000 University of South Carolina Parking Facilities Revenue Bonds, Series 1995, dated November 1, 1995.

"Paying Agent" shall mean the State Treasurer or any bank or trust company or other entity appointed from time to time as Paying Agent or Paying Agents in accordance with Section 15.15 hereof to serve as Paying Agent for one or more Series of Bonds issued hereunder.

"Principal Installment" shall mean, as of any date of calculation, (i) the principal amount of Outstanding Bonds coming due in the period in question plus (ii) any mandatory sinking fund payment required on Outstanding Bonds during the period in question. With respect to any Capital Appreciation Bonds, "Principal Installment" shall mean the Accreted Value which is due and payable during the period in question.

"Record Date" shall mean, with respect to any Bond, the date as of which the Holder of such Bond is determined for purposes of giving any notice, making any interest payment or obtaining any consent.

"Registrar" shall mean the State Treasurer or any bank or trust company or other entity appointed from time to time, as Registrar or Registrars in accordance with Section 15.14 hereof to serve as Registrar for one or more Series of Bonds issued hereunder.

"Reserve Requirement" shall mean, as of any date of calculation, the debt service reserve requirement, if any, established by a Series Resolution with respect to a particular Series of Bonds.

"Resolution of 1971" shall mean the general resolution of the Board of Trustees adopted on March 29, 1971 providing for the issuance from time to time of Student and Faculty Housing

Revenue Bonds of the University.

"Revenue Fund" shall mean the fund established pursuant to Section 7.02 hereof.

"S&P" means Standard & Poor's Corporation and its successors.

"Secretary" shall mean the Secretary of the Board of Trustees. The term shall include the Acting Secretary or the Assistant Secretary whenever by reason of absence, illness or other reason, the person who is the Secretary is unable to act.

"Series" shall mean all of the Bonds authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for (but not to refund) such Bonds as herein provided, regardless of variations in maturity, interest rate or other provisions.

"Series 1971 Bonds" shall mean the \$2,600,000 original principal amount Student and Faculty Housing Revenue Bonds of the University, Series 1971, of which \$1,160,000 in principal amount is outstanding on the date hereof.

"Series 1973 Bonds" shall mean the \$3,000,000 original principal amount Student and Faculty Housing Revenue Bonds of the University, Series 1973, of which \$1,955,000 in principal amount is outstanding on the date hereof.

"Series 1974 Bonds" shall mean the \$2,750,000 original principal amount Student and Faculty Housing Revenue Bonds of the University, Series 1974, of which \$250,000 in principal amount is outstanding on the date hereof.

"Series 1988 Bonds" shall mean the \$3,000,000 original principal amount Student and Faculty Housing Revenue Bonds of the University, Series 1988, of which \$2,796,239 in principal amount is outstanding on the date hereof.

"Series Resolution" shall mean a resolution of the Board of Trustees authorizing the issuance of a Series of Bonds pursuant to this Bond Resolution in accordance with the terms and provisions hereof, adopted in accordance with the provisions of Article IV hereof.

"State" shall mean the State of South Carolina.

"State Board" shall mean the State Budget and Control Board of South Carolina.

"State Code" shall mean the Code of Laws of South Carolina 1976, as amended.

"State Treasurer" shall mean the Office of the State Treasurer of South Carolina.

"Student and Faculty Housing Facilities Revenue Bonds" shall mean collectively the Series 1971 Bonds, Series 1973 Bonds, Series 1974 Bonds and Series 1988 Bonds.

"Student and Faculty Housing Facilities Resolutions" shall mean, collectively, the Resolution of 1971, the Supplemental Resolution of 1971, the Supplemental Resolution of 1973, the Supplemental Resolution of 1974 and the Supplemental Resolution of 1988.

"Subsidies" shall mean, for the period in question, all sums paid or payable to or for the account of the University pursuant to any grant, loan agreement, contract or other obligation obligating either the United States or any department or agency thereof, or the State of South Carolina to make payments over a period of years for the purpose of discharging in whole or in part the debt service of any Series of Bonds or any portion of any such Series; any calculation of the quantum of Subsidies shall be made in light of the applicable provisions of the grant, loan agreement, contract or obligation in force on the occasion when such calculation is required to be made by any of the provisions hereof.

"Trustee" shall initially mean the State Treasurer or other bank, trust company or financial institution which is authorized by the University and approved by the State Treasurer to be the custodian of the funds established under this Bond Resolution.

"University" shall mean the University of South Carolina, a body politic and corporate of the State.

"Variable Rate Bonds" shall mean, for any period of time, any Bonds which during such period bear interest at a variable rate; provided that Bonds the interest rate on which has been fixed for the remainder of the term thereof shall no longer be Variable Rate Bonds.

#### Section 2.03. Interpretations.

In this Bond Resolution, unless the context otherwise requires:

(a) Articles, Sections and Paragraphs referred to by number shall mean the corresponding Articles, Sections and Paragraphs of this Bond Resolution.

(b) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, or other legal entities, including public bodies, as well as natural persons.

(c) The terms "hereby," "hereof," "hereto," "herein," "hereunder," and any similar terms, as used in this Bond Resolution refer to this Bond Resolution or Sections or Paragraphs of this Bond Resolution, and the term "hereafter" means any date after the date of adoption of this Bond Resolution.

(d) References to the payment of principal of Bonds shall be deemed to include payment of principal both at maturity, upon optional redemption and upon mandatory redemption

pursuant to any sinking fund payment obligations

[End of Article II]

### ARTICLE III

#### FISCAL YEAR

##### Section 3.01. Establishment and Modification of Fiscal Year.

The Facilities shall continue to be operated on a Fiscal Year basis, which, until changed, shall commence on the first (1st) day of July each calendar year and shall end on the thirtieth (30th) day of June of the next calendar year. The University may change the Fiscal Year from that now existing to a different twelve (12) month period.

[End of Article III]

## ARTICLE IV

### THE BONDS

#### Section 4.01. Authorization for Bonds in Series.

(A) To the extent permitted by the Enabling Act and, if necessary, the Defeasance Act, and from time to time and for the purposes of:

- (1) Financing or refinancing in whole or in part for the cost of acquisition, construction, renovation and improvement of land, buildings, and other improvements to real property and equipment for new and existing Facilities;
- (2) Funding any Debt Service Reserve Fund (including the purchase of a surety bond, insurance policy, line of credit, letter of credit or similar instrument credited thereto in lieu of cash as provided herein) or restoring the value of the cash and securities in any Debt Service Reserve Fund to an amount equal to the applicable Reserve Requirement;
- (3) Purchasing or providing for credit enhancement for any Series of Bonds;
- (4) Capitalizing interest on the Bonds for such period of time as the Board of Trustees may determine; and
- (5) Paying costs of issuance of Bonds;

but subject to the terms, limitations and conditions herein, the University may authorize the issuance of a Series of Bonds by the adoption of a Series Resolution. The Bonds of any such Series may be issued and delivered upon compliance with the provisions of this Article. Except as set forth in Section 4.08(C) hereof, the Bonds of each Series shall be issued in fully registered form, without coupons. The Bonds shall, in addition to bearing the title "University of South Carolina Revenue Bonds," or such other title as may be permitted by the Enabling Act, bear a letter or number Series designation as may be necessary to distinguish them from the Bonds of every other Series and shall designate the year in which the Series is issued. Bonds of any Series may be authorized to be issued, to the extent permitted by law, in the form of serial Bonds, term Bonds with or without mandatory sinking fund payments, Capital Appreciation Bonds, Partially Amortizing Bonds or such other forms of Bonds as may otherwise be permitted by the Enabling Act and not inconsistent with the provisions of this Bond Resolution, or any combination of such forms.

(B) Each Series Resolution shall include a determination by the University to the effect that the issuance of such Series of Bonds is necessary to provide funds to be used and expended for the purposes permitted set forth in Section 4.01(A) hereof. Each Series Resolution shall specify and determine:

- (1) The Date of Issue of such Series of Bonds;

- (2) The maximum authorized principal amount of such Series of Bonds, and the manner of determining the precise principal amount and the officials authorized to make such determination;
- (3) The source or sources of revenues designated for the repayment of the Bonds in accordance with Section 59-147-110 of the Enabling Act;
- (3) The time for the payment of interest on the Bonds in such Series and the Record Dates, and the date or dates of maturity and the amounts thereof, or the manner of determining such dates and amounts and the officials authorized to make such determinations, provided that the Series Resolution shall specify a date beyond which the final maturity of such Series shall not extend;
- (4) The specific purposes for which such Series of Bonds is being issued, which shall be to provide funds for the purposes authorized by the Enabling Act and the Bond Resolution;
- (5) The title and designation of the Bonds of such Series;
- (6) The manner in which Bonds of such Series are to be sold and provisions for the sale thereof;
- (7) The interest rate or rates, or the manner of determining such rate or rates, of the Bonds of such Series including whether and on what terms there shall be entered by the University an agreement for any form of interest rate swap or similar transaction with respect to such Series;
- (8) The portion of such Series that are serial Bonds and that are Term Bonds and that are Partially Amortizing Bonds and that are Capital Appreciation Bonds (or other forms permitted by the Enabling Act and not inconsistent with the provisions of this Bond Resolution), if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such Series Resolution to be paid for the retirement of any such Bonds, or the manner of making such designations and the officials authorized to make such designations;
- (9) The redemption price or redemption prices and the redemption date or redemption dates and other terms of redemption (if any) applicable to any of the Bonds of such Series for such payments, or the manner of determining such dates and prices and the officials authorized to make such determinations;
- (10) The Trustee, the Registrar and Paying Agent, for such Bonds, and the escrow agent if such Bonds are refunding Bonds issued in advance of the date of maturity or redemption of the refunded bonds, or the manner of determining such Trustee, Paying Agent, Registrar and/or escrow agent;

- (11) The form or forms of the Bonds of such Series;
- (12) The manner of numbering and lettering, and the denomination or denominations, of the Bonds of such Series;
- (13) Whether the Bonds of such Series shall be issued in book-entry form pursuant to Section 4.18 hereof;
- (14) The disposition of the proceeds of the sale of the Bonds of such Series and the manner of their application;
- (15) Whether such Series of Bonds will be subject to a Reserve Requirement and the manner in which such Reserve Requirement will be satisfied;
- (16) That the then applicable Reserve Requirements, if any for all Series of Bonds Outstanding and for the proposed Series of Bonds, have been or will be met;
- (17) That a Debt Service Fund and, if then determined to be necessary by the Board of Trustees, a Debt Service Reserve Fund be established for the Series of Bonds, and that a construction fund be established if the proceeds of the Bonds of any Series are intended to be used for the construction, expansion or improvement of the Facilities, (and that a capitalized interest account be established within any such Debt Service Fund if interest for any period is to be paid from proceeds) of such Series of Bonds; and
- (18) Any other provisions or funds deemed advisable by the Board of Trustees for the Bonds and any other applicable redemption requirement for the Bonds of such Series and the method of satisfying the same and not in conflict with or in substitution for the provisions of the Bond Resolution.

Section 4.02. Conditions to Issuance of Bonds of a Series.

All Bonds shall be issued in compliance with the following provisions of this Section 4.02:

- (1) Bonds shall be stated to mature and/or have mandatory or sinking fund redemptions on the dates, in the years and in the amounts prescribed or determined in the manner prescribed by the Series Resolution;
- (2) Bonds shall bear interest at the rates and on the occasions prescribed or determined in the manner prescribed by the Series Resolution;
- (3) Bonds shall be issued for a purpose or purposes set forth in Section 4.01(A)(1) through (5) hereof;
- (4) There shall exist, on the occasion of the issuance of the Bonds, no default in the

payment of the principal of or interest on any Bonds or Junior Lien Bonds then Outstanding;

(5) The University shall obtain an opinion of Bond Counsel to the effect that (a) this Bond Resolution and the applicable Series Resolution have been duly and lawfully adopted and are in full force and effect; (b) the Bonds have been duly and lawfully authorized and executed by the University and are valid and binding upon, and enforceable against, the University (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); (c) with respect to such Bonds, this Bond Resolution creates the valid pledge which it purports to create of the revenues and of moneys and securities on deposit in any of the funds and accounts established hereunder subject to the application thereof to the purposes and on the conditions permitted by this Bond Resolution; and (d) upon the execution and delivery thereof, such Bonds will have been duly and validly authorized and issued in accordance with this Bond Resolution;

(6) Unless on the date of delivery of such Series of Bonds, there shall be on deposit in each required Debt Service Reserve Fund, if any, an amount equal to the applicable Reserve Requirement immediately following the issuance of such Series of Bonds (whether in the form of cash or a qualified surety bond, insurance policy, line of credit or letter of credit in lieu thereof in accordance with Section 7.05(D) hereof), there shall be deposited in the applicable Debt Service Reserve Funds, if any, such amounts or a qualified substitute in accordance with Section 7.05(D) hereof shall be provided as necessary, to make the value of the moneys and securities or such qualified substitute in such Debt Service Reserve Funds equal to the applicable Reserve Requirement, unless:

(a) the Series Resolution establishing the particular Debt Service Reserve Fund shall have provided for successive monthly payments beginning in the first month following the date of the issuance of the Bonds of any such Series in substantially equal monthly amounts (the "Monthly Series Payments") so that by the end of any period not exceeding the period of thirty-six (36) months from the date of issuance of such Series of Bonds there shall be in its Debt Service Reserve Fund an amount equal to its Reserve Requirement with respect to such Bonds;

(b) there shall be no unremedied defaults of any Monthly Series Payments required to have been made; and

(c) each Debt Service Reserve Fund is funded in an amount equal to its Reserve Requirement with respect to each Series of Bonds, other than Bonds issued pursuant to Series Resolutions described in (a) above.

(7) Except in the case of the initial Series of Bonds issued pursuant to this Bond Resolution and Bonds issued for the purpose of refunding any Bonds:

(a) Net Revenues and Additional Funds plus Additional Parity Bond Sources (as defined in paragraph (c)(iv) below and to the extent permitted by paragraph (d) below) during the most recent Fiscal Year for which audited financial statements of the University are completed

shall be certified by the Chief Financial Officer on the basis of such audited financial statements to be not less than one hundred twenty percent (120%) of the maximum Combined Annual Principal and Interest Requirement on all Bonds and Parity Bonds Outstanding immediately prior to the issuance of such proposed Series of Bonds. For purposes of the maximum Combined Annual Principal and Interest Requirements on all Bonds and Parity Bonds Outstanding immediately prior to the issuance of such proposed Series of Bonds under this Section 4.02(7)(a), the amount of any Subsidies to become payable in any succeeding Fiscal Year shall be deducted from the maximum Combined Annual Principal and Interest Requirement on all Bonds and Parity Bonds Outstanding immediately prior to the issuance of such proposed Series of Bonds. For purposes of this Section 4.02(7)(a), such Net Revenues, Additional Funds and Additional Parity Bond Sources shall be adjusted to reflect (1) any rate or fee increases currently adopted and to be in effect prior to or coincident with the issuance of such proposed Series of Bonds and determined pro forma as though such rate increases had been in continuous effect during such recent Fiscal Year; (2) in the event proceeds of such proposed Series of Bonds will be used to pay interest on such proposed Series, 100% of the interest that will accrue on such Series of Bonds during the first twelve full months following the date of delivery of the proposed Series and that will be paid from such proceeds, provided, however, that any such interest accruing in such twelve-month period that is to be paid on a date within the Fiscal Year of maximum Combined Annual Principal and Interest Requirements shall not be so added into such Net Revenues, Additional Funds and Additional Parity Bond Sources; (3) any amount allowed by subparagraph (2) of this Section 4.02(7)(a) as an adjustment with respect to a previously-issued Series of Bonds if the proposed Series of Bonds is being issued prior to the end of the Fiscal Year in which capitalized interest on the previously-issued Series of Bonds is exhausted; and (4) an increase to the Net Revenues by an amount equal to the amount of government grants and subsidies for the operation of the Facilities or debt service of the Bonds that are otherwise excluded from the definition of "Net Revenues" by clause (iii) thereof.

- (b) For each of the two (2) Fiscal Years following the later of the date of the delivery of the Bonds of such Series, or the period (if any) for which interest is funded from the proceeds of such Bonds, Net Revenues, Additional Funds and Additional Parity Bond Sources (as permitted below), as shall have been forecasted and computed by the Chief Financial Officer in the manner prescribed in paragraph (c) below, will be not less than one hundred twenty percent (120%) of the maximum Combined Annual Principal and Interest Requirements (as calculated in paragraph (a) above) on all Bonds and Parity Bonds then proposed to be Outstanding in each of such two (2) Fiscal Years;
- (c) (i) With respect to Facilities to be constructed, renovated or purchased with the proceeds of the Series of Bonds in question, the forecast of Net Revenues shall be predicated upon 95% of the gross revenues to be produced by the new Facility and 105% of the cost of operation and maintenance of the new Facility, for the first full Fiscal Year after any period of capitalized interest for the Series of Bonds in question, such gross revenues and operation and maintenance costs being as projected by the Chief Financial Officer; and,

- (ii) The projection of Net Revenues of the Facilities existing at the time of computation (not including Facilities to be constructed or renovated with the proceeds of the Series of Bonds in question) shall be not greater than the Net Revenues produced by such Facilities during the preceding Fiscal Year, adjusted for the rate, fee or price schedules which will be in effect at the beginning of the succeeding academic year for such existing Facilities.
- (iii) With respect to the portion of Additional Funds which are student fees imposed on the basis of matriculation or credit hour enrollment or similar basis other than for specific services provided or auxiliary facilities used ("Pledged Fees"), the forecast shall be not greater than the Pledged Fees produced during the preceding Fiscal Year, adjusted for the fee schedules which will be in effect at the beginning of the succeeding academic year; and
- (iv) With respect to sources which lawfully secure or pay any Parity Bonds but which do not secure or pay the Bonds (the "Additional Parity Bond Sources"), the forecast shall be determined in a manner consistent with clauses (i) through (iii) above, whichever is most nearly applicable.
- (d) For purposes of this Section 4.02(7), Additional Parity Bond Sources shall not be considered, to the extent that they exceed one hundred twenty percent (120%) of the annual debt service on all Outstanding Parity Bonds in the year of maximum Combined Annual Principal and Interest Requirements on all Bonds and Parity Bonds Outstanding.

(8) In the case of Bonds issued for the purpose of refunding any Bonds, either:

(a) The Annual Principal and Interest Requirements of the refunding Bonds shall not exceed the Annual Principal and Interest Requirements of the refunded Bonds until a time subsequent to the last maturity of Bonds not refunded and which remain Outstanding following the issuance of the refunding Bonds; or

(b) The University shall comply with the revenue tests prescribed by Section 4.02(7) above.

(9) (a) The University shall obtain an opinion of Bond Counsel that such Bonds are valid and binding obligations of the University payable from the Net Revenues and Additional Funds and are being issued for purposes authorized by the Enabling Act; and

(b) Except as to Bonds issued only for the purpose of refunding any Bonds, the University shall obtain an opinion of Counsel that the title to any tract of land to be acquired with any part of the proceeds of such Bonds shall be good and marketable, and will vest in the University either (a) an indefeasible fee simple title, or (b) an indefeasible leasehold estate, which shall extend at least five (5) years beyond the maturity date of the last maturing of the Bonds of such Series and the Bonds then to be Outstanding;

(10) If any Series of Bonds shall contain Variable Rate Bonds;

(a) The Series Resolution may provide for and specify a maximum interest rate on (i) such Bonds and (ii) any reimbursement obligation to a liquidity provider for such Bonds, it being here expressly provided that the obligation to pay any such reimbursement obligation shall be on a parity with the Bonds with respect to the pledge of the Net Revenues;

(b) The liquidity provider for such Bonds shall be rated in either of the two highest short term rating categories by Moody's or S&P or Fitch; and

(11) All amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy, line of credit or letter of credit as contemplated under Section 7.05(D) hereof shall have been paid.

(12) The issuance of the Bonds, if so required by the Enabling Act, shall have been reviewed and approved by the State Board.

#### Section 4.03. Reliance Upon Certificates Establishing Revenues.

Both the University and any purchaser of any Bonds shall be entitled to rely upon certificates of the Chief Financial Officer and of the Accountants, made in good faith, pursuant to any provision of this Article.

#### Section 4.04. Execution of Bonds.

(A) Unless otherwise prescribed by any Series Resolution, the Bonds shall be executed in the name of and on behalf of the University by the Chairman of the Board, the corporate seal of the University shall be impressed or reproduced thereon and the same shall be attested by the Secretary of the Board. Such officers may employ facsimiles of their signatures and of the seal. The Bonds shall be signed by a person holding office at the time the Bonds are printed and are ready for delivery.

(B) In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signatures or facsimiles shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office.

#### Section 4.05. Authentication.

Only such Bonds as shall have endorsed thereon a certificate of authentication duly executed by the Registrar shall be entitled to any right or benefit under this Bond Resolution. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar, and such executed certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Bond Resolution. The Registrar's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by any authorized officer of the Registrar.

Section 4.06. Medium of Payment.

The Bonds shall be payable with respect to principal, interest and premium, if any, in lawful money of the United States of America.

Section 4.07. Mutilated, Lost, Stolen or Destroyed Bonds.

In the event any Bond is mutilated, lost, stolen or destroyed, the University may execute and the Registrar may authenticate and deliver a new Bond of the same Series of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the University and to the Registrar evidence of such loss, theft or destruction satisfactory to the University and the Registrar together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the University may pay the same. The University and the Registrar may charge the Holder of such Bond with their reasonable fees and expenses in this connection.

Section 4.08. Transfer and Registry: Persons Treated as Owners.

(A) As long as any Bonds shall be Outstanding, the University shall cause books for the registration and for the transfer of Bonds to be kept. Such books shall be kept by the Registrar for each particular Series of Bonds at the corporate trust office of such Registrar. The transfer of each Bond may be registered only upon the registration books of the University kept by the Registrar for that purpose by the Holder thereof in person or by his duly authorized attorney upon surrender thereof and an assignment with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder or his duly authorized attorney. Upon the registration of transfer of any Bond, the Registrar will authenticate and deliver, subject to the provisions of Section 4.11 hereof, in the name of the transferee, a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate as the surrendered Bond.

(B) The University, the Trustee, the Paying Agent, if any, and the Registrar may deem and treat the person in whose name any Bond shall be registered upon the registration books of the University as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium (if any) and interest on such Bond and for all other purposes, and all such payments so made to any such Holder or, upon his order, shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and none of the University, the Trustee, the Paying Agent and the Registrar shall be affected by any notice to the contrary.

(C) Notwithstanding anything in paragraphs (A) and (B) of this Section to the contrary, Bonds may be issued from time to time as non-registered coupon bonds under the circumstances described in Section 4.19 hereof or Section 4.23 hereof or where, in the opinion of nationally recognized bond counsel, they may be so issued as federally tax exempt obligations.

Section 4.09. Date and Payment Provisions.

Each Bond of a Series shall bear interest from its date and shall be dated as of the interest payment date next preceding the date of its authentication, unless authentication shall be upon an interest payment date, in which case it shall be dated as of the date of its authentication, or unless authentication shall precede the first payment of interest on the Bonds of such Series, in which case it shall be dated as of the date provided in the Series Resolution as the initial dating of the Bonds of such Series; provided, however, that if at the time of authentication of any Bond, any interest on such Bond is in default, such Bond shall be dated as of the date to which interest on such Bond has been paid.

Section 4.10. Interchangeability of Bonds.

Bonds of a Series, upon surrender thereof at the office of the Registrar for the Bonds of such Series with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder or his duly authorized attorney, may, at the option of the Holder and upon payment by such Holder of any charges made pursuant to Section 4.11 hereof, be exchanged for an equal aggregate principal amount of Bonds of such Series or any other authorized denominations having the same maturity date and bearing the same rate of interest of the Bonds surrendered.

Section 4.11. Regulations With Respect to Exchanges and Transfers.

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the University shall execute and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled and destroyed and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Registrar to the University. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Resolution. There shall be no charge to the Holder for such exchange or transfer of Bonds except that the Registrar may make a charge sufficient to reimburse itself for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Neither the University nor the Registrar shall be required to issue, exchange or transfer (i) any Bond during the fifteen (15) days immediately preceding any Bond Payment Date, (ii) any Bond during a period beginning at the opening of business fifteen (15) days immediately preceding any selection of Bonds to be redeemed and ending at the close of business on the date of the mailing of the notice of such redemption, or (iii) any Bonds called for redemption in whole or in part.

Section 4.12. Cancellation and Destruction of Mutilated, Paid or Surrendered Bonds.

Upon the surrender of mutilated Bonds pursuant to Section 4.07 hereof, or Bonds paid or surrendered, the same shall be canceled and destroyed and shall not be reissued, and a counterpart of the certificate evidencing such destruction shall be furnished by the Registrar to the University. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Resolution.

Section 4.13. Notice of Redemption.

If any of the Bonds, or portions thereof, are called for redemption, the Registrar shall give or cause to be given notice to the Holders of any Bonds to be redeemed, in the name of the University, of the redemption of such Bonds, or portions thereof, which notice shall specify the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of such Series are to be redeemed, the numbers of the Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall be given by mailing a copy of the redemption notice by first class mail at least thirty (30) days but not more than sixty (60) days prior to the date fixed for redemption to the Holder of each Bond, at the address shown on the registration books, unless such Bonds are Variable Rate Bonds in which case notice shall be given at least seven (7) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mail, or any defect in the notice mailed to the Holder of any Bond to be redeemed, shall not affect the validity of the proceedings for the redemption of any other Bond.

Provided funds for their redemption are on deposit with the Trustee, all Bonds so called for redemption shall cease to bear interest on the specified redemption date and shall no longer be deemed to be Outstanding hereunder. If said money shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

#### Section 4.14. Cancellation of Bonds Which Have Been Redeemed.

All Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Registrar to the University. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Resolution.

#### Section 4.15. Selection of Bonds To Be Redeemed.

In the event of redemption of less than all of the Bonds of a Series of any maturity, the Bonds or portions of Bonds to be redeemed, shall be selected by the Registrar in such order as it shall determine; provided, however, that the portion of any Bond of a denomination which is larger than the minimum denomination for the Bonds of such Series shall be in the principal amount of such minimum denomination or a multiple thereof, and that, in selecting portions of such Bonds for redemption, the Registrar shall treat each such Bond as representing that number of Bonds of minimum denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by the amount of the minimum denomination. If there shall be drawn for redemption less than all of a Bond, the University shall execute and the Registrar shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of the same Series in any authorized denomination.

#### Section 4.16. Purchase of Bonds.

The Trustee shall, if and to the extent practicable, purchase Bonds at the written direction of the University at such time, in such manner and at such price as may be specified by the University.

The Trustee may so purchase Bonds with any money then held by the Trustee which is available for the redemption or purchase of Bonds and in excess of that set aside for the payment of Bonds called for redemption; provided, that the Trustee is provided with an opinion of Bond Counsel to the effect that such redemption or purchase complies with any limitations or restrictions on such redemption or purchase contained in this Bond Resolution.

Section 4.17. Security for Payment of Bonds: Priority of Pledge.

The Bonds shall be payable solely from, and are hereby declared to be secured by a pledge of the Net Revenues and Additional Funds. Such pledge securing any of the Bonds shall at all times and in all respects be on parity with all other Bonds; provided, however, the Parking Facilities Revenue Bonds shall also be secured by a statutory lien upon the parking facilities (as defined in the 1995 Bond Resolution), and shall remain superior to pledges hereafter made to secure any other bonds or other obligations payable from such Net Revenues or Additional Funds, except for parity pledges of Additional Funds made to secure Parity Bonds. The Bonds, a Series of Bonds or any portion thereof further shall be payable from, and are hereby declared to be secured by a pledge of the Subsidies to the extent applicable thereto.

Section 4.18. Bonds in Book-Entry Form.

Notwithstanding any other provision of this Bond Resolution with respect to the form of Bonds to the contrary, the University is hereby authorized to provide by Series Resolution for the issuance of one or more Series of Bonds solely in fully registered form registrable to a depository, a nominee or the beneficial owner of the Bonds. The University is further authorized to provide by Series Resolution that such Series of Bonds shall be evidenced by one or more certificates or by a system of book entries in form satisfactory to the Chief Financial Officer and to provide for payment, redemption, notices and like provisions in a manner consistent with such system of registration.

Section 4.19. Bonds Issued as Taxable Obligations.

Notwithstanding anything in this Bond Resolution to the contrary, the University may from time to time, pursuant to one or more Series Resolutions, provide for the issuance of Bonds the interest on which may be includable in gross income of the Holders of such Bonds for federal income taxation purposes. In such event, such Bonds may be issued as coupon bonds, payable to bearer, as provided in the applicable Series Resolution. Such Series Resolution may provide for such rules and regulations with respect to the ownership, transfer and substitution of such Bonds as are necessary to accomplish the purposes consistent with the issuance of bearer obligations.

Section 4.20. Restriction on Optional Redemption.

Notwithstanding anything in this Bond Resolution to the contrary, no redemption of Bonds

which is at the option of the University may be effected unless all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy, line of credit or letter of credit as contemplated under Section 7.05(D) herein shall have been paid in full.

Section 4.21. Waiver of Certain Provisions.

Notwithstanding anything in this Bond Resolution to the contrary, whenever all of the debt issued or all of the obligations incurred by the University under a Series Resolution are acquired by and are to be held to maturity by a single entity, that single entity, at its sole option, may waive any provision or requirement of this Bond Resolution that relates separately to the applicable Series of Bonds and is for the protection and benefit of such single entity only and not for the protection or benefit of any other Holder or Holders of Bonds; provided, however, that before any such waiver shall become effective, the University shall receive an opinion of Bond Counsel that such waiver will not adversely affect the security provided under this Bond Resolution to any other Holder or Holders of Bonds.

Section 4.22. Payments Due on Saturdays, Sundays and Holidays.

In any case where the Bond Payment Date or the date fixed for redemption of any Bonds shall be a Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions are authorized by law to close, then payment of principal of, premium, if any, or interest on the Bonds need not be made on such date but may be made on the next succeeding business day which is not a Saturday, Sunday or legal holiday or a day upon which banking institutions are authorized by law to close, with the same force and effect as if made on the Bond Payment Date or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 4.23. Bonds in Coupon Form.

If at any time after adoption of this Bond Resolution, the University shall receive an opinion of Bond Counsel to the effect that Bonds of any Series may be issued in coupon form payable to bearer without adversely affecting the tax-exempt status of the Bonds of such Series or the Bonds of any other Series and without the imposition of any penalty upon the University, then this Bond Resolution may be amended to provide for the issuance of coupon Bonds payable to bearer and to change or modify any of the provisions of this Bond Resolution that shall be inconsistent with the issuance of Bonds in such form.

Section 4.24. Additional Funds.

The Board of Trustees on behalf of the University designates and approves as "Additional Funds" all available fund and academic fees of the University which are not (i) otherwise designated or restricted; (ii) funds of the University derived from appropriations received from the General Assembly; (iii) tuition funds pledged to the repayment of State Institution Bonds and (iv) student fees pledged to the payment of the University's 1968 and 1971 Plant Improvement Bonds.

Section 4.25. Additional Auxiliary Facilities.

Notwithstanding anything in this Bond Resolution to the contrary, the University shall have the right from time to time to add other activities and facilities of the University (which at the date of adoption of this Bond Resolution were not included in the definition of Facilities hereunder) to the definition of Facilities hereunder, provided that:

- (1) The Board of Trustees shall have determined that such activities are of a similar auxiliary nature as are the Facilities expressly referred to in the Enabling Act;
- (2) The Board of Trustees shall adopt an appropriate amendatory resolution to the Bond Resolution; and
- (3) The University and the Trustee shall have received an opinion of Bond Counsel to the effect that such action to be taken under this Section is authorized under this Bond Resolution and the laws of the State and will not adversely affect the excludability of interest on the Bonds from federal income taxation.

[End of Article IV]

## ARTICLE V

### RATES AND CHARGES

#### Section 5.01. Rate Covenants

(A) It is hereby determined that the rates and charges for utilization of the Facilities shall, until otherwise revised in accordance with this Bond Resolution, be as now established. Said rates and charges are hereby determined to be sufficient to meet the requirements of this Bond Resolution but shall be revised whenever necessary in order that the same shall, together with any Subsidies budgeted to pay debt service on the Bonds or operation and maintenance of the Facilities, at all times be maintained on a basis sufficient to meet the requirements of this Bond Resolution. In this connection, the University specifically covenants and agrees to maintain and collect rates and charges for use of the Facilities, together with any Subsidies budgeted to pay debt service on the Bonds or operation and maintenance of the Facilities which are otherwise excluded from the definition of "Net Revenues" by clause (iii) thereof, which shall at all times be sufficient

- (1) To provide for the payment of the expenses of administration and operation and such expenses for maintenance of the Facilities as may be necessary to preserve the same in good repair and condition;
- (2) To provide for the punctual payment of the principal of and interest on all Bonds and any Junior Lien Bonds that may from time to time hereafter be Outstanding;
- (3) To maintain all Debt Service Funds and thus provide for the punctual payment of the principal of and interest on the Bonds;
- (4) To maintain any Debt Service Reserve Funds, at the level of their respective Reserve Requirements, in the manner prescribed herein or in the applicable Series Resolution;
- (5) To provide a reserve for contingencies and for improvements, renovations and expansions of the Facilities other than those necessary to maintain the same in good repair and condition;
- (6) To pay all amounts owing under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof; and
- (7) To discharge all obligations imposed by the Enabling Act and by this Bond Resolution.

(B) The University covenants and agrees that it will at all times prescribe and maintain rates and charges and thereafter collect charges in accordance with such rates for the Facilities or the use thereof which are reasonably expected to yield annual Net Revenues in the current Fiscal

Year which, together with any Subsidies for operation of the Facilities or debt service of the Bonds which are otherwise excluded from the definition of "Net Revenues" by clause (iii) thereof, equal to at least one hundred percent (100%) of the Combined Annual Principal and Interest Requirement for all Bonds Outstanding in such Fiscal Year and, promptly upon any material change in the circumstances which were contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, shall review the rates and charges for such use and shall promptly revise such rates and charges as necessary to comply with the foregoing requirement. For each Fiscal Year, the Board of Trustees shall adopt an Annual Budget including amended rate schedules for such Fiscal Year which shall set forth in reasonable detail the estimated revenues and operating expenses of the Facilities and any Subsidies described above for each Fiscal Year and which shall include appropriations, if any, for the estimated operating expenses of the Facilities for such period and the amount to be deposited during such Fiscal Year in the Maintenance Reserve Fund. The Board of Trustees may at any time adopt an amended Annual Budget for the remainder of the then current Fiscal Year, or may delegate to the Chief Financial Officer the authority to revise rates and charges as may be necessary, in such a manner as may be consistent with State law. The University further covenants and agrees that, at any time after it secures Bonds by a pledge of any Pledged Fees, it will at all times prescribe and maintain and thereafter collect fees, rates and charges such that Net Revenues, Pledged Fees budgeted for the payment of operation and maintenance costs of the Facilities or debt service on Bonds or Parity Bonds, and the receipts of any Additional Parity Bond Sources intended to pay debt service on Parity Bonds shall equal at least one hundred percent (100%) of the Combined Annual Principal and Interest Requirement for all Bonds Outstanding and all Parity Bonds in each Fiscal Year.

[End of Article V]

## ARTICLE VI

### JUNIOR LIEN BONDS; OTHER OBLIGATIONS; CLOSING OF RESOLUTIONS

#### Section 6.01. Right to Issue Junior Lien Bonds; Accession Thereof to Status of Bonds.

Notwithstanding that Bonds may be Outstanding, the University may, at any time, and without limitation and free of all conditions, issue Junior Lien Bonds, in such amount as it may from time to time determine, payable from the revenues of the Facilities and Additional Funds; provided that the pledge of and any lien on the Net Revenues of the Facilities and Additional Funds granted for the protection of said Junior Lien Bonds, shall at all times be subordinate and inferior in all respects to the pledges of and liens on such Net Revenues and Additional Funds, the Facilities made or authorized for the Bonds and provided, further, that the maturity of Junior Lien Bonds may not be accelerated and paid in full unless all of the Bonds shall have been paid or provision therefor has been made pursuant to Article XVI hereof.

By proceedings authorizing the issuance of Junior Lien Bonds, the University may provide for the accession of such Junior Lien Bonds to the status of Bonds provided all of the following conditions are met:

(1) The Junior Lien Bonds were issued for a purpose or purposes set forth in Section 4.01(A) hereof.

(2) There shall exist on the date of accession (a) no default in the payment of the principal of or interest on any Bonds or any Junior Lien Bonds then Outstanding and (b) no default in the performance of any duties required under the provisions of this Bond Resolution and (c) no amount owed by the University with respect to the full funding of a Debt Service Reserve Fund, either by way of cash or reimbursement of any other funding mechanism.

(3) The University shall obtain an opinion of Bond Counsel to the effect that (a) this Bond Resolution and the proceedings authorizing such Junior Lien Bonds have been duly adopted and are in full force and effect; (b) the Junior Lien Bonds have been duly and lawfully authorized and executed by the University and are valid and binding upon, and enforceable against, the University (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); and (c) this Bond Resolution creates the valid pledge which it purports to create of the revenues and of moneys and securities on deposit in any of the funds established hereunder subject to the application thereof to the purposes and on the conditions permitted by this Bond Resolution.

(4) There shall be on deposit on the date of accession in a Debt Service Reserve Fund, if any such Debt Service Reserve Fund is required by the resolution authorizing the Junior Lien Bonds, an amount equal to the Reserve Requirement for such Junior Lien Bonds, considering such Junior Lien Bonds to be a Series of Bonds.

(5) There shall be deposited in the Debt Service Fund for such Series of newly-acceded Bonds the amounts which would have been required under the provisions of Section 8.04 hereof to be accumulated therein on the date of accession if said Junior Lien Bonds had originally been issued as Bonds.

(6) On the date of accession, the earnings tests prescribed by subparagraphs 7(a) and (b) of Section 4.02 shall have been met.

(7) In the event such Junior Lien Bonds were issued with variable rates, the provisions of subparagraph (10) of Section 4.02 shall have been met.

Such Junior Lien Bonds may be further secured by any other source of payment lawfully available for such purpose.

Section 6.02. Closing of Resolutions.

In order to maintain the priority of the pledge and lien granted by Section 4.17, the University covenants, agrees and confirms that it will issue no further bonds or other obligations pursuant to the authorization of the Resolution of 1971, the Supplemental Resolution of 1971, the Supplemental Resolution of 1973, the Supplemental Resolution of 1974, the Supplemental Resolution of 1988 or any other resolution previously adopted regarding Facilities.

Section 6.03. Parity Bonds.

Notwithstanding that Bonds may be Outstanding, the University may, at any time, and without limitation, issue Parity Bonds secured by a pledge of the Additional Funds, which pledge shall be on a parity in all respects with the pledge of such Additional Funds securing the Bonds; provided, however, that the following must be satisfied at the time of issuance of such Parity Bonds:

Gross receipts generated from the Additional Funds during the Fiscal Year immediately preceding the Fiscal Year in which such issue of Parity Bonds is to be issued, adjusted to reflect any increases in the Additional Funds currently adopted and to be in effect prior to or coincident with the issuance of such Parity Bonds and determined pro forma as though such increases had been in continuous effect during such preceding Fiscal Year, shall be not less than one hundred twenty percent (120%) of the maximum Combined Annual Principal and Interest Requirement for all Bonds and Parity Bonds outstanding immediately prior to the proposed issuance and on such issue of Parity Bonds; such calculation shall be based upon a report of the Accountants showing actual gross receipts generated from Additional Funds for the Fiscal Year preceding the Fiscal Year in which such issue of Parity Bonds is to be issued.

[End of Article VI]

## ARTICLE VII

### ESTABLISHMENT OF FUNDS

#### Section 7.01. Requirement for Special Funds and Accounts.

For so long a time as any sum remains due and payable by way of principal or interest on the Bonds, the accounting system for the Facilities shall be so maintained as to reflect the following funds or accounts relating to the Gross Revenues and such funds or accounts shall be established and maintained, and deposits shall be made therein in the manner herein required. The Trustee may, in its discretion or at the request of the University, establish different accounts within any funds for the purpose of identifying Gross Revenues deposited to a fund or for the accounting with respect to all matters and obligations relating to any portion of the Facilities by source or ultimate use.

#### Section 7.02. The Revenue Fund.

(A) There shall be established and maintained with the Trustee a fund designated as the Revenue Fund.

(B) All Gross Revenues shall be deposited in accordance with and in the manner prescribed by Article VIII hereof into the Revenue Fund. Money in the Revenue Fund shall be withdrawn and made use of only in the manner and in the order of priority specified in Article VIII hereof.

(C) Money in the Revenue Fund shall be invested and reinvested in accordance with the State Code in Authorized Investments having suitable maturities consonant with the need for application of such moneys. Any earnings on investment of money in the Revenue Fund are Gross Revenues and shall accrue to the benefit of the Revenue Fund.

#### Section 7.03. The Operation and Maintenance Fund.

(A) There shall be established and maintained by the University an Operation and Maintenance Fund. This fund is intended to provide for the payment of all expenses routinely incurred in connection with the administration and operation of the Facilities, including without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the Facilities in good repair and condition and to pay the fees and charges of the Trustee, the Paying Agent, the Registrar and the custodian or trustee of any other fund created or to be created hereunder (provided however that the fees and charges of the Paying Agent, Registrar, Trustee, or other fund custodian may be paid by the State Treasurer directly from the Revenue Fund, and such payments shall nonetheless be deemed to be costs of operating and maintaining the Facilities), the costs of audits required hereunder, and the premiums for all insurance policies and any fidelity bonds required by this Bond Resolution.

(B) Withdrawals from the Operation and Maintenance Fund shall be made by the University in accordance, as nearly as may be practicable, with the Annual Budget then in effect.

(C) Money in the Operation and Maintenance Fund shall be invested and reinvested in accordance with the State Code in Authorized Investments having suitable maturities consonant with the need for application of such moneys. Any earnings on investment of money in the Operation and Maintenance Fund shall accrue to the benefit of the Operation and Maintenance Fund.

Section 7.04. Debt Service Funds.

(A) There shall be established and maintained a Debt Service Fund for each Series of Bonds Outstanding. Each such Debt Service Fund shall bear a number Series designation as may be necessary to distinguish such Debt Service Fund and shall, subject to the other provisions of this Bond Resolution, be maintained so long as the applicable Series of Bonds shall be Outstanding. The Debt Service Funds are intended to provide for the payment of the principal of, premium, if any, and interest on the respective Series of Bonds as the same respectively fall due. Payments into such Funds shall be made in the manner prescribed by this Bond Resolution, including the applicable provisions of Article VIII hereof, and, except as herein provided, all money in the respective Debt Service Funds shall be used solely to pay the principal of, premium, if any, and interest on the Series of Bonds to which the same apply, and for no other purpose.

(B) The Debt Service Funds shall be kept in the complete custody and control of the Trustee and withdrawals from the Debt Service Funds shall be made only by the Trustee who shall transmit to the Paying Agent, for payment to each Bondholder, at such times as may be appropriate, the sums required to pay the principal of, premium, if any, and interest on the respective Series of Bonds.

(C) Money in the Debt Service Funds shall be invested and reinvested in accordance with the State Code in Authorized Investments, maturing not later than the date on which such money is required to pay the interest and/or the principal and interest next maturing. All earnings from the investments within a Debt Service Fund shall be added to and become a part of that Debt Service Fund, but shall be credited against payments that would otherwise be made to that Debt Service Fund pursuant to the provisions of Section 8.04 hereof.

(D) There may be established in any of the Debt Service Funds from time to time a Capitalized Interest Account to provide for the payment of interest on the Bonds of the applicable Series. Any such account shall be created by the Series Resolution relating to the issuance of the Bonds of such Series. Any earnings from the investment of moneys in a Capitalized Interest Account not required to pay interest on the Bonds of the applicable Series during the period for which interest on the Bonds of such Series is capitalized shall be deposited in the construction fund created by the Series Resolution relating to such Series of Bonds or, if such construction fund has been terminated or no such fund was created, such earnings shall be retained in the applicable Debt Service Fund.

Section 7.05. The Debt Service Reserve Funds.

(A) A Series Resolution may provide for the establishment of a Debt Service Reserve Fund for any Series of Bonds Outstanding. Each such Debt Service Reserve Fund shall bear a number Series designation as may be necessary to distinguish such Debt Service Reserve Fund and shall, subject to the other provisions of this Bond Resolution, be maintained in an amount equal to the applicable Reserve Requirement, as determined pursuant to the Series Resolution so long as the applicable Series of Bonds shall be Outstanding. Each such Debt Service Reserve Fund is for the equal and ratable benefit only of Bonds of that Series. Each such fund is intended to insure the timely payment of the principal of and interest on the applicable Series of Bonds only, and to provide for the redemption of such Series of Bonds prior to their stated maturities. Notwithstanding anything in this Bond Resolution to the contrary, upon any shortfall of moneys in the applicable Debt Service Fund to pay principal of and interest on one or more Series of Bonds, the Trustee shall draw on the applicable Debt Service Reserve Fund, if any, to cover such shortfall. Money in each Debt Service Reserve Fund shall be used for the following purposes, and for no other, viz.:

- (1) to prevent a default in the payment of the principal of or interest on the applicable Series of Bonds, by reason of the fact that money in the applicable Debt Service Fund is insufficient for such purposes;
- (2) to pay the principal of, interest on, and premium, if any, of the applicable Series of Bonds in the event that all Outstanding Bonds of such Series be redeemed as a whole; or
- (3) to effect partial redemption of the applicable Series of Bonds; provided that subsequent to said partial redemption, the market value of the cash and securities in such Debt Service Reserve Fund, together with the value of any surety bond, insurance policy, line of credit, or letter of credit used pursuant to Section 7.05(D) hereof in lieu of a deposit of money, shall be not less than its then applicable Reserve Requirement.

(B) Each Debt Service Reserve Fund shall be kept in the complete custody and control of the Trustee and withdrawals therefrom shall be made only by the Trustee who shall transmit to the Paying Agent, for payment to each Bondholder of the applicable Series, at such times as may be appropriate, the sums required to pay the principal of, premium, if any, and interest on such Series of Bonds.

(C) Moneys in each Debt Service Reserve Fund shall be invested and reinvested in accordance with the State Code in Authorized Investments. The earnings from investments in a particular Debt Service Reserve Fund shall be added to the Revenue Fund and become a part of that Fund.

(D) Notwithstanding anything in this Bond Resolution to the contrary, the University, in lieu of the deposit of moneys into a Debt Service Reserve Fund, may satisfy the Reserve Requirement by causing to be so credited an irrevocable and unconditional surety bond or insurance policy payable to the Trustee or the Paying Agent for the benefit of the Holders of the Bonds of a

Series or an irrevocable and unconditional letter of credit in an amount which together with other moneys on deposit in such Debt Service Reserve Fund is equal to the Reserve Requirement therefor, all in accordance with the terms set forth in the applicable Series Resolution.

(E) In the event a Debt Service Reserve Fund has been funded with a surety bond, insurance policy, line of credit or letter of credit and either such instrument has been drawn upon, moneys available to repay such surety bond, insurance policy, line of credit or letter of credit provider shall first be used to reinstate the surety bond, insurance policy, line of credit or letter of credit to its original amount. Any interest or fees due to the surety bond, insurance policy, line of credit or letter of credit provider, other than reinstatement, shall be subordinate to any amounts payable upon the Bonds.

(F) In the event a Debt Service Reserve Fund is funded with a surety bond, insurance policy, line of credit or letter of credit, any revenues available for debt service on the Bonds shall be distributed on a pro rata basis among the Outstanding Bonds of each Series without regard to the method or level of funding of the respective Debt Service Reserve Funds, if any, for each Series.

(G) Any cash or investments on deposit in or credited to a Debt Service Reserve Fund shall be withdrawn prior to any draw on its surety bond, insurance policy or letter of credit with respect thereto. In the event the amount on deposit in, or credited to, a Debt Service Reserve Fund, in addition to the amount available under the surety bond, insurance policy or letter of credit in question (the "Original Funding Instrument") includes amounts available under another surety bond, insurance policy or letter of credit (the "Additional Funding Instrument"), draws on the Original Funding Instrument and the Additional Funding Instrument shall be made on a pro rata basis to fund any insufficiency in the Debt Service Fund.

#### Section 7.06. The Maintenance Reserve Fund.

(A) There shall be established and maintained by the Trustee a fund designated as the Maintenance Reserve Fund. The Maintenance Reserve Fund is established hereunder in order to provide a reasonable reserve for contingencies and for improvements, expansions and renovations. Money in the Maintenance Reserve Fund may be withdrawn by the University from time to time and used: (1) for the purpose of restoring or replacing depreciated or obsolete items of the Facilities; (2) for improvements, expansions and renovations to the Facilities; (3) to defray the costs of unforeseen contingencies and other expenses related to the use of the Facilities; (4) other lawful purposes deemed appropriate by the Chief Financial Officer; and (5) to prevent a default in the timely payment of principal and/or interest on Bonds or Junior Lien Bonds.

(B) Money in the Maintenance Reserve Fund shall be invested and reinvested at the direction of the University to the extent permitted by law, or, if the State Treasurer is the Trustee, at the direction of the Trustee, in Authorized Investments having suitable maturities consonant with the need for application of such moneys. Any earnings on investment of money in the Maintenance Reserve Fund shall accrue to the benefit of the Maintenance Reserve Fund.

Section 7.07. Construction Funds.

(A) Whenever the University shall issue Bonds, the proceeds of which are to be used for construction, improvement, expansion, renovation or repair of the Facilities, there shall be established under the applicable Series Resolution and maintained by the Trustee a construction fund into which proceeds from sale of the Bonds of such Series, and earnings from investment thereof, shall be deposited. Each such construction fund shall bear a number Series designation as may be necessary to distinguish such construction fund and shall, subject to the other provisions of this Bond Resolution, be maintained until all funds are expended therefrom whether for the project for which the Bonds were issued or pursuant to Section 7.07(C) hereof.

(B) Money in any construction fund shall be invested and reinvested at the direction of the University to the extent permitted by law, or, if the State Treasurer is the Trustee, at the direction of the Trustee, in Authorized Investments having suitable maturities consonant with the need for application of such moneys. Any earnings on investment of money in any construction fund shall accrue to the benefit of such construction fund.

(C) Upon completion of construction, renovation or repair of any project and the expenditure of all sums necessary therefor, any moneys remaining in any construction fund at such time shall, at the discretion of the Chief Financial Officer, be used to construct, renovate, repair or improve additional Facilities as may be approved by the Board of Trustees, or may be used to fund any amounts required to be paid to the United States Government pursuant to Section 148(f) of the Code as rebate of arbitrage earnings or be used to pay interest or principal on the particular Series of Bonds.

[End of Article VII]

## ARTICLE VIII

### DISPOSITION OF REVENUES

#### Section 8.01. Deposits to the Revenue Fund; Dispositions Therefrom.

The Gross Revenues are declared to be a part of the Revenue Fund and shall from time to time be promptly deposited with the Trustee in the Revenue Fund. The dispositions from the Revenue Fund to other funds required by Sections 8.03 through 8.10 hereof shall be made as provided herein and in the order of priority established by the sequence of the remaining sections of this Article.

#### Section 8.02. Requirement of Annual Budget.

For each Fiscal Year, the Board of Trustees will cause to be prepared the Annual Budget for the operation of the Facilities for the next ensuing Fiscal Year (which may be a part of the general budget of the University), which shall reflect the rate schedules for the Facilities for the ensuing Fiscal Year, an estimate of the Gross Revenues and all sums which the Board of Trustees intends to spend for such Facilities during such Fiscal Year. Each such Annual Budget shall set forth all sums intended to be expended or deposited by the University pursuant to this Article VIII. Copies of such Annual Budget shall be sent to the Trustee and to any Bondholder requesting the same. The provisions of this Section shall not preclude, however, any revisions of the Annual Budget.

#### Section 8.03. Deposits to and Withdrawals from the Operation and Maintenance Fund.

At such times, and from time to time as shall be necessary for the purposes for which the Operation and Maintenance Fund is established, moneys in the Revenue Fund and, to the extent moneys in the Revenue Fund are insufficient, Additional Funds shall be deposited by the Trustee in the Operation and Maintenance Fund in amounts estimated by the Chief Financial Officer to be sufficient to pay for the regular, non-capital costs of operation and maintenance of the Facilities for such time period and to pay the fees and charges of the Trustee, the Paying Agent, the Registrar and the custodian or trustee of any other fund created or to be created hereunder (provided, however, that the fees and charges of the Paying Agent, Registrar, Trustee or other fund custodian may be paid by the State Treasurer directly from the Revenue Fund, and such payments shall nonetheless be deemed to be costs of operating and maintaining the Facilities), the costs of audits required hereunder, and the premiums for all insurance policies and any fidelity bonds required by this Bond Resolution. Moneys on deposit in the Operation and Maintenance Fund shall be withdrawn by the University from time to time to pay such costs.

To the extent that moneys on deposit in the Operation and Maintenance Fund at any time exceed the amount estimated by the Chief Financial Officer to be necessary for payment of the costs referred to in this Section 8.03 during the applicable time period, such moneys may be withdrawn from the Operation and Maintenance Fund and deposited to other funds or uses referenced in Section 8.04 through 8.10 in the order of priority established by the sequence of those sections.

#### Section 8.04. Payments for Bonds.

To the extent that deposits have been made in the amounts and at the times required in Section 8.03, provision shall be made for the payment of the principal of and interest on all Bonds then Outstanding from the Revenue Fund and, to the extent moneys in the Revenue Fund are insufficient, Additional Funds, all without priority of any Bonds over others. To that end:

(A) On or before the fifteenth day of the month immediately preceding each Bond Payment Date, there shall be deposited in the respective Debt Service Funds an amount sufficient to discharge all interest to become due on the respective Series of Bonds on the next ensuing interest payment date; provided, however, that if provision has been made for the payment of all or part of the next installment of interest to become due on any Series of Bonds, pursuant to any other provision of this Bond Resolution, or any Series Resolution, or by reason of investment earnings, then, in such event, the deposits required by this Paragraph (A) may be omitted, or reduced accordingly. If, as a result of the provision in a Series Resolution that any Series of Bonds shall bear interest payable for a period less than semi-annually, and any Holder of such Bonds shall receive payments of interest for any period for which payments were not made to holders of Bonds bearing interest payable semi-annually, then there shall be set aside in the applicable Debt Service Fund in trust for the benefit of the Holders of Bonds bearing interest payable semi-annually an amount of money equal to the interest accrued on the Bonds bearing interest payable semi-annually for such period.

(B) On or before the fifteenth day of the month immediately preceding each Bond Payment Date on which no payment of principal is due to be made, there shall be deposited in the respective Debt Service Funds a sum equal to one-half (1/2) of the aggregate amount of principal of all Bonds becoming due and payable on the next ensuing Bond Payment Date on which a payment of principal is due to be made. On or before the fifteenth day of the month immediately preceding each Bond Payment Date on which a payment of principal is due to be made, there shall be deposited in the respective Debt Service Funds a sum equal to the amount necessary, when added to the payment made pursuant to the preceding sentence, to discharge the aggregate amount of principal of all Bonds becoming due and payable on the ensuing Bond Payment Date. Provided, however, that if provision has been made for the payment of all or part of either of the above-referenced installments of principal to become due on the Bonds, pursuant to any other provision of this Bond Resolution, or any Series Resolution, or by reason of investment earnings, then, in such event, the deposits required by the preceding sentence of this Paragraph may be omitted, or reduced accordingly.

(C) Notwithstanding anything contained in this Resolution to the contrary, all Subsidies received shall, without condition, be deposited directly to the Debt Service Fund for payment of principal and interest on the applicable Bonds at such times and shall be included in those amounts required to be deposited in the Debt Service Fund as specified in Section 8.04(A) and Section 8.04(B) above. The Subsidies deposited in the Debt Service Fund shall not be transferred to any other fund established under this Resolution and shall only be used to pay debt service on the applicable Bonds.

Section 8.05. Deposits for the Debt Service Reserve Funds; Valuation; Use of Excess Amounts.

(A) To the extent that deposits have been made in the amounts and at the times required in Sections 8.03 and 8.04, deposits from the Revenue Fund and, to the extent moneys in the Revenue Fund are insufficient, Additional Funds, shall next be made in the amounts required by this Section 8.05 into any Debt Service Reserve Funds. The market value of the cash and securities in each Debt Service Reserve Fund, if any, shall be calculated as of each June 30th, to be completed within forty-five (45) days after such date, in order to determine if such Debt Service Reserve Fund contains the amount required by the applicable Series Resolution and the extent to which payments therefor or withdrawals therefrom must be made. In the event the aggregate market value of such cash and securities, together with any surety bond or letter of credit as described in Section 7.05(D) hereof, in a Debt Service Reserve Fund at the end of such Fiscal Year is determined not to equal the applicable Reserve Requirement, then the deficiency shall be met through the payment into the applicable Debt Service Reserve Fund as quickly as practicable, but in any event, in not less than two (2) equal payments, and not later than on the fifteenth day of the months immediately preceding the two next succeeding Bond Payment Dates equal to fifty percent (50%) of the amount necessary to re-establish in such Debt Service Reserve Fund its respective Reserve Requirement. Whenever, and as of any date of calculation, the value of securities and money in any Debt Service Reserve Fund shall exceed the Reserve Requirement therefor, such excess may either be used to effect partial redemption of the applicable Series of Bonds or may be removed from the Debt Service Reserve Fund and transferred to the Revenue Fund, as directed by the Chief Financial Officer or his designee.

(B) In the event a Debt Service Reserve Fund is funded with both moneys and a surety bond, insurance policy, line of credit or letter of credit as the latter are contemplated by Section 7.05(D) hereof, any available revenues to replenish such Debt Service Reserve Fund shall be used, first, to reimburse the provider of such surety bond, insurance policy or letter of credit and thereby reinstate such surety bond, insurance policy, line of credit or letter of credit, and, second, to replenish said moneys.

(C) The value of any Authorized Investments in a Debt Service Reserve Fund shall be calculated as follows:

(1) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal or in The New York Times or on a nationally recognized securities quotation service as selected by the Trustee, the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination or, if applicable, the most recently available closing price;

(2) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times or a nationally recognized securities quotation service as selected by the Trustee, the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;

(3) as to certificates of deposit and bankers acceptances, the face amount thereof, plus accrued interest; and

(4) as to any investment not specified above, the value thereof established by prior agreement between the University, the Trustee and any municipal bond insurance company insuring such Series of Bonds.

Section 8.06. Reimbursement of Interest on Amounts Advanced for Debt Service Reserve Funds.

To the extent that deposits to funds have been made in the amounts required and, if applicable, on or before the dates required in Section 8.03, 8.04 and 8.05 hereof, provision shall then be made for payment of interest on amounts advanced by the provider of any surety bond, insurance policy, line of credit or letter of credit as contemplated in Section 7.05(D) hereof.

Section 8.07. Payments for Junior Lien Bonds.

To the extent that deposits have been made in the amounts and at the times required in Sections 8.03, 8.04, 8.05 and 8.06, provision shall then be made for the payment of any other indebtedness which is junior and subordinate to the Bonds in the order of priority contemplated by the proceedings authorizing their issuance.

Section 8.08. Deposits to Maintenance Reserve Fund.

To the extent that deposits to funds have been made in the amounts required and on or before the dates required in Sections 8.03, 8.04, 8.05, 8.06 and 8.07, the Trustee may, at the direction of the University, deposit monies in the Revenue Fund into the Maintenance Reserve Fund.

Section 8.09. Withdrawals of Funds for other Lawful Purposes.

To the extent that deposits to funds have been made in the amounts required and on or before the dates required by Sections 8.03, 8.04, 8.05, 8.06, 8.07 and 8.08, Revenues remaining in the Revenue Fund may be withdrawn by the University and used for improvement, enlargement or extension of the Facilities, or payment of Bonds then Outstanding or for any other lawful purposes.

Section 8.10. Disposition of Excess Moneys in Funds.

Whenever there shall no longer be any Bond Outstanding under this Bond Resolution and all fees and expenses of the Trustee and Paying Agents and all other sums due and owing hereunder have been paid or due provision made for such payment all moneys then remaining in any fund (exclusive of moneys, if any, held therein for the purposes of Article XVI) shall, if an Event of Default as defined herein shall not then exist or be continuing, be paid to the University, exclusive, however, of any moneys then credited to any fund required for payment to the parties entitled thereto.

[End of Article VIII]

## ARTICLE IX

### AGREEMENT TO FURNISH INFORMATION WITH RESPECT TO THE FACILITIES

#### Section 9.01. Keeping Records.

The University recognizes that those who may from time to time hereafter be Bondholders will throughout the life of the Bonds, require full information with respect to the Facilities, the fiscal affairs of the Facilities, and all matters incident to each. To that end the University covenants and agrees that it will install and thereafter at all times maintain proper books of records and accounts, separate and distinct from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the Facilities, and all revenues and receipts derived therefrom, directly or indirectly. Such books and records shall be kept in such fashion as to reveal in detail:

- (1) All transactions incurred by the University with respect to the Facilities;
- (2) The Gross Revenues and the sources from whence derived;
- (3) All expenses incurred in the operation and maintenance of the Facilities suitably identified as to purpose;
- (4) The Net Revenues;
- (5) All expenditures made from the several funds established by this Bond Resolution and the Series Resolutions authorizing the issuance of the Bonds;
- (6) The rate schedules that may from time to time be in effect as to the Facilities; and
- (7) Additional Funds; and
- (8) Any Subsidies.

#### Section 9.02. Audit Required.

The University further covenants and agrees that so long as any Bonds are Outstanding, it will, as soon after the close of each Fiscal Year as possible, cause to be made and completed by the Accountants, an audit of the records, books and accounts of the University in accordance with generally accepted auditing standards. The University shall provide a copy of such audit to the Trustee. Such audit shall comment upon any violation of any provision of any resolution authorizing the issuance of any Bonds or Junior Lien Bonds and any violation of any provision of this Bond Resolution or any Series Resolution noted by the Accountants, and such other matters as to them seem pertinent. The cost of such audit shall be treated as a part of the cost of operating and maintaining the Facilities. Copies of such audit shall also be made available to any Bondholder who shall have requested the same in writing to the Trustee.

[End of Article IX]

## ARTICLE X

### INSURANCE

#### Section 10.01. Insurance.

The University covenants and agrees that so long as any Bonds are Outstanding:

(A) That it will keep the Facilities continuously insured under fire and extended coverage policies, in an amount at least equal to the face amounts of all Bonds Outstanding; provided, however, that in case the principal amount of such Outstanding Bonds shall be greater than the insurable value of the Facilities, then the University shall insure the Facilities to the extent of their insurable value;

(B) That in case of loss, the proceeds of the casualty insurance referred to in Paragraph (A) above shall be applied to repair or to restore such Facilities, or the contents thereof, to their former condition, or in such manner as will make the Facilities usable, for the acquisition of additional Facilities, or for the redemption of Bonds at the earliest practicable date;

(C) That it will secure adequate fidelity bonds (blanket or individual) of a surety company doing business in the State, indemnifying the University against defalcation of all University or State employees handling money derived from the Facilities or signing checks on any bank accounts relating to the Facilities other than the Trustee, each Registrar or each Paying Agent;

(D) That all premiums on all bonds or insurance policies shall be deemed a part of the cost of operating and maintaining the Facilities;

(E) That all insurance policies shall be open to the inspection of any Bondholder at any reasonable time;

(F) That all money received by the University as a consequence of any defalcation, covered by any fidelity bond, shall be used to restore the fund or account depleted by the defalcation; and

(G) That it will comply with the requirements of State law regarding the mandatory purchase of liability insurance contained in Section 15-78-140(b), Code of Laws of South Carolina 1976, as amended from time to time.

Notwithstanding anything herein to the contrary, the Trustee shall have no duty hereunder to hold the insurance policies or certificates or surety bonds referred to in this Article.

[End of Article X]

**ADDITIONAL COVENANTS:**  
**DISPOSITION OF FACILITIES**

The University further covenants and agrees:

(F) That, as to any Series of Bonds which were intended at the time of their issuance to be exempt from federal income taxation, it will take all actions required of it under the Code that

are necessary to preserve the tax-exempt status of such Bonds, including without limitation, actions necessary to comply with all information reporting requirements and any obligation to rebate arbitrage earnings on the proceeds of such Bonds to the United States Government;

(G) That it will make all payments or deposits required under Articles VII and VIII of this Bond Resolution in a timely manner; and

(H) That it will, from time to time, forward to the Trustee, in writing, the name of the Chief Financial Officer and any designee of such Chief Financial Officer, together with a specimen signature of such individual.

Section 11.02. Sale and Disposition of Facilities.

So long as the Bonds are outstanding, the University covenants and agrees that it will not sell, dispose of, abandon or change the use of the Facilities, or any part thereof, except under the following conditions:

(A) The University shall have the right to dispose of any obsolete or worn out equipment, furniture and furnishings which may be at any time a part of the Facilities, but all moneys realized therefrom shall be treated as a part of the Gross Revenues;

(B) Pursuant to resolution of the Board of Trustees, the University, upon the written recommendation of the Chief Financial Officer that such action will not adversely affect the ability of the University to discharge its obligations under this Bond Resolution, may abandon or demolish any portion of the Facilities which it finds to be no longer serviceable or may discontinue providing any service now or hereafter provided by the University whether directly or indirectly, in or by any Facilities;

(C) The University may sell or otherwise dispose of (other than as provided in Paragraphs (A) and (B) of this Section 11.02) any portion of the Facilities, provided that:

(1) The Trustee shall be provided with an appraisal from an independent certified appraiser stating that in its opinion the purchase price or other consideration to be received represents the fair market value of the portion of the Facilities sought to be sold or otherwise disposed of;

(2) A resolution of the Board of Trustees shall have been adopted, to which shall have been appended a recommendation of the Chief Financial Officer as to the same and a copy of the appraisal referred to above, approving the sale or other disposition and prescribing that the proceeds of the sale or other disposition shall be deposited in a separate fund with the Trustee and applied either (a) to the Maintenance Reserve Fund, or (b) applied to the partial payment and redemption of the Bonds in the manner provided for redemptions in this Bond Resolution;

(3) The Board of Trustees shall have obtained the recommendation of the Chief

Financial Officer that such action will not adversely affect the ability of the University to discharge its obligations under this Bond Resolution; and

- (4) The University shall have obtained any approvals required by State law;

or;

(D) Pursuant to resolution of the Board of Trustees, the University, upon the written recommendation of the Chief Financial Officer that such action will not adversely affect the ability of the University to discharge its obligations under this Bond Resolution and upon receipt of a written opinion of Bond Counsel that such action will not adversely affect the tax-exempt status of any of the Bonds, may change from a provision of services directly the University in or by an of the Facilities to provision of such services by an independent contractor, and vice versa.

[End of Article XI]

## ARTICLE XII

### MODIFICATION OF RESOLUTION

#### Section 12.01. Modification without Bondholder Approval.

(A) Provided always that the security of the Bonds shall not be lessened, or in any manner impaired, the Board of Trustees may for any one or more of the following purposes at any time, or from time to time, adopt a resolution amending or supplementing this Bond Resolution, which resolution shall be fully effective in accordance with its terms:

- (1) To provide for the issuance of a Series of Bonds in accordance with Article IV of this Bond Resolution;
- (2) To add to the covenants and agreements of the University in this Bond Resolution, and to provide for other covenants and agreements thereafter to be observed relative to the operation, maintenance, construction or administration of any part of the Facilities; it being further specifically provided that the Chief Financial Officer is hereby authorized prior to the sale of any Series of Bonds to increase the required ratios involving Net Revenues herein or to increase the credit rating requirements for the providers of Debt Service Reserve Fund substitutes and any such increased covenant shall be set forth in the form of the Bond of that Series and each subsequent Series;
- (3) To surrender any right, power or privilege reserved to or conferred upon the University by this Bond Resolution;
- (4) To cure, correct and remove any ambiguity or inconsistent provisions contained in this Bond Resolution; or

(B) It is further provided that, except for a Series Resolution as permitted by paragraph (A) above and Article IV hereof, such supplemental resolution shall not become effective until a copy thereof, duly certified, shall have been filed with the Trustee and each Paying Agent.

#### Section 12.02. Modification with Bondholder Approval.

The rights and duties of the University and the Bondholders and the terms and provisions of this Bond Resolution may be modified or altered in any respect by an amendatory or supplementary resolution adopted by the Board of Trustees with the consent of the Holders of sixty-six and two-thirds percent (66 2/3%) in principal amount of all Bonds of each Series which would be affected by such modification or alteration then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Holders and duly acknowledged or proven in the manner of a deed capable of being recorded, and the consent of any municipal bond insurance company insuring any Bonds of a Series that would be affected, but no such modification or alteration shall:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
  - (B) Effect a reduction in the amount which the University is required to pay by way of principal of, interest or redemption premium on any Bonds;
  - (C) Effect a change as to the type of currency in which the University is obligated to effect payment of the principal of, interest and redemption premiums of any Bond;
  - (D) Permit the creation of a pledge of or lien upon the revenues of the Facilities prior to or equal to the Bonds, except as authorized in this Bond Resolution;
  - (E) Permit preference or priority of any Bonds to others;
  - (F) Alter or modify the provisions of Section 4.02 or of Articles V, VII, and VIII hereof;
- or
- (G) Reduce the percentage required for the written consent to the modification or alteration of the provisions of this Bond Resolution;

without the consent of the Holders of all Bonds affected by such change or modification.

Section 12.03. Procedure for Procuring Bondholder Approval.

The University and the Trustee may rely upon the registration books maintained by the Registrar to determine who are the Holders of the Bonds. Any and all modifications made in the manner hereinabove provided for shall not become effective until there has been filed with the Trustee and each Paying Agent a copy of such amendatory or supplementary resolution hereinabove provided for, duly certified, as well as proof of consent to such modification by the Holders of sixty-six and two-thirds percent (66 2/3%) in principal amount of the Bonds of each Series then Outstanding.

[End of Article XII]

## ARTICLE XIII

### EVENTS OF DEFAULT

#### Section 13.01. Events of Default.

The occurrence and continuation of any of the following events is hereby declared an "Event of Default" hereunder:

(A) Payment of the principal of any of the Bonds shall not be made when the same shall become due and payable, either at maturity or by proceedings for redemption;

(B) Payment of any installment of interest on any Bonds shall not be made when the same becomes due and payable;

(C) Payment of any installment of either interest or principal of any Junior Lien Bonds shall not be made when the same becomes due and payable or any other event of default shall exist with respect to any Junior Lien Bonds;

(D) The University shall for any reason be rendered incapable of fulfilling its obligations hereunder;

(E) An order or decree shall be entered with the consent or acquiescence of the University appointing a receiver, or receivers, of the Facilities, or of the revenues thereof, or any proceedings shall be instituted with the consent or acquiescence of the University for the purpose of effecting a composition between the University and its creditors whose claims relate to the Facilities, or for the purpose of adjusting claims of such creditors, pursuant to any Federal or State statute now or hereafter enacted, or if such order or decree, having been entered without the consent or acquiescence of the University, shall not be vacated or discharged or stayed on appeal within sixty (60) days after entry thereof, or if such proceeding having been instituted without the consent or acquiescence of the University, shall not be withdrawn or any orders entered shall not be vacated, discharged, or stayed on appeal within sixty (60) days after the institution of such proceedings, or the entry of such orders;

(F) The University shall fail to operate the Facilities in an efficient and business-like fashion or shall default in the due and punctual performance of any other of the covenants, conditions, agreements or provisions contained in any Series Resolution or in this Bond Resolution, and such default shall continue for thirty (30) days after written notice, specifying such default and requiring the same to be remedied, shall have been given to the University by any Bondholder, provided that in the case of default specified in this paragraph (F), if the default be such that it cannot be corrected within the said thirty (30) day period, it shall not constitute an event of default if corrective action is instituted by the University within said thirty (30) day period and diligently pursued until the default is corrected; or

(G) The occurrence of an event of default on the part of the University under any reimbursement agreement between the University and a provider of a surety bond, insurance policy, line of credit or letter of credit as contemplated under Section 7.05(D) hereof.

The provisions of the preceding Paragraph (F) are subject to the following limitations: If by reason of force majeure the University is unable in whole or in part to carry out its agreements herein contained (other than the obligations on the part of the University contained in any of Section 4.02 or Articles V, VII and VIII hereof as to which this paragraph shall have no application), the University shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, tunnels or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the University, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the University, and the University shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the University unfavorable to the University.

[End of Article XIII]

## ARTICLE XIV

### REMEDIES

#### Section 14.01. Acceleration; Annulment of Acceleration.

(A) Except as specifically provided herein, upon the happening of an Event of Default, the Trustee may, and upon the written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of Bonds Outstanding shall, by notice in writing to the University, declare all Bonds Outstanding immediately due and payable; provided, however, in the event a Series of Bonds has been insured by a municipal bond insurance company, the Trustee shall obtain the written consent of such municipal bond insurance company prior to declaring the Bonds of such Series due and payable. Such Bonds shall become and be immediately due and payable, anything in the Bonds or in this Bond Resolution to the contrary notwithstanding. In such event, there shall be due and payable on the Bonds an amount equal to the total principal amount of all such Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment.

(B) At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Bond Resolution, the Trustee may annul such declaration and its consequences with respect to any Bonds not then due by their terms if:

- (1) Moneys shall have been deposited in the respective Debt Service Funds sufficient to pay all matured installments of interest and principal (other than principal then due only because of such declaration) of all Outstanding Bonds;
- (2) Moneys shall have been deposited with the Trustee sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee;
- (3) All other amounts then payable by the University hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and
- (4) Every Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

#### Section 14.02. Additional Remedies and Enforcement of Remedies.

(A) Upon the happening of any Event of Default, the Trustee may, and upon the written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, together with indemnification of the Trustee to its satisfaction therefor, shall proceed forthwith to protect and enforce its rights and the rights of the Bondholders under this

Bond Resolution by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

- (1) Requiring the University to carry out its duties and obligations under the terms of this Bond Resolution and under the Enabling Act;
- (2) Suit upon all or any part of the Bonds;
- (3) Civil action to require the University to account as if it were the trustee of an express trust for the Holders of Bonds;
- (4) Civil action to enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds;
- (5) Enforcement of any other right of the Bondholders conferred by law or by this Bond Resolution including the right to make proper application to a court of competent jurisdiction for the appointment of a receiver to administer and operate the Facilities. Such receiver shall be given full power to fix rentals and charges for the Facilities, sufficient to provide for the payment of principal of Bonds and the interest thereon, and for the payment of the expenses of operating and maintaining such Facilities, and to apply the income and revenues of such Facilities to the payment of principal of such Bonds and the interest thereon.

(B) Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding, shall, upon being indemnified to its satisfaction therefor, institute and maintain such suits and proceedings as it may be advised by Counsel shall be necessary or expedient:

- (1) To prevent any impairment of the security under this Bond Resolution by any acts which may be unlawful or in violation of this Bond Resolution; or
- (2) To preserve or protect the interests of the Bondholders, provided that such request is in accordance with law and the provisions of this Bond Resolution and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Holders of Bonds not making such request.

#### Section 14.03. Application of Revenues and Other Moneys After Default.

(A) The University covenants that if an Event of Default shall happen and shall not have been remedied, the University, upon demand of the Trustee, shall pay or cause to be paid over to the Trustee:

- (1) Forthwith, all moneys and securities then held by the University which is credited to any fund under this Bond Resolution; and

(2) As promptly as practicable after receipt thereof, all Gross Revenues.

(B) During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, Gross Revenues, payments and receipts in its possession and the income therefrom as follows and in the following order:

(1) To the payment of the reasonable and proper charges of the Trustee;

(2) To the payment of the necessary costs of operating and maintaining the Facilities;  
and

(3) To the payment of the interest and principal (and premium, if any) then due on the Bonds, as follows:

(a) Unless the principal of all of the Bonds shall have become or have been declared due and payable,

(i) First: To the payment of the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference; and

(ii) Second: To the payment to the persons entitled thereto of the unpaid principal installments (and premiums, if any) of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal (plus redemption premium, if any) due on such date, to the persons entitled thereto, without any discrimination or preference.

(b) If the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any differences as to the respective rates of interest specified in the Bonds.

(4) For the purposes and to the respective funds set forth in Article VIII hereof, in the order set forth therein.

Section 14.04. Remedies Not Exclusive.

No remedy by the terms of this Bond Resolution conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Bond Resolution or existing at law or in equity or by statute (including the Enabling Act) on or after the date hereof.

Section 14.05. Remedies Vested in Trustee.

All rights of action (including the right to file proof of claims) under this Bond Resolution or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of Section 14.03 hereof, any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

Section 14.06. Majority of Bondholders Control Proceedings.

If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Bond Resolution to the contrary, the Holders of at least a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions of this Bond Resolution or for the appointment of a receiver or any other proceedings hereunder, provided that such direction is in accordance with law and the provisions of this Bond Resolution (including indemnity to the Trustee) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Bondholders not joining in such direction and provided further that nothing in this Section 14.06 shall impair the right of the Trustee in its discretion to take any other action under this Bond Resolution which it may deem proper and which is not inconsistent with such direction by Bondholders.

Section 14.07. Individual Bondholder Action Restricted.

(A) No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Bond Resolution or for the execution of any trust hereunder or for any remedy under this Bond Resolution unless:

- (1) An Event of Default has occurred:
  - (a) under Paragraph (A) or (B) of Section 13.01 hereof;
  - (b) as to which the Trustee has actual notice; or

- (c) as to which the Trustee has been notified in writing; and
- (2) The Holders of at least twenty-five percent (25%) in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in this Bond Resolution or to institute such action, suit or proceeding in its own name; and
- (3) Such Bondholders shall have offered the Trustee reasonable indemnity; and
- (4) The Trustee shall have failed or refused to exercise the powers herein granted or to institute such action, suit or proceedings in its own name for a period of sixty (60) days after receipt by it of such request and offer of indemnity.

(B) No one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the security of this Bond Resolution or to enforce any right hereunder except in the manner herein provided and for the equal benefit of the Holders of all Bonds Outstanding.

(C) Nothing contained in this Bond Resolution shall affect or impair, or be construed to affect or impair, the right of the Holder of any Bond

- (1) to receive payment of the principal of or interest on such Bond on the due date thereof; or
- (2) to institute suit for the enforcement of any such payment on or after such due date.

#### Section 14.08. Termination of Proceedings.

In case any proceeding taken by the Trustee or any Bondholder on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Bondholders, the University, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceeding had been taken.

#### Section 14.09. Waiver and Nonwaiver of Event of Default.

(A) No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Article XIV to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(B) The Trustee may waive any Event of Default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Bond Resolution, or before the completion of the enforcement of any

other remedy under this Bond Resolution.

(C) Notwithstanding anything contained in this Bond Resolution to the contrary, the Trustee, upon the written request of the Holders of at least a majority of the aggregate principal amount of Bonds then Outstanding (including, if more than one Series of Bonds shall at the time be Outstanding, the Holders of a majority in principal amount of all Bonds then Outstanding of each such Series), shall waive any Event of Default hereunder and its consequences; provided, however, that except under the circumstances set forth in subsection (B) of Section 14.01 hereof or subsection (B) of this Section 14.09, a default in the payment of the principal of, premium, if any, or interest on, any Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all the Bonds at the time Outstanding.

(D) In case of any waiver by the Trustee of an Event of Default hereunder, the University, the Trustee and the Bondholders shall be restored to their former positions and rights under this Bond Resolution, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this Section 14.09.

Section 14.10. Notice of Defaults.

(A) Within thirty (30) days after:

(1) The receipt of notice of an Event of Default as provided in Section 14.07(A) (1) hereof; or

(2) The happening of an Event of Default under Paragraph (A) or (B) of Section 13.01 hereof, as to which the Trustee shall be deemed to have notice,

the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to each Holder of Bonds then Outstanding, provided that, except in the case of a default in the payment of principal (together with premium, if any) of or interest on any of the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interests of the Bondholders.

(B) The Trustee shall immediately notify the University of any Event of Default known to the Trustee.

[End of Article XIV]

## ARTICLE XV

### TRUSTEE AND ITS FUNCTIONS; OTHER FIDUCIARIES

#### Section 15.01. Appointment and Vesting of Powers in Trustee; Limitation of Rights of Bondholders to Appoint Trustee.

The University hereby appoints the State Treasurer as the Trustee. The Trustee shall be and is hereby vested with all rights and powers necessary to enable it to discharge its duties hereunder but the right of the Bondholders to appoint a trustee hereunder is limited to the circumstances contemplated by Section 15.10 hereof.

#### Section 15.02. Functions of Trustee.

The Trustee shall have the following additional functions:

(A) To act as custodian of the Revenue Fund, the Operation and Maintenance Fund, the Maintenance Reserve Fund, and the Debt Service Funds and any Debt Service Reserve Funds; and

(B) To make reports to the University on a monthly or such other basis as may be requested by the University, but not less often than semi-annually:

- (1) Establishing balances on hand;
- (2) Listing investments made for any fund handled by the Trustee;
- (3) Establishing the sufficiency of each Debt Service Reserve Fund; and
- (4) Listing all securities, if any, pledged pursuant to Section 15.13 hereof.

#### Section 15.03. Duty of Trustee with Respect to Deficits in Debt Service Funds.

It shall be the further duty of the Trustee to give written notice to the University ten (10) days prior to each Bond Payment Date, if there is any deficiency in any of the Debt Service Funds which would result in a need for further moneys to meet the payment of interest and/or principal falling due on the next ensuing Bond Payment Date, and the extent, if any, to which resort must be had to a particular Debt Service Reserve Fund to meet such deficiency.

#### Section 15.04. Acceptance by Trustee Required.

Prior to the delivery of any Bonds, the Trustee appointed pursuant to Section 15.01 hereof shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Bond Resolution, by executing and delivering to the University a written acceptance thereof.

Section 15.05. Liability as to Recitals in Bond Resolution and Bonds.

The recitals of fact made in this Bond Resolution and in the Bonds shall be taken as statements of the University, and the Trustee shall not be deemed to have made any representation as to the correctness of the same, nor shall the Trustee be deemed to have made any representation whatsoever as to the validity or sufficiency of this Bond Resolution or of the Bonds issued hereunder except with respect to the authentication of any Bonds. Nor shall the Trustee be under responsibility or duty with respect to the issuance of said Bonds, or the application of the proceeds thereof, except to the extent provided for herein. Nor shall the Trustee be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

Section 15.06. Trustee May Rely on Notices, etc.

The Trustee shall at all times be protected in acting upon any notice, resolution, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

Section 15.07. Trustee Permitted to Resign.

The Trustee may at any time resign and be discharged of its duties and obligations hereunder by giving to the University and the Bondholders written notice of such resignation, specifying a date (not less than sixty (60) days after such notice) when such resignation shall take effect. Such resignation shall take effect upon the date specified in such notice unless previously a successor shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment and qualification of such successor.

Section 15.08. Removal of Trustee.

(A) The Trustee, if other than the State Treasurer, may be removed at any time by the Holders of not less than fifty percent (50%) of the principal amount of Bonds at such time Outstanding.

(B) The Trustee, if other than the State Treasurer, may likewise be removed at any time by the University with the consent and approval of the Holders of not less than fifty percent (50%) of the principal amount of the Bonds at such time Outstanding.

Section 15.09. Appointment of Successor Trustee Upon Resignation or Removal of Trustee.

(A) In case at any time the Trustee shall resign, or be removed or become incapable of acting, or be adjudged a bankrupt or insolvent, or a receiver of its property shall be appointed, or any public officer shall take charge or control of its property or affairs, a successor thereto shall be promptly appointed by a resolution of the Board of Trustees duly adopted. Such successor shall in all instances be a bank or trust company duly chartered pursuant to the laws of the United States of America or of a state thereof, shall have at the time of its appointment a combined capital stock surplus and undivided profits of not less than \$100,000,000 and shall be authorized by law to

perform all duties imposed upon it by this Bond Resolution and the Series Resolutions.

(B) Immediately following such appointment the University shall give written notice of such appointment to the Bondholders and any Registrar other than the Trustee.

Section 15.10. When Bondholder May Seek Successor Trustee.

If, in a proper case, no appointment of a successor Trustee shall be promptly made pursuant to Section 15.09 hereof, any Bondholder may make application to any court of competent jurisdiction for the appointment of a successor and said court may thereupon, after such notice, if any, as such court may prescribe, appoint a successor.

Section 15.11. Acceptance by Successor Trustee.

Any successor Trustee appointed hereunder shall execute and deliver to its predecessor and to the University a written acceptance of such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder with like effect as if originally named as such Trustee and its predecessor shall be obligated to pay over, transfer, assign and deliver all moneys, securities and other property held by it to its successor, and on the written request of the University, or the successor, shall execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may be reasonably required for the vesting and confirming in such successor all the right, title and interest of the predecessor in and to any property held by it.

Section 15.12. Effect of Trustee Merging With Another Bank.

If the Trustee is other than the State Treasurer, any bank into which the Trustee may be merged, or with which it may be consolidated, or any bank resulting from any merger or consolidation to which it shall be a party, or any bank to which the Trustee may sell or transfer all or substantially all of its business, shall become the successor without the execution or filing of any paper or the performance of any further act; provided, always, that if the University shall be dissatisfied with the institution resulting from the merger, consolidation or other action spoken of above, then the University may at any time within thirty (30) days after such action name a new Trustee (with the qualifications prescribed by Section 15.09 hereof) in lieu of the Trustee then acting.

#### Section 15.13. Disposition of Paid Bonds.

It shall be the duty of the Trustee to cancel all Bonds which shall have been paid, whether upon their maturity or redemption prior to maturity; such cancellation shall be done in such fashion as to render such Bonds incapable of further negotiation or hypothecation. In any event it shall furnish appropriate certificates to the University indicating the disposition of such Bonds. Upon effecting such cancellation, the Trustee shall furnish appropriate certificates to the University setting forth the disposition made of the Bonds so cancelled.

#### Section 15.14. Appointment of Registrar.

(A) The State Treasurer and the Chief Financial Officer shall from time to time appoint on behalf of the University a Registrar or Registrars as Registrar of the Bonds of one or more Series. The Registrar shall be required to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the University, the Trustee and the Paying Agent at all reasonable times. In addition, the Registrar shall have the duty of authenticating the Bonds of the Series as to which it serves as Registrar and such other duties as may be required of it under this Bond Resolution and the applicable Series Resolution.

(B) Any Registrar shall be the State Treasurer or a bank or trust company or other entity duly organized under the laws of the United States of America or any state thereof, having at the time of appointment a combined capital stock, surplus and undivided profits of at least \$25,000,000 and authorized by law to perform all the duties imposed upon it by this Bond Resolution and the relevant Series Resolutions. The Registrar may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving at least sixty (60) days' notice to the Trustee, the Paying Agent, and the University. The Registrar may be removed at any time, at the direction of the University, by an instrument filed with the Registrar, the Trustee and the Paying Agent.

(C) In the event of the resignation or removal of the Registrar, the Registrar shall deliver any Bonds held by it in such capacity to its successor or, if there be no successor, to the Trustee.

(D) In the event that the University shall fail to appoint a Registrar hereunder, or in the event that the Registrar shall resign or be removed, or be dissolved, or if the property or affairs of the Registrar shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the University shall not have appointed its successor as Registrar, the Trustee shall ipso facto be deemed to be the Registrar for all purposes of this Bond Resolution until the appointment by the University of the Registrar or successor Registrar, as the case may be.

Section 15.15. Appointment of Paying Agent.

(A) The State Treasurer and the Chief Financial Officer may from time to time appoint on behalf of the University a Paying Agent or Paying Agents as Paying Agent for the Bonds of one or more Series. The Paying Agent shall be required:

- (1) to hold all sums held by it for the payment of the principal of, premium, if any, and interest on the Bonds in trust for the benefit of the Holders until such sums shall be paid to such Holders or otherwise disposed of as herein provided; and
- (2) to keep such books and records as shall be consistent with prudent industry practice, to make such books and records available for inspection by the University and the Trustee at all reasonable times.

(B) Any Paying Agent shall be the State Treasurer or a bank or trust company or other entity duly organized under the laws of the United States of America or any state thereof, having at the time of appointment a combined capital stock, surplus and undivided profits of at least \$50,000,000 and authorized by law to perform all the duties imposed upon it by this Bond Resolution and the relevant Series Resolutions. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving at least sixty (60) days' notice to the University, the Registrar and the Trustee. The Paying Agent may be removed at any time at the direction of the University, by an instrument filed with the Registrar and the Trustee.

(C) In the event of the resignation or removal of any Paying Agent, said Paying Agent shall pay over, assign and deliver any moneys held by it in such capacity to its successor or, if there be no successor, to the Trustee.

[End of Article XV]

## ARTICLE XVI

### DEFEASANCE

#### Section 16.01. Defeasance Generally.

If all of the Bonds issued pursuant to this Bond Resolution, shall have been paid and discharged, then the obligations of the University under this Bond Resolution, the pledge of revenues made hereby, and all other rights granted hereby shall cease and terminate. Bonds shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

(A) The Trustee, Paying Agent or other custodian authorized by the University shall hold, at the stated maturities of such Bonds, in trust and irrevocably appropriated thereto, sufficient money for the payment thereof;

(B) If default in the payment of the principal of such Bonds or the interest thereon shall have occurred on the stated maturities of such Bonds, and thereafter tender of such payment shall have been made, and the Trustee, Paying Agent or other custodian authorized by the University shall then hold in trust and irrevocably appropriated thereto, sufficient money for the payment thereof to the date of the tender of such payment; or

(C) If the University shall have deposited with the Trustee, Paying Agent or other custodian authorized by the University, in an irrevocable trust money or Government Obligations, the principal of and interest on which when due (without reinvestment thereof) will provide money which, together with the money, if any, deposited at the same time, shall be sufficient to pay, when due, the principal, interest and premium, if any, due and to become due on and prior to the maturity or, if the University has irrevocably elected to redeem Bonds, on and prior to the redemption date of such Bonds; and the University shall have provided to the Trustee from an independent firm of nationally recognized certified public accountants a report stating the opinion of such firm that the investments purchased for the irrevocable trust on the date of its establishment with amounts deposited therein on the date of its establishment will provide, from maturing principal of and interest earnings thereon and without reinvestment, sufficient amounts to pay as and when due the principal and interest on the defeased Bonds.

#### Section 16.02. Money to be Held in Trust - When Returnable to University.

Any money which at any time shall be deposited with the Trustee, Paying Agent or other custodian authorized by the University, by or on behalf of the University, for the purpose of paying and discharging any Bonds or the interest thereon, shall be and is hereby assigned, transferred and set over to the Trustee, Paying Agent or other custodian appointed by the University in trust for the respective Holders of the Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and discharge thereof. But if, through lapse of time or otherwise, the Holders of said Bonds shall no longer be entitled to enforce payment of their obligations, then, in such event, it shall be the duty of the Trustee, Paying Agent or other custodian appointed by the University to

forthwith return said funds to the University.

Section 16.03. Deposits With Trustee Subject to Conditions of Article XVI Hereof.

The University covenants and agrees that any money which it shall deposit with the Trustee, Paying Agent or other custodian authorized by the University shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this Article, and that whenever it shall have elected to redeem Bonds it will irrevocably bind and obligate itself to give notice of redemption thereof, and will further authorize and empower the Trustee, Paying Agent or other custodian authorized by the University to cause the publication of such notice of redemption in its name and on its behalf.

[End of Article XVI]

## ARTICLE XVII

### MISCELLANEOUS

#### Section 17.01. Purpose of Covenants in Bond Resolution.

Every covenant, undertaking and agreement made on behalf of the University, as set forth in this Bond Resolution is made, undertaken and agreed to, for the proper securing of the payment of the principal of and interest on the Bonds. Each shall be deemed to partake of the obligation of the contract between the University and the Bondholders and shall be enforceable accordingly. In this connection, any provider of a surety bond, insurance policy, line of credit or letter of credit as contemplated under Section 7.05(D) hereunder may enforce the terms, conditions and obligations under this Bond Resolution as a third party beneficiary hereunder.

#### Section 17.02. Municipal Bond Insurance Company Deemed Holder.

In the event that a Series of Bonds has been insured by a municipal bond insurance company, such municipal bond insurance company shall be deemed to be the Holder of all of the Bonds of such Series for purposes of exercising the rights of Holders under Article XIV (except Section 14.01 thereof) and Section 15.08 hereof.

#### Section 17.03. Breach of Municipal Bond Insurance Company.

Notwithstanding anything in this Bond Resolution to the contrary, in the event a municipal bond insurance company is in breach of its obligations under the applicable municipal bond insurance policy insuring payment of a Series of Bonds, or is subject to bankruptcy or receivership proceedings, such municipal bond insurance company shall have none of the rights or powers provided to it pursuant to Article XIV and Section 17.02 hereof at the time of such breach or upon institution of such proceedings.

#### Section 17.04. Parties Interested Herein.

Nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the University, the Trustee, a municipal bond insurance company that has insured a Series of Bonds, an issuer of a surety bond, line of credit, insurance policy or letter of credit to fund a Debt Service Reserve Fund, and the Holders of the Bonds, any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Resolution made by and on behalf of the University shall be for the sole and exclusive benefit of the University, the Trustee, such municipal bond insurance company and the Holders of the Bonds.

Section 17.05. Effect of Invalidity of Provisions of Bond Resolution.

If any section, paragraph, clause or provision of the Bond Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Resolution.

Section 17.06. Table of Contents and Section Headings Not Controlling.

The Table of Contents and the Headings of the several Articles and Sections of this Bond Resolution have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this Bond Resolution.

Section 17.07. Repealing Clause.

All resolutions, or parts thereof, inconsistent herewith be and the same are hereby repealed to the extent of such inconsistencies, except to the extent the provisions of such resolutions constitute official intent for purposes of §1.150-2 of the Internal Revenue Code of 1986, as amended.

[End of Article XVII]

EXECUTED THIS 21st day of June, 1996.

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Chairman, Board of Trustees  
of the University of South Carolina

Attest:

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Secretary, Board of Trustees  
of the University of South Carolina

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A RESOLUTION

PROVIDING FOR THE ISSUANCE AND SALE, IN ONE OR MORE SERIES, OF HIGHER EDUCATION REVENUE REFUNDING BONDS OF THE UNIVERSITY OF SOUTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$29,000,000; AND OTHER MATTERS RELATING THERETO.

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2022 SERIES RESOLUTION

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October 14, 2022

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BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE UNIVERSITY OF SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

## ARTICLE I

### FINDINGS OF FACT

#### Section 1.01 Findings.

As an incident to the adoption of this Resolution (hereinafter, the “2022 Series Resolution”), and the issuance of the Higher Education Revenue Refunding Bonds provided for herein, the Board of Trustees of the University of South Carolina (the “Board of Trustees”), the governing body of the University of South Carolina (the “University”), finds, as a fact, that each of the statements hereinafter set forth in this Article I is in all respects true and correct.

(A) The Board of Trustees has made general provision for the issuance of University of South Carolina Higher Education Revenue Bonds (the “Bonds”) through the means of a resolution adopted on June 21, 1996, entitled “AN AMENDATORY AND RESTATED RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF UNIVERSITY OF SOUTH CAROLINA REVENUE BONDS AND OTHER MATTERS RELATING THERETO” (as amended or supplemented, the “Bond Resolution”). All capitalized terms which are not defined herein shall have the meanings set forth in the Bond Resolution.

(B) It is provided in and by the Bond Resolution that, upon adoption of a Series Resolution, there may be issued one or more Series of Bonds for the purposes of (i) financing or refinancing in whole or in part the cost of acquisition, construction, renovation and improvement of land, buildings, and other improvements to real property and equipment for new and existing Facilities; (ii) funding any Debt Service Reserve Fund (including the purchase of a surety bond, insurance policy, line of credit, letter of credit or similar instrument credited thereto in lieu of cash as provided herein) or restoring the value of the cash and securities in any Debt Service Reserve Fund to an amount equal to the applicable Reserve Requirement; (iii) purchasing or providing for credit enhancement for any Series of Bonds; (iv) capitalizing interest on the Bonds for such period of time as the Board of Trustees may determine; and (v) paying costs of issuance of the Bonds.

(C) Pursuant to the Bond Resolution, the Board of Trustees previously issued its \$37,185,000 original principal amount University of South Carolina Higher Education Refunding Revenue Bonds, Series 2013 (the “Series 2013 Bonds”).

(D) Following a review of debt service requirements of the Series 2013 Bonds and prevailing market conditions, the Board of Trustees finds that debt service savings will be achieved through the refunding of all or a portion of the May 1, 2024 through May 1, 2043 maturities of the Series 2013 Bonds (the “Refunded Bonds”). The Series 2013 Bonds are currently Outstanding in the principal amount of \$29,290,000 and the Refunded Bonds are currently outstanding in the principal amount of \$28,130,000.

(E) The principal amount of refunding bonds required to refund the Refunded Bonds (the “Refunding”) cannot be determined with precision prior to the sale of the proposed refunding bonds. It is currently estimated that approximately \$28,834,667 of refunding bonds will be required for the Refunding. Such amount may vary, either upward or downward, depending on market conditions on the date such refunding bonds are offered for sale. A table illustrative of such savings will be prepared and included as a closing document at the delivery of any Series of Bonds authorized hereby.

(F) Based on the findings made herein, the Board of Trustees has determined to authorize the issuance of Bonds in a principal amount not to exceed \$29,000,000 (the “Series 2023 Bonds”), the proceeds of which will be used (i) to effect the Refunding, and (ii) to pay costs of issuance of the Series 2023 Bonds.

\* \* \*

## ARTICLE II

### DEFINITIONS AND AUTHORITY

#### Section 2.01    Definitions.

(A) All terms which are defined in Article II of the Bond Resolution shall have the same meanings, respectively, in this 2022 Series Resolution as such terms are given in the Bond Resolution.

(B) In addition, as used in this 2022 Series Resolution, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“2013 Series Resolution” means that resolution of the Board of Trustees adopted December 18, 2012 pursuant to the Bond Resolution providing for the issuance and sale of the Series 2013 Bonds, and any supplements or amendments thereto.

“2022 Series Resolution” means this resolution of the Board of Trustees adopted October 14, 2022 pursuant to the Bond Resolution providing for the issuance and sale of the Series 2023 Bonds, and any supplements or amendments thereto.

“Beneficial Owner” shall mean, for any Series 2023 Bond which is held by a nominee, the beneficial owner of such Series 2023 Bond.

“Bond Payment Date” shall mean each date, as determined pursuant to Section 3.04 hereof, on which interest on any Series 2023 Bonds shall be payable or on which both a Principal Installment and interest on Series 2023 Bonds shall be payable.

“Bond Resolution” means that certain resolution adopted by the Board of Trustees on June 21, 1996, entitled “AN AMENDATORY AND RESTATED RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF UNIVERSITY OF SOUTH CAROLINA REVENUE BONDS AND OTHER MATTERS RELATING THERETO,” as from time to time amended and supplemented.

“Chief Financial Officer” shall mean the Senior Vice President for Administration, who shall act as the Chief Financial Officer for the purposes of the Bond Resolution.

“Continuing Disclosure Undertaking” shall mean that certain Continuing Disclosure Undertaking substantially in the form attached hereto as Exhibit B, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Corporate Trust Office,” when used with respect to the Paying Agent and the Registrar, means the office at which the principal corporate trust business of such party shall be administered and to the extent the State Treasurer shall act as Paying Agent and Registrar, “Corporate Trust Office” shall mean the Office of the State Treasurer.

“Date of Issue,” with respect to the Series of Bonds issued hereunder, shall mean the date from which interest accrues on such obligations.

“Depository” shall mean The Depository Trust Company, New York, New York, or other recognized securities depository selected by the University, which securities depository maintains a book-entry system with respect to Series 2023 Bonds and shall include any substitute for or successor to the securities depository initially acting as Depository.

“Depository Nominee” shall mean, as to any Depository, such Depository or the nominee of such Depository in whose name there shall be registered on the registration books maintained by the Registrar the Series 2023 Bond certificates to be delivered to and immobilized at such Depository during the continuation with such Depository of participation in its book-entry system. Cede & Co. shall serve as the initial Depository Nominee hereunder.

“Escrow Agent” shall mean the entity authorized and designated by the Chief Financial Officer to serve as escrow agent pursuant to one or more Escrow Deposit Agreements pursuant to Section 4.01(B)(10) of the Bond Resolution.

“Escrow Deposit Agreement” shall mean one or more escrow deposit agreements between the University and the Escrow Agent for the purpose of defeasing Bonds in accordance with Article XVI of the Bond Resolution.

“Official Notice of Sale” means the document noticing the sale of the Series 2023 Bonds in connection with a public sale thereof containing the terms and conditions for the sale and award thereof, as established by the Chief Financial Officer and the State Treasurer.

“Official Statement” means any Official Statement of the University to be prepared and distributed in connection with a public sale or private sale for public reoffering and delivery of Series 2023 Bonds in such form as approved by the Chief Financial Officer and as more particularly described in Section 6.02 hereof.

“Participants” means those broker-dealers, banks and other financial institutions for which the Depository holds Series 2023 Bonds as depository.

“Preliminary Official Statement” means any Preliminary Official Statement of the University to be prepared and distributed in connection with a public sale or a private sale for public reoffering and delivery of Series 2023 Bonds, in such form as approved by the Chief Financial Officer and as more particularly described in Section 7.02 or Section 9.02 hereof.

“Record Date” means the 15th day of the month preceding each Bond Payment Date.

“Refunded Bonds” has the meaning given such term in Section 1.01 hereof.

“Refunding” has the meaning given such term in Section 1.01 hereof.

“Series 2013 Debt Service Fund” means the Debt Service Fund created pursuant to Section 6.02 of the 2013 Series Resolution.

“Series 2023 Bonds” means the Bonds, in one or more Series, of the University authorized and issued pursuant to the Enabling Act, the Bond Resolution, and this 2022 Series Resolution.

“Series 2023 COI Fund” means the fund established pursuant to Article V hereof held by the Trustee to which certain proceeds of the Series 2023 Bonds shall be deposited and disbursed for the purpose of paying the costs and expenses related to the issuance of the Series 2023 Bonds.

“Series 2023 Debt Service Fund” means any Debt Service Fund for the Series 2023 Bonds created pursuant to Section 5.02 hereof.

“Series 2023 Reserve Requirement” means the Reserve Requirement of the Series 2023 Bonds, which is \$0.

“Sinking Fund Date” has the meaning given that term in Section 3.06 hereof.

“State Treasurer” means the Treasurer of the State of South Carolina or the Office of the State Treasurer of South Carolina.

“Taxable Series” means a Series of Series 2023 Bonds so designated by the Chief Financial Officer, the interest upon which is not excluded from income for federal income tax purposes.

Section 2.02 Authority for this 2022 Series Resolution.

This 2022 Series Resolution is adopted pursuant to the provisions of the Enabling Act, and the Bond Resolution.

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## **ARTICLE III**

### **AUTHORIZATION AND TERMS OF THE SERIES 2023 BONDS**

#### Section 3.01    Principal Amount and Designation of Series.

(A) Pursuant to the provisions of the Bond Resolution, there is hereby authorized, in one or more Series, Bonds of the University entitled to the benefits, protection and security of the provisions thereof in the aggregate principal amount not exceeding \$29,000,000. Subject to the provisions of paragraph (B) of this Section, the Series 2023 Bonds shall be designated “University of South Carolina Higher Education Revenue Refunding Bonds, Series 2023” or such other Series designation as may be determined by the Chief Financial Officer.

(B) Notwithstanding anything in this 2022 Series Resolution to the contrary, the Series designation of the Bonds authorized herein may, prior to the sale thereof, be changed from “Series 2023” to any other designation, including a designation reflecting the year of issuance or alphanumeric designation to distinguish between or among Series 2023 Bonds issued as separate Series in the same year, as may be determined by the Chief Financial Officer in his sole discretion.

#### Section 3.02    Purposes.

The Series 2023 Bonds, together with other funds available to the University, are authorized for the purposes of:

- (1)     effecting the Refunding; and
- (2)     paying costs and expenses related to the issuance of the Series 2023 Bonds.

#### Section 3.03    Direction to Chief Financial Officer and State Treasurer.

The Chief Financial Officer and the State Treasurer are hereby authorized to effect the issuance of the Series 2023 Bonds upon the terms and conditions set forth herein in the specific principal amount necessary to meet the purposes set forth in Section 3.02 hereof, not to exceed \$29,000,000.

#### Section 3.04    Maturity Schedule; Interest Payment Dates.

The Series 2023 Bonds shall mature in the principal amounts and on the dates and in the years as shall be determined by the Chief Financial Officer and the State Treasurer; provided, that final maturity of the Series 2023 Bonds shall occur not later than June 1, 2043. The Series 2023 Bonds shall bear interest at rates determined in the manner prescribed by Section 3.08 and Article VI hereof on the basis of a 360-day year of twelve 30-day months. Each Series of Series 2023 Bonds shall be dated its Date of Issue as shall be determined by the Chief Financial Officer and the State Treasurer, and interest on the Series 2023 Bonds shall be payable on such days as shall be determined by the Chief Financial Officer and the State Treasurer. The Chief Financial Officer and the State Treasurer are authorized to determine which portion of the Series 2023 Bonds shall be Serial Bonds and which shall be Term Bonds, but no Series 2023 Bonds shall be Capital Appreciation Bonds.

Section 3.05 Optional Redemption.

(A) The Chief Financial Officer, in his discretion and on advice received, shall determine whether Series 2023 Bonds shall be subject to redemption prior to maturity at the option of the University, including applicable redemption dates and prices.

(B) In the event that the University shall from time to time, in accordance with the provisions of Section 3.05(A) hereof, elect to redeem Series 2023 Bonds, it shall give notice to the Trustee, Registrar and Paying Agent of each optional redemption. Such notice shall specify the date fixed for redemption and the amount and maturities of the Series 2023 Bonds which are to be redeemed. Such notice may be conditional upon any event or occurrence set forth in such notice, and the obligation of the Registrar to provide the notice of redemption shall not be conditioned on the prior deposit of the amount due at the redemption date.

Section 3.06 Mandatory Sinking Fund Redemption.

(A) Certain of the Series 2023 Bonds, as determined in accordance with conditions established by the Chief Financial Officer and the State Treasurer prior to the sale of such Series 2023 Bonds, may be subject to mandatory redemption on such dates (hereinafter, the "Sinking Fund Dates") and under the terms and conditions determined by the Chief Financial Officer and the State Treasurer, through the operation of sinking fund provisions, at the principal amount thereof, plus interest thereon to the redemption date.

(B) If a portion of the Series 2023 Bonds of a Series is subject to mandatory sinking fund redemption as provided in Paragraph (A) above, there shall be deposited with the Paying Agent on or before each Sinking Fund Date an amount sufficient to redeem or to pay (after credit as provided below) those principal amounts of Series 2023 Bonds so designated for mandatory redemption on the applicable Sinking Fund Date.

(C) The University, at its option, to be exercised prior to the 45th day immediately preceding any Sinking Fund Date, may:

- (1) cause to be paid to the Paying Agent as a prepayment of sums then to become due, such amount of funds as the University may determine, with written instructions to the Paying Agent, signed in the name of the University, to be applied prior to said 45th day to the purchase of Series 2023 Bonds which are subject to mandatory redemption, or
- (2) deliver any principal amount of Series 2023 Bonds which are subject to mandatory sinking fund redemption to the Registrar for cancellation,

and shall receive a credit in respect of its next ensuing mandatory sinking fund payment for any such Series 2023 Bond; which prior to said Sinking Fund Date have been purchased or redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Registrar and not theretofore applied as a credit against any sinking fund payment.

(D) Upon receipt of the funds and instructions specified in Paragraph (C)(1) above, the Paying Agent shall use all reasonable efforts to expend such funds in the purchase of such Series 2023 Bonds, at a price not exceeding the principal amount thereof plus interest accrued to such Sinking Fund Date. Any such funds not so expended by the Paying Agent shall be applied to the payment of the Series 2023 Bonds maturing on such Sinking Fund Date or returned to the Trustee for the benefit of the University. The Series 2023 Bonds so purchased or presented for cancellation as provided above shall be

canceled by the Registrar as provided in Section 4.14 of the Bond Resolution and shall be credited, at their principal amount, until the full amount thereof has been so credited against the next ensuing and future sinking fund payments in chronological order to the extent otherwise payable to the University.

(E) The amount of any such mandatory sinking fund redemptions shall be reduced to the extent Series 2023 Bonds of the applicable Series and maturity have been purchased by the University or redeemed by the University pursuant to any optional redemption provisions, in such manner as the University shall direct, or, absent such direction, on a pro rata basis.

#### Section 3.07 Partial Redemption.

If less than all of the Series 2023 Bonds are to be redeemed pursuant to any section of this 2022 Series Resolution, the Series and maturities of the Series 2023 Bonds to be redeemed shall be as determined by the University. If less than all of a maturity of a Series of Series 2023 Bonds is to be redeemed, the particular Series 2023 Bonds or portions of Series 2023 Bonds of the applicable maturity and Series to be redeemed shall be selected not less than 45 days prior to the date fixed for redemption in the manner provided by Section 4.15 of the Bond Resolution.

#### Section 3.08 Conditions Relating to Naming Interest Rates.

The Series 2023 Bonds shall bear such rate or rates of interest as shall at the sale of Series 2023 Bonds referred to in Section 6.01 hereof be determined by the Chief Financial Officer and the State Treasurer to be in the best interest of the University; provided, however, that:

- (1) each interest rate named shall be a multiple of 1/20th or 1/8th of one percentage point; and
- (2) all other restrictions as may be imposed by the State Treasurer and the Chief Financial Officer (including any modifications of any of Paragraph (1) above if deemed to be in the best interest of the University) prior to the sale of the Series 2023 Bonds shall apply.

#### Section 3.09 Series 2023 Reserve Requirement.

The Series 2023 Reserve Requirement shall equal \$0.

#### Section 3.10 Authentication; Payment of Interest.

(A) Each of the Series 2023 Bonds shall be authenticated on such date as it shall be delivered and shall bear interest from its Date of Issue, if no interest has yet been paid; otherwise from the last Bond Payment Date to which interest has been paid and which Bond Payment Date is on or prior to the authentication date thereof.

(B) The interest on all Series 2023 Bonds shall be paid by check or draft mailed from the Corporate Trust Office of the Paying Agent to the person in whose name the Series 2023 Bond is registered at the close of business on the applicable Record Date. Any Holder of \$1,000,000 or more in principal amount of Series 2023 Bonds shall be entitled by written request to the Paying Agent (which notice shall be valid for all future payments until rescinded) to direct that any payments of interest on such Series 2023 Bonds be transmitted to such Holder by wire transfer. Such request shall provide the Paying Agent with specific direction as to the manner of making such payment.

Section 3.11 Denomination; Numbering.

The Series 2023 Bonds shall be issued in the denomination of \$5,000 or any multiple thereof, not exceeding the principal amount of the Series 2023 Bonds maturing in such year. Each maturity of the Series 2023 Bond shall be numbered sequentially from “R-1” in such a fashion as to reflect the fact that it is one of the Series 2023 Bonds, and to identify the Holder thereof on the books kept by the Registrar.

Section 3.12 Appointment of Trustee; Maintenance of Paying Agent and Registrar.

(A) The State Treasurer is hereby appointed to act as Trustee under this 2022 Series Resolution. The State Treasurer shall signify its acceptance of the duties of the Trustee under this 2022 Series Resolution and the Bond Resolution upon delivery of the Series 2023 Bonds.

(B) As long as any Series 2023 Bonds remain Outstanding, the University shall maintain a Paying Agent and a Registrar therefor, which may be the Trustee. The Chief Financial Officer and the State Treasurer shall determine the Paying Agent and Registrar for each Series of the Series 2023 Bonds, prior to the sale thereof.

(C) The Series 2023 Bonds shall be presented for payment, and notices and demands to or upon the Trustee and the University in respect to the Series 2023 Bonds may be served, at the Corporate Trust Office of the Paying Agent. The Series 2023 Bonds shall be presented for registration of transfers and exchanges in accordance with the provisions of the Bond Resolution at the Corporate Trust Office of the Registrar.

Section 3.13 Form of Bonds.

The Series 2023 Bonds shall be substantially in the form attached hereto as Exhibit A, with such changes, modifications or amendments to the form attached hereto as Exhibit A as shall, upon advice of Bond Counsel, be approved by the Chief Financial Officer and the State Treasurer, the execution thereof by the Chief Financial Officer constituting conclusive approval of any and all changes, modifications, or amendments.

Section 3.14 Book-Entry System.

Unless otherwise determined by the Chief Financial Officer and the State Treasurer prior to the sale of the applicable Series of Series 2023 Bonds, such Series of Series 2023 Bonds will be eligible securities for the purpose of the Book-Entry System of transfer maintained by the Depository, and transfers of beneficial ownership of the Series 2023 Bonds shall be made only through the Depository and its Participants in accordance with rules specified by the Depository. Such beneficial ownership must be of a \$5,000 principal amount of the Series 2023 Bonds of the same maturity and Series or any integral multiple of \$5,000, with each increment of \$5,000 being separately of a single maturity.

The Series 2023 Bonds shall be issued in fully registered form, and, if issued as book entry-only securities, shall be issued in one certificate for each of the maturities and Series of the Series 2023 Bonds, in the name of Cede & Co., as Depository Nominee. When any principal of, premium, if any, or interest on the Series 2023 Bonds becomes due, the Trustee shall cause the Paying Agent to transmit to the Depository an amount equal to such installment of principal, premium, if any, and interest. Such payments will be made to the Depository Nominee as long as it is owner of record on the applicable Record Date. The Depository Nominee shall be considered to be the owner of the Series 2023 Bonds so registered for all purposes of this 2022 Series Resolution, including, without limitation, payments as aforesaid and receipt of notices and exercise of rights of Series 2023 Bond owners.

The Trustee shall notify the Depository of any notice of redemption required to be given pursuant to this 2022 Series Resolution not less than 30 nor more than 60 days prior to the date fixed for redemption.

The Depository is expected to maintain records of the positions of Participants in the Series 2023 Bonds, and the Participants and persons acting through Participants are expected to maintain records of the Beneficial Owners in the Series 2023 Bonds. The University makes no assurances that the Depository and its Participants will act in accordance with such rules or expectations on a timely basis, and the University shall have no responsibility for any such maintenance of records of transfer or payments by the Depository to its Participants, or by the Participants or persons acting through Participants to the Beneficial Owners.

If (a) the Depository determines not to continue to act as Depository for the Series 2023 Bonds, or (b) the University has advised the Depository of the University's determination that the Depository is incapable of discharging its duties, the University shall attempt to retain another qualified securities depository to replace the Depository. Upon receipt by the University of the Series 2023 Bonds together with an assignment duly executed by the Depository, the University shall execute and deliver to the successor depository, Series 2023 Bonds of the same Series, principal amount, interest rate and maturity.

If the University is unable to retain a qualified successor to the Depository or the University has determined that it is in the best interest of the University not to continue the Book-Entry System of transfer or that the interest of the Beneficial Owners of the Series 2023 Bonds might be adversely affected if the Book-Entry System of transfer is continued (the University undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify Beneficial Owners of the Series 2023 Bonds by mailing an appropriate notice to the Depository, upon receipt by the University of the Series 2023 Bonds together with an assignment duly executed by the Depository, the University shall execute, and cause to be authenticated and delivered pursuant to the instructions of the Depository, Series 2023 Bonds in fully registered form, in substantially the form set forth in this 2022 Series Resolution, and in denominations of \$5,000 or any integral multiple thereof.

#### Section 3.15    Designation of Source or Sources of Revenue for Repayment of Bonds.

The Board of Trustees hereby designates Net Revenues and Additional Funds as the sources of revenue designated for the repayment of the Series 2023 Bonds in accordance with Section 59-147-110 of the Enabling Act. The Board of Trustees, by prior action, has designated and determined that the "Facilities" are (i) student and faculty housing, including, but not limited to, dormitories, apartment buildings and dwelling houses, (ii) parking facilities, (iii) the bookstore facility in the Health Education Complex located on the University's Upstate Campus, and (iv) the Campus Village Auxiliary Facilities.

#### Section 3.16    Selection of Refunded Bonds; Use of Moneys in Debt Service Funds; Escrow Deposit Agreement.

(A)    All or any portion of the Refunded Bonds may be refunded with the proceeds of Series 2023 Bonds issued from time to time, as determined by the Chief Financial Officer and the State Treasurer. Such Refunded Bonds shall be redeemed on the date or dates that the Chief Financial Officer and the State Treasurer shall determine.

(B)    The Chief Financial Officer is authorized to execute and deliver one or more Escrow Deposit Agreements with the Escrow Agent, to call Refunded Bonds or provide for the same in the

Escrow Deposit Agreement, and cause the publication of a notice of redemption for the Refunded Bonds, which may be conditional, at the appropriate time, in accordance with the Bond Resolution and Series Resolutions authorizing the Refunded Bonds. The Chief Financial Officer is hereby authorized to enter into, execute and deliver all agreements, certificates and instruments necessary to effect the redemption of the Refunded Bonds as contemplated hereunder, and take any further action as may be necessary to effect the same.

(C) Moneys on deposit in the Series 2013 Debt Service Fund established pursuant to the Bond Resolution and 2013 Series Resolution authorizing the Refunded Bonds, necessary to comply with the Code and in the discretion of the Chief Financial Officer, may be used to defease Series 2013 Bonds and redeem Refunded Bonds. Moneys on deposit in the Series 2013 Debt Service Fund or from any other legally available source may also be applied to defease any outstanding Series 2013 Bonds at the discretion of the Chief Financial Officer.

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## ARTICLE IV

### EXECUTION; NO RECOURSE

#### Section 4.01    Execution.

The Series 2023 Bonds shall be executed and authenticated in accordance with the applicable provisions of the Bond Resolution; provided, however, that the Chief Financial Officer shall also execute any Bonds in addition to the required signatories in the Bond Resolution.

#### Section 4.02    No Recourse.

All covenants, stipulations, promises, agreements and obligations of the University contained in the Bond Resolution or in this 2022 Series Resolution shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the University and not those of any officer or employee of the University in his or her individual capacity, and no recourse shall be had for the payment of the principal or redemption price of or interest on the Series 2023 Bonds or for any claim based thereon or on the Bond Resolution or on this 2022 Series Resolution, either jointly or severally, against any officer or employee of the University or any person executing the Series 2023 Bonds.

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## ARTICLE V

### DISPOSITION OF PROCEEDS

#### Section 5.01 Disposition of Proceeds of Series 2023 Bonds.

(A) Upon the delivery of the Series 2023 Bonds, the net proceeds received by the Trustee for the benefit of the University shall be applied as follows:

- (1) such portion as is necessary to effect the Refunding shall be deposited with the Escrow Agent, or Paying Agent for the Series 2013 Bonds; and
- (2) the balance shall be deposited to the Series 2023 COI Fund to pay costs of issuance of the Series 2023 Bonds.

(B) Neither the purchaser of the Series 2023 Bonds nor any Holder of the Series 2023 Bonds shall be liable for the proper application of the proceeds of the Series 2023 Bonds.

#### Section 5.02 Establishment of Series 2023 Debt Service Fund.

The Board of Trustees hereby establishes, pursuant to Section 7.04 of the Bond Resolution, the Series 2023 Debt Service Fund.

#### Section 5.03 No Debt Service Reserve Fund Established.

No Debt Service Reserve Fund shall be established in connection with the Series 2023 Bonds. Any Reserve Requirement for currently Outstanding Bonds has been or shall be met prior to the issuance of the Series 2023 Bonds.

#### Section 5.04 Establishment of Series 2023 COI Fund.

(A) There is hereby established the Series 2023 COI Fund which shall be maintained by the Trustee for the benefit of the University. The net proceeds of the Series 2023 Bonds referred to in Section 5.01(A)(2) hereof shall be deposited in the Series 2023 COI Fund. Amounts on deposit therein shall be expended to pay costs of issuance with respect to the Series 2023 Bonds.

(B) The Trustee may provide from time to time for the investment of moneys in the Series 2023 COI Fund in Authorized Investments having suitable maturities consonant with the need for application of the moneys therein. Any earnings on investment of money in the Series 2023 COI Fund shall accrue to the benefit of the Series 2023 COI Fund.

(C) Any moneys remaining in the Series 2023 COI Fund shall, at the discretion of the Chief Financial Officer, be used to fund any amounts required to be paid to the United States Government pursuant to Section 148(f) of the Code as rebate of arbitrage earnings or be used to pay interest or principal on the Series 2023 Bonds.

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## ARTICLE VI

### SALE OF SERIES 2023 BONDS

#### Section 6.01 Manner of Sale.

(A) The Series 2023 Bonds may be sold at public or private sale, including a negotiated sale for public reoffering, on such terms as the Chief Financial Officer and the State Treasurer shall determine to be in the best interest of the University.

(B) If sold pursuant to a public sale, the Series 2023 Bonds shall be advertised by publication of a notice, which may be abbreviated from the Official Notice of Sale, in a financial journal published in the City of New York, New York. The Official Notice of Sale shall be in the form determined by the Chief Financial Officer and the State Treasurer. If sold pursuant to a public sale, the Chief Financial Officer and the State Treasurer are hereby authorized and empowered to award the sale of the Series 2023 Bonds in accordance with the provisions of this Article to the bidder submitting the bid most advantageous to the University. The Chief Financial Officer and the State Treasurer will apply their discretion in determining the bid most advantageous to the University.

(C) If the Series 2023 Bonds are to be sold pursuant to negotiation, such Series 2023 Bonds shall be sold to a financial underwriter or underwriters selected by the Chief Financial Officer and the State Treasurer pursuant to the terms of a contract of purchase, the form of which is to be approved by the Chief Financial Officer and the State Treasurer, and executed on behalf of the University by the Chief Financial Officer, upon advice of Bond Counsel. The terms of the Series 2023 Bonds as set forth in such contract of purchase shall be as determined by the Chief Financial Officer and the State Treasurer in accordance with the provisions of Section 3.04 hereof.

#### Section 6.02 Distribution of Official Statement.

If sold pursuant to a public sale or a private sale for public reoffering, the Chief Financial Officer is hereby authorized to cause to be prepared a Preliminary Official Statement with respect to the offering and sale of the Series 2023 Bonds and, subsequent to the sale of the Series 2023 Bonds, a final Official Statement. The Chief Financial Officer is hereby authorized to deem final the Preliminary Official Statement pursuant to United States Securities and Exchange Commission Rule 15c2-12.

#### Section 6.03 Combined Sales.

If the Chief Financial Officer and the State Treasurer deem it prudent, the Series 2023 Bonds may be sold on the same date as other series of revenue bonds of the University and with other Bonds as a single Series of Bonds.

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## ARTICLE VII

### CONTINUING DISCLOSURE

#### Section 7.01 Continuing Disclosure.

(A) Pursuant to Section 11-1-85 of the Code of Laws of South Carolina 1976, as amended (“Section 11-1-85”), the University will file with a central repository for availability in the secondary bond market when requested:

- (1) An annual independent audit, within 30 days of the University’s receipt of the audit; and
- (2) Event specific information within thirty days of an event adversely affecting more than five percent of the Gross Revenues plus Additional Funds of the University.

The only remedy for failure by the University to comply with the covenant in the above paragraph shall be an action for specific performance of such covenant. The University specifically reserves the right to amend or delete such covenant to reflect any change in or repeal of Section 11-1-85, without the consent of any Bondholder.

(B) In addition, the University hereby covenants and agrees that it will comply with and carry out the provisions of the Continuing Disclosure Undertaking, in substantially the form attached hereto as Exhibit B. Notwithstanding any other provision of this 2022 Series Resolution, failure of the University to comply with the Continuing Disclosure Undertaking shall not be considered an event of default under the Bond Resolution or this 2022 Series Resolution, and no liability for damages shall attach therefor. The sole remedy for such failure to comply shall be that any Bondholder may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the University to comply with its obligations under this paragraph.

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**ARTICLE VIII**  
**TAX COVENANTS**

Section 8.01    Compliance with the Code Generally.

The Board of Trustees hereby represents and covenants that it will comply with all requirements of the Code, and that they will not take any action which will, or fail to take any action (including, without limitation, filing the required information report with the Internal Revenue Service) which failure will, cause interest on the Series 2023 Bonds to become includable in the gross income of the Holder thereof for federal income tax purposes pursuant to the provisions of the Code. Without limiting the generality of the foregoing, the Board of Trustees represents and covenants that:

- (1) All property financed or refinanced by the net proceeds of the Series 2023 Bonds will be owned by the University in accordance with the rules governing the ownership of property for federal income tax purposes.
- (2) The Board of Trustees shall not permit the proceeds of a Series of the Series 2023 Bonds, or any Bonds refunded thereby, to be used in any manner that would result in (a) 10% or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any natural person or in any activity carried on by a person other than a natural person other than a governmental unit as provided in Section 141(b) of the Code, or (b) 5% or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.
- (3) The University is not and will not become a party to any contracts with any person for the use or management of any facility financed or refinanced with the proceeds of the Series 2023 Bonds that do not conform to the guidelines set forth in Revenue Procedure 2017-13 (or the successor provisions of any subsequent official guidance).
- (4) The University will not sell or lease any property financed or refinanced, all or in part, with the Series 2023 Bonds to any person unless it obtains the opinion of Bond Counsel that such lease or sale will not affect the tax exemption of the Series 2023 Bonds.
- (5) The Series 2023 Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code. The University shall not enter into any leases or sales or service contracts with any federal government agency and will not enter into any such leases or contracts unless it obtains the opinion of Bond Counsel that such action will not affect the tax exemption of the Series 2023 Bonds.

Section 8.02    Rebate.

(A) In addition to the covenants contained in Section 8.01 hereof, the Board of Trustees covenants that it will comply with the provisions of Section 148(f) of the Code pertaining to the rebate of certain investment earnings on the proceeds of the Series 2023 Bonds to the United States Government. In this connection, the Board of Trustees covenants to compute, on or before the dates required of them in Section 148(f) of the Code, the rebatable amounts, if any, pertaining to the Series 2023 Bonds and to establish a rebate fund pursuant to the rebate certificate referred to in Paragraph (B) of this Section wherein shall be deposited in a timely fashion all amounts required under said Section 148(f) with respect

to the Series 2023 Bonds and to pay to the United States Government from the Rebate Fund in the manner and the amounts prescribed in Section 148(f) of the Code.

(B) In order to comply with the requirements of Paragraph (A) of this Section, the Board of Trustees further agrees to execute a rebate certificate on or before the delivery of a Series of the Series 2023 Bonds pursuant to which the rebate fund will be established, and from which rebate fund the University will pay the necessary amounts to the United States Government.

(C) Notwithstanding anything in this Section to the contrary, the University will not be obligated to comply with any or all of the provisions set forth above in this Section if the University and the Trustee shall receive a written opinion of Bond Counsel to the effect that such non-compliance will not adversely affect the federal tax-exempt status of the Series 2023 Bonds.

(D) Notwithstanding the prior provisions of this Section, the Chief Financial Officer, if applicable, is hereby authorized to make the necessary findings and elections to enable the University to proceed under the spending exceptions contained in Section 148(f)(4)(C) of the Code and Section 1.148-7 of the regulations promulgated under the Code, should he determine in his discretion the same to be in the best interests of the University.

#### Section 8.03 Taxable Series.

In accordance with Section 4.19 of the Bond Resolution, the Chief Financial Officer is hereby authorized to designate any Series of the Series 2023 Bonds as a Taxable Series. In such event, the above Sections 8.01 and 8.02 shall not apply to such Taxable Series.

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**ARTICLE IX**  
**MISCELLANEOUS**

Section 9.01 Severability.

If any one or more of the covenants or agreements provided in this 2022 Series Resolution on the part of the Board of Trustees, the Chief Financial Officer, the University, the State Treasurer, the Trustee, the Paying Agent or the Registrar to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this 2022 Series Resolution.

Section 9.02 Table of Contents and Section Headings Not Controlling.

The Table of Contents and the Headings of the several Articles and Sections of this 2022 Series Resolution have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this 2022 Series Resolution.

Section 9.03 Repealing Clauses.

All resolutions, or parts thereof, inconsistent herewith, be and the same are hereby rescinded and repealed to the extent of such inconsistencies.

Section 9.04 Series 2023 Bonds Issued as Multiple Series.

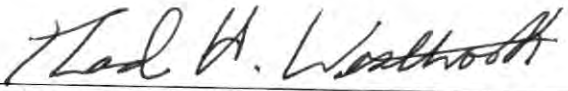
In the event Series 2023 Bonds are sold in more than one Series, separate funds and accounts shall be created and maintained for each Series of Series 2023 Bonds and appropriate numeric or alphanumeric designations shall be established so as to appropriately account for the funds established pursuant to Article V hereof, as contemplated by Article VII of the Bond Resolution. Notwithstanding anything in the 2022 Series Resolution to the contrary, in the event that Series 2023 Bonds are sold in more than one Series, all references in this 2022 Series Resolution to Series 2023 Bonds shall, as the context may require, be read as referring to the applicable Series of Series 2023 Bonds.

\* \* \*

DONE IN MEETING DULY ASSEMBLED this 14th day of October 2022.

**UNIVERSITY OF SOUTH CAROLINA**

(SEAL)

  
\_\_\_\_\_  
Chairman, Board of Trustees

Attest:

  
\_\_\_\_\_  
Secretary, Board of Trustees

## FORM OF BOND

UNIVERSITY OF SOUTH CAROLINA  
HIGHER EDUCATION REVENUE REFUNDING BOND  
SERIES 2023

No. R-\_\_

Interest RateMaturity DateOriginal Issue DateCUSIP

Registered Holder:

Principal Amount: \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

The UNIVERSITY OF SOUTH CAROLINA (the “University”), acknowledges itself indebted and for value received hereby promises to pay, solely as hereinafter provided, to the Registered Holder named above, or registered assigns, the Principal Amount stated above, on the Maturity Date set forth above, unless this bond (“Bond”) be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, upon presentation and surrender of this Bond at the Corporate Trust Office of U.S. Bank National Association in the City of St. Paul, State of Minnesota (the “Paying Agent”), and to pay interest on such principal sum at the Interest Rate set forth above (calculated on the basis of a 360-day year of twelve 30-day months), until the obligation of the University with respect to the payment of such principal sum shall be discharged.

This Bond bears interest from the [May 1] or the [November 1] to which interest has been paid next preceding the authentication date hereof, unless the authentication date hereof is a [May 1] or a [November 1], in which event this Bond will bear interest from the earlier of such authentication date or the date to which interest has last been paid; provided that if the authentication date hereof precedes \_\_\_\_\_ 1, 2023, or if the University shall fail to pay interest on \_\_\_\_\_ 1, 2023, then this Bond will bear interest from \_\_\_\_\_, 2023. Interest on this Bond is payable on [May 1] and [November 1] of each year beginning \_\_\_\_\_ 1, 2023. The interest so payable on any [May 1] or [November 1] will be paid to the person in whose name this Bond is registered at the close of business on the 15th day of the April or October as the case may be next preceding such [May 1] or [November 1].

Interest hereon is payable by check or draft mailed at the times provided herein from the Corporate Trust Office of the Paying Agent to the person in whose name this Bond is registered on the Record Date at the address shown on the registration books kept by U.S. Bank National Association, in the City of St. Paul, State of Minnesota (the “Registrar”). The principal of, redemption premium, if any, and interest on this Bond are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

So long as Cede & Co., as nominee of The Depository Trust Company, is the Registered Holder of the Bonds, references in this Bond to the Bondholders or Registered Holders of the Bonds shall mean Cede & Co. and shall not mean the beneficial owners.

This Bond is one of an issue of Bonds in the aggregate principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the “Series 2023 Bonds”) of like tenor, except as to numbering, rate of interest, date of maturity and redemption provisions, issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina (the “State”), Title 59, Chapter 147 of the Code of Laws of South Carolina 1976, as the same may be further amended from time to time (collectively, the “Enabling Act”), and a resolution entitled “AN AMENDATORY AND RESTATED RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF UNIVERSITY OF SOUTH CAROLINA REVENUE BONDS AND OTHER MATTERS RELATING THERETO,” duly adopted by the Board of Trustees of the University (the “Board of Trustees”) on June 21, 1996 (the “Bond Resolution”), and a resolution entitled “A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE, IN ONE OR MORE SERIES, OF HIGHER EDUCATION REVENUE REFUNDING BONDS OF THE UNIVERSITY OF SOUTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$29,000,000; AND OTHER MATTERS RELATING THERETO” duly adopted by the Board of Trustees on October 14, 2022 (the “Series Resolution,” and together with the Bond Resolution, the “Resolution”), for the purpose of (1) effecting the Refunding (as defined in the Series Resolution); and (2) paying certain costs and expenses related to the issuance of the Series 2023 Bonds.

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Resolution. Certified copies of the Resolution are on file at the Corporate Trust Office of the Paying Agent and at the office of the Secretary of State of the State of South Carolina.

Both the principal of and interest on this Bond, as the same shall become due, are payable solely from and are secured by a pledge of the Net Revenues and Additional Funds. Such pledge of Net Revenues and Additional Funds is on a parity in all respects with each pledge previously given by the University to secure certain outstanding bonds issued pursuant to the Bond Resolution (the “Outstanding Bonds”).

The Bond Resolution authorizes the issuance of additional bonds (“Additional Bonds”) on a parity with the Series 2023 Bonds and the Outstanding Bonds which, when issued in accordance with the provisions of the Bond Resolution, will rank equally and be on a parity therewith (the Series 2023 Bonds, the Outstanding Bonds and any Additional Bonds, collectively, the “Bonds”). In addition, upon certain circumstances prescribed in the Bond Resolution, the University has issued, and may hereafter issue, additional obligations secured by any of the Additional Funds, which pledge may be on a parity with the pledge of Additional Funds given to secure the Bonds.

THIS BOND SHALL NOT IN ANY EVENT CONSTITUTE AN INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY PROVISION, LIMITATION OR RESTRICTION OF THE CONSTITUTION OR STATUTES OF THE STATE. THE FAITH AND CREDIT OF THE STATE ARE NOT PLEDGED FOR THE PAYMENT OF PRINCIPAL OR INTEREST ON THE SERIES 2023 BONDS. THE UNIVERSITY IS NOT OBLIGATED TO PAY THIS SERIES 2023 BOND, OR THE INTEREST HEREON, SAVE AND EXCEPT FROM NET REVENUES AND ADDITIONAL FUNDS.

No member of the Board of Trustees, nor any person required by the provisions of the Resolution to sign the Bonds, shall be liable thereon.

The University has covenanted in the Bond Resolution to prescribe and maintain rates and charges and thereafter collect charges in accordance with such rates for the Facilities or the use thereof

which are reasonably expected to yield annual Net Revenues in the current Fiscal Year which, together with any Subsidies for operation of the Facilities or debt service of the Bonds which are otherwise excluded from the definition of "Net Revenues", equal to at least 100% of the Combined Annual Principal and Interest Requirement for all Bonds Outstanding in such Fiscal Year and, promptly upon any material change in the circumstances which were contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, shall review the rates and charges for such use and shall promptly revise such rates and charges as necessary to comply with the foregoing requirement. For each Fiscal Year, the Board of Trustees shall adopt an Annual Budget including amended rate schedules for such Fiscal Year which shall set forth in reasonable detail the estimated revenues and operating expenses of the Facilities and any Subsidies for each Fiscal Year and which shall include appropriations, if any, for the estimated operating expenses of the Facilities for such period and the amount to be deposited during such Fiscal Year in the Maintenance Reserve Fund. The Board of Trustees may at any time adopt an amended Annual Budget for the remainder of the then current Fiscal Year, or may delegate to the Chief Financial Officer the authority to revise rates and charges as may be necessary, in such a manner as may be consistent with State law. The University further covenants and agrees that, at any time after it secures Bonds by a pledge of any Pledged Fees, it will at all times prescribe and maintain and thereafter collect fees, rates and charges such that Net Revenues, Pledged Fees budgeted for the payment of operation and maintenance costs of the Facilities or debt service on Bonds or Parity Bonds, and the receipts of any Additional Parity Bond Sources intended to pay debt service on Parity Bonds shall equal at least 100% of the Combined Annual Principal and Interest Requirement for all Bonds Outstanding and all Parity Bonds in each Fiscal Year.

The Series 2023 Bonds are issuable only as fully registered bonds without coupons in denominations of \$5,000 or any multiple thereof not exceeding the principal amount of the Bonds maturing in each year.

This Bond is transferable, at the times and as otherwise provided in the Resolution, only upon the registration books kept for that purpose at the office of the Registrar by the Registered Holder in person or by his duly authorized attorney, upon (i) surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Holder or his duly authorized attorney and (ii) payment of the charges, if any, prescribed in the Resolution. Thereupon a new fully registered Bond or Bonds of like maturity, interest rate, and redemption provisions and in a like aggregate principal amount will be issued to the transferee in exchange therefor as provided in the Resolution. The University and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

For every exchange or transfer of this Bond, the University, the Paying Agent and the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

The Series 2023 Bonds maturing on or prior to \_\_\_\_ 1, 20\_\_ are not callable for redemption prior to their stated maturities.

The Series 2023 Bonds maturing after \_\_\_\_ 1, 20\_\_ may be redeemed at 100% of par prior to their respective maturities at the option of the University on and after \_\_\_\_ 1, 20\_\_, in whole or in part at any time, and, if in part, in those maturities designated by the University and by lot within a maturity (but only in integral multiples of \$5,000) upon 30 days' written notice at the principal amount thereof and the interest accrued on such principal amount to the date fixed for redemption.

The Series 2023 Bonds maturing on \_\_\_\_\_ 1, 20\_\_ are subject to mandatory sinking fund redemption commencing on the dates shown in the following tables and will be redeemed (to the extent not previously redeemed), at 100% of the principal amount thereof, plus interest accrued thereon to the redemption date, on \_\_\_\_\_ 1 of each of the following years in the respective principal amounts specified below:

Series 2023 Term Bond	
Due _____ 1, 20__	
<u>_____ 1</u> <u>of the Year</u>	<u>Amount</u>

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\*Final Maturity

The amount of the mandatory sinking fund redemptions prescribed above shall be reduced to the extent Series 2023 Bonds of the applicable maturity have been purchased by the University or redeemed by the University pursuant to the optional redemption provisions set forth above, in such manner as the University shall direct, or, absent such direction, on a pro rata basis.

If less than all of the Series 2023 Bonds are to be redeemed, the particular Series 2023 Bonds or portions of Series 2023 Bonds to be redeemed will be selected by the Trustee. Series 2023 Bonds in denomination of more than \$5,000 may be redeemed in part from time to time in one or more units of \$5,000 in the manner provided in the Resolution.

If any of the Series 2023 Bonds, or portions thereof, are called for redemption, the Registrar will give notice to the Registered Holders of any such Series 2023 Bonds to be redeemed, in the name of the University, of the redemption of such Series 2023 Bonds, or portions thereof, which notice will specify the Series 2023 Bonds and maturities to be redeemed, the redemption date, the redemption price and the place or places where amounts due upon such redemption will be payable and, if less than all of the Series 2023 Bonds are to be redeemed, the numbers of such Series 2023 Bonds so to be redeemed, and, in the case of Series 2023 Bonds to be redeemed in part only, such notice will also specify the respective portions of the principal amount thereof to be redeemed. Such notice will be given by mailing a copy of the redemption notice by first class mail at least 30 days but no more than 60 days prior to the date fixed for redemption to any Paying Agent or Agents and the Registered Holder of each Series 2023 Bond to be redeemed, at the address shown on the registration books; provided, however, that failure to give such notice by mail, or any defect in the notice mailed to the Registered Holder of any Series 2023 Bond, shall not affect the validity of the proceedings for the redemption of any other Series 2023 Bond. Provided funds for their redemption are on deposit with the Trustee or any Paying Agent, all Series 2023 Bonds so called for redemption will cease to bear interest on the specified redemption date and shall no longer be deemed to be Outstanding. Such notice may be conditional upon any event or occurrence set forth in such notice, and the obligation of the Registrar to provide the notice of redemption shall not be conditioned on the prior deposit of the amount due at the redemption date.

This Series 2023 Bond and the interest hereon are exempt from all State, county, municipal, school taxes and franchise and license fees and all other taxes or assessments, except estate or transfer

taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all conditions, acts, and things required by the Constitution and laws of the State to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, that the amount of the Series 2023 Bonds, together with all other indebtedness of the University, does not exceed any limit prescribed by such Constitution or laws.

This Series 2023 Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Registrar.

IN WITNESS WHEREOF, the University has caused this Series 2023 Bond to be signed by the manual or facsimile signature of the Chairman of the Board of Trustees and Chief Financial Officer, its corporate seal to be impressed hereon, and the same to be attested by the manual signature of the Secretary of the Board of Trustees.

**UNIVERSITY OF SOUTH CAROLINA**

(SEAL)

\_\_\_\_\_  
Chairman, Board of Trustees

\_\_\_\_\_  
Chief Financial Officer

Attest:

By: \_\_\_\_\_  
Secretary, Board of Trustees

## CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series 2023 Bonds of the issue described in the within mentioned Resolution.

\_\_\_\_\_  
REGISTRAR

Authentication Date: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Officer

## PROVISIONS FOR REGISTRATION

The following abbreviations, when used in the inscription on the face of the within Series 2023 Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM -as tenants in common	UNIF GIFT MIN ACT - _____Custodian_____
TEN ENT -as tenants by the entireties	(Cust) (Minor)
JT TEN -as joint tenants with right of survivorship and not as tenants in common	under Uniform Gifts to Minors Act _____ (State)

Additional abbreviations may also be used though not in list above.

## (FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

\_\_\_\_\_  
(Please print or typewrite Name, Social Security or Taxpayer  
Identification Number and address of Transferee)

the within Series 2023 Bond and does hereby irrevocably constitute and appoint  
\_\_\_\_\_ attorney to transfer the within Series 2023 Bond on the books kept for  
registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guarantee:

\_\_\_\_\_  
Signature(s) must be guaranteed by  
a member firm of the New York stock  
Exchange or a commercial bank or  
trust company

\_\_\_\_\_  
NOTICE: The signature to this assignment must  
correspond with the name of the registered holder  
as it appear upon the face of the within Series 2023  
Bond in every particular, without alteration or  
enlargement or any change whatever.

**CONTINUING DISCLOSURE UNDERTAKING**

This Continuing Disclosure Undertaking (this “Disclosure Undertaking”) is executed and delivered this \_\_\_ day of \_\_\_\_\_, \_\_\_\_, by the University of South Carolina (the “Issuer”) in connection with the issuance of the Issuer’s \$\_\_\_\_\_ Higher Education Revenue Refunding Bonds, Series 2023 (the “Series 2023 Bonds”). The Series 2023 Bonds are being issued pursuant to an Amendatory and Restated Bond Resolution adopted by the Board of Trustees (the “Board of Trustees”) of the Issuer on June 21, 1996 (as amended, the “Resolution”), and a resolution adopted by the Board of Trustees on October 14, 2022 (the “2022 Series Resolution” and, together with the Resolution, as amended and supplemented, the “Bond Resolution”). The Issuer covenants and agrees as follows:

Section 1. Purpose of the Disclosure Undertaking. This Disclosure Undertaking is being executed and delivered by the Issuer for the benefit of the holders and Beneficial Owners of the Series 2023 Bonds and in order to assist the Participating Underwriters in complying with the U.S. Securities and Exchange Commission (the “SEC”) Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Bond Resolution or elsewhere in this Disclosure Undertaking, which apply to any capitalized terms used in this Disclosure Undertaking, the following capitalized terms shall have the following meanings:

“Annual Report” means the annual report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Undertaking.

“Beneficial Owner” means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2023 Bonds (including persons holding Series 2023 Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Series 2023 Bonds for federal income tax purposes.

“Dissemination Agent” means any person designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

“EMMA” means the Electronic Municipal Market Access system described in SEC Release No. 34-59062 (or any successor electronic information system) and maintained by MSRB as the sole repository for the central filing of electronic disclosure pursuant to the Rule.

“Financial Obligation” as used in this Disclosure Undertaking is defined in the Rule, as may be amended, as (i) a debt obligation; (ii) derivative instrument entered into in connection with, or pledged as a security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Listed Events” means any of the events listed in Section 5(a) of this Disclosure Undertaking.

“MSRB” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to the Rule. Unless otherwise designated by MSRB or the SEC, filings with the MSRB are to be made through EMMA.

“Official Statement” means the Official Statement dated \_\_\_\_\_ \_\_, \_\_\_\_, prepared in connection with the Series 2023 Bonds.

“Participating Underwriter” means any of the original underwriters of the Series 2023 Bonds required to comply with the Rule in connection with the offering of the Series 2023 Bonds.

“Rule” means Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” means the State of South Carolina.

Section 3. Provision of Annual Reports. (a) The Issuer shall, not later than **February 1** of each year, commencing with the report for the fiscal year ended June 30, \_\_\_\_, provide to the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Undertaking. Not later than 15 business days prior to said date, the Issuer shall provide the Annual Report to the Dissemination Agent, if other than the Issuer. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Undertaking; provided, however, that the audited financial statements of the Issuer may be submitted separately from the balance of the Annual Report, and later than the date required for the filing of the Annual Report if they are not available by that date. If the Issuer’s fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(a) hereof.

(b) The Annual Report shall be submitted to the MSRB either through a web-based electronic submission interface or through electronic computer-to-computer data connections with EMMA in accordance with the submission process, document format and configuration requirements established by the MSRB. The Annual Report shall also include all related information required by the MSRB to accurately identify: (i) the category of information being provided; (ii) the period covered by the Annual Report; (iii) the issues or specific securities to which the Annual Report is related (including CUSIP number, Issuer name, state, issue description/securities name, dated date, maturity date, and/or coupon rate); (iv) the name of any obligated person other than the Issuer; (v) the name and date of the document; and (vi) contact information for the Dissemination Agent or the Issuer’s submitter.

(c) If the Issuer is unable to provide to the MSRB an Annual Report by the date required in subsection (a) above, the Issuer shall, in a timely manner, send or cause to be sent to the MSRB, a notice in substantially the form attached hereto as Exhibit A.

(d) In the event that there is a Dissemination Agent, then not later than fifteen (15) business days prior to each due date, the Issuer shall provide the Annual Report to the Dissemination Agent for distribution to the MSRB. In connection with this distribution of the Annual Report, the Dissemination Agent, if any, shall file a report with the Issuer certifying that the Annual Report has been provided pursuant to this Disclosure Undertaking, and stating the date it was provided to the MSRB.

Section 4. Contents of Annual Reports. The Annual Report shall contain or incorporate by reference the following:

- (a) The Issuer’s complete audited financial statements for the preceding fiscal year prepared in accordance with accounting principles generally accepted within the United States of America as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the Issuer’s audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the Official Statement, and the audited financial statements shall be provided to the MSRB in the same manner as the Annual Report when they become available;

(b) Updates of the financial information and operating data as of a date not earlier than the end of the preceding fiscal year, to the extent such information is not included in the Issuer's audited financial statements filed pursuant to subparagraph (a) above, of the general type included in the tables set forth under the following headings in the Official Statement in such format as the Issuer deems appropriate:

- (i) THE FACILITIES – Housing Facilities – *Columbia Campus – Occupancy Rates* – Single Student Resident Hall Occupancy Rates;
- (ii) THE FACILITIES – Summary of Facilities Revenues and Expenses;
- (iii) THE FACILITIES – Summary of Changes in Facilities Fund Balance (Net Position);
- (iv) THE FACILITIES – Additional Funds;
- (v) THE FACILITIES – Debt Service Requirements;
- (vi) THE FACILITIES – Historical Net Revenues of the Facilities and Additional Funds;
- (vii) DESCRIPTION OF THE UNIVERSITY – Enrollment; and
- (viii) FINANCIAL MATTERS – Summary of Statement of Revenues, Expenses and Changes in Net Position.

The Annual Report may consist of one or more documents. Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Issuer, which have been made available to the public on EMMA. The Issuer shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events. (a) The Issuer shall give or cause to be given notice of the occurrence of any of the following events with respect to the Series 2023 Bonds in a timely manner not later than ten business days after the occurrence of the event:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Series 2023 Bonds, or other material events affecting the tax status of the Series 2023 Bonds;
- (vii) modifications to rights of security holders, if material;
- (viii) Bond calls, if material and tender offers;
- (ix) defeasances;

(x) release, substitution, or sale of property securing repayment of the Series 2023 Bonds, if material;

(xi) rating changes;

(xii) bankruptcy, insolvency, receivership or similar event of any obligated person, which event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person;

(xiii) the consummation of a merger, consolidation or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(xiv) appointment of a successor or additional trustee or the change of name of trustee, if material;

(xv) incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the obligated person, any of which affect security holders, if material; and

(xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the Financial Obligation of the obligated person, any of which reflect financial difficulties.

Section 6. Format for Filing With the MSRB. All documents provided to the MSRB pursuant to this Disclosure Undertaking shall be submitted in electronic format and shall identify the Series 2023 Bonds by name and CUSIP number or shall be accompanied by such identifying information as described from time to time by the MSRB.

Section 7. Termination of Reporting Obligation. This Disclosure Undertaking shall remain in full force and effect until such time as all principal, redemption premiums, if any, and interest on the Series 2023 Bonds shall have been paid in full or the Series 2023 Bonds shall have otherwise been paid or legally defeased; provided, however, that if the Rule (or any successor provision) shall be amended, modified, or changed so that all or any part of the information currently required to be provided thereunder shall no longer be required to be provided thereunder, then such information shall no longer be required to be provided hereunder; and provided further that if and to the extent the Rule (or any successor provision), or any provision thereof, shall be declared by a court of competent and final jurisdiction to be, in whole or in part, invalid, unconstitutional, null and void, or otherwise inapplicable to the Series 2023 Bonds, then the information required to be provided hereunder, insofar as it was required to be provided by a provision of the Rule so declared, shall no longer be required to be provided hereunder. Upon any legal defeasance, the Issuer shall electronically file notice of such defeasance with the MSRB, and such notice shall state whether the Series 2023 Bonds have been defeased to maturity or to redemption and the timing of such maturity or

redemption.

Section 8. Dissemination Agent. The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist in its carrying out its obligations under this Disclosure Undertaking, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Undertaking.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Undertaking, the Issuer may amend this Disclosure Undertaking, and any provision of this Disclosure Undertaking may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a) hereof, it may only be made in connection with a change in circumstances that arises from a change in legal requirements or change in law, or change in the identity, nature or status of an obligated person with respect to the Series 2023 Bonds, or the type of business conducted;

(b) This Disclosure Undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Series 2023 Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or Beneficial Owners of the Series 2023 Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Undertaking, the Issuer shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given by filing with the MSRB and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 10. Additional Information. Nothing in this Disclosure Undertaking shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Undertaking or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Undertaking. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Undertaking, the Issuer shall have no obligation under this Disclosure Undertaking to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event or any other event required to be reported.

Section 11. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Undertaking, any holder or Beneficial Owner of the Series 2023 Bonds may take such actions as may be necessary and appropriate, including seeking *mandamus* or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Undertaking; provided, however, that any such action may be instituted only in the federal or State courts located in Columbia, South Carolina. A default under this Disclosure Undertaking shall not be deemed an event of default under the Bond

Resolution, and the sole remedy under this Disclosure Undertaking in the event of any failure of the Issuer to comply with this Disclosure Undertaking shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Undertaking, and in any separate written agreement between the Issuer and the Dissemination Agent.

Section 13. Beneficiaries. This Disclosure Undertaking shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriters and holders and Beneficial Owners from time to time of the Series 2023 Bonds, and shall create no rights in any other person or entity. This Disclosure Undertaking is not intended to create any monetary rights on behalf of any person.

**UNIVERSITY OF SOUTH CAROLINA**

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A

NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD  
OF FAILURE TO FILE ANNUAL REPORT

Issuer: University of South Carolina

Obligations: \$\_\_\_\_\_ Higher Education Revenue Refunding Bonds, Series 2023 (the “Series 2023 Bonds”)

Date of Issuance: \_\_\_\_\_, \_\_\_\_\_

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Series 2023 Bonds as required by the Bond Resolution adopted on \_\_\_\_\_, \_\_\_\_\_. The Issuer anticipates that the Annual Report will be filed by\_\_\_\_\_.

**UNIVERSITY OF SOUTH CAROLINA**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_, \_\_\_\_\_

## A RESOLUTION

APPROVING THE ISSUANCE AND SALE, IN ONE OR MORE SERIES, OF HIGHER EDUCATION REVENUE REFUNDING BONDS OF THE UNIVERSITY OF SOUTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$29,000,000; AND OTHER MATTERS RELATING THERETO.

As an incident to the adoption of this resolution (this “Resolution”), the South Carolina State Fiscal Accountability Authority (the “Authority”) recites the following:

WHEREAS, the Board of Trustees of the University of South Carolina (the “Board of Trustees”), the governing body of the University of South Carolina (the “University”), is authorized by Title 59, Chapter 147 of the Code of Laws of South Carolina 1976, as the same may be further amended from time to time (the “Enabling Act”) to make provision for the issuance of higher education revenue bonds (“Higher Education Revenue Bonds”) for the purpose of financing or refinancing in whole or in part the costs of the cost of acquisition, construction, reconstruction, renovation, and improvement of land, buildings, and other improvements to real property and equipment for the purpose of providing facilities serving the needs of the University including, but not limited to, dormitories, apartment buildings, dwelling houses, bookstore and other University operated stores, laundry, dining halls, cafeterias, parking facilities, student recreational, entertainment and fitness related facilities, inns, conference and other nondegree educational facilities and similar auxiliary facilities of the University and any other facilities that are auxiliary to any of the foregoing excluding, however, athletic department projects that primarily serve varsity athletic teams of the University.

WHEREAS, on June 21, 1996, the Board of Trustees adopted a resolution entitled “AN AMENDATORY AND RESTATED RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF UNIVERSITY OF SOUTH CAROLINA REVENUE BONDS AND OTHER MATTERS RELATING THERETO” (the “Bond Resolution”), as a means of providing for the issuance from time to time of Higher Education Revenue Bonds of a particular series pursuant to the provisions of a series resolution of the Board of Trustees, provided all conditions required by the Bond Resolution are met. Pursuant to the Bond Resolution, the Board of Trustees previously issued and there remain outstanding Higher Education Revenue Bonds of the University.

WHEREAS, on October 14, 2022, the Board of Trustees adopted a series resolution entitled “A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE, IN ONE OR MORE SERIES, OF HIGHER EDUCATION REVENUE REFUNDING BONDS OF THE UNIVERSITY OF SOUTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$29,000,000; AND OTHER MATTERS RELATING THERETO” (the “2022 Series Resolution”) authorizing the issuance of Higher Education Revenue Refunding Bonds, Series 2023 (the “Series 2023 Bonds”) to defray a portion of the costs to refund all or a portion of the May 1, 2024 through May 1, 2043 maturities of the \$37,185,000 original principal amount University of South Carolina Higher Education Refunding Revenue Bonds, Series 2013 (the “Refunding”).

WHEREAS, the 2022 Series Resolution authorizes the use of proceeds of the Series 2023 Bonds: (i) to effect the Refunding; and (ii) to pay the cost of issuance of the Series 2023 Bonds.

WHEREAS, the Board of Trustees has determined that under prevailing market conditions debt service savings will be obtained by effecting the Refunding, and the University has requested the Authority to approve at this time the issuance by the University of the Series 2023 Bonds, and other matters related thereto, all as set forth in the 2022 Series Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH CAROLINA STATE FISCAL ACCOUNTABILITY AUTHORITY, IN MEETING DULY ASSEMBLED:

## ARTICLE I

### FINDINGS OF FACT

#### Section 1.01

The Bond Resolution and the 2022 Series Resolution, each in the form adopted by the Board of Trustees, have been presented to the Authority.

#### Section 1.02

Any capitalized term used in this Resolution, but not defined herein, shall have the meaning ascribed to such term in the Bond Resolution or the 2022 Series Resolution.

## ARTICLE II

### AUTHORIZATION TO ISSUE AND SELL THE SERIES 2023 BONDS

#### Section 2.01

The Authority hereby approves and authorizes the issuance and sale of the Series 2023 Bonds in an aggregate principal amount not to exceed \$29,000,000 in the manner and under the conditions prescribed by the 2022 Series Resolution, including a negotiated sale for public reoffering as authorized in Article VI thereof.

#### Section 2.02

On the basis of the foregoing and after due consideration of the facts above recited and other matters appurtenant thereto, this Resolution has been adopted.

Dated: May 23, 2023.



Pope Flynn, LLC  
1411 Gervais Street, Suite 300  
Post Office Box 11509 (29211)  
Columbia, SC 29201  
MAIN 803.354.4900  
FAX 803.354.4899  
www.popeflynn.com

\_\_\_\_\_, 2023

Board of Trustees of the University of South Carolina  
Columbia, South Carolina

Re: \$\_\_\_\_\_ University of South Carolina Higher Education Revenue  
Refunding Bonds, Series 2023

Ladies and Gentlemen:

We have acted as bond counsel to the University of South Carolina (the “University”) in connection with the issuance by the University of its \$\_\_\_\_\_ University of South Carolina Higher Education Revenue Refunding Bonds, Series 2023 (the “Series 2023 Bonds”). The Series 2023 Bonds are issued by the University pursuant to a bond resolution adopted by the Board of Trustees of the University (the “Board of Trustees”) on June 21, 1996 (the “Bond Resolution”); a series resolution adopted by the Board of Trustees on October 14, 2022 (the “2022 Series Resolution,” and together with the Bond Resolution, the “Resolution”); an approving resolution adopted by the State Fiscal Accountability Authority on May 23, 2023; and the Constitution and statutes of the State of South Carolina, including particularly Title 59, Chapter 147 of the Code of Laws of South Carolina 1976, as the same may be further amended from time to time (the “Enabling Act”). Each capitalized term used herein and not otherwise defined has the meaning given such term in the Resolution. Under the Resolution, both the principal of and interest on the Series 2023 Bonds, as the same shall become due, are payable solely from the Net Revenues and Additional Funds.

Regarding questions of fact material to our opinion, we have relied on the representations of the University contained in the Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law:

1. The University is validly existing as a body politic and corporate and an institution of higher learning of the State of South Carolina, with the power to adopt the Resolution, perform the agreements on its part contained therein, and issue the Series 2023 Bonds.
2. The Resolution has been duly adopted by the Board of Trustees, and constitutes a valid and binding obligation of the University enforceable against the University.



3. The Resolution creates a valid lien on the Net Revenues and the Additional Funds pledged by the Resolution for the security of the Series 2023 Bonds on a parity with other Bonds issued or to be issued under the Resolution, and, as to the Additional Funds, on a parity with the Parity Bonds issued or hereafter issued.

4. The Series 2023 Bonds have been duly authorized and executed by the University and are valid and binding limited obligations of the University, payable solely from the Net Revenues and Additional Funds as provided in the Resolution. The purposes to which the proceeds of the Series 2023 Bonds will be applied are authorized by the Enabling Act. The Series 2023 Bonds do not constitute a general indebtedness of the University or an indebtedness of any kind of the State of South Carolina.

5. Under existing law, assuming continuing compliance with certain covenants made by the University to satisfy pertinent requirements of the Internal Revenue Code of 1986, as amended (the “Code”), and the applicable regulations promulgated thereunder, and the accuracy of certain representations of the University, interest on the Series 2022 Bonds (i) is excluded from gross income for federal income tax purposes and (ii) is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals under the Code. Such interest is, however, taken into account in determining the annual adjusted financial statement income of certain applicable corporations (as defined in Section 59(k) of the Code) for the purpose of determining the application of the 15-percent alternative minimum tax imposed on the adjusted financial statement income of such corporations for tax years beginning after December 31, 2022.

6. Under existing law, both the Series 2023 Bonds and the interest thereon are exempt from all taxation by the State of South Carolina, its counties, municipalities, and school districts, except estate, transfer, and certain franchise taxes. Interest on the Series 2023 Bonds is currently subject to the tax imposed on banks by Section 12-11-20 of the Code of Laws of South Carolina 1976, as amended, which is enforced by the South Carolina Department of Revenue as a franchise tax.

The rights of the holders of the Series 2022 Bonds and the enforceability of the Series 2023 Bonds and the Resolution may be subject to bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors’ rights generally, whether considered at law or in equity, and their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.



We express no opinion herein regarding the accuracy, adequacy, or completeness of the official statement with respect to the Series 2023 Bonds, or regarding the perfection or priority of the lien on the Net Revenues and Additional Funds created under the Resolution (or any other document or instrument mentioned herein). Further, we express no opinion regarding tax consequences arising with respect to the Series 2023 Bonds other than expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Very truly yours,

Pope Flynn, LLC



Pope Flynn, LLC  
1411 Gervais Street, Suite 300  
Post Office Box 11509 (29211)  
Columbia, SC 29201  
MAIN 803.354.4900  
FAX 803.354.4899  
www.popeflynn.com

April 17, 2023

South Carolina State Fiscal Accountability Authority  
Columbia, South Carolina

Re: Not Exceeding \$29,000,000 University of South Carolina Higher Education  
Revenue Refunding Bonds, Series 2023

Ladies and Gentlemen:

We are acting as bond counsel to the University of South Carolina (the "University") in connection with the proposed issuance by the University of the above-referenced bonds (the "Bonds"). At your request, we are delivering this opinion in connection with the University's request<sup>1</sup> to the South Carolina State Fiscal Accountability Authority (the "SFAA") dated April 17, 2023 (the "Petition"), to approve the issuance of the Bonds pursuant to the South Carolina Constitution and Acts of the General Assembly of the State of South Carolina, including particularly Title 59, Chapter 147 of the Code of Laws of South Carolina 1976, as the same may be further amended from time to time (the "Act") for the purpose of refunding all or a portion of the May 1, 2024 through May 1, 2043 maturities of the \$37,185,000 original principal amount University of South Carolina Higher Education Refunding Revenue Bonds, Series 2013.

In that capacity, we have examined originals or copies of the Petition, the Bond Resolution duly adopted on June 21, 1996 by the Board of Trustees of the University (the "Board of Trustees"), a Series Resolution duly adopted by the Board of Trustees on October 14, 2022 (together, the "Bond Resolution"), and a proposed resolution of the SFAA in the form submitted as part of the Petition (the "SFAA Resolution," and together with the Petition, and the Bond Resolution, the "Transaction Documents").

In rendering the opinion expressed below, we have relied solely on our examination of the Transaction Documents. We have not made any investigation as to any factual matter or as to the accuracy or completeness of any representation, warranty, data, or any other information, whether written or oral, that may have been made by or on behalf of the University, the SFAA or the parties to any of the documents related to the Bonds. Further, in rendering the opinion expressed below, we do not purport to be experts in or generally familiar with or qualified to express legal opinions based on the laws of any jurisdiction other than the federal laws of the United States of America and the laws of the State of South Carolina, and the opinion is limited to the federal laws of the United States of America and the laws of the State of South Carolina. Nothing herein should be understood to render or express a credit or business judgement regarding the issuance of the Bonds.

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<sup>1</sup> Transmitted by Pope Flynn, LLC to Delbert H. Singleton, Jr., as SFAA Secretary by transmittal letter dated April 17, 2023.

POPE FLYNN  
GROUP

Based upon the stated examination and assumptions, and subject to the stated qualifications and limitations, we are of the opinion, under existing law, that the Transaction Documents comply with all requirements of the Act, contain all required facts, information, and findings by the respective authorities, and are legally sufficient to allow the SFAA to approve the issuance of the Bonds through the adoption of the SFAA Resolution.

Except as set forth above, we express no opinion in connection with the issuance and sale of the Bonds. The opinion expressed above is rendered solely for your benefit in considering the approval of the issuance of the Bonds under the Act. The opinion may neither be relied on by you for any other purpose nor be furnished to, used, circulated, quoted or relied on by any other person or entity for any other purpose, without our prior written consent in each instance. This opinion speaks only as of the date hereof and we disclaim any obligation to update the opinion expressed above for events occurring or coming to our attention after the date of this letter.

Very truly yours,

A handwritten signature in blue ink that reads "Pope Flynn LLC". The signature is stylized, with the first letters of "Pope" and "Flynn" being large and prominent. The "LLC" is written in a simpler, more straightforward script at the end of the signature.

Pope Flynn, LLC

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AGENCY: Executive Director

---

SUBJECT: Revenue Bonds (State Housing Finance and Development Authority)

The required review on the following proposal to issue revenue bonds has been completed with satisfactory results. The project require approval under State law.

- a. Issuing Authority: State Housing Finance and Development Authority  
Amount of Issue: N/E \$206,190,000 Mortgage Revenue Bonds, Series 2023A and B  
Allocation Needed: -0-  
Name of Project: Mortgage Revenue Bonds, Series 2022A and B  
Employment Impact: n/a  
Project Description: mortgage revenue bonds  
Bond Counsel: Rion D. Foley, Burr Forman McNair

[**Note:** Late 2022, SC Housing issued \$206 million in short term notes to preserve otherwise expiring single family volume cap. Long-term refunding bonds will redeem short term notes, with proceeds to be used to purchase mortgages.]

---

**AUTHORITY ACTION REQUESTED:**

Adopt the resolution approving the referenced proposal to issue revenue bonds for the State Housing Finance and Development Authority as noted in the item.

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**ATTACHMENTS:**

Agenda item worksheet and attachment



# OFFICE OF STATE TREASURER

## New Debt Information Form (NDIF) - Initial Form

SFAA Approval Date: 05/23/23

Final Version Date: 00/00/00

### 1. AGENCY/ISSUER & FINANCING INFORMATION

Agency #: L320 Issuer: South Carolina State Housing Finance & Development Authority Series: 2023A & 2023B Bonds  
 Borrower (if not Issuer):  
 Bond Caption: Mortgage Revenue Bonds  
 Bond Resolution Amount: \$ 206,190,000 Est. Production/Par Amt: \$ 206,190,000

(\* Used to calculate initial COI percentages; STO bond issues must use Par Amt \*)

#### Submitted By:

ENTITY: SC Housing Finance & Development  
 BY: Ellen Eudy  
 ITS: Chief Financial Officer  
 Tel: 803-896-9551  
 Email: ellen.eudy@schousing.com

Final Production/Par Amt: \$ -

#### Transaction Type/Method of Sale:

☒ Public Offering: Competitive: ☐ Negotiated: ☒  
☐ Direct Placement: Competitive: ☐ Negotiated: ☐  
☐ Governmental Loan/Governmental Purchaser  
☐ Other:

MSRB (EMMA) Continuing Disclosure Requirement (Y/N): Yes

MSRB (EMMA) Continuing Disclosure Responsible Party: South Carolina State Housing Finance & Development Authority

### 2. FINANCING (NEW PORTION)

Project #: Project Name: Single Family Mortgage Revenue Bonds / Notes  
 Project Address/Location: Available Statewide Amount: \$ 206,190,000  
 Project Type: Single Family Mortgages County:  
 Projected Avg Interest Rate: TBD Final Maturity: 07/01/54

### 3. FINANCING (REFUNDED PORTION)

Series to be Refunded	Refunded Maturities	Principal Refunded	IR of Refunded Bds	Est. Yield of Refunding Bds	Est NPV Svgs. (\$)	Est NPV Svgs. (% of Ref. Bds)
		\$ -			\$ -	
		-			-	
		-			-	
Total		\$ -	*****	*****	\$ -	

### 4. FINANCING WORKING GROUP

Financial Advisor: Raymond James & Associates, Inc. Disclosure Counsel: Howell Linkous & Nettles  
 Bond Counsel: Burr Forman McNair Issuer's Counsel: Internal Counsel  
 Underwriter: Citigroup Trustee: Bank of New York Mellon  
 Paying Agent: Bank of New York Mellon Other: Underwriter's Counsel - Parker Poe Adams

### 5. FINANCING/PROJECT DESCRIPTION

(Briefly, explain the financing/project, the anticipated costs, & the basis for these cost estimates. Use an attachment if needed)

See attached pages for details.

### 6. FINANCING/PROJECT APPROVAL DATES

Financing Approvals	Notes:
Issuer/Borrower Approval: 03/21/23	Prelim/ Final
JBRC Approval: 00/00/00	
SFAA Approval: 05/23/23	Proposed

Project Approvals - Phase II (State Entities Only)	Notes:
Issuer/Borrower Approval: 00/00/00	
JBRC Approval: 00/00/00	
SFAA Approval: 00/00/00	

### 7. TAX AND ARBITRAGE MATTERS & SPEND DOWN SCHEDULE

a. Is any portion of the project, once completed, to be managed by a third-party pursuant to a management contract? (if yes, please attach copy)

Yes No  
☐ ☒

b. Will any third-party payments (from support organizations, private entities or the federal government) related to the facility, however indirectly, be used to pay debt service on the bonds?

☐ ☒

c. If yes to any of the above, please provide a square footage and cost estimate of the portion affected.

Sq. Footage - Not Applicable  
 Cost Estimate - \$ -

Est. Expenditures - Through 6 Months  
 Est. Expenditures - Through 12 Months  
 Est. Expenditures - Through 18 Months  
 Est. Expenditures - Through 24 Months  
 Est. Expenditures - Through 36 Months  
 Est. Expenditures - Through 48 Months  
 - Estimated Expenditures: Thru FY:

Bond Proceeds	FYE	Spend Down Schedule Notes
\$ 106,190,000	6/30/2023	Purchasing Mortgages
100,000,000	6/30/2024	Purchasing Mortgages
-	00/00/00	
-	00/00/00	
-	00/00/00	
-	00/00/00	
<b>\$ 206,190,000</b>		

## 8. ESTIMATED/ACTUAL PROJECT SOURCES AND USES

Sources	Est. Project Budget (Sources)	Est. Project Budget (Uses)	Uses
(1) Bond Proceeds: (a) Par	\$ 206,190,000	\$ 214,437,600	Project Fund
(b) Premium/Accr. Int.	8,247,600	-	Capitalized Interest Fund
(2) Issuer/Borrower Contr.	11,414,713	6,185,700	Debt Service Reserve Fund
(3) Debt Service Fund Trans.	-	-	Redemption Price/Escrow Deposit
(4) Debt Service Reserve Fund Contribution	-	2,136,163	Cost of Issuance (Incl. UW Disc.)
(5) Other (Specify)	-	-	Accrued Interest
Type -	-	3,092,850	Servicing Release Premium
<b>Residual Project Sources</b>		-	Other
(6) Other	-	-	Other
(a) GF -	-	-	Other
(a) FF -	-	-	Other
(c) OF -	-	-	Other
<b>Total Project Sources</b>	<b>\$ 225,852,313</b>	<b>\$ 225,852,313</b>	<b>Total Project Uses</b>
Surplus/Deficit		\$ -	

## 9. ESTIMATED/ACTUAL BOND COI EXPENDITURES (\*\* Added COI entities beyond the following need an attached description \*\*)

COI Entity	Selected COI Vendor	Vendor #	Engagement Date (w/Engagement Ltr Attached)	Est. Fee For Services	Act. Fee For Services	(\$ Δ)
Financial Advisor	Raymond James			\$ 134,000	\$ -	\$ 134,000
Bond Counsel	Burr Forman McNair			206,190	-	206,190
Disclosure Counsel	Howell Linkous			103,095	-	103,095
Issuer's Counsel	Internal Counsel			-	-	-
Underwriter's Counsel	Parker Poe Adams			51,548	-	51,548
Transaction Counsel				-	-	-
Legal Expenses				-	-	-
				-	-	-
Rating Agency - S&P				-	-	-
Rating Agency - Moody's				150,000	-	150,000
Rating Agency - Fitch				-	-	-
Underwriter's Compensation				1,443,330	-	1,443,330
Registrar / Paying Agent				15,000	-	15,000
Escrow Agent				-	-	-
Accountant				-	-	-
Verification Agent				-	-	-
Printing				3,000	-	3,000
Publishing				-	-	-
Advertising				-	-	-
Contingency				30,000	-	30,000
Issuer's Fee	SC JEDA / SC SHFDA			-	-	-
				<b>\$ 2,136,163</b>	<b>\$ -</b>	<b>\$ 2,136,163</b>

Est. / Actual COI Fees (% of Transaction):

Financial Advisor: % of Transaction  
 Bond Counsel: % of Transaction  
 Total Legal Costs: % of Transaction  
 Rating Agencies: % of Transaction

0.06%	#DIV/0!
0.10%	#DIV/0!
0.18%	#DIV/0!
0.07%	#DIV/0!

UW Comp: % of Transaction  
 Other COI: % of Transaction  
 Total COI: % of Transaction

0.70%	#DIV/0!
0.02%	#DIV/0!
<b>1.04%</b>	<b>#DIV/0!</b>



## **South Carolina Office of State Treasurer New Debt Information Form Attachment**

***5.23.2023 – South Carolina Housing Finance & Development Authority –  
Mortgage Revenue Bonds – \$206,190,000 2023A & 2023B***

---

### **Supplemental Response to Section 5:**

This SFAA financing request is to seek authorization to issue up to \$206,190,000 in single family long-term bonds to refund SC Housing's 2022C Short-term Notes issued on September 15, 2022. The proceeds released from the program fund allocable to the Series 2022C Short-term Notes and transferred to the new program fund allocable to the Series 2023A and 2023B Bonds will be used to provide new proceeds for affordable housing loans to qualifying low and moderate income first-time single-family home buyers in the State of South Carolina.

Issuance costs (not including the estimated underwriter's discount) are estimated at \$692,832 based on vendor contracts and typical fees for prior SC Housing transactions.

### **Key Notes**

The estimated schedule for this project is as follows:

- SC Housing preliminary approval to pricing for 2023A Bonds: 3/21/23
- SFAA Approval of 2023A Bonds and 2023B Bonds: 5/23/2023
- Pricing of 2023A Bonds: 6/6/2023-6/7/2023
- Closing of 2023A Bonds: 7/12/2023
- SC Housing preliminary approval to pricing for 2023B Bonds: 3/21/23
- Pricing of 2023B Bonds: 11/14/2023 – 11/15/2023
- Closing of 2023B Bonds: 12/14/2023



# South Carolina Office of State Treasurer

## New Debt Information Form Attachment

**5.23.2023 – South Carolina Housing Finance & Development Authority –  
Mortgage Revenue Bonds – \$206,190,000 2023A & 2023B**

### Production Projection

Production Projection							
SC State Housing Finance and Development Authority Analysis of Calendar 2023 and 2024 1st Mortgage Purchases As of 4/1/2023							
Balance @ 3/31/23			2022B	22B/23A Split	2023A	23A/23B Split	Surplus/Deficit
Bond Issuance - 2022B	160,000,000.00		-	60,000,000.00	61,190,000.00	40,000,000.00	
2022B Expended	(125,000,000.00)						
Remaining Balance of 2022B	35,000,000.00						
2023A Issuance	106,190,000.00						
	SFAA MTG	Estimated Loan Purchase					
Apr-23		8,800,000.00		(8,800,000.00)			-
May-23	5/23/2023	8,800,000.00		(8,800,000.00)			-
Jun-23	6/27/2023	12,400,000.00		(12,400,000.00)			-
Jul-23		16,100,000.00		(16,100,000.00)			-
Aug-23	8/29/2023	21,500,000.00		(13,900,000.00)	(7,600,000.00)		-
Sep-23		21,000,000.00			(21,000,000.00)		-
Oct-23	10/17/2023	18,000,000.00			(18,000,000.00)		-
Nov-23		20,000,000.00			(14,590,000.00)	(5,410,000.00)	-
Dec-23	12/12/2023	8,500,000.00				(8,500,000.00)	-
Jan-24		7,600,000.00				(7,600,000.00)	-
Feb-24		14,800,000.00				(14,800,000.00)	-
Mar-24		9,900,000.00				(3,690,000.00)	6,210,000.00
Balance @ March, 2024		167,400,000.00	-	-	-	-	6,210,000.00
NOTE: April through July, 2023 estimates are based on reservations. After July, estimates are based on 75% of prior year.							
RESERVATIONS							
FORECASTS							



# South Carolina Office of State Treasurer

## New Debt Information Form Attachment

**5.23.2023 – South Carolina Housing Finance & Development Authority –  
Mortgage Revenue Bonds – \$206,190,000 2023A & 2023B**

For FY 2024 through 2025, production is projected to match bond issuance amounts shown in the following table.

### General Resolution Projection

SC Housing									
Mortgage Revenue Bond Resolution									
General Resolution Projection based on Future Bond Issuance FY 2024-2025									
FY Year	Bond Issuance								
2024	206,190,000								
2025	200,000,000								
Rating Agency Cash Flow / 0% Prepayment Speed*									
	Total Assets	Total Bonds	Total Asset Coverage			Total Revenue	Total Debt Service	Total Debt Service Coverage	Debt Service Coverage Ratio
7/1/2023	1,359,303,340	1,133,610,000	225,693,340	7/1/2023	38,710,437	31,241,075	7,469,362		1.24
1/1/2024	1,352,691,641	1,117,000,000	235,691,641	1/1/2024	38,782,617	33,471,937	5,310,679		1.16
7/1/2024	1,336,560,038	1,097,745,000	238,815,038	7/1/2024	40,794,782	34,750,014	6,044,768		1.17
1/1/2025	1,424,489,869	1,179,360,000	245,129,869	1/1/2025	43,631,493	37,549,153	6,082,340		1.16
7/1/2025	1,511,280,196	1,259,900,000	251,380,196	7/1/2025	46,794,232	40,698,498	6,095,734		1.15
1/1/2026	1,495,797,213	1,239,680,000	256,117,213	1/1/2026	48,857,043	41,422,589	7,434,453		1.18
7/1/2026	1,479,951,147	1,219,055,000	260,896,147	7/1/2026	48,903,887	41,926,642	6,977,244		1.17
1/1/2027	1,464,158,842	1,198,495,000	265,663,842	1/1/2027	48,843,407	41,802,220	7,041,187		1.17
7/1/2027	1,448,025,977	1,177,610,000	270,415,977	7/1/2027	48,804,212	41,656,764	7,147,449		1.17
1/1/2028	1,431,101,492	1,155,770,000	275,331,492	1/1/2028	48,817,734	41,979,209	6,838,525		1.16
7/1/2028	1,414,770,068	1,134,510,000	280,260,068	7/1/2028	48,760,325	41,652,037	7,108,288		1.17
1/1/2029	1,398,305,843	1,113,110,000	285,195,843	1/1/2029	48,734,454	41,155,295	7,579,159		1.18
7/1/2029	1,382,036,992	1,091,905,000	290,131,992	7/1/2029	48,659,913	40,771,772	7,888,141		1.19
1/1/2030	1,366,168,391	1,071,095,000	295,073,391	1/1/2030	48,490,416	40,269,131	8,221,286		1.20
7/1/2030	1,349,799,895	1,049,815,000	299,984,895	7/1/2030	48,298,467	40,087,757	8,210,710		1.20
1/1/2031	1,333,066,810	1,028,180,000	304,886,810	1/1/2031	48,109,366	39,865,698	8,243,668		1.21
7/1/2031	1,316,574,372	1,006,835,000	309,739,372	7/1/2031	47,965,725	39,636,951	8,328,774		1.21
1/1/2032	1,301,044,216	986,220,000	314,824,216	1/1/2032	47,570,645	38,966,389	8,604,257		1.22
7/1/2032	1,285,301,693	965,445,000	319,856,693	7/1/2032	47,154,559	38,625,871	8,528,688		1.22
1/1/2033	1,269,064,834	944,205,000	324,859,834	1/1/2033	47,052,710	38,584,826	8,467,884		1.22
7/1/2033	1,252,389,421	922,575,000	329,814,421	7/1/2033	46,927,956	38,507,430	8,420,526		1.22

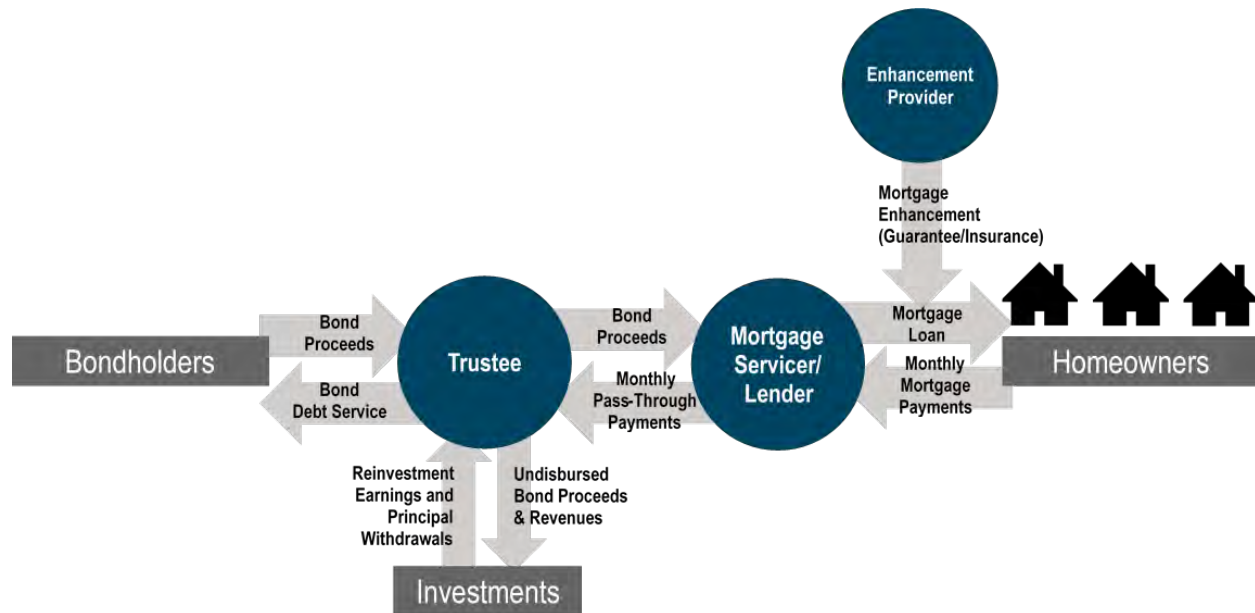
\* 0% PSA means no prepayment of principal received from the borrower. The Authority has been experiencing prepayment between 100% - 200% PSA. 0% PSA is the most conservative measurement from the loan revenue perspective.



# South Carolina Office of State Treasurer New Debt Information Form Attachment

**5.23.2023 – South Carolina Housing Finance & Development Authority –  
Mortgage Revenue Bonds – \$206,190,000 2023A & 2023B**

## Single Family Transaction Flow of Funds





## South Carolina Office of State Treasurer New Debt Information Form Attachment

***5.23.2023 – South Carolina Housing Finance & Development Authority –  
Mortgage Revenue Bonds – \$206,190,000 2023A & 2023B***

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### Key Bond Financing Documents:

- General Resolution and Supplemental Resolution
- Official Statement
- Bond Purchase Agreement

### Financing Team:

Issuer	SC Housing
State Oversight	State Treasurer's Office
Bond Counsel	Burr Forman McNair
Disclosure Counsel	Howell Linkous & Nettles, LLC
Financial Advisor	Raymond James
Underwriter(s)	Citigroup, BofA, Wells Fargo
Underwriter's Counsel	Parker Poe Adams & Bernstein
Bond Trustee	Bank of New York Mellon
Trustee Counsel	Maynard Nexsen
Master Servicer	U.S. Bank / Lakeview
Rating Agencies	Moody's

Rion Foley  
rfoley@burr.com  
Direct Dial: (843) 973-6827  
Direct Fax: (843) 805-6569

100 Calhoun Street  
Suite 400  
Charleston, SC 29401

Office (843) 723-7831  
Fax (843) 722-3227

BURR.COM

April 6, 2023

**Via Email**

Mr. Delbert H. Singleton, Jr.  
Secretary  
State Fiscal Accountability Authority  
601 Wade Hampton Office Building  
Columbia, SC 29201

Re: Proposed Not Exceeding \$206,190,000 South Carolina State Housing Finance and Development Authority ("SCSHFDA") Mortgage Revenue Bonds, Series 2023A and B

Dear Delbert:

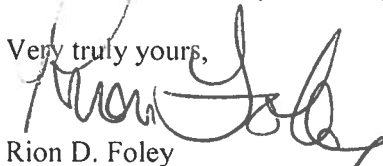
In connection with the May 23, 2023 meeting of the State Fiscal Accountability Authority ("SFAA"), the following documents have been filed on the SFAA's File Drop System today:

- Bond Transmittal Form;
- Debt Questionnaire;
- New Debt Information Form (prepared by Raymond James, Financial Advisor to the Authority), together with related Supplemental Schedules (prepared by the SCSHFDA);
- SFAA Petition;
- SFAA Resolution;
- SCSHFDA Authorizing Resolution;
- SCSHFDA PowerPoint Presentation; and
- Bond Counsel Opinion.

On behalf of the SCSHFDA we commit to keep the SFAA informed on the issuance of the long-term bonds described in the materials listed.

Please let us know if you have questions or need additional documentation.

Very truly yours,



Rion D. Foley

RDF/mpc

cc: Robert Macdonald, III  
Richard Hutto  
Lee Ann Watson, Esq.

## BOND TRANSMITTAL FORM

**TO:** Delbert H. Singleton, Jr., Authority Secretary  
State Fiscal Accountability Authority  
600 Wade Hampton Building (29201)  
P.O. Box 12444  
Columbia, SC 29211

**DATE:** 4/4/2023

**Submitted for SFAA Meeting on:**  
5/23/2023

**FROM: Burr Forman McNair**

P.O. Box 1431  
Charleston, SC 29402  
(843) 723-7831

**RE: South Carolina State Housing Finance and Development Authority Mortgage Revenue Bonds, Series 2023A and B**

**Project Name:** South Carolina State Housing Finance and Development Authority Mortgage Revenue Bonds, Series 2023A and B

**Documents enclosed (executed original and two copies of each):**

*(ALL documents required for state law approval; A and C only for ceiling allocation only; must check K or L)*

- A. ☒ Petition
- B. ☒ Resolution or Ordinance
- C. ☒ Inducement Resolution or comparable preliminary approval
- D. ☐ Department of Health and Environmental Control Certificate *if required*
- E. ☒ State Fiscal Accountability Authority Resolution and Public Notice *(original)*  
*Plus \_\_\_\_\_ copies for certification and return to bond counsel*
- F. ☒ Draft bond counsel opinion letter
- G. ☐ Signed SFAA Reliance letter
- H. ☐ DHEC Certificate of Need (C.O.N.)
- I. ☒ Debt Questionnaire
- J. ☐ Processing Fee

**Amount:** \$Click or tap here to enter text.    **Check No:** Click or tap here to enter text.

**Payor:** Click or tap here to enter text.

- K. ☒ No Private Participant will be known at the time the Authority considers this agenda item.
- L. ☐ This agenda item is accompanied by the applicable Private Party Disclosure form for each private participant

**Bond Counsel:** Rion D. Foley, Esq.  
Typed Name of Bond Counsel

By:   
Signature

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

\_\_\_\_\_)  
\_\_\_\_\_)  
TO THE STATE FISCAL ACCOUNTABILITY  
AUTHORITY OF SOUTH CAROLINA  
\_\_\_\_\_)  
\_\_\_\_\_)

PETITION

This Petition of the South Carolina State Housing Finance and Development Authority (the “Authority”) respectfully shows:

1. The Authority is empowered by the provisions of Title 31, Chapter 13, Code of Laws of South Carolina 1976, as amended (the “Act”) upon the approval of the State Fiscal Accountability Authority of South Carolina (the “SFAA”), to issue bonds, the principal proceeds of which are to be applied to providing sanitary and safe residential housing for persons and families of low and moderate to low income at prices which such persons can afford and/or to refund any such bonds, short-term notes and other obligations of the Authority.

2. The Authority has determined that there exists both a demand, and a need for money to provide mortgage loans directly (or indirectly through mortgage backed securities) to members of the beneficiary classes at affordable prices. In order to meet such demand, the Authority requests that it be empowered to issue and sell one or more series of long-term tax-exempt bonds and/or long-term taxable bonds in an amount not to exceed \$206,190,000 to make such mortgage loans directly (or indirectly through mortgage backed securities) and/or to refund any such bonds, short-term notes and other obligations of the Authority. Certain taxable and refunding portions of the Series 2023A&B Bonds (Tax-Exempt and/or Taxable) or such other numbering convention as may be necessary will not require the use of the State Ceiling. The Series 2023A&B Bonds (Tax-Exempt and/or Taxable) or such other numbering convention as may be necessary are collectively referred to as the “Series 2023A&B Bonds”.

3. The Series 2023A&B Bonds, other than any portion of which are taxable, if any, will be “private activity bonds” within the meaning of such term in Section 146 of the Internal Revenue Code of 1986, as amended (the “Code”), which imposes a “volume cap” on private activity bonds (other than most refunding bonds) by way of a “State Ceiling” (as such term is used in Section 146(d) of the Code) applicable to each state.

4. The Authority is an “issuing authority” contemplated in 1-11-510 of the SC Code of Laws, as amended, and is authorized to receive an allocation of the State of South Carolina’s private activity bond volume cap limit set forth in Section 146 of the Code. The SFAA is responsible for making allocations of the State Ceiling.

5. The Authority may utilize, to the extent required by the Code, State Ceiling carryforward previously allocated to the Authority so that the tax-exempt portion of the Series 2023A&B Bonds may be issued.

6. The Series 2023A&B Bonds will be issued pursuant to the General Resolution adopted by the Authority on September 13, 1994, a copy of which has been filed with the SFAA, and one or more Supplemental Resolutions to be adopted by the Authority.

7. It is anticipated that the Series 2023A&B Bonds issued in one or more series will be sold at prices and at rates which will enable the Authority to make mortgage loans directly (or indirectly through mortgage backed securities) to members of the beneficiary classes at competitive rates. If the primary purpose of the applicable series of the Series 2023A&B Bonds is refunding prior long-term bonds of the Authority, the Authority may determine that refunding certain of its prior bonds will result in lower total interest costs, after taking into consideration the costs of such refunding, and is expected to provide overall better economic return to the Authority over the life of the applicable series of the Series 2023A&B Bonds.

8. The income to be received by the Authority from the mortgage loans purchased directly (or indirectly through mortgage backed securities) with the funds released from the program account allocable to previously issued short-term notes to be refunded by the Series 2023A&B Bonds and invested reserves will produce a spread within any applicable arbitrage limits imposed by the United States Treasury but will at the same time provide a proper margin to insure the prompt payment of the principal of and interest on the applicable series of the Series 2023A&B Bonds as they mature and money to pay the expenses of the Authority for its program, including expenses incident to the servicing of the loans purchased with the proceeds resulting from the refunding of the short-term notes by the applicable series of the Series 2023A&B Bonds.

9. This Petition constitutes the Authority's request that the SFAA approve the issuance of the Series 2023A&B Bonds in one or more series.

10. It is anticipated that the applicable series of the Series 2023A&B Bonds will be rated at least "Aa" by Moody's Investors Service, Inc.

11. The Authority requests that the SFAA delegate to the State Treasurer (i) the ability to approve the principal amount and interest rate on the applicable series of the Series 2023A&B Bonds, (ii) to approve the form and substance of preliminary and final official statements to be distributed in connection with the sale of the applicable series of the Series 2023A&B Bonds; (iii) to approve the form and substance of a supplemental resolution or supplemental resolutions setting forth the terms and conditions of the applicable series of the Series 2023A&B Bonds; (iv) to approve the terms and conditions of the Purchase Contract(s); and (v) upon making a determination that the funds anticipated to be available for the payment of the Authority's bonds, short-term notes and other obligations, including the applicable series of the Series 2023A&B Bonds, will be sufficient to provide for the payment of principal and interest thereon, to grant on behalf of the SFAA final approval for the issuance of the Series 2023A&B Bonds in one or more series. Prior to the issuance and delivery of the applicable series of the Series 2023A&B Bonds, the Authority will submit to the SFAA all information required by §31-13-220 of the Act, to wit:

- (a) the purpose and the principal amount of the applicable series of the Series 2023A&B Bonds to be issued;
- (b) the maturity schedule of the applicable series of the Series 2023A&B Bonds to be issued;
- (c) a schedule showing the annual debt service requirements of all outstanding bonds and short-term notes of the Authority;

- (d) a schedule showing the amount and source of revenues available for the payment of debt service on said bonds and short-term notes; and
  - (e) the method to be employed in selling the applicable series of the Series 2023A&B Bonds.
- 12. The Authority stands ready to produce any further information required by the SFAA.

WHEREFORE, on the basis of the foregoing, the Authority prays:

That the SFAA approve the issuance of the Series 2023A&B Bonds (or such other numbering convention) in one or more series.

Respectfully submitted,

SOUTH CAROLINA STATE HOUSING  
FINANCE AND DEVELOPMENT AUTHORITY

By: Lee Ann Watson  
Its: General Counsel

April 5, 2023

## **A RESOLUTION**

### **MAKING PRELIMINARY PROVISION FOR THE ISSUANCE OF NOT EXCEEDING \$206,190,000 (IN ONE OR MORE SERIES) AGGREGATE PAR PRINCIPAL AMOUNT OF SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY MORTGAGE REVENUE BONDS, SERIES 2023A&B (TAX-EXEMPT AND/OR TAXABLE) OR SUCH OTHER NUMBERING CONVENTION AS MAY BE NECESSARY, AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, the South Carolina State Housing Finance and Development Authority (the “Authority”) is authorized and empowered by Title 31, Chapter 13, Code of Laws of South Carolina 1976, as amended (the “Act”) to issue bonds, the principal proceeds of which will be used to provide sanitary and safe residential housing for persons and families of low income and of moderate to low income at prices which such persons can afford and/or refund any such bonds, short-term notes and other obligations of the Authority; and

**WHEREAS**, upon making a determination that a demand for money for mortgage loans is sufficient to justify the issuance of bonds and upon the approval of the State Fiscal Accountability Authority of South Carolina (the “SFAA”), the Authority may, from time to time, issue a series of its bonds for the purpose of obtaining funds with which to provide sanitary and safe residential housing for beneficiary classes at prices which such persons can afford and/or refund any such bonds, short-term notes and other obligations of the Authority; and

**WHEREAS**, the Authority has formulated a plan for the issuance of tax-exempt and/or taxable South Carolina State Housing Finance and Development Authority Mortgage Revenue Bonds, Series 2023A&B (Tax-Exempt and/or Taxable) or such other numbering convention as may be necessary, which may include long-term tax-exempt bonds and/or long-term taxable bonds not requiring State Ceiling (the “Series 2023A&B Bonds”), in one or more series pursuant to the Act, such plan being conditioned upon the Authority’s underwriters’ ability to sell the Series 2023A&B Bonds in a par principal amount of not exceeding \$206,190,000; and

**WHEREAS**, the Authority is an “issuing authority” contemplated in 1-11-510 of the SC Code of Laws, as amended, and is authorized to receive an allocation of the State of South Carolina’s private activity bond volume cap limit set forth in Section 146 of the Internal Revenue Code of 1986, as amended (the “Code”); and

**WHEREAS**, the Authority has determined that there exists both a demand and a need for affordable mortgage money such as to justify the issuance of the Series 2023A&B Bonds in one or more series upon the terms and conditions stated herein; and

**WHEREAS**, in light of additional demand for mortgage loans, the Authority has formulated a plan for the issuance of the Series 2023 A&B Bonds in one or more series pursuant to the Act, and upon approval by the SFAA of the issuance of such Series 2023A&B Bonds; and

**WHEREAS**, such plan is not conditioned upon the granting by the SFAA of any additional allocation of the State Ceiling established by Section 146 of the Code (the “State Ceiling”) relating to the issuance of private activity bonds; and

**WHEREAS**, the Authority proposes (i) to make provision for one or more additional series of tax-exempt bonds comprising a portion of the Series 2023A&B Bonds, certain of which may require the use of State Ceiling previously allocated to the Authority; (ii) to make provision for one or more additional series of tax-exempt bonds which will comprise a portion of the Series 2023A&B Bonds for the purpose of refunding certain bonds, short-term notes and other obligations of the Authority; and (iii) to make provision for one or more additional series of taxable bonds which will comprise a portion of the Series 2023A&B Bonds for the purpose of refunding certain bonds of the Authority all in an aggregate par principal amount not to exceed \$206,190,000; and

**WHEREAS**, the primary purpose of the Series 2023A&B Bonds in one or more series is to refund certain previously issued short-term notes thereby releasing funds from the program account allocable to such short-term notes to finance mortgage loans directly (or indirectly through mortgage backed securities); and

**WHEREAS**, the Authority may make a determination that refunding certain of its other prior bonds will result in lower total interest costs, after taking into consideration the costs of such refunding, and is expected to provide overall better economic return to the Authority over the life of the applicable series of the Series 2023A&B Bonds.

**NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY IN MEETING DULY ASSEMBLED:**

**Section 1.**      **Adoption of Premises.** Each statement of fact set forth in the preamble hereto has been carefully examined and has been found to be in all respects true and correct.

**Section 2.**      **Sale of the Series 2023A&B Bonds; Execution of Purchase Contract(s).** The Chairman (the “Chairman”) of the Board of Commissioners of the Authority (the “Board of Commissioners”) and the Executive Director (the “Executive Director”) of the Authority and each of them are hereby authorized to sell any or all of the Series 2023A&B Bonds in one or more series to the Authority’s underwriters (the “Underwriters”) headed by Citigroup Global Markets Inc. pursuant to the terms and conditions of one or more Purchase Contract(s) in substantially the form heretofore employed by the Authority in connection with the sale of its mortgage revenue bonds. The Authority hereby conferred may be exercised as long as the issuance and delivery of the Series 2023A&B Bonds in one or more series will not result in a lowering of the credit rating on the Authority’s mortgage revenue bonds. The Chairman and the Executive Director shall ensure that the arrangements for the sale of the Series 2023A&B Bonds in one or more series comply with the Authority’s general policy regarding distribution of bonds and availability to residents of the State of South Carolina and with the terms and conditions stated herein.

**Section 3.**      **Preliminary and Final Official Statement.** The distribution and use of preliminary and final official statements in connection with the sale of the Series 2023A&B Bonds in one or more series is hereby authorized. Said preliminary and final official statements shall be in substantially the forms heretofore used in connection with the distribution of the Authority’s mortgage revenue bonds with such changes, additions, deletions, or modifications as are consistent with the details of the applicable series of the Series 2023A&B Bonds or as are recommended by the Underwriters and accepted by disclosure counsel, bond counsel and the staff of the Authority. The Chairman and the Executive Director are hereby authorized and directed to take such action as they deem appropriate or as is requested of either of them in connection with the distribution of preliminary and/or final official statements.

**Section 4.**      **Petition to the State Fiscal Accountability Authority.** The Chairman, the Executive Director and/or the legal counsel to the Authority are hereby authorized and directed to prepare and present in a Petition to the SFAA (the form of such Petition in substantially final form is attached hereto

as Exhibit A). Such petition shall include the information prescribed by §31-13-220 of the Act which shall include, among other things, a request that the issuance of the Series 2023A&B Bonds in one or more series be approved by the SFAA, the pertinent terms and provisions of the applicable series of the Series 2023A&B Bonds determined as provided in this Resolution, and of the outstanding bonds of the Authority.

**Section 5. Resolution of State Fiscal Accountability Authority.** The Authority approves the form of Resolution of the SFAA in the form attached hereto as Exhibit B.

**Section 6. Series 2023 Supplemental Resolution.** The Board of Commissioners in a meeting duly assembled shall be presented with a Series 2023 Supplemental Resolution for each series in substantially the form as previous bond issues submitted to it at such time when the details of the applicable series of the Series 2023A&B Bonds are known.

**Section 7. Declaration of Official Intent.** Section 1.150-2 of the Treasury Regulations promulgated pursuant to Section 150 of the Internal Revenue Code of 1986, as amended, sets forth certain procedures relating to the treatment of “Reimbursement Bonds”. The Authority expects to issue one or more series of qualified tax-exempt mortgage revenue bonds during calendar year 2023 (“Reimbursement Bonds”) of which a portion of the proceeds will be used to reimburse the Authority for the expenditures previously paid from certain funds and accounts of the Authority for qualified mortgage loans and/or pools of mortgage backed securities (the “Reimbursement Loans”). The Authority hereby declares its official intent to reimburse all or a portion of certain expenditures with the proceeds of the Reimbursement Bonds or other borrowing. The maximum principal amount of Reimbursement Bonds expected to be issued for reimbursement of the “Revenue Reserve Fund of the South Carolina State Housing Finance and Development Authority” (the “Reimbursement Fund”) for the Reimbursement Loans is \$206,190,000 and on the date hereof the Authority “reasonably expects” to reimburse all or a portion of the expenditures from the Reimbursement Fund for the Reimbursement Loans with a portion of the Reimbursement Bonds or other borrowing. Such Reimbursement Loans will be originated or purchased on or after the date which is not more than 60 days prior to the approval date hereof. Such Reimbursement Loans are/will be credited to SCEIS Fund #60059017 SHA GRRF-095 or successor account number for such account or such other account designated by the Authority. The Authority “reasonably expects” to issue and/or convert \$206,190,000 in obligations during calendar year 2023 to fund the Authority’s mortgage revenue bond program. Written evidence of the “reimbursement allocation” for the Reimbursement Loans shall be set forth in the closing transcript for the Reimbursement Bonds or other books and records of the Authority which shall be dated the date of delivery. This declaration shall take effect immediately.

**Section 8. General Authority.** The Board of Commissioners and its appropriate officers, attorneys, agents, and employees are hereby authorized to do all acts and things required of them by this Resolution or consistent or desirable in connection with the requirements hereof for the full, punctual, and complete performance of all the terms, covenants, and purposes contained in the applicable series of the Series 2023A&B Bonds and this Resolution, and each such member of the Board of Commissioners, officer, attorney, and employee is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated thereby and hereby.

**Section 9. Law and Place of Enforcement of the Resolution.** This Resolution shall be construed and interpreted in accordance with the laws of the State of South Carolina.

**Section 10. Effective Date.** This Resolution shall become effective immediately upon its adoption by the Board of Commissioners.

**Section 11.**     **Severability.** The provisions of this Resolution are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

**Section 12.**     **Repeal of Inconsistent Resolutions.** All orders, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall take effect and be in full force from and after its passage and approval.

**EXHIBIT A**

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

\_\_\_\_\_)  
\_\_\_\_\_)  
TO THE STATE FISCAL ACCOUNTABILITY \_\_\_\_\_)  
AUTHORITY OF SOUTH CAROLINA \_\_\_\_\_)  
\_\_\_\_\_) PETITION  
\_\_\_\_\_)

This Petition of the South Carolina State Housing Finance and Development Authority (the “Authority”) respectfully shows:

1. The Authority is empowered by the provisions of Title 31, Chapter 13, Code of Laws of South Carolina 1976, as amended (the “Act”) upon the approval of the State Fiscal Accountability Authority of South Carolina (the “SFAA”), to issue bonds, the principal proceeds of which are to be applied to providing sanitary and safe residential housing for persons and families of low and moderate to low income at prices which such persons can afford and/or to refund any such bonds, short-term notes and other obligations of the Authority.

2. The Authority has determined that there exists both a demand, and a need for money to provide mortgage loans directly (or indirectly through mortgage backed securities) to members of the beneficiary classes at affordable prices. In order to meet such demand, the Authority requests that it be empowered to issue and sell one or more series of long-term tax-exempt bonds and/or long-term taxable bonds in an amount not to exceed \$206,190,000 to make such mortgage loans directly (or indirectly through mortgage backed securities) and/or to refund any such bonds, short-term notes and other obligations of the Authority. Certain taxable and refunding portions of the Series 2023A&B Bonds (Tax-Exempt and/or Taxable) or such other numbering convention as may be necessary will not require the use of the State Ceiling. The Series 2023A&B Bonds (Tax-Exempt and/or Taxable) or such other numbering convention as may be necessary are collectively referred to as the “Series 2023A&B Bonds”.

3. The Series 2023A&B Bonds, other than any portion of which are taxable, if any, will be “private activity bonds” within the meaning of such term in Section 146 of the Internal Revenue Code of 1986, as amended (the “Code”), which imposes a “volume cap” on private activity bonds (other than most refunding bonds) by way of a “State Ceiling” (as such term is used in Section 146(d) of the Code) applicable to each state.

4. The Authority is an “issuing authority” contemplated in 1-11-510 of the SC Code of Laws, as amended, and is authorized to receive an allocation of the State of South Carolina’s private activity bond volume cap limit set forth in Section 146 of the Code. The SFAA is responsible for making allocations of the State Ceiling.

5. The Authority may utilize, to the extent required by the Code, State Ceiling carryforward previously allocated to the Authority so that the tax-exempt portion of the Series 2023A&B Bonds may be issued.

6. The Series 2023A&B Bonds will be issued pursuant to the General Resolution adopted by the Authority on September 13, 1994, a copy of which has been filed with the SFAA, and one or more Supplemental Resolutions to be adopted by the Authority.

7. It is anticipated that the Series 2023A&B Bonds issued in one or more series will be sold at prices and at rates which will enable the Authority to make mortgage loans directly (or indirectly through mortgage backed securities) to members of the beneficiary classes at competitive rates. If the primary purpose of the applicable series of the Series 2023A&B Bonds is refunding prior long-term bonds of the Authority, the Authority may determine that refunding certain of its prior bonds will result in lower total interest costs, after taking into consideration the costs of such refunding, and is expected to provide overall better economic return to the Authority over the life of the applicable series of the Series 2023A&B Bonds.

8. The income to be received by the Authority from the mortgage loans purchased directly (or indirectly through mortgage backed securities) with the funds released from the program account allocable to previously issued short-term notes to be refunded by the Series 2023A&B Bonds and invested reserves will produce a spread within any applicable arbitrage limits imposed by the United States Treasury but will at the same time provide a proper margin to insure the prompt payment of the principal of and interest on the applicable series of the Series 2023A&B Bonds as they mature and money to pay the expenses of the Authority for its program, including expenses incident to the servicing of the loans purchased with the proceeds resulting from the refunding of the short-term notes by the applicable series of the Series 2023A&B Bonds.

9. This Petition constitutes the Authority's request that the SFAA approve the issuance of the Series 2023A&B Bonds in one or more series.

10. It is anticipated that the applicable series of the Series 2023A&B Bonds will be rated at least "Aa" by Moody's Investors Service, Inc.

11. The Authority requests that the SFAA delegate to the State Treasurer (i) the ability to approve the principal amount and interest rate on the applicable series of the Series 2023A&B Bonds, (ii) to approve the form and substance of preliminary and final official statements to be distributed in connection with the sale of the applicable series of the Series 2023A&B Bonds; (iii) to approve the form and substance of a supplemental resolution or supplemental resolutions setting forth the terms and conditions of the applicable series of the Series 2023A&B Bonds; (iv) to approve the terms and conditions of the Purchase Contract(s); and (v) upon making a determination that the funds anticipated to be available for the payment of the Authority's bonds, short-term notes and other obligations, including the applicable series of the Series 2023A&B Bonds, will be sufficient to provide for the payment of principal and interest thereon, to grant on behalf of the SFAA final approval for the issuance of the Series 2023A&B Bonds in one or more series. Prior to the issuance and delivery of the applicable series of the Series 2023A&B Bonds, the Authority will submit to the SFAA all information required by §31-13-220 of the Act, to wit:

- (a) the purpose and the principal amount of the applicable series of the Series 2023A&B Bonds to be issued;
- (b) the maturity schedule of the applicable series of the Series 2023A&B Bonds to be issued;
- (c) a schedule showing the annual debt service requirements of all outstanding bonds and short-term notes of the Authority;

- (d) a schedule showing the amount and source of revenues available for the payment of debt service on said bonds and short-term notes; and
  - (e) the method to be employed in selling the applicable series of the Series 2023A&B Bonds.
- 12. The Authority stands ready to produce any further information required by the SFAA.

WHEREFORE, on the basis of the foregoing, the Authority prays:

That the SFAA approve the issuance of the Series 2023A&B Bonds (or such other numbering convention) in one or more series.

Respectfully submitted,

SOUTH CAROLINA STATE HOUSING  
FINANCE AND DEVELOPMENT AUTHORITY

By: Lee Ann Watson  
Its: General Counsel

April 5, 2023

**THE STATE FISCAL ACCOUNTABILITY AUTHORITY OF SOUTH CAROLINA**

**A RESOLUTION**

**APPROVING THE ISSUANCE BY THE SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY OF SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY MORTGAGE REVENUE BONDS, SERIES 2023A&B (TAX-EXEMPT AND/OR TAXABLE) OR SUCH OTHER NUMBERING CONVENTION AS MAY BE NECESSARY IN ONE OR MORE SERIES**

**WHEREAS**, pursuant to Chapter 13, Title 31, Code of Laws of South Carolina, 1976, as amended, (the “Act”), upon the approval of the State Fiscal Accountability Authority of South Carolina (the “SFAA”), the South Carolina State Housing Finance and Development Authority (the “Authority”) is empowered to issue bonds, the principal proceeds of which will be applied to providing sanitary and safe residential housing for persons and families of low income and moderate-to-low income at prices which such persons can afford and/or to refund any such bonds, short-term notes and other obligations of the Authority; and

**WHEREAS**, the Authority heretofore on September 13, 1994, adopted a General Resolution for the issuance of South Carolina State Housing Authority Mortgage Revenue Bonds to provide money for mortgage loans to the beneficiary classes and/or to refund any such bonds, short-term notes and other obligations of the Authority and afterwards issued multiple series of its bonds and short-term notes pursuant to said General Resolution (the “General Resolution”); and

**WHEREAS**, in light of additional demand for mortgage loans, the Authority proposes to make provision for the issuance of additional Authority Mortgage Revenue Bonds in one or more series, which may include long-term tax-exempt bonds and/or long-term taxable bonds not requiring additional State Ceiling (the “Series 2023A&B Bonds”) or such other numbering convention as may be necessary, in an aggregate par principal amount not to exceed \$206,190,000, with the final amount to be determined on the basis of the apparent demand for mortgage loans to be made directly (or indirectly through mortgage backed securities) with funds released from the program account allocable to previously issued short-term notes refunded by the applicable series of the Series 2023A&B Bonds and when a determination of the appropriate amount of bonds of the Authority for refunding can be made; and

**WHEREAS**, it is anticipated that the applicable series of the Series 2023A&B Bonds will be sold to underwriters (the “Underwriters”) headed by Citigroup Global Markets Inc. bearing interest at competitive rates; and

**WHEREAS**, such sale shall be made pursuant to one or more purchase contract(s) between the Authority and the Underwriters (the “Purchase Contract”); and

**WHEREAS**, the SFAA has given due consideration to the proposed undertaking of the Authority and wishes to give approval to the issuance and sale of the Series 2023A&B Bonds in one or more series, subject to the conditions set forth herein.

**NOW, THEREFORE BE IT RESOLVED BY THE STATE FISCAL ACCOUNTABILITY AUTHORITY OF SOUTH CAROLINA IN MEETING DULY ASSEMBLED:**

**Section 1.** Subject to the conditions set forth herein, approval is hereby granted by the SFAA to the issuance and sale by the Authority of not exceeding \$206,190,000 par principal amount of South Carolina State Housing Finance and Development Authority Mortgage Revenue Bonds, Series 2023A&B (or such other numbering convention as may be necessary) in one or more series.

The applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) shall be secured by the General Resolution and shall be further secured by, and subject to such terms and conditions as shall be set forth in, a supplemental resolution or resolutions which shall hereafter be adopted by the Authority.

**Section 2.** The approval is granted provided that the Authority shall submit to the SFAA all information required to be submitted to it pursuant to Section 31-13-220 of the Act such as the following:

- (a) the purpose and the principal amount of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) to be issued;
- (b) the maturity schedule of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) to be issued;
- (c) a schedule showing the annual debt service requirements of all outstanding bonds and short-term notes of the Authority;
- (d) a schedule showing the amount and source of revenues available for the payment of debt service on said bonds and short-term notes of the Authority; and
- (e) the method to be employed in selling the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary).

**Section 3.** The State Treasurer is hereby delegated the authority to approve, on behalf of the SFAA, the items set forth below in Section 4.

**Section 4.** The approval is granted subject to the following conditions:

- (a) The Authority shall submit to the SFAA all information required to be submitted to it pursuant to Section 31-13-220 of the Act as stated above;
- (b) The State Treasurer shall approve the principal amount of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) and the rate of interest to be borne thereby upon the issuance and delivery thereof;
- (c) The State Treasurer shall approve the form and substance of preliminary and final official statements to be distributed in connection with the sale of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary);
- (d) The State Treasurer shall approve the form and substance of a supplemental resolution or supplemental resolutions setting forth the terms and conditions of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary);
- (e) The State Treasurer shall approve the terms and conditions of one or more Purchase Contract(s); and

- (f) The State Treasurer shall approve the issuance of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) on behalf of the SFAA upon making a determination that the funds anticipated to be available for the payment of the Authority's bonds and short-term notes, including the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary), will be sufficient to provide for the payment of principal and interest thereon.

**Section 5.** Approval is granted to the undertaking of the Authority to make mortgage loans directly (or indirectly through mortgage backed securities) to members of the beneficiary classes to enable such borrower to acquire single family homes with all available funds released from the program account allocable to the previously issued short-term notes refunded by the applicable series of the Series 2023A&B Bonds which are hereby authorized and/or to refund certain other prior bonds of the Authority (or such other numbering convention) in one or more series.

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

I, the undersigned Secretary of the South Carolina State Housing Finance and Development Authority (the “Authority”), DO HEREBY CERTIFY that the foregoing is a true, correct, and verbatim copy of a Resolution duly adopted by the Authority at a duly called meeting held on March 21, 2023.

WITNESS MY HAND this 21 day of March, 2023.



\_\_\_\_\_  
Secretary, South Carolina State Housing Finance and  
Development Authority

**THE STATE FISCAL ACCOUNTABILITY AUTHORITY OF SOUTH CAROLINA**

**A RESOLUTION**

**APPROVING THE ISSUANCE BY THE SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY OF SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY MORTGAGE REVENUE BONDS, SERIES 2023A&B (TAX-EXEMPT AND/OR TAXABLE) OR SUCH OTHER NUMBERING CONVENTION AS MAY BE NECESSARY IN ONE OR MORE SERIES**

**WHEREAS**, pursuant to Chapter 13, Title 31, Code of Laws of South Carolina, 1976, as amended, (the “Act”), upon the approval of the State Fiscal Accountability Authority of South Carolina (the “SFAA”), the South Carolina State Housing Finance and Development Authority (the “Authority”) is empowered to issue bonds, the principal proceeds of which will be applied to providing sanitary and safe residential housing for persons and families of low income and moderate-to-low income at prices which such persons can afford and/or to refund any such bonds, short-term notes and other obligations of the Authority; and

**WHEREAS**, the Authority heretofore on September 13, 1994, adopted a General Resolution for the issuance of South Carolina State Housing Authority Mortgage Revenue Bonds to provide money for mortgage loans to the beneficiary classes and/or to refund any such bonds, short-term notes and other obligations of the Authority and afterwards issued multiple series of its bonds and short-term notes pursuant to said General Resolution (the “General Resolution”); and

**WHEREAS**, in light of additional demand for mortgage loans, the Authority proposes to make provision for the issuance of additional Authority Mortgage Revenue Bonds in one or more series, which may include long-term tax-exempt bonds and/or long-term taxable bonds not requiring additional State Ceiling (the “Series 2023A&B Bonds”) or such other numbering convention as may be necessary, in an aggregate par principal amount not to exceed \$206,190,000, with the final amount to be determined on the basis of the apparent demand for mortgage loans to be made directly (or indirectly through mortgage backed securities) with funds released from the program account allocable to previously issued short-term notes refunded by the applicable series of the Series 2023A&B Bonds and when a determination of the appropriate amount of bonds of the Authority for refunding can be made; and

**WHEREAS**, it is anticipated that the applicable series of the Series 2023A&B Bonds will be sold to underwriters (the “Underwriters”) headed by Citigroup Global Markets Inc. bearing interest at competitive rates; and

**WHEREAS**, such sale shall be made pursuant to one or more purchase contract(s) between the Authority and the Underwriters (the “Purchase Contract”); and

**WHEREAS**, the SFAA has given due consideration to the proposed undertaking of the Authority and wishes to give approval to the issuance and sale of the Series 2023A&B Bonds in one or more series, subject to the conditions set forth herein.

**NOW, THEREFORE BE IT RESOLVED BY THE STATE FISCAL ACCOUNTABILITY AUTHORITY OF SOUTH CAROLINA IN MEETING DULY ASSEMBLED:**

**Section 1.** Subject to the conditions set forth herein, approval is hereby granted by the SFAA to the issuance and sale by the Authority of not exceeding \$206,190,000 par principal amount of South Carolina State Housing Finance and Development Authority Mortgage Revenue Bonds, Series 2023A&B (or such other numbering convention as may be necessary) in one or more series.

The applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) shall be secured by the General Resolution and shall be further secured by, and subject to such terms and conditions as shall be set forth in, a supplemental resolution or resolutions which shall hereafter be adopted by the Authority.

**Section 2.** The approval is granted provided that the Authority shall submit to the SFAA all information required to be submitted to it pursuant to Section 31-13-220 of the Act such as the following:

- (a) the purpose and the principal amount of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) to be issued;
- (b) the maturity schedule of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) to be issued;
- (c) a schedule showing the annual debt service requirements of all outstanding bonds and short-term notes of the Authority;
- (d) a schedule showing the amount and source of revenues available for the payment of debt service on said bonds and short-term notes of the Authority; and
- (e) the method to be employed in selling the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary).

**Section 3.** The State Treasurer is hereby delegated the authority to approve, on behalf of the SFAA, the items set forth below in Section 4.

**Section 4.** The approval is granted subject to the following conditions:

- (a) The Authority shall submit to the SFAA all information required to be submitted to it pursuant to Section 31-13-220 of the Act as stated above;
- (b) The State Treasurer shall approve the principal amount of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) and the rate of interest to be borne thereby upon the issuance and delivery thereof;
- (c) The State Treasurer shall approve the form and substance of preliminary and final official statements to be distributed in connection with the sale of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary);
- (d) The State Treasurer shall approve the form and substance of a supplemental resolution or supplemental resolutions setting forth the terms and conditions of the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary);
- (e) The State Treasurer shall approve the terms and conditions of one or more Purchase Contract(s); and

- (f) The State Treasurer shall approve the issuance of the Series 2023A&B Bonds (or such other numbering convention as may be necessary) on behalf of the SFAA upon making a determination that the funds anticipated to be available for the payment of the Authority's bonds and short-term notes, including the applicable series of the Series 2023A&B Bonds (or such other numbering convention as may be necessary), will be sufficient to provide for the payment of principal and interest thereon.

**Section 5.** Approval is granted to the undertaking of the Authority to make mortgage loans directly (or indirectly through mortgage backed securities) to members of the beneficiary classes to enable such borrower to acquire single family homes with all available funds released from the program account allocable to the previously issued short-term notes refunded by the applicable series of the Series 2023A&B Bonds which are hereby authorized and/or to refund certain other prior bonds of the Authority (or such other numbering convention) in one or more series.

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

I, the undersigned Secretary of the South Carolina State Housing Finance and Development Authority (the “Authority”), DO HEREBY CERTIFY that the foregoing is a true, correct, and verbatim copy of a Resolution duly adopted by the Authority at a duly called meeting held on March 21, 2023.

WITNESS MY HAND this 21 day of March, 2023.



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Secretary, South Carolina State Housing Finance and  
Development Authority

Burr & Forman LLP  
100 Calhoun Street, Suite 400  
Charleston, SC 29401

Mailing Address:  
Post Office Box 1431  
Charleston, SC 29402

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Office (843) 723-7831  
Fax (843) 722-3227

BURR.COM

[FORM OF OPINION FOR FISCAL ACCOUNTABILITY AUTHORITY AGENDA]

\_\_\_\_\_, 2023

South Carolina State Housing Finance  
and Development Authority  
Columbia, South Carolina

Re:     \$[206,190,000] South Carolina State Housing Finance and Development Authority Mortgage  
Revenue Bonds, Series 2023[A and B]

Ladies and Gentlemen:

We have acted as bond counsel to South Carolina State Housing Finance and Development Authority (the “Authority”) in connection with the issuance of \$[206,190,000] Mortgage Revenue Bonds, Series 2023[A and B] (the “Series 2023 Bonds”). In such capacity, we have examined such law and such certified proceedings and other documents as we have deemed necessary to render this opinion.

The Series 2023 Bonds are issued by the Authority pursuant to (i) the South Carolina State Housing Finance and Development Authority Act of 1977, codified as Title 31, Chapter 13, Code of Laws of South Carolina, 1976, as amended (the “Act”), (ii) the approval of the State Fiscal Accountability Authority of South Carolina, (iii) the General Resolution adopted by the Authority on September 13, 1994, as amended (the “General Resolution”) and (iv) the Series 2023 Supplemental Resolution adopted by the Authority on \_\_\_\_\_, 2023 (the “Series 2023 Supplemental Resolution”). The General Resolution and the Series 2023 Supplemental Resolution are collectively referred to hereinafter as the “Resolution” and capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Resolution.

As to questions of fact material to our opinion, we have relied upon representations of the Authority contained in the Resolution, the certified proceedings and other instruments, certificates, agreements, covenants and opinions furnished to us, without undertaking to verify the same by independent investigation, including without limitation, an opinion of general counsel to the Authority as to the Authority’s compliance with all applicable laws with respect to the operation of the Program.

Based upon the foregoing, it is our opinion that, under existing law:

1.       The Authority is validly existing as a public body corporate and politic of the State with the power to enter into and perform its obligations under the Resolution and to issue the Series 2023 Bonds.

2. The Series 2023 Supplemental Resolution has been duly authorized by the Authority, and is a valid and binding obligation of the Authority enforceable against the Authority.

3. The Series 2023 Bonds have been duly authorized and executed by the Authority, and are valid and binding obligations of the Authority payable solely from the Trust Estate. The General Resolution creates a valid lien on the Revenues and the other Funds pledged by the General Resolution as security for the Series 2023 Bonds.

4. Interest on the Series 2023 Bonds is excludable from gross income for federal income tax purposes. Interest on the Series 2023 Bonds is not an item of tax preference in computing the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code of 1986, as amended (the "Code"); however, for tax years beginning after December 31, 2022, interest on the Series 2023[A and B] Bonds is taken into account in determining the annual adjusted financial statement income of certain corporations for the purpose of computing the alternative minimum tax imposed on such corporations. The opinion set forth in the first sentence of this paragraph is subject to the condition that the Authority comply with all requirements of the Code subsequent to the issuance of the Series 2023 Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Authority has covenanted to comply with all such requirements in the Tax and Arbitrage Certificate. Failure to comply with certain of such requirements may cause interest on the Series 2023 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2023 Bonds. Ownership of tax-exempt obligations, including the Series 2023 Bonds, may result in collateral federal income tax consequences to certain taxpayers. We express no opinion regarding other federal tax consequences arising with respect to the Series 2023 Bonds.

5. Interest on the Series 2023 Bonds is exempt from all state, county, municipal, school district, and all other taxes or assessments provided by the laws of the State of South Carolina except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise and certain franchise taxes. It should be noted, however, that Section 12-11-20, Code of Laws of South Carolina, 1976, as amended, imposes upon every bank engaged in business in the State a fee or franchise tax computed on the entire net income of such bank which includes interest paid on the Series 2023 Bonds.

The rights of the owners of the Series 2023 Bonds and the enforceability of the Series 2023 Bonds and the Resolution are limited by applicable bankruptcy, insolvency, fraudulent transfer or other laws affecting the enforcement of creditor's rights generally, now existing or hereafter in force, judicial discretion and equitable principles whether at law or in equity, as applied by a court of competent jurisdiction. Further, we express no opinion regarding any indemnification or contribution requirement.

We express no opinion herein regarding the accuracy, adequacy, or completeness of the Official Statement or other offering document relating to the Series 2023 Bonds, or regarding the perfection or priority of the lien on Revenues or other funds created by the Resolution. Further, we express no opinion regarding tax consequences arising with respect to the Series 2023 Bonds other than as expressly set forth herein.

South Carolina State Housing Finance  
and Development Authority

\_\_\_\_\_, 2023

Page 3

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Our opinion is rendered under existing statutes and court decisions as of the date hereof, and we assume no obligation to update our opinion after the date hereof to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. We express no opinion on the effect of any action hereafter taken.

Very truly yours,

BURR & FORMAN LLP

A graphic of a stylized house roof composed of several overlapping triangles in shades of blue, set against a solid blue background.

# SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY



A graphic of a stylized house roof composed of several overlapping triangles in shades of blue, positioned in the upper left corner of the slide.

# SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY




## Single Family Bond Program

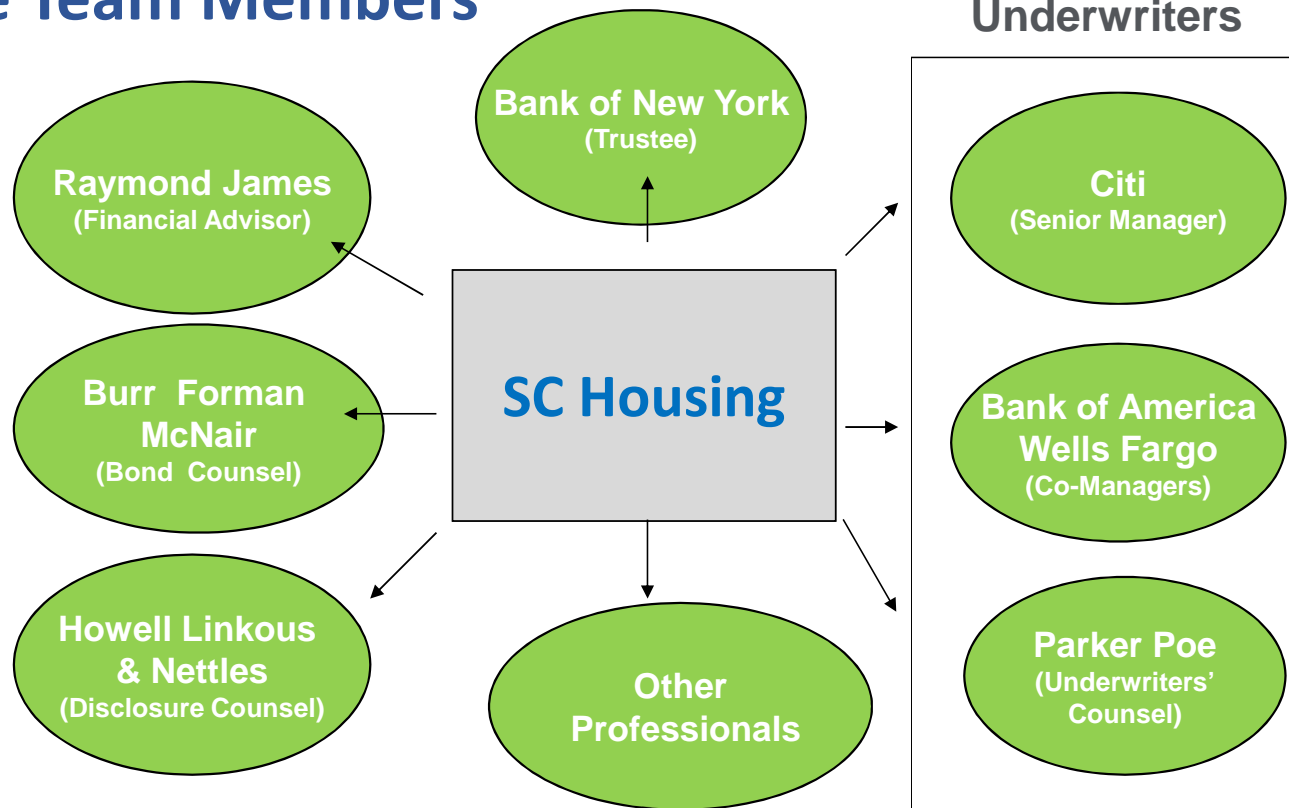
## Executive Summary

- SC Housing has a 50 + year history of advancing housing opportunities for low and moderate income South Carolinians
- Tax-exempt bonds play a critical role in these efforts
- Late 2022, SC Housing issued \$206 million in short term notes to preserve otherwise expiring single family volume cap
- Long-term refunding bonds will redeem short term notes, with proceeds to be used to purchase mortgages
- 2023A long-term bonds - \$106,190,000 – closing July, 2023
- 2023B long-term bonds - \$100,000,000 - est. closing late 2023/early 2024

# Volume Cap Preservation Process

- The purpose of the Short-Term Note strategy was to preserve \$206 million of expiring volume cap to efficiently fund single-family mortgage originations in 2023
- **Step 1:** Short-Term Notes were issued to preserve the expiring volume cap
- **Step 2:** Note proceeds were invested in short-term liquid investments
  - Interest earnings used to offset note interest expense
  - During this period, proceeds were NOT permitted to be used to purchase loans
-  • **Step 3:** When funds are needed to finance new 2023 lending, a 2023 long-term refunding bond is issued
  - Volume cap is transferred / sourced from the refunded Short-Term Notes
  - Additional SFAA approval required to issue the 2023 long-term refunding bonds
- **Step 4:** Refunding proceeds (from 2023) are used to redeem the Short-Term Notes
- **Step 5:** Short-Term Note cash / investments released to 2023 Refunding and used to fund new single family loan purchases

## Finance Team Members



## Single Family Impact (calendar 2022)

\$308,984,971

TOTAL INVESTMENT IN SC

### New Homeowners



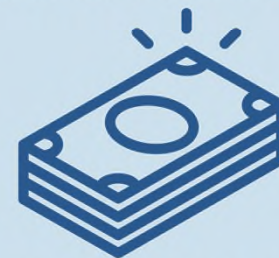
**1,528 Families**

### Total First Mortgage



**\$296,686,367**

### Down Payment Assistance



**\$12,298,604**

## MRB Borrower (calendar 2022)

### First Time Homebuyers:



\$59,113

Average Household Income  
**83.5%** of national average

44%



Borrowers in  
Minority Class  
36% of SC population

55%



Loans with  
family income  
**at or below**  
**80%** of HUD  
area median  
income

689

Average FICO  
credit score

Between acceptable  
and good credit

Minimum eligible - **620 FHA**

## MRB, TBA and MCC Impact (2019-2022)

	MRB	Units	TBA	Units	MCC	Units	Total	Units	
<b>2022</b>	236,795,809	1,260	51,264,281	229	8,626,277	39	296,686,367	1,528	Interest Rates Doubled
<b>2021</b>	212,406,039	1,258	43,603,595	209	N/A	N/A	256,009,634	1,467	Inventory Shortage Rising House Prices
<b>2020</b>	179,514,985	1,227	13,719,197	80	25,136,150	135	218,370,332	1,442	COVID Pandemic
<b>2019</b>	178,103,848	1,354	37,397,973	220	24,080,280	144	239,582,101	1,718	"Normal Market"
	<b>806,820,681</b>	<b>5,099</b>	<b>145,985,046</b>	<b>738</b>	<b>57,842,707</b>	<b>318</b>	<b>1,010,648,434</b>	<b>6,155</b>	
<b>Avg.</b>	201,705,170	1,275	36,496,262	185	19,280,902	106	252,662,108	1,539	
	<b>79.83%</b>		<b>14.44%</b>		<b>5.72%</b>				



**\$1,010,648,434**

**4-year Mortgage Assistance to 6,155 SC Citizens**

## Mortgage Revenue Bonds (MRB Program)

SC Housing has been financing mortgage loans for first-time homebuyers with MRBs since 1979 (43 years). Here are some of the highlights:

- MRBs issued by SC Housing have made homeownership possible for over **48,000** families in South Carolina
- SC Housing's MRB bond portfolio is currently **rated triple (Aaa)** by Moody's Investors Service
- Since its creation, SC Housing has **not been in default** as to payment of debt service on any bonds issued by SC Housing under any of its "Single Family Programs"

48,000    
FAMILIES HAVE HOMES

.....  
MOODY'S  
Aaa EXCEPTIONAL   
.....

NO DEFAULT  EVER 

STATE FISCAL ACCOUNTABILITY AUTHORITY  
MEETING OF May 23, 2023

REGULAR SESSION  
ITEM NUMBER 17

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AGENCY: Office of Executive Director

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SUBJECT: Permanent Improvement Projects Approved Pursuant to  
Proviso 117.140

Proviso 117.140 of Fiscal Year 2022-2023 exempts public institutions of higher learning from the approvals required by Section 2-47-50 for permanent improvement projects depending on the type of institution and the cost of each project.

All projects approved pursuant to the proviso must be reported annually. Each institution's report is attached.

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AUTHORITY ACTION REQUESTED:

Pursuant to Proviso 117.140, receive as information reports regarding permanent improvement projects approved by public institutions of higher learning pursuant to the proviso's exemption from the requirements of Section 2-47-50.

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ATTACHMENTS:

1. 2022-2023 Proviso 117.140
2. Summary Table
3. Reports by Institutions

**Permanent Improvement Projects Approved by Governing Boards Pursuant to  
Proviso 117.140 (FY2022-2023)**

<b><u>Name</u></b>	<b><u>Projects</u></b>	<b><u>Total</u></b>
Clemson University	15	\$37,700,000
Coastal Carolina University	5	\$ 7,773,733
College of Charleston	0	\$ 0
Francis Marion University	1	\$1,000,000
Lander University	3	\$4,900,000
Medical University of South Carolina	14	\$22,525,000
South Carolina State University	0	\$0
The Citadel	1	\$1,500,000
University of South Carolina	20	\$57,175,000
Winthrop University	0	\$0
State Technical College System	0	\$0
<b>TOTAL</b>	<b>59</b>	<b>\$132,573,733</b>



November 15, 2022

Mr. Delbert Singleton  
Authority Secretary  
State Fiscal Accountability Authority  
Wade Hampton Office Building  
1200 Senate Street, Suite 600  
Columbia, SC 29201

Dear Mr. Singleton,

**Finance and Operations**

Clemson University  
G06 Sikes Hall  
Box 345302  
Clemson, SC  
29634-5302

P 864-656-2421  
F 864-656-2008

Clemson University's Board of Trustees recently approved projects under budget proviso 117.140:

*For the current fiscal year, permanent improvement projects, as defined in Title 2, Chapter 47 of the 1976 Code, where the cost is at least one million dollars but not greater than five million dollars for public research universities and not greater than two million dollars for all other public institutions of higher learning shall be exempt from the requirements of Section 2-47-50, except that a project shall not be considered approved without an institutions governing board having first voted to approve the project in a public session. Institutions shall provide a report of projects approved by their governing boards pursuant to this provision to the Chairman of the Commission on Higher Education, the Joint Bond Review Committee, and the State Fiscal Accountability Authority by November 15th of the current fiscal year.*

The attached chart shows the list of projects with their corresponding budget, funding source, and the Board of Trustees meeting where approval was received.

Per the proviso, we are reporting these to you.

Kindest regards,

A handwritten signature in blue ink that reads "Anthony E. Wagner".

Anthony E. Wagner  
Executive Vice President, Finance & Operations

Cc: Carol Routh



Project	Budget	Funding Source	Board of Trustees Meeting	Status
Entrepreneurship Accelerator Program	\$ 4,300,000	E&G	October 21, 2022	Approved
South Campus Stormwater & Landscaping Improvements	\$ 1,500,000	E&G	October 21, 2022	Approved
Southern Green	\$ 1,200,000	E&G	October 21, 2022	Approved
Poe East End Storage Building	\$ 1,900,000	Athletics	October 21, 2022	Approved
PAW Journey at Reeves	\$ 1,500,000	Athletics	October 21, 2022	Approved
Edisto REC Discovery Heritage Center Renovation	\$ 1,600,000	PSA	October 21, 2022	Approved
Woodland Cemetery Pathway	\$ 3,500,000	E&G	June 24, 2022	Approved
Holtzendorff Hall Elevator Installation	\$ 1,700,000	E&G	April 28, 2022	Approved
Davidson & Reed Fields, Snow Family Complex	\$ 4,200,000	Athletics	April 28, 2022	Approved
Hendrix Center Eastside Food Court Additions/Upgrades	\$ 1,700,000	Auxiliary – Dining	April 28, 2022	Approved
Lowry Hydraulics Lab Renovation	\$ 2,400,000	E&G	April 28, 2022	Approved
Poe Indoor Practice Facility additions	\$ 4,900,000	Athletics	February 2, 2022	Approved
Hunnicutt Creek Restoration	\$ 4,900,000	E&G	February 2, 2022	Approved
Cherry Road/Old Stone Church Road & W. Cherry Road Intersection Improvements	\$ 1,000,000	E&G	February 2, 2022	Approved
R-10 parking lot addition	\$ 1,400,000	Auxiliary – Parking	February 2, 2022	Approved





# COASTAL CAROLINA UNIVERSITY®

Office of Finance  
and Administration

843.349.2777  
coastal.edu

November 1, 2022

Governor Henry McMaster, Chairman  
Attention: Mr. Grant Gillespie  
State Fiscal Accountability Authority  
Post Office Box 12444  
Columbia, SC 29211

Dear Governor McMaster:

The Board of Trustees of Coastal Carolina University voted to approve the following permanent improvement projects between October 1, 2021 and October 31, 2022 pursuant to the provisions within Proviso 117.140:

- **Intermural and Athletic Practice Field Improvements** – Project cost of \$1,068,303 funded by student activity fee reserves (\$149,328) and capital reserves (\$918,975).
- **Edward Building Roof Replacement** – Project cost of \$1,705,430 funded by state capital appropriations (FY 2021-22 Proviso 118.18). Project approved by CHE and Executive Budget Office staff.
- **Prince Building Renovation** – Project cost of \$1,500,000 funded by state capital appropriations (FY 2021-22 Proviso 118.18). Project approved by CHE and Executive Budget Office staff.
- **Elevator Enhancements** – Project cost of \$1,600,000 funded by state capital appropriations (FY2021-22 Capital Reserve Fund). Project pending approval by CHE and Executive Budget Office staff.
- **Campus WiFi Upgrade** – Project cost of \$1,900,000 funded by state capital appropriations (FY2021-22 Capital Reserve Fund). Project pending approval by CHE and Executive Budget Office staff.

Coastal Carolina University is appreciative of the increased efficiency that this proviso provides. Please contact me if additional information is required.

Sincerely,

David A. Frost, CPA  
Senior Vice President for Finance and Administration and  
Chief Financial Officer



COLLEGE of  
CHARLESTON

November 18, 2022

The Honorable R. Wes Hayes, Jr.  
Chairman, South Carolina Commission on Higher Education  
1122 Lady Street, Suite 300  
Columbia, South Carolina 29201

Attention: Mr. Georges Tippens

Dear Chairman Hayes,

In compliance with Proviso 117.140, the College of Charleston reports there were no permanent improvement projects valued between the statutory definition of \$1,000,000 and the threshold of \$2,000,000 between the period of July 1, 2022, and November 15, 2022.

The College of Charleston appreciates the increased efficiency allowed by this proviso. Please feel free to contact me if you have any questions or comments.

Most respectfully,

John F. Loonan  
Chief Financial Officer  
Executive Vice President for Business Affairs

Cc: John Morris  
Paul Patrick  
Michael Turner  
Tanya Williams



## FRANCIS MARION UNIVERSITY

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November 14, 2022

Mr. Delbert Singleton, Asst. Executive Director and Authority Secretary  
SC State Fiscal Accountability Authority  
1200 Senate Street, Suite 600  
Columbia, SC 20201

Delivered via electronic mail

Dear Mr. Singleton,

In accordance with Proviso 117.153 included in the current South Carolina Appropriations Act, the attached information is included for your information from Francis Marion University.

The attached resolution reflects approval by the Francis Marion University Board of Trustees for an Engineering Laboratory Facility as described in the document. The approved amount is within the threshold indicated in the proviso.

Please let me know if any additional information or clarification is needed.

Sincerely,

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

Darryl Bridges  
Vice President for Finance & Facilities/Chief Finance Officer

Attachment: 06-22 Resolution to Approve an Engineering Facility

**06-22**  
**RESOLUTION**  
**to Approve an**  
**Engineering Facility**

*Whereas*, the engineering programs at Francis Marion University continue to grow and expand; and

*Whereas*, the University is committed to providing resources necessary to support the students and faculty in these programs; and

*Whereas*, a free-standing applied laboratory facility of approximately 5,000 square feet (pre-engineered steel construction) is required to meet the future needs of these programs; and

*Whereas*, the administration has designated the financial resources necessary to meet this need;

*Be it therefore resolved*, that the Board of Trustees for Francis Marion University hereby approves the university administration to develop and construct an engineering facility not to exceed \$1,000,000 in costs to be paid from existing university resources.

APPROVED:

  
\_\_\_\_\_  
Secretary,  
Board of Trustees for Francis Marion University

DATE:

3.3.22  
\_\_\_\_\_

Presented by the Finance and Facilities Committee  
March 2022



OFFICE FOR VP OF FINANCE AND ADMINISTRATION

November 15, 2022

Mr. Wes Hayes, Chairman  
South Carolina Commission on Higher Education  
1122 Lady Street, Suite 400  
Columbia, South Carolina 29201

Dear Chairman Hayes,

For the current fiscal year, Lander University has adopted three permanent improvement projects that meet the reporting requirements pursuant to Proviso 117.140 of the 2022-23 General Appropriations Act.

1. Repair, replace and upgrade education and general elevators on campus. The university has six campus elevators, some as old as 1978. This project will upgrade or replace the system and controls. The enhancement will create a safe and efficient upgrade to campus.

Total cost of the project is anticipated at \$1.1 million.

2. Repair and replacement of the major utility systems of the Graduate School – Online and Academic Support Building. The university plans to replace the deteriorating HVAC system, install a fire protection system to replace the antiquated fire alarm monitoring system, and repair a portion of the electrical infrastructure to support the building operations.

Total cost of the project is anticipated at \$1.9 million

3. Repair or replace the laboratory ventilation hoods of multiple biology and chemistry laboratories within the Science Building. The ventilation hood system is designed as a critical safety component in the safe operation of the laboratories when dealing with chemical fumes. The controls are failing and are no longer supported by the manufacturer. This project will ensure a safe environment in the laboratories.

Total cost of the project is anticipated at \$1.9 million

Please let us know if you require anything further.

Sincerely,

Joseph T. Greenthal  
Vice President for Finance and Administration

November 1, 2022

Governor Henry McMaster, Chair SFAA  
Senator Harvey S. Peeler, JR., Chair JBRC  
R. Wes Hayes, Jr., Chair CHE

Medical University of South Carolina Proviso 117.140 Project Report

The following \$1,000,000 ≤ total project budget ≤ \$5,000,000 fiscal year 2023 projects were approved by the MUSC Board of Trustees.

1. Clinical Science Building Exterior Envelope Repairs	\$2,000,000
2. Storm Eye HVAC Controls, Distribution Piping, and Pumps Replacement	\$1,100,000
3. Hollings Cancer Center Cooling Towers Replacement	\$1,600,000
4. MUSC Miscellaneous Research Buildings Exhaust Fans Replacement	\$2,550,000
5. Clinical Sciences Building First Floor Electrical Switchgear Replacement	\$1,350,000
6. Colbert Library Roof Replacement	\$1,100,000
7. Waring Library Renovation	\$1,200,000
8. Basic Science Building 7 East Lab and Office Renovations	\$1,300,000
9. Institute of Psychiatry Sleep Lab	\$1,250,000
10. Clinical Science Building Schiller Innovation Center	\$1,000,000
11. MUSC Parking Garages Structural and Waterproofing Repairs	\$2,275,000
12. Basic Science Building Motor Control Centers Replacement	\$2,400,000
13. DDB, CRI, & HCC Research Buildings Humidifiers Replacements	\$1,000,000
14. MUSC Campus Elevators Replacements, Phase 2	\$2,400,000

Respectfully submitted,



Rick Anderson  
MUSC Executive Vice President for Finance and Operations

Cc: Jennifer LoPresti  
Rick Harmon  
Georges Tippens



a new state of mind

**Division of Finance & Facilities Management**

November 15, 2022

Mr. Georges Tippens  
Deputy Director and General Counsel  
South Carolina Commission on Higher Education  
1122 Lady Street, Suite 400  
Columbia, SC 29201

RE: Proviso 117.140

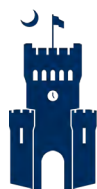
Dear Mr. Tippens:

South Carolina State University does not currently have any permanent improvement projects which total between \$1.0 and \$2.0 million or above the \$2 million dollar amount that have been approved by its Board of Trustees pursuant to this provision (Proviso 117.140) to the Chairman of the Commission on Higher Education, the Joint Bond Review Committee, and the State Fiscal Accountability Authority.

Respectfully submitted,



Gerald H. Smalls, Vice President of  
Finance & Management and CFO



# THE CITADEL

15 November 2022

Chairman Wes Hayes  
SC Committee on Higher Education  
1122 Lady Street, Suite 400  
Columbia, SC 29201

Ref: Proviso 117.140

Dear Chairman Hayes,

The Citadel has one project that was approved by our Board of Visitors per Proviso 117.140.

- H09-N178-PD Stevens Barracks Window Replacement-\$1,500,00- BOV approved on 4 Aug 2022

Thank you for your continued support of The Citadel.

Sincerely,

CAPT Jeffrey D. Lamberson, Retired, USN  
Vice President of Facilities & Engineering



Facilities Planning Design and Construction

November 14, 2022

The Honorable Henry McMaster, Governor  
State House  
1100 Gervais Street  
Columbia, SC 29201

Regarding: Proviso 117.140  
University of South Carolina Report of Permanent Improvement Projects

Dear Governor McMaster,

In accordance with Proviso 117.140, we respectfully submit this report as information to the State Fiscal Accountability Authority regarding projects approved by the Governing Board of the University of South Carolina in which the project budget is at least one million dollars but not greater than five million dollars.

Attached you will find a spreadsheet identifying the applicable projects, with information related to budget, fund source, date of Board approval, and project descriptions.

We continue to execute capital projects in accordance with a multi-year plan that places significant emphasis on capital renewal and maintenance. The University is grateful for Proviso 117.140 as it enables projects under five million dollars to be more expeditiously approved, designed, and ultimately be solicited for competitive construction bids more quickly. We continue to experience extraordinary construction inflation and reducing capital project approval and design timelines readily translates to savings in construction cost.

If we can offer further information on any of these projects, please do not hesitate to contact me.

Very respectfully,

Derek S. Gruner, Registered Architect, LEED AP  
University Architect and Associate Vice President  
Facilities Planning Design and Construction  
1300 Pickens Street  
Columbia SC, 29208

Cc: Michael Amiridis  
Ed Walton  
Joe Sobieralski  
Craig Parks

University of South Carolina

Proviso 117.14d: Report of Projects Approved by USC Governing Board of Trustees (between \$1M and \$5M) from October 2021 through October 2022

Report Date: 11/15/2022

Number	Project Name	Budget	Fund Source	Date of Agency BOT Approval	Project Description
1	Williams-Brice Stadium Elevator Addition	\$ 2,400,000	Athletic Capital Project Funds	15-Oct-21	<p><b>Project Description:</b> The project designed and constructed a concrete elevator tower at the west side of the stadium, south of the press box, to connect the plaza level with the 20th level. The tower provides two 5000-pound elevators to the 20th level and a 1000-pound elevator to the 19th level. The project also constructed an enclosed and conditioned elevator lobby at the plaza level. The concrete tower complements the existing elevator towers by matching the concrete finish and detailing.</p>
2	Williams-Brice Stadium Stadium Concourse Expansion	\$ 2,300,000	Athletic Capital Project Funds	15-Oct-21	<p><b>Project Description:</b> The project provided two areas of concourse expansion at the main level. The larger expansion area extended the existing concourse westward toward the plaza and flanked the existing main elevator tower. This 5000 square foot expansion is open-air and serves fans as an elevated deck and viewing area. The work included concrete concourse structure, guardrails, lighting, overhead fans, and a concession counter. The second smaller area of expansion extended the concrete concourse structure over the two existing switchback ramps taking advantage of open overhead space. The expansions over the ramps added 1000 square feet of concourse space for future use as an area for concessions and possible expansion of restrooms.</p>
3	High Performance Computing Data Center Uplift	\$ 3,800,000	Institutional Funds	15-Oct-21	<p><b>Project Description:</b> Upgrade structural, electrical, and mechanical infrastructure at an existing 2025 square foot data room to accommodate new High-Performance Computing (HPC) equipment to significantly increase the university's computing capacity to specifically support the needs of research. The project will also procure the HPC "cluster" of computing equipment. This project is currently on hold due to other emergent priorities.</p>
4	Intermittent Recreation Fields Site Development I, National Guard Road	\$ 4,850,000	Wilderness Resource and Athletic Operating Funds	9-Dec-21	<p>The land will allow for the development of soccer, multi-use and softball recreation fields in stages as funding becomes available. The first stage project will develop natural turf fields with lighting, irrigation, gravel parking, a modular off-grid restroom building, and pave the dirt road presently accessing the land. Utility infrastructure will include electricity for field lighting and information technology cabling for cameras and call boxes. Land beyond the intermittent fields will be roughly graded for additional fields to be developed in future phases. Other portions of the land are currently used for Athletics' golf practice and is planned for expanded golf practice in a future separate project in accordance with Athletics' priorities. Notably, the development of these fields will enable the termination of a lease with the National Guard for use of two fields on their property near Bluff Road. The savings of this annual lease cost of \$215,000 can be applied to annual maintenance costs of the new fields being developed on university property.</p>
5	Jones PSC Second Floor Research Lab Suite Uplift	\$ 4,900,000	Institutional Capital Project Funds	17-Mar-22	<p>The project will gut the south wing and reconfigure it to create a large and interdisciplinary research lab space with many rows of benches for multiple researchers to work collaboratively. This design will reflect a new paradigm for research labs at USC and embraces state-of-the-art thinking for research environments. Other shared lab support spaces will include preparation rooms with equipment including numerous fume hoods, researcher offices, and workshops for assistants. The renovation will completely replace the mechanical and electrical distribution systems serving the renovated area and will also continue the effort to eradicate asbestos from the building.</p>
6	Maxcy College Bathroom Maintenance Renovation	\$ 4,850,000	Housing Maintenance Reserve	17-Mar-22	<p>The project will investigate and repair wood flooring deterioration near bathrooms where exposure to moisture over many decades has caused deterioration of wood subflooring and wood floor structure. The project will also replace plumbing pipes and bathroom finishes and fixtures as required.</p>
7	War Memorial Renovation	\$ 4,500,000	Institutional Capital Project Funds	17-Mar-22	<p>The project will address numerous maintenance concerns associated with exterior walks, steel windows, and system replacements for mechanical, plumbing, and electrical infrastructure. Life safety will be enhanced by adding a new egress stair to provide a second means of egress at the second floor and by adding a sprinkler system to the building. Accessibility requirements will be accommodated with the addition of an elevator and new restrooms. The current occupants from the Communications Department will be relocated so that the War Memorial can return to more public and ceremonial use for events and serve as a memorial. Even though new programmatic elements will be added such as a stair, elevator and new restrooms, the utmost care will be exercised to ensure the architectural integrity is not diminished in the process of the renovation.</p>
8	Wardlaw College Exterior Maintenance Renovation	\$ 4,500,000	Institutional Capital Project Funds	17-Mar-22	<p>The project will primarily replace non-historic windows that are no longer functioning as a weather-tight seal. The windows lack a weep system and proper flashing which has allowed moisture to intrude into and damage interior plaster walls over an extended period. Caulking has failed and a detailed assessment for a restoration consultant has recommended replacement of the windows. Other project work will include exterior stucco repair, re-caulking, and repainting the entire exterior. The basement has been subject to flooding due to improper site grading and inadequate piped drainage systems. Damage to interior plaster will be repaired once new windows are installed and the envelope is watertight.</p>
9	Blatt PE Center Roof Replacement	\$ 2,600,000	Institutional Capital Project Funds	17-Mar-22	<p>The project will entirely remove the existing 61,000 square foot flat roof system and replace it with a new roof system. The scope of work will include replacing and increasing the rigid insulation thickness to increase energy efficiency. All flashing at parapets and mechanical curbs will be replaced. The new roof will have a twenty-year warranty with an expected service life in excess of the warranty term.</p>
10	300 Main Street Roof Replacement	\$ 1,850,000	Institutional Capital Project Funds	17-Mar-22	<p>The project will entirely remove the existing 60,000 square foot flat roof system and replace it with a new roof system. The scope of work will include replacing and increasing the thickness of rigid insulation to increase energy efficiency. All flashing at parapets, parapets and mechanical curbs will be replaced. The new roof will have a twenty-year warranty with an expected service life in excess of the warranty term.</p>
11	Thornwell Annex Maintenance Renovation	\$ 1,650,000	Institutional Capital Project Funds	17-Mar-22	<p>The project to renovate the Annex is catalyzed by the forthcoming renovation in the residential portion of the building. Certain life safety and architectural improvements being implemented by the Housing project must be continued through the Annex since the entire Thornwell College building functions as one structure from a building code perspective. These improvements include the installation of a fire sprinkler system and the removal of a non-historic fire escape serving the Annex that will no longer be required following the installation of a sprinkler system. The main air handlers are aged and will be replaced. The installation of the sprinkler system will require removal and replacement of ceiling. The Annex has suffered from roof deterioration and the renovation will offer the opportunity to combine repairs to strengthen and level the flat structure as needed. The project budget will absorb the cost of temporary staff relocation.</p>
12	Columbia Hall Envelope Maintenance Renovation	\$ 1,300,000	Housing Maintenance Reserve	17-Mar-22	<p>The project will further investigate serious cracking in the brick masonry veneer on the building and will prescribe and make repairs. Cracking can be caused by subtle differential settlement or thermal expansion that is not relieved with expansion joints. Expansion joints were often not employed on older masonry veneer buildings and cracking such as what is seen at Columbia Hall is not uncommon. Repairs are expected to replace cracked bricks, repair mortar joints, introduce thermal expansion joints, and add mechanical metallic anchors to reinforce the connection of the masonry veneer to the structural substrate. The parapet will also receive reinforcement. The project includes the cost of scaffolding which is nearly one quarter of the project budget. The project also includes a substantial contingency for discovery of unknown conditions.</p>

13	McClintock / Wade Hampton Roof Replacements	\$ 1,275,000	Housing Maintenance Reserve	17-Mar-22	Project Description: The project will remove the existing aged roofs and replace them with new roof systems to include flashing and improved rigid insulation for energy efficiency. The new roof will provide a twenty-year warranty with an expected service life in excess of the warranty.
14	Williams-Brice Stadium Waterproofing	\$ 1,050,000	Athletic Operating Funds	17-Mar-22	This project continues recurring waterproofing maintenance at Williams-Brice Stadium. The work will provide a waterproof coating overlay on the lower and upper west-side seating decks. The coating will cover stair risers, vomitories, and seating platforms. Work will include minor concrete surface repairs and replacement of caulk and expansion joint materials as required.
15	Wellness Center Natatorium Mechanical System Replacement	\$ 2,500,000	Wellness Reserves	16-Sep-22	The project will replace an aged and non-functional mechanical unit, referred to as a "PoolPak" to control humidity and temperature. Mechanical units serving indoor pools are specialized and critically important to control the interior humidity level to avoid mold and mildew and to exchange air to exhaust chemical smells in the air.
16	East Energy Plant Equipment Replacements	\$ 4,900,000	Institutional Funds	16-Sep-22	The project will replace the aged #4 chiller and #4 cooling tower at the East Energy Plant. The priority to replace this equipment is coordinated with capital renewal needs sourced from the recent Utility Master Plan (UMP). Replacement of this equipment will produce operational cost savings resulting from improved energy efficiency. New equipment will also enhance reliability, increase system capacity, and reduce costly maintenance and replacement parts which are becoming difficult to procure for the older equipment.
17	USC Aiken Center for Student Success Renovation	\$ 1,500,000	Institutional Funds	16-Sep-22	The project will create a Center for Student Success within the Library by renovating and repurposing 6000 square feet. Space will be reconfigured to provide two classrooms, offices for academic counselors and a computer help desk occupied by information technology staff to resolve technical problems that students may encounter. The project will include renovation of mechanical and electrical systems to support the reconfiguration. Classrooms will be updated with audio and visual technology.
18	USC Aiken Recreation and Athletic Field Sitework Infrastructure	\$ 1,750,000	Institutional Funds	16-Sep-22	The sitework will create a paved entry boulevard for accessing new parking areas that will serve the new fields. The work will provide site utilities such as storm drainage, sanitary sewer for future restrooms, and electrical infrastructure for lighting of roadways, parking, and fields. The forthcoming fields, to be developed in separate projects, will be available for intramural recreation but may be improved later for Athletics competition.
19	Wardlaw College Roof Replacement- Project Budget Increase	\$ 1,100,000	Institutional Capital Project Funds	16-Sep-22	The portion of the building involved with this project is the main central area which has a built-up roof with a gravel ballast system that is approximately 40 years old and at the end of its serviceable life. The area of the roof to be replaced is approximately 27,000 gross square feet. The project will provide a new modified-bitumen roof, new rigid insulation and will include the replacement of all associated roof flashing at the parapet and roof-mounted mechanical equipment and piping. The new roof system will provide a twenty-year warranty. The project was bid in 2022 and the bids were well in excess of the approved budget. Based on the bids, the new budget requested for approval is \$1,100,000. The original budget and the \$300,000 of additional funds are also Institutional Capital Project Funds.
20	West Energy Plant Chiller Replacement- Project Budget Increase	\$ 3,600,000	Institutional Capital Project Funds	16-Sep-22	The project will replace a centrifugal 1600-ton chiller with a new energy efficient centrifugal 2000-ton chiller at the West Energy Plant facility. The act of removing the existing chiller and replacing it will require modification to the exterior wall of the plant. In 2020, the university funded a Master Utility Plan for the Columbia campus. An external mechanical and electrical engineering firm, working with university energy staff, inspected, assessed, and reported findings, to make recommendations related to critical and routine energy and utility infrastructure maintenance needs. The Master Utility Plan has been completed and the findings are guidance for prioritizing infrastructure projects such as this one. The project was bid in 2022 and the bids were well in excess of the approved budget. Based on the bids, the new budget requested for approval is \$3,600,000. The original budget and the \$500,000 of additional funds are Institutional Capital Project Funds.



*Facilities Management*

November 18, 2022

Mr. Wes Hayes, Chairman  
c/o Mr. Georges Tippens, Deputy Director  
The South Carolina Commission on Higher Education  
1122 Lady Street, Suite 400  
Columbia SC 29201

**Re: Proviso 117.140 reporting**

Dear Chairman Hayes,

In accordance with Proviso 117.140 included in the current South Carolina Appropriations Act the below information is included for your information for Winthrop University.

Winthrop University does not have any projects that are subject to the Proviso. The only projects we have submitted have either been State Appropriations or State Capital Reserve funded or project that are over \$2mil.

Please let me know if any additional information or clarification is needed.

Sincerely,

James Grigg  
Associate Vice President for Facilities

349 Columbia Avenue  
Rock Hill, SC 29733  
803/323-2261



**Tim Hardee**  
System President

**To:** Mr. Grant Gillespie, Executive Director, SC State Fiscal Accountability Authority (SFAA)

**From:** Randy Johnson, Vice President for Finance, SC State Board for Technical and

Comprehensive Education (SBTCE) *RJ*

**Date:** March 30, 2023

**Re:** Proviso 117.140 (Permanent Improvement Projects)

Current year proviso 117.140 provides our technical colleges with an exemption from the permanent improvement project requirements of SC Code Section 2-47-50 for projects in which the cost is at least one million dollars, but not greater than two million dollars. However, the proviso does not exempt projects funded with state appropriations, all of which remain governed by the statute.

The proviso further stipulates that exempted projects must still be approved by the governing board and that a report of such approvals be submitted to the Chairman of the Commission on Higher Education (CHE), the Joint Bond Review Committee (JBRC), and the SFAA by November 15th of the current fiscal year. On the required due date, we submitted a report to the CHE and JBRC informing both entities that as of November 15, 2022, the SBTCE had not approved any projects under the provisions of this proviso. However, we inadvertently neglected to send a report to SFAA at that time. This communication is intended to remedy that oversight, as well as provide an update on our agency's status with regard to this proviso.

As of March 30, 2023, the SBTCE has yet to approve any projects under the provisions of this proviso. All current year projects approved by the SBTCE have included state appropriated funding and have therefore been established and submitted for other necessary approvals in accordance with the requirements of SC Code Section 2-47-50.

**Roger P. Schrum**  
Chairman  
At-Large

**Terry A. Hardesty**  
First Congressional District

**William H. Floyd, III**  
Second Congressional District

**Anthony G. Barker**  
Third Congressional District

**Edward G. Burns**  
Fourth Congressional District

**Ralph A. Odom Jr.**  
Fifth Congressional District

**Gregory B. Askins**  
Sixth Congressional District

**Philip G. Homan**  
Seventh Congressional District

**Warren A. Darby Jr.**  
At-Large

**Orville S. Smith III**  
At-Large

**Carolyn Swinton**  
At-Large

**Molly M. Spearman**  
Ex Officio

**Harry M. Lightsey III**  
Ex Officio



STATE FISCAL ACCOUNTABILITY AUTHORITY

REGULAR SESSION

MEETING OF May 23, 2023

ITEM NUMBER 18

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AGENCY: State Fiscal Accountability Authority

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SUBJECT: Future Meeting

The next regular meeting of the State Fiscal Accountability Authority will be held at 10:00 a.m. on Tuesday, June 27, 2023, in Room 252, Edgar A. Brown Building.

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AUTHORITY ACTION REQUESTED:

Agree to meet at 10:00 a.m. on Tuesday, June 27, 2023, in Room 252, Edgar A. Brown Building.

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ATTACHMENTS: