

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY

Meeting of Tuesday, January 26, 2016 -- 9:30 A. M.

Room 252, Edgar A. Brown Building

REGULAR SESSION AGENDA INDEX

Item

No.	Agency	Subject
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A. ADOPTION OF PROPOSED AGENDA

B. REGULAR SESSION

- | | | |
|----|--|--|
| 1. | Tobacco Settlement Revenue
Management Authority | Adoption of Budget |
| 2. | Tobacco Settlement Revenue
Management Authority | Financial Statement for the Fiscal Year
Ended June 30, 2015 |

C. ADJOURNMENT

TOBACCO SETTLEMENT

REVENUE MANAGEMENT AUTHORITY

MEETING OF January 26, 2016

REGULAR SESSION

ITEM NUMBER 1

AGENCY: Office of the State Treasurer

SUBJECT: Adoption of Budget

In accord with South Carolina Code of Laws Section 11-49-60 (12), the Authority is asked to adopt the attached proposed fiscal year budget for the period July 1, 2016, through June 30, 2017, as submitted by the State Treasurer. The proposed budget is anticipated to cover, in part, expenses including, but is not limited to, professional services, payment of insurance premiums for members of the Authority Board, and other expenses related to the operation and administration of the Authority.

AUTHORITY ACTION REQUESTED:

Adopt the operating budget for the Authority's fiscal year budget for the period July 1, 2016, through June 30, 2017.

ATTACHMENTS:

Loftis 1/6/16 letter; Proposed Budget; Code Section 11-49-60 (12)



THE HONORABLE CURTIS M. LOFTIS, JR.
State Treasurer

January 6, 2016

Mr. Delbert Singleton
Secretary, Tobacco Settlement
Revenue Management Authority
600 Wade Hampton State Office Building
Columbia, South Carolina 29201

Re: Tobacco Settlement Revenue Management Authority
Annual Budget 2016-2017

Dear Delbert:

In accordance with South Carolina Code of Laws Section 11-49-60(12), I am pleased to submit herewith the annual budget proposed for the Tobacco Settlement Revenue Management Authority for the Fiscal Year beginning July 1, 2016 and ending June 30, 2017.

Please place this item on the agenda for the Authority's meeting on January 26, 2016.

Respectfully submitted,

Curtis M. Loftis, Jr.
Authority Treasurer

Enclosure

Tobacco Settlement Revenue Management Authority
(A Component Unit of the State of South Carolina)

Operating Budget for the Authority's Budget Year Ending June 30, 2016

(Cash Basis)

	Base Year <u>7/1/2015 - 6/30/2016</u>	Budget Year <u>7/1/2016 - 6/30/2017</u>
Revenue		
Tobacco settlement revenue	70,000,000	70,000,000
Funds carried forward from prior year	<u>50,000</u>	<u>50,000</u>
Total	<u>70,050,000</u>	<u>70,050,000</u>
Expense		
Debt Service		
Principal	-	-
Interest	-	-
Administrative and operating expense		
Professional fees and expenses		
Audit and accounting	20,000	20,000
Arbitrage, deallocation and disclosure	25,000	25,000
Legal and enforcement	-	-
Bond ratings	-	-
Trustee fees	-	-
Insurance		
Tort insurance for authority members	3,000	3,000
General operating		
Postage and shipping	100	100
Other operating expense	-	-
Contingency	<u>1,900</u>	<u>1,900</u>
Total	<u>50,000</u>	<u>50,000</u>
Net revenue	<u>70,000,000</u>	<u>70,000,000</u>

Tobacco Settlement Revenue Management Authority

SECTION 11-49-60. Powers of board to operate and administer authority.

In addition to the powers contained elsewhere in this chapter, the board has all power necessary, useful, or appropriate to operate and administer the authority, to effectuate the purposes of the authority, and to perform its other functions including, but not limited to, the power to:

- (1) have perpetual succession;
- (2) sue and be sued in its own name;
- (3) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this chapter for the administration of the authority's affairs and the implementation of its functions;
- (4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the authority;
- (5) enter into contracts, arrangements, and agreements with government units and other persons and execute and deliver all financing agreements, including bonds issued to support the borrowing by such government units to pay eligible costs of qualified projects, and other instruments necessary or convenient to the exercise of the powers granted in this chapter;
- (6) enter into agreements with a department, agency, political subdivision or instrumentality of the United States or of this State or of another State for the purpose of planning and providing for the financing of qualified projects or for the administration of the purposes and programs of this chapter;
- (7) enter into agreements with the tobacco trust fund for the purpose of managing and controlling the transfer of funds between the authority and the tobacco trust fund and governing the investment and the monitoring and recordkeeping of these funds, for purposes of maintaining the exemption from federal income tax of interest on bonds and for other purposes;
- (8) enter into, amend, and terminate agreements in the nature of interest rate swaps, forward security supply contracts, agreements for the management of interest rate risks, agreements for the management of cash flow, and other agreements of a similar nature, with respect to bonds issued pursuant to this chapter;
- (9) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from any public or private entity, including any department, agency, or instrumentality of the United States or this State, for the payment of any bonds, including the power to pay premiums or fees on any insurance, guarantees, letters of credit, and other forms of collateral or security or credit support;
- (10) borrow money through the issuance of bonds as provided in this chapter, and through the issuance of notes in anticipation of the issuance of these bonds;
- (11) enter into contracts and expend funds to obtain accounting, management, legal, financial consulting, trusteeship and other professional services necessary or convenient to the operations of the authority; however, all matters relating to the designation and selection of bond counsel to the authority is within the discretion of the State Treasurer;
- (12) in order to pay budgeted items pursuant to a budget adopted in accordance with Section 11-49-100, to expend funds for the costs of administering the operations of the authority;

TOBACCO SETTLEMENT REVENUE

MANAGEMENT AUTHORITY

MEETING OF January 26, 2016

REGULAR SESSION

ITEM NUMBER 2

AGENCY: Tobacco Settlement Revenue Management Authority

SUBJECT: Financial Statement for the Fiscal Year Ended June 30, 2015

South Carolina Code of Laws Section 11-49-100 requires that the Tobacco Settlement Revenue Management Authority “keep an accurate account of all of its activities and all of its receipts and expenditures and annually, in the month of January shall make a report of its activities to the [State Fiscal Accountability Authority], the report to be in a form prescribed by the [State Fiscal Accountability Authority].” The Authority is asked to approve the submittal of its Financial Statement to the State Fiscal Accountability Authority in accord with Section 11-49-100.

AUTHORITY ACTION REQUESTED:

In accord with Code Section 11-49-100, receive as information the Tobacco Settlement Revenue Management Authority’s Financial Statement for the Fiscal Year Ended June 30, 2015, and approve the submittal of the Financial Statement to the State Fiscal Accountability Authority.

ATTACHMENTS:

Loftis 1/6/16 letter with attachment; Code Section 11-49-100



THE HONORABLE CURTIS M. LOFTIS, JR.
State Treasurer

January 6, 2016

To the members of the Tobacco Settlement Revenue Management Authority and
The State Fiscal Accountability Authority

In accordance with S.C. Code Section 11-49-100, which requires that the Tobacco Settlement Revenue Management Authority provide an annual report of its activities to the State Fiscal Accountability Authority (then State Budget and Control Board) during the month of January, I am providing copies of the Authority's audited financial statements for the fiscal year ended June 30, 2015. Management's Discussion and Analysis and the Notes to Financial Statements contained therein describe the Authority's activities in all material respects.

I have asked Mr. Singleton to place this item on the agenda for the Authority's meeting on January 26, 2016.

Respectfully submitted,

A handwritten signature in blue ink, reading "Curtis M. Loftis, Jr.", is written over a light blue circular background.

Curtis M. Loftis, Jr.
Authority Treasurer

U

Enclosure

**TOBACCO SETTLEMENT REVENUE
MANAGEMENT AUTHORITY**
(A Component Unit of the State of South Carolina)

Financial Statements
June 30, 2015
(With Independent Auditor's Report Thereon)

State of South Carolina



Office of the State Auditor

1401 MAIN STREET, SUITE 1200
COLUMBIA, S.C. 29201

RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

(803) 253-4160
FAX (803) 343-0723

September 21, 2015

The Honorable Nikki R. Haley, Governor
and
Members of the Tobacco Settlement Revenue
Management Authority
Columbia, South Carolina

This report on the audit of the financial statements of the Tobacco Settlement Revenue Management Authority for the fiscal year ended June 30, 2015, was issued by The Hobbs Group, P.A., Certified Public Accountants, under contract with the South Carolina Office of the State Auditor.

If you have any questions regarding this report, please let us know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. Gilbert, Jr.", is written over a faint, larger version of the same signature.

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/sag

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

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INDEPENDENT AUDITORS' REPORT

Mr. Richard H. Gilbert, Jr., CPA,
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

REPORT ON THE FINANCIAL STATEMENTS

We have audited the accompanying financial statements of the governmental activities and the major fund of Tobacco Settlement Revenue Management Authority (the "Authority") as of and for the year ended June 30, 2015, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.

MANAGEMENT'S RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

The Authority's management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

AUDITORS' RESPONSIBILITY

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

OPINION

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the Authority, as of June 30, 2015, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

OTHER MATTERS

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and budgetary comparison information pages 3 through 7 and 19 through 20 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

OTHER REPORTING REQUIRED BY GOVERNMENT AUDITING STANDARDS

In accordance with *Government Auditing Standards*, we have also issued our report dated September 21, 2015 on our consideration of the Authority's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Authority's internal control over financial reporting and compliance.

Columbia, South Carolina
September 21, 2015

The Hall Group, P.A.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY

(A Component Unit of the State of South Carolina)

Management's Discussion and Analysis (unaudited)

June 30, 2015

This section of the annual financial report of the Tobacco Settlement Revenue Management Authority (the "Authority") presents the analysis of the Authority's financial performance during the fiscal year that ended on June 30, 2015. Please read it in conjunction with the financial statements and their accompanying notes, which follow this section.

The Authority

The Authority was created by Act No. 387 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina (the "General Assembly"), Regular Session of 2000, as codified at Section 11-49-10 of the South Carolina Code of Laws 1976, as amended (the "Act"), as an instrumentality of the State of South Carolina (the "State"). The Act created the Authority to receive all of the State's payments under the Master Settlement Agreement (the "MSA"). The MSA was entered into on November 23, 1998, among the attorneys general of 46 states (including South Carolina), the District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands (collectively the "Settling States") and the four largest United States tobacco manufacturers: Philip Morris Incorporated, R. J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation, and Lorillard Tobacco Company (collectively the "Original Participating Manufacturers" or "OPMs"). The MSA resolved cigarette smoking-related litigation among the Settling States and the OPMs, released the OPMs from past and present smoking-related claims by the Settling States, and provides for a continuing release of future smoking-related claims in exchange for certain payments to be made to the Settling States. The MSA also provides for the imposition of certain tobacco advertising and marketing restrictions, among other things. The Authority is not a party to the MSA.

The State is entitled to certain periodic payments made under the MSA. Pursuant to the Act, the Authority has been assigned all Tobacco Settlement Receipts ("TSRs"), which are the State's right, title and interest in payments due after June 30, 2001 under the MSA. The assignment of the TSRs is irrevocable during any time when bonds are outstanding, plus one year and one day thereafter, and is a part of the contractual obligation owed to the Authority's bondholders.

Overview of the Financial Statements

This analysis is intended to serve as an introduction to the Authority's financial statements. The Authority's financial statements consist of three components: 1) government-wide financial statements, 2) governmental fund financial statements, and 3) notes to the financial statements.

- *The Statement of Net Position and Governmental Fund Balance Sheet* include all of the Authority's assets and liabilities and provide information about the nature and amounts of investments in resources (assets) and the obligations to Authority creditors (liabilities). They also provide the basis for computing rate of return, evaluating the capital structure of the Authority and assessing the liquidity and financial flexibility of the Authority. The *Statement of Net Position* reports information about the Authority using accounting methods similar to those used by private sector companies and presents all assets and liabilities of the Authority – both current and long-term. The *Governmental Fund Balance Sheet* of the General Fund focuses only on the Authority's resources available for expenditure at the end of the fiscal year.
- All of the current year's activity is accounted for in the *Statement of Activities* and *Governmental Fund Statement of Revenues, Expenditures and Changes in Fund Balance*.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Management's Discussion and Analysis (unaudited)

June 30, 2015

These statements measure the success of the Authority's operations over the past year and can be used to determine the Authority's credit-worthiness and ability to meet its financial objectives. The *Statement of Activities* presents information on how the Authority's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. The *Governmental Fund Statement of Revenues, Expenditures, and Changes in Fund Balance* focuses only on the Authority's near-term inflows and outflows of resources available for expenditure for the fiscal year.

Summary of Financial Results

The Authority's financial results are summarized, discussed and compared to the prior fiscal year in the sections following.

Government-Wide Financial Statements

Statement of Net Position The following table summarizes the Authority's Net Position for the period ending June 30, 2015, along with comparative data for the prior fiscal year.

	June 30, 2015	June 30, 2014	Difference	%
Assets				
Cash and cash equivalents	\$ 5,341,750	\$ 5,387,070	\$ (45,320)	-0.8%
Tobacco settlement payments receivable	35,000,000	34,000,000	1,000,000	2.9%
Total assets	40,341,750	39,387,070	954,680	2.4%
Liabilities				
Accounts payable	-	-	-	0.0%
Total liabilities	-	-	-	0.0%
Net position				
Restricted by statute	35,000,000	34,000,000	1,000,000	2.9%
Unrestricted	5,341,750	5,387,070	(45,320)	-0.8%
Total net position	\$ 40,341,750	\$ 39,387,070	\$ 954,680	2.4%

The Authority's assets include cash and cash equivalents, and accrued earnings on those cash and cash equivalents. Certain of the Authority's assets are classified as restricted by statute because they are subject to external legal constraint for appropriation by the State in accordance with the expenditure provisions of Section 11-11-170 of the South Carolina Code of Laws 1976, as amended (the "Expenditure Act"). The remaining assets are held by the Authority to pay its authorized operating expenses.

The Authority's cash and cash equivalents decreased 0.8% over the course of the fiscal year, due primarily to an increase in operating expenses within the Authority's operating fund. Tobacco settlement payments receivable increased by 2.9% due to an increase in expected receipts under the MSA. Total assets increased 2.4% reflecting these same factors.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Management's Discussion and Analysis (unaudited)

June 30, 2015

Net position restricted by statute is comprised of that portion of TSRs forecasted to be earned in the current fiscal year but received in the ensuing fiscal year. The amount of TSRs is dependent on many factors including future tobacco consumption, certain adjustments, and the financial capability of the OPMs and consequently, except as noted above, do not meet asset recognition criteria under accounting principles generally accepted in the United States of America ("GAAP").

Statement of Activities The following table summarizes the Authority's activities for the period ending June 30, 2015 with comparative amounts for the prior fiscal year.

	June 30, 2015	June 30, 2014	Difference	%
General revenues				
Tobacco settlement revenues	\$ 70,418,749	\$ 109,113,495	(38,694,746)	-35.5%
Refunds of prior year expenditures	-	90,191	(90,191)	100.0%
Total general revenues	<u>70,418,749</u>	<u>109,203,686</u>	<u>(38,784,937)</u>	<u>-35.5%</u>
Expenses				
General government	3,573,320	2,065,419	1,507,901	73.0%
Total expenses	<u>3,573,320</u>	<u>2,065,419</u>	<u>1,507,901</u>	<u>73.0%</u>
Excess of general revenues over expenses before transfers	66,845,429	107,138,267	(40,292,838)	-37.6%
Transfers				
Transfers to state funds and programs pursuant to proviso	(65,890,749)	(110,148,605)	44,257,856	-40.2%
Total transfers	<u>(65,890,749)</u>	<u>(110,148,605)</u>	<u>44,257,856</u>	<u>-40.2%</u>
Change in net position	954,680	(3,010,338)	3,965,018	131.7%
Net position - beginning of year	39,387,070	42,397,408	(3,010,338)	-7.1%
Net position - end of year	<u>\$ 40,341,750</u>	<u>\$ 39,387,070</u>	<u>954,680</u>	<u>2.4%</u>

General revenues of \$70.4 million reflect the receipt of and accrual for TSRs and other revenues. Revenues decreased year over year by \$38.8 million or 35.5% as there was a Disputed Payments Settlement received during the fiscal year ended June 30, 2014 which accounted for \$38.8 million in general revenues that were not received during the fiscal year ended June 30, 2015.

The Authority's expenses primarily consisted of its administrative expenses and directed transfers to other state agencies for diligent enforcement. Total expenses increased by \$1.5 million reflecting an increase in payments to state agencies, primarily the Department of Agriculture, as directed by the State's Appropriations Act. Transfers to the state fund decreased by \$44.3 million, as a result of the Disputed Payments Settlement being received during the year ended June 30, 2014.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Management's Discussion and Analysis (unaudited)

June 30, 2015

Governmental Funds

As of the end of the current fiscal year, the ending fund balance in the Authority's governmental fund was \$40.3 million, an increase of \$955 thousand by comparison to the prior fiscal year. Of the total fund balance, \$35.0 million is restricted for statutory expenditures. The factors contributing to the change in fund balance year over year are the same as those described above in the discussion and analysis of the government-wide financial statements.

Long-Term Debt Activity

On March 22, 2001, the Authority issued \$934,530,000 aggregate principal amount of Tobacco Settlement Asset-Backed Bonds (the "Series 2001 Bonds") pursuant to an indenture between the Authority and United States Trust Company of New York (subsequently acquired by the Bank of New York), as trustee, dated as of March 1, 2001, and the Tobacco Settlement Revenue Management Authority Act. On June 26, 2008, the Authority defeased the Series 2001 Bonds with certain cash funds and proceeds of \$275,730,000 Tobacco Settlement Revenue Management Authority Tobacco Settlement Revenue Asset-Backed Refunding Bonds, Series 2008 (the "Series 2008 Bonds") issued pursuant to an indenture between The Bank of New York Trust Company, N.A., as trustee, and the Tobacco Settlement Revenue Management Authority. All of the Series 2001 Bonds are deemed paid within the meaning of and with the effect expressed in, and accordingly are no longer outstanding under, the Trust Indenture.

The Series 2008 Bonds were scheduled to retire in ordinary course on June 1, 2018; however, under early redemption provisions ("Turbo Redemptions"), any MSA payments exceeding annual debt service requirements of the Series 2008 Bonds were applied to early redemption of principal. On June 1, 2012, the Authority had sufficient funds to redeem as Turbo Redemptions the entire principal amount of the Series 2008 Bonds then outstanding; accordingly, all of the Authority's debt has been fully discharged.

The Authority has no present plans to undertake the issuance of additional debt.

Budgetary Highlights

The Authority annually adopts an operating budget as required by its by-laws. From a budgetary perspective, the Authority realized a \$955 thousand surplus of revenues over expenditures during the fiscal year ended June 30, 2015, which arose due to factors described in the Summary of Financial Results contained herein.

Economic Factors and Outlook

As noted above, the amount of TSRs is dependent on many factors including future tobacco consumption, certain adjustments, and the financial capability of the OPMs; accordingly, the amount of future TSRs, and particularly the financial effects of the Disputed Payments Settlement thereon, cannot be presently determined with precision. Since all of the Authority's debt has been fully discharged and the Authority has no present plans to undertake the issuance of additional indebtedness, the effects of these factors on the Authority's debt profile have been abated. The Authority's continuing responsibility thereafter is limited to the receipt and distribution of future TSRs as prescribed by law.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Management's Discussion and Analysis (unaudited)

June 30, 2015

Contacting the Authority

Persons needing additional information concerning this report or otherwise needing to contact the Authority should address requests to:

South Carolina Office of the State Treasurer
P.O. Box 11778
Columbia, South Carolina 29211

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Statement of Net Position

June 30, 2015

	<u>Governmental Activities</u>
Assets	
Cash and cash equivalents	\$ 5,341,750
Restricted assets	
Tobacco settlement payments receivable	35,000,000
Total assets	<u>40,341,750</u>
Liabilities	
Accounts payable	\$ -
Total liabilities	<u>-</u>
Net position	
Restricted by statute	35,000,000
Unrestricted	5,341,750
Total net position	<u>\$ 40,341,750</u>

The Notes to Financial Statements are an integral part of this statement.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Statement of Activities

June 30, 2015

	Governmental Activities
Program expenses	
General government	\$ 3,573,320
Total expenses	<u>3,573,320</u>
Net program expense	3,573,320
General revenues	
Tobacco settlement revenues	<u>70,418,749</u>
Total general revenues	<u>70,418,749</u>
Change in net position before transfers	66,845,429
Transfers	
Transfers to state funds and programs pursuant to proviso	<u>(65,890,749)</u>
Total transfers	<u>(65,890,749)</u>
Change in net position	954,680
Net position	
Beginning of the year	<u>39,387,070</u>
End of the year	<u><u>\$ 40,341,750</u></u>

The Notes to Financial Statements are an integral part of this statement.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Governmental Fund Balance Sheet

June 30, 2015

	<u>General Fund</u>
Assets	
Cash and cash equivalents	\$ 5,341,750
Tobacco settlement payments receivable	35,000,000
Total assets	<u>\$ 40,341,750</u>
Liabilities	
Accounts payable	\$ -
Total liabilities	-
Fund balance	
Restricted by statute	35,000,000
Committed to operating expense	5,341,750
Total fund balance	<u>40,341,750</u>
Total liabilities and fund balance	<u>\$ 40,341,750</u>

The Notes to Financial Statements are an integral part of this statement.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

**Governmental Fund Statement of
Revenues, Expenditures and Changes in Fund Balance**

June 30, 2015

	<u>General Fund</u>
Revenues	
Tobacco settlement revenues	\$ 70,418,749
Total revenues	<u>70,418,749</u>
Expenditures	
General government	<u>3,573,320</u>
Total expenditures	<u>3,573,320</u>
Excess of revenues over expenditures	66,845,429
Transfers	
Transfers to state funds and programs pursuant to proviso	<u>(65,890,749)</u>
Total transfers	<u>(65,890,749)</u>
Net change in fund balance	954,680
Fund balance	
Beginning of the year	<u>39,387,070</u>
End of the year	<u>\$ 40,341,750</u>

The Notes to Financial Statements are an integral part of this statement.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Notes to Financial Statements

June 30, 2015

(1) Reporting Entity

The Tobacco Settlement Revenue Management Authority (the "Authority") is a public body and an instrumentality of the State of South Carolina (the "State") established in 2001 pursuant to Section 11-49-10 et seq. of the South Carolina Code of Laws 1976, as amended. The State transferred to the Authority all of its rights and interests under the Master Settlement Agreement (the "MSA") and the Consent Decree and Final Judgment (the "Decree") between all participating States and the participating Tobacco manufacturers. These rights include the State's share of all Tobacco Settlement revenue received after June 30, 2001 and in perpetuity to be received under the MSA.

The core of a financial reporting entity is the primary government which has a separately elected governing body. As required by accounting principles generally accepted in the United States of America, the financial reporting entity includes both the primary government and all of its component units. Component units are legally separate organizations for which the elected officials of the primary government are financially accountable. In turn, component units may have component units.

An organization other than a primary government may serve as a nucleus for a reporting entity when it issues separate financial statements. That organization is identified herein as a primary entity. The Authority has determined that it qualifies as a primary entity, it is a component unit of the State of South Carolina, and it has no component units.

A primary government or entity is financially accountable if its officials or appointees appoint a voting majority of an organization's governing body including situations in which the voting majority consists of the primary entity's officials serving as required by law (e.g., employees who serve in an ex-officio capacity on the component unit's board are considered appointments by the primary entity) and (1) it is able to impose its will on that organization or (2) there is a potential for the organization to provide specific financial benefits to, or impose specific financial burdens on, the primary entity. The primary entity also may be financially accountable if an organization is fiscally dependent on it even if it does not appoint a voting majority of the board. An organization is fiscally independent if it holds all of the following powers:

- (1) Determines its budget without another government having the authority to approve and modify that budget.
- (2) Levies taxes or sets rates or charges without approval by another government.
- (3) Issues bonded debt without approval by another government.

The organization is fiscally dependent on the primary government or entity that holds one or more of the above powers. Based on these criteria, the Authority is a blended component unit of the primary government of the State. Accordingly, the financial statements are blended in the State's special revenue funds in the State's Comprehensive Annual Financial Report.

The Authority is governed by a board, which consists of five members. The members are the Governor or her designee, the State Treasurer, the Comptroller General, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee. The Governor serves as chairman; in the absence of the Governor, the meeting is chaired by the State Treasurer. All members of the Board serve ex officio.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Notes to Financial Statements

June 30, 2015

(2) Summary of Significant Accounting Policies

- (a) **General.** In its accounting and financial reporting in conformity with accounting principles generally accepted in the United States of America, the Authority follows the pronouncements of the Governmental Accounting Standards Board ("GASB").
- (b) **Measurement Focus, Basis of Accounting, and Financial Statement Presentation.** GASB Statement No. 34, Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments, requires government-wide financial statements to be prepared using the accrual basis of accounting and the economic resources measurement focus. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Government-wide financial statements (i.e., the statement of net position and the statement of activities) do not provide information by fund. Significantly, the statement of net position may include non-current assets and liabilities, which generally are not included in the fund statements. The statement of net position includes three components of net position.
 - (1) Net investment in capital assets consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any bonds, mortgages, notes or other borrowings that are attributable to the acquisition, construction, or improvement of those assets. If there are significant unspent related debt proceeds at year-end, the portion of the debt attributable to the unspent proceeds is not included in the calculation of invested in capital assets, net of related debt. Rather, that portion of the debt is included in the same net position component as the unspent proceeds. The Authority does not have any capital assets, thus this classification is not used.
 - (2) Restricted net position consists of net position subject to external constraints imposed by creditors (such as through debt covenants), contributors, or laws or regulations of other governments, or constraints imposed by law through constitutional provisions or enabling legislation. The Authority reports that portion of its net position restricted by statutory constraints as restricted net position.
 - (3) Unrestricted net position consists of net position that does not meet the definition of restricted net position or invested in capital assets, net of related debt. The Authority reports that portion of its net position not externally constrained, primarily funds available for payment of its authorized operating expenses, as unrestricted net position.

The statement of activities demonstrates the degree to which direct expenses of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include (1) charges to customers who purchase, use, or benefit from the services provided by a given function or segment and (2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Unrestricted interest income and other items not properly included among program revenues are reported as general revenues. The Authority has no program revenues.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
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Notes to Financial Statements

June 30, 2015

In addition to the government-wide financial statements, the Authority has prepared financial statements for the Authority's only governmental fund. Governmental fund financial statements use the modified accrual basis of accounting and the current financial resources measurement focus. Tobacco Settlement Revenues ("TSRs") are recognized as soon as they are considered measurable and available. Revenues are considered available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the Authority considers revenues to be available if they are collected within one year after the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred.

The Authority reports one governmental fund, the General Fund, which is the general operating fund of the Authority. It is used to account for all financial resources of the Authority. As a blended component unit of the State, the Authority's General Fund is reported as a special revenue fund in the financial statements of the State.

- (c) **Asset Recognition Criteria for TSRs.** The Authority implemented GASB Technical Bulletin No. 2004-1: Tobacco Settlement Recognition and Financial Reporting Entity Issues (the "Bulletin"), effective July 1, 2003. The Bulletin requires the Authority to recognize TSRs when the event giving rise to recognition occurs (the domestic shipment of cigarettes by the tobacco manufacturers) in the government-wide financial statements, and when the event occurs and the TSRs become available in the fund financial statements. Other than the asset recognition criteria required by the Bulletin, future collections are not measurable and are therefore not recorded as assets in either the government-wide financial statements or the government fund financial statements.
- (d) **Cash and Cash Equivalents.** Cash includes cash on hand, demand deposits, and short term investments with original maturities of three months or less from the date acquired by the Authority.
- (e) **Investments.** Investments, if any, are recorded on the Statement of Net Position and the Governmental Fund Balance Sheet at fair value. All investment income, including changes in the fair value of investments, is reported as revenue in the Statement of Activities and the Statement of Revenues, Expenditures, and Changes in Fund Balance.
- (f) **Fund Balance.** The Authority reports fund balance in accordance with GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions. This Statement establishes fund balance classifications for governmental funds that comprise a hierarchy based primarily on the extent to which a government is bound to observe constraints imposed upon the use of the resources reported therein. The Statement requires governments to disclose information in the notes about the processes through which constraints are imposed, as well as accounting policies that determine whether restricted, committed, assigned, and unassigned amounts are considered to be spent.

The Authority conforms its fund balance reporting to the classification and hierarchy structure of the State, generally as follows:

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Notes to Financial Statements

June 30, 2015

- (1) **Restricted.** Fund balance is reported as restricted when constraints placed on resource use are either (a) externally imposed by creditors, grantors, contributors, laws or regulation of other governments, or (b) imposed by law through constitutional provisions or enabling legislation. Enabling legislation authorizes the State to assess, levy, charge, or otherwise mandate payments of resources from resource providers and includes a legally enforceable requirement that those resources be used only for the specific purposes stipulated in the legislation. A legally enforceable requirement is one that an outside party can compel the government to honor.
- (2) **Committed.** Fund balance is reported as committed if the Authority's by-laws or official actions, including adoption of its annual budget, constrain the use of its resources. Committed constraints can be removed only through similar action that created the constraint.
- (3) **Assigned.** Fund balance is reported as assigned if the fund balance is constrained by the Authority's intent to expend resources for specific purposes. Such intent may be expressed by an official or body pursuant to delegation by the Authority.
- (4) **Non-spendable.** Fund balance is reported as non-spendable if the balance has a lack of availability in form or substance of the assets and liabilities reported in the fund to meet its obligations in the near future.
- (5) **Unassigned.** Fund balance is reported as unassigned for all residual amounts not otherwise classified.

The Authority has no assigned, non-spendable or unassigned fund balance.

The Authority's bond enabling act provides a covenant for the irrevocable assignment of certain of the Authority's assets during any time bonds are outstanding, plus one year and one day thereafter. All of the Authority's outstanding bonds were retired on June 1, 2012. Accordingly, until June 2, 2013, certain of the Authority's assets were classified as restricted by bond covenants because they were subject to a legally enforceable external constraint by the terms of the Trust Indenture.

Subsequent to June 2, 2013, assets previously restricted by bond covenants are available to the State in accordance with the expenditure provisions of Section 11-11-170 of the South Carolina Code of Laws 1976, as amended (the "Expenditure Act"). The Authority classifies all TSRs held at, or received or receivable subsequent to June 2, 2013, as restricted by statute, since the Expenditure Act constrains the use of that portion of the Authority's resources. The remaining portion of net position is reported as unrestricted.

Likewise, in the Governmental Fund Balance Sheet, the portion of fund balance that is subject to the Expenditure Act is reported as restricted by statute; however, the remaining portion of fund balance is reported as committed to operating expense inasmuch as that portion of fund balance is constrained by the Authority's annually adopted budget. The Authority has full statutory power to adopt, revise and rescind its budget, and to expend funds for the costs of administering its operations.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
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June 30, 2015

The Authority classifies the expenditure of funds when incurred based on the nature of the expenditure, with externally directed expenditures generally made from restricted funds, and expenditures made within the discretion of the Authority or subject to its own budget, primarily its authorized operating expenditures, made from committed funds.

- (g) **Administrative Expenses.** The State of South Carolina and certain of its agencies perform certain accounting, administrative, legal and enforcement services for the Authority, and the value of these services is accounted for as general government expenses in the financial statements. Note 6 – Related Party Transactions contains descriptions of and amounts expended for these purposes.
- (h) **Use of Estimates.** The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

(3) Deposits and Investments

Prior to June 2, 2013, the Authority's cash deposits and investments held by the trustee were held in several restricted accounts in the name of the Authority, subject to investment restrictions imposed by the Trust Indenture. The Authority has not adopted a formal policy for these investments because the Trust Indenture contains these restrictions.

Subsequent to June 2, 2013, all of the Authority's cash deposits and investments are under the control of the State Treasurer who, by law, has sole authority for investing State funds. State law requires full collateralization of all bank balances under the control of the State Treasurer, who must correct any deficiencies in collateral within two days. At June 30, 2015, all bank balances under the control of the State Treasurer were fully insured or collateralized with securities held by the State's agent in the name of the State Treasurer.

The following schedule reflects the Authority's deposits and investments at their fair and reported values at June 30, 2015, and reconciles the amounts reported in the statement of net position to the notes.

	Notes		Statements
Deposits			
Held by State Treasurer	\$ 5,341,750	Cash and cash equivalents	\$ 5,341,750
Totals	<u>\$ 5,341,750</u>		<u>\$ 5,341,750</u>

Further information concerning among other things values and risks of deposits and investments under the control of the State Treasurer, including disclosure under GASB Statement No. 40, Deposits and Investments - Risk Disclosures, is disclosed in the Comprehensive Annual Financial Report of the State of South Carolina, which may be accessed at www.cg.sc.gov.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
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Notes to Financial Statements

June 30, 2015

(4) Bonds Payable

On March 22, 2001, the Authority issued \$934,530,000 aggregate principal amount of Tobacco Settlement Asset-Backed Bonds (the "Series 2001 Bonds") pursuant to an indenture between the Authority and United States Trust Company of New York (subsequently acquired by the Bank of New York), as trustee, dated as of March 1, 2001, and the Tobacco Settlement Revenue Management Authority Act. On June 26, 2008, the Authority defeased the Series 2001 Bonds with certain cash funds and proceeds of \$275,730,000 Tobacco Settlement Revenue Management Authority Tobacco Settlement Revenue Asset-Backed Refunding Bonds, Series 2008 (the "Series 2008 Bonds") issued pursuant to an indenture between The Bank of New York Trust Company, N.A., as trustee, and the Tobacco Settlement Revenue Management Authority.

At June 30, 2015, a total of \$64,890,000 of the Authority's legally and economically defeased Series 2001 Bonds remained outstanding; however, all of the Series 2001 Bonds are deemed paid within the meaning of and with the effect expressed in, and accordingly are no longer outstanding under, the Trust Indenture.

The Series 2008 Bonds were scheduled to retire in ordinary course on June 1, 2018; however, under early redemption provisions ("Turbo Redemptions"), any MSA payments exceeding annual debt service requirements of the Series 2008 Bonds were applied to early redemption of principal. On June 1, 2012, the Authority had sufficient funds to redeem as Turbo Redemptions the entire principal amount of the Series 2008 Bonds then outstanding; accordingly, all of the Authority's debt has been fully discharged.

(5) Disputed Payments

During the periods ending June 30, 2006 through June 30, 2014, a number of participating manufacturers ("PMs") deposited a portion of their tobacco settlement payments into a disputed payments account, incidental to findings by an independent arbitrator that MSA disadvantages were a significant factor in market share losses experienced by the PMs in certain calendar years. Under the provisions of the MSA, PMs are potentially entitled to an adjustment of their required payments under the MSA (a Non-Participating Manufacturer or NPM Adjustment) in the event that all of the PMs, in the aggregate, lose more than two percentage points of market share compared to the market share of the PMs in 1997. However, the adjustment cannot be applied against settling states that have enacted and diligently enforced an escrow fund statute under the MSA. As a result of the PMs' deposit into the disputed payments account, South Carolina's share of payments under the MSA has been reduced since 2006.

In May, 2013, the State joined 21 other states and the PMs in a global settlement of the NPM adjustment disputes for the years 2003 through 2012. The settlement provides that the State will receive during the fiscal year ended June 30, 2014, certain payments released from the disputed payments account, and that the PMs will be entitled to take certain credits from MSA payments due in the fiscal years ending June 30, 2014 through June 30, 2017. Moreover, the PMs will not withhold disputed funds during 2014 and 2015, and have agreed to reduce withholding amounts for disputed funds thereafter. In addition to the financial terms of the settlement, the 22 settling states have agreed to a modification of future NPM adjustment disputes.

The State estimated that it would initially receive approximately \$60 million in payments released from the disputed payments account, and the General Assembly determined to receive the settlement in two parts, in September, 2013, and in April, 2014, and made provision under Part

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
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Notes to Financial Statements

June 30, 2015

IB, Section 118.17 in the fiscal year 2013-14 appropriation act for certain of the settlement funds to be transferred to the State's general fund. The Authority received the first of these settlement payments totaling \$21.7 million in October, 2013, and received the remainder of the settlement payments totaling \$48.7 million in April, 2014.

The Authority expects that credits taken by PMs from MSA payments due in the fiscal years ending June 30, 2015 through June 30, 2017 as described above will result in a reduction of TSRs in those fiscal years, the financial impact of which cannot be presently determined with precision.

(6) Related Party Transactions

The State of South Carolina, through the Office of Attorney General, the State Law Enforcement Division, the South Carolina Department of Agriculture, and the South Carolina Department of Revenue, provides certain legal and enforcement services to the Authority. During the fiscal year ended June 30, 2015, the Authority made or provided for \$3,528,000 in expenditures from its general fund to these state agencies to cover costs of providing these services. The Office of State Treasurer provides administrative, investment, operations, record keeping, and other support services to the Authority; however, no reimbursements were made by the Authority during the fiscal year ended June 30, 2015 to cover costs of providing these services.

(7) Risk Management

The Authority is exposed to risks of loss from torts and maintains State coverage for these risks. Management believes such coverage is sufficient to preclude any significant uninsured losses for the covered risks. There were no significant reductions in insurance coverage from coverage in the prior year. The insurer promises to pay to or on behalf of the insured for covered economic losses sustained during the policy period in accord with insurance policy and benefit program limits except for the deductibles. The Authority and other entities pay premiums to the State's Insurance Reserve Fund ("IRF") which issues policies, accumulates assets to cover the risks of loss, and pays claims incurred for covered losses related to torts. The IRF is a self-insurer whose rates are determined actuarially.

No payments for uninsured losses were made during the fiscal year ended June 30, 2015.

(8) Subsequent Events

The Authority has evaluated all events subsequent to the statement of net position date of June 30, 2015 through the date of issuance of these financial statements, September 21, 2015, and has determined that there are no subsequent events requiring disclosure.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY
(A Component Unit of the State of South Carolina)

Required Supplementary Information (unaudited)

**Budgetary Comparison Schedule
General Fund**

Year ended June 30, 2015

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance Positive/(Negative)</u>
	<u>Original</u>	<u>Final</u>		
Revenues				
Tobacco settlement receipts	\$ 68,000,000	\$ 68,000,000	\$ 70,418,749	\$ 2,418,749
Funds carried forward from prior year	50,000	50,000	-	(50,000)
Total revenues	68,050,000	68,050,000	70,418,749	2,368,749
Expenditures				
Contractual services	45,000	45,000	3,570,830	(3,525,830)
Fixed charges and contributions	3,000	3,000	2,490	510
Miscellaneous administrative	2,000	2,000	-	2,000
Total expenditures	50,000	50,000	3,573,320	(3,523,320)
Transfers				
Transfers to other state agencies	-	-	(65,890,749)	(65,890,749)
Total transfers	-	-	(65,890,749)	(65,890,749)
 Excess (deficiency) of revenues over expenditures	 \$ 68,000,000	 \$ 68,000,000	 \$ 954,680	 \$ (67,045,320)

See accompanying notes to required supplementary information.

TOBACCO SETTLEMENT REVENUE MANAGEMENT AUTHORITY

(A Component Unit of the State of South Carolina)

Notes to Required Supplementary Information (unaudited)

Budgetary Comparison Schedule

General Fund

Year ended June 30, 2015

(1) Basis of Presentation

Section 11-49-60 of the South Carolina Code of Laws 1976, as amended requires the Authority to adopt an annual budget for its operational expenditures. The accompanying budgetary comparison schedule compares the Authority's legally adopted budget to actual results on the budgetary basis.

(2) Budgetary Revisions

The Authority maintains budgetary control at the object category of expenditure and must approve any transfer of appropriations between the object categories.

(3) Differences in Budgetary and GAAP Reporting

The accompanying budgetary comparison schedule compares the Authority's legally adopted budget with actual results in accordance with the Authority's basis of budgeting. The Authority's primarily cash basis budgetary accounting principles, however, differ significantly from GAAP. These different accounting principles may result in basis differences in the excess (deficiency) of revenues over (under) expenditures. Basis differences arise because the basis of budgeting differs from the GAAP basis used to prepare the governmental fund statement of revenues, expenditures and changes in fund balance. No such differences were reflected in the budgetary comparison schedule for the fiscal year ended June 30, 2015.

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**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS
PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

Mr. Richard H. Gilbert, Jr., CPA,
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities and the major fund of Tobacco Settlement Revenue Management Authority (the "Authority") as of and for the year ended June 30, 2015, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements, and have issued our report thereon dated September 21, 2015.

INTERNAL CONTROL OVER FINANCIAL REPORTING

In planning and performing our audit of the financial statements, we considered the Authority's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing an opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control. Accordingly, we do not express an opinion on the effectiveness of the Authority's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

COMPLIANCE AND OTHER MATTERS

As part of obtaining reasonable assurance about whether the Authority's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

PURPOSE OF THIS REPORT

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Columbia, South Carolina
September 21, 2015

The Heller Group, P.A.

Tobacco Settlement Revenue Management Authority

SECTION 11-49-100. Accounts to be maintained separately; annual report.

All accounts of the authority must be held and maintained separately from all other funds, properties, assets, and accounts of this State and its other agencies. The board shall keep an accurate account of all of its activities and all of its receipts and expenditures and annually, in the month of January, shall make a report of its activities to the State Budget and Control Board, the report to be in a form prescribed by the State Budget and Control Board. Audited financial statements must be submitted to the Comptroller General by October fifteenth following the end of the fiscal year.

HISTORY: 2000 Act No. 387, Part II, Section 69A.2; 2005 Act No. 164, Section 13.

Code Commissioner's Note

At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

STATE FISCAL ACCOUNTABILITY AUTHORITY

Meeting of Tuesday, January 26, 2016 -- 9:30 A. M.

Room 252, Edgar A. Brown Building

BLUE AGENDA INDEX

<u>Item</u>	<u>Agency</u>	<u>Subject</u>
1.	Department of Administration, Executive Budget Office	Bank Account Transparency and Accountability
2.	Department of Administration Division of General Services	Easement
3.	Department of Administration Division of General Services	Real Property Conveyance
4.	Executive Director	Qualified Public Education Facilities (2015 Volume Cap Carryforward)

STATE FISCAL ACCOUNTABILITY AUTHORITY
MEETING OF January 26, 2016

BLUE AGENDA
ITEM NUMBER 1

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Bank Account Transparency and Accountability

Proviso 117.84 of the Fiscal Year 2015-16 Appropriations Act requires agencies with composite reservoir bank accounts or other accounts which are not included in the South Carolina Enterprise Information System (SCEIS) to prepare a report disclosing transaction information from the prior fiscal year. State institutions of higher learning are exempted from this requirement. The proviso also provides for an agency to petition the State Fiscal Accountability Authority for an exemption from the detailed reporting requirements if release of the information would be detrimental to the state or agency. Agencies exempted from the detailed transaction reporting by action of the former Budget and Control Board must provide the following information for each account: 1) Name of the account; 2) Names and titles of each person responsible for making withdrawals and deposits in the account; 3) Names and titles of each person responsible for reconciling each account; 4) the beginning balance, total deposits, total expenditures and year-end balance of the account.

The Executive Budget Office requested state agencies to provide the required reports by October 1, 2015. The reports received from the various state agencies have been submitted to the Comptroller General's Office to be posted on its website. Attached is a list which submitted a report in accordance with Proviso 117.84 of the FY 2015-16 Appropriations Act.

AUTHORITY ACTION REQUESTED:

Receive as information the list of agencies which have submitted reports in accordance with Proviso 117.84, concerning bank account transparency and accountability.

ATTACHMENTS:

Agenda item worksheet; Proviso 117.84; Summary of agency responses


STATE FISCAL ACCOUNTABILITY AUTHORITY AGENDA ITEM WORKSHEET

Meeting Scheduled for: January 26, 2016

Blue Agenda

1. Submitted by:

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


Marcia Adams, Executive Director

2. Subject: Bank Account Transparency and Accountability

3. Summary Background Information: Proviso 117.84 of the Fiscal Year 2015-16 Appropriations Act requires agencies with composite reservoir bank accounts or other accounts which are not included in the South Carolina Enterprise Information System (SCEIS) to prepare a report disclosing transaction information from the prior fiscal year. State institutions of higher learning are exempted from this requirement. The proviso also provides for an agency to petition the State Fiscal Accountability Authority for an exemption from the detailed reporting requirements if release of the information would be detrimental to the state or agency. Agencies exempted from the detailed transaction reporting by action of the former Budget and Control Board must provide the following information for each account: 1) Name of the account; 2) Names and titles of each person responsible for making withdrawals and deposits in the account; 3) Names and titles of each person responsible for reconciling each account; 4) the beginning balance, total deposits, total expenditures and year-end balance of the account.

The Executive Budget Office requested state agencies to provide the required reports by October 1, 2015. The reports received from the various state agencies have been submitted to the Comptroller General's Office to be posted on its website. Attached is a list which submitted a report in accordance with Proviso 117.84 of the FY 2015-16 Appropriations Act.

4. What is Authority asked to do? Receive as information the list of agencies which have submitted reports in accordance with Proviso 117.84.

5. What is recommendation of Department of Administration? Receive as information the list of agencies which have submitted reports in accordance with Proviso 117.84.

6. List of Supporting Documents:

- (a) Proviso 117.84
- (b) Summary of agency responses

**Proviso 117.84 Bank Account Transparency and Accountability
FY 2015-16 Appropriation Act**

117.84. (GP: Bank Account Transparency and Accountability) Each state agency, except state institutions of higher learning, which has composite reservoir bank accounts or any other accounts containing public funds which are not included in the Comptroller General's South Carolina Enterprise Information System shall prepare a report for each account disclosing every transaction of the account in the prior fiscal year. The report shall be submitted to the State Fiscal Accountability Authority by October first of each fiscal year. The report shall include the name(s) and title(s) of each person authorized to sign checks or make withdrawals from each account, the name and title of each person responsible for reconciling each account, the beginning and year-end balance of funds in each account, and data related to both deposits and expenditures of each account. The report shall include, but not be limited to, the date, amount, and source of each deposit transaction and the date, name of the payee, the transaction amount, and a description of the goods or services purchased for each expenditure transaction. To facilitate review, the State Fiscal Accountability Authority shall prescribe a common format for the report which agencies must use. In order to promote accountability and transparency, a link to the report shall be posted on the Comptroller General's website as well as the agency's homepage.

When the State Auditor conducts or contracts for an audit of a state agency, accounts of the agency subject to this proviso must be included as part of the review.

If an agency determines that the release of the information required in this provision would be detrimental to the state or the agency, the agency may petition the State Fiscal Accountability Authority to grant the agency an exemption from the reporting requirements for the detrimental portion. The meeting to determine whether an exemption should be granted shall be closed. However, the exemption may only be granted upon a majority vote of the State Fiscal Accountability Authority in a public meeting.

**AGENCY COMPOSITE BANK ACCOUNTS
REPORTS RECEIVED**

Agency Number	Agency Name	Exemption Requested
D100	SC Law Enforcement Division	Yes
D500	Department of Administration	Yes
E200	Office of Attorney General	Yes
H710	Wil Lou Gray Opportunity School	Yes
H730	Vocational Rehabilitation Department	Yes
J160	Department of Disabilities and Special Needs	Yes
L040	Department of Social Services	Yes
L120	John de la Howe School	Yes
N120	Department of Juvenile Justice	Yes
P240	Department of Natural Resources	Yes
R120	State Accident Fund	Yes
R280	Department of Consumer Affairs	Yes
R400	Department of Motor Vehicles	Yes
R440	Department of Revenue	Yes
B040	Judicial Department	No
D200	Governor's Mansion and Grounds	No
E080	Secretary of State	No
E240	Adjutant General's Office	No
H750	School for the Deaf and Blind	No
H950	State Museum	No
J020	Department of Health and Human Services	No
J040	Department of Health and Environmental Control	No
K050	Department of Public Safety	No
P120	Forestry Commission	No
P280	Department of Parks, Recreation and Tourism	No
P320	Department of Commerce	No
P340	Jobs-Economic Development Authority	No
R360	Department of Labor, Licensing and Regulation	No
R600	Department of Employment and Workforce	No
U120	Department of Transportation	No

STATE FISCAL ACCOUNTABILITY AUTHORITY
MEETING OF January 26, 2016

BLUE AGENDA
ITEM NUMBER 2

AGENCY: Department of Administration, Division of General Services

SUBJECT: Easement

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

- | | | |
|-----|----------------------|---|
| (a) | County Location: | Dillon |
| | From: | State of South Carolina, through the Department of Administration |
| | To: | AT&T Southeast |
| | Consideration: | \$700 |
| | Description/Purpose: | To grant a 0.796 acre easement for the installation, operation and maintenance of a 4" telecommunication conduit beneath the Little Pee Dee River at SC 41. The easement will expand the service area. Consideration is \$500 plus \$200 per acre for easements across navigable waterways and submerged lands. |

AUTHORITY ACTION REQUESTED:

Approve granting the referenced easements as recommended by the Department of Administration, Division of General Services.

ATTACHMENTS:

Agenda item worksheet and attachments

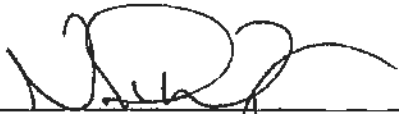
STATE FISCAL ACCOUNTABILITY AUTHORITY AGENDA ITEM WORKSHEET

Meeting Scheduled for: January 26, 2016

Blue Agenda

1. Submitted by:

- (a) **Agency:** Department of Administration,
Division of General Services
(b) **Authorized Official Signature:**


Nolan L. Wiggint, Jr., Director

2. Subject: EASEMENT

3. Summary Background Information:

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

- | | | |
|-----|-----------------------------|---|
| (a) | County Location: | Dillon |
| | From: | State of South Carolina, through the Department of Administration |
| | To: | AT&T Southeast |
| | Consideration: | \$700 |
| | Description/Purpose: | To grant a 0.796 acre easement for the installation, operation and maintenance of a 4" telecommunication conduit beneath the Little Pee Dee River at SC 41. The easement will expand the service area. Consideration is \$500 plus \$200 per acre for easements across navigable waterways and submerged lands. |
-

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

5. What is recommendation of the Division of General Services? Recommend approval of the referenced easement.

6. List of Supporting Documents:

1. SC Code of Laws Sections 1-11-80, 1-11-100 and 10-1-130
2. Easement Plat

SOUTH CAROLINA CODE OF LAWS

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

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

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

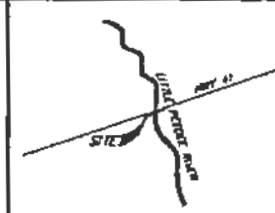
Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when authorized by the Department of Administration, upon approval of the State Fiscal Accountability Authority, and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the Director of the Department of Administration and the State Fiscal Accountability Authority.

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

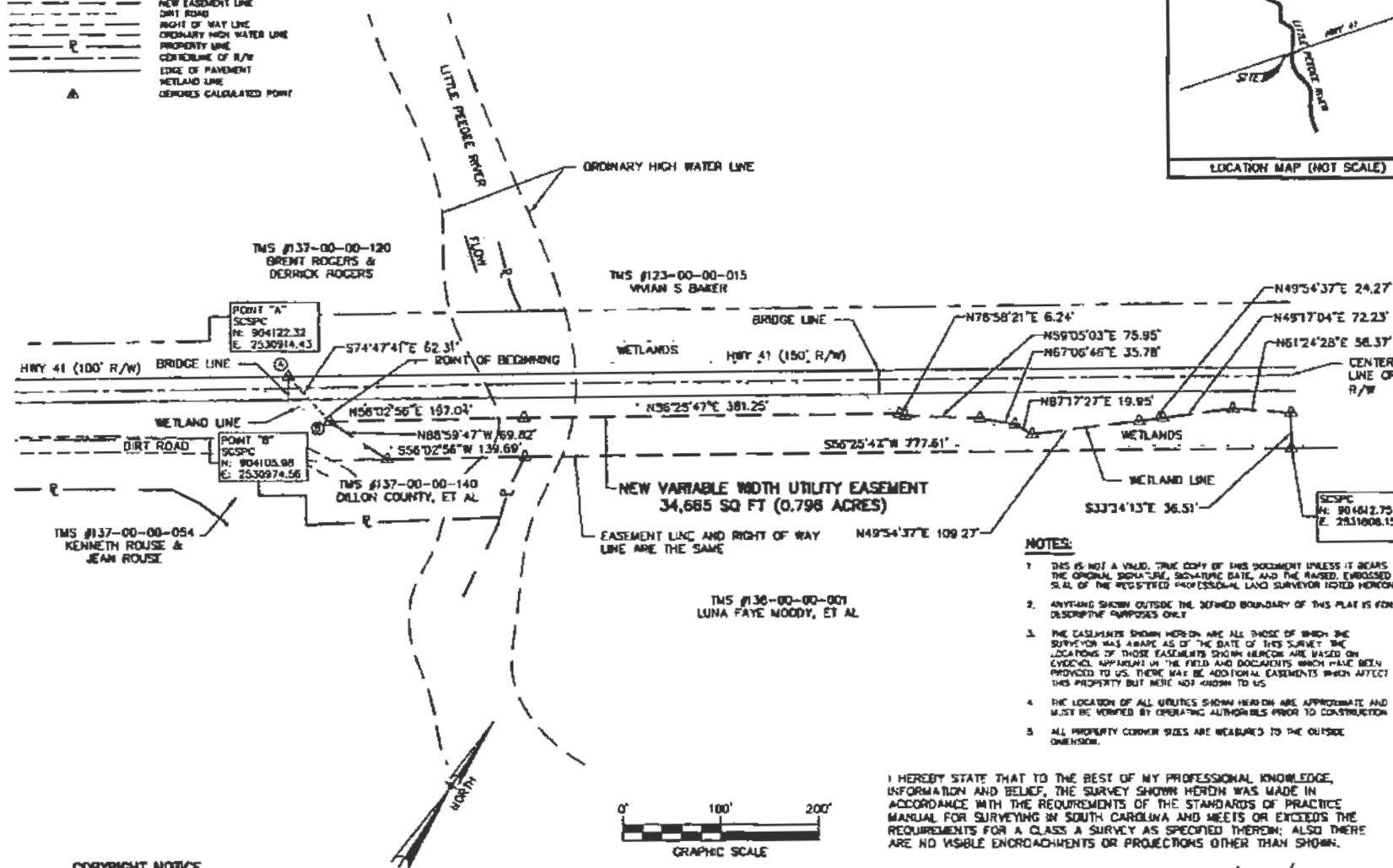
The trustees or governing bodies of state institutions and agencies may grant easements and rights of way over any property under their control, upon the recommendation of the Department of Administration and approval of the State Fiscal Accountability Authority, whenever it appears that such easements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

A

NEW EASEMENT LINE
DIRT ROAD
RIGHT OF WAY LINE
CROWNARY HIGH WATER LINE
PROPERTY LINE
CENTRELINE OF R/W
EDGE OF PAVEMENT
WETLAND LINE
OWNER'S CALCULATED POINT



LOCATION MAP (NOT SCALE)



NOTES:

1. THIS IS NOT A FINAL. THE COPY OF THIS DOCUMENT UNLESS IT BEARS THE ORIGINAL SIGNATURE, SURVEYING DATE, AND THE RAISED, EMBOSSED SEAL OF THE REGISTERED PROFESSIONAL LAND SURVEYOR NOTED HEREON.
2. ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY OF THIS PLAN IS FOR DESCRIPTIVE PURPOSES ONLY.
3. THE EASEMENTS SHOWN HEREON ARE ALL THOSE OF WHICH THE SURVEYOR WAS AWARE AS OF THE DATE OF THIS SURVEY. THE LOCATIONS OF THOSE EASEMENTS SHOWN HEREON ARE BASED ON EVIDENCE APPARENT IN THE FIELD AND DOCUMENTS WHICH HAVE BEEN PROVIDED TO THE SURVEYOR. NO AGREEMENTS WHICH AFFECT THIS PROPERTY BUT WERE NOT KNOWN TO US.
4. THE LOCATION OF ALL UTILITIES SHOWN HEREON ARE APPROXIMATE AND MUST BE VERIFIED BY OPERATING AUTHORITIES PRIOR TO CONSTRUCTION.
5. ALL PROPERTY CORNER SIZES ARE MEASURES TO THE OUTSIDE SURFACE.

I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREIN 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; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

York Farming 10/05/2015
LORICK V. FARMING, SC PLS NO. 19892 SIGNATURE/DATE
URS CORPORATION
4016 SALT POINTE PKWY. NORTH CHARLESTON, S.C. 29405
TELEPHONE: (843) 767-4802

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[illegible]

AGENCY: Department of Administration, Division of General Services

SUBJECT: Real Property Conveyance

The Department of Administration, Division of General Services recommends approval of the following real property conveyance:

Controlling Agency:	Medical University of South Carolina
Acreage:	1.47± acres
Location:	165 Cannon Street, Charleston
County:	Charleston
Purpose:	To convey property known as the "M Lot" to the MUSC Foundation to be developed as a parking garage to support additional traffic at the Medical University Hospital Authority's Shawn Jenkins Children's Hospital, as well as future growth of MUSC's clinical enterprise. The Foundation will construct the garage and lease parking spaces to the University's Parking Management Services, who manages parking for both the University and the Hospital Authority.
Price/Transferred To:	\$10,250,000/MUSC Foundation
Disposition of Proceeds:	To be retained by MUSC.

BOARD ACTION REQUESTED:

Approve the real property conveyance as requested by the Department of Administration, Division of General Services.

ATTACHMENTS:

Agenda item worksheet and attachments


STATE FISCAL ACCOUNTABILITY AUTHORITY AGENDA ITEM WORKSHEET

Meeting Scheduled for: January 26, 2016

Blue Agenda

1. Submitted by:

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


Nolan L. Wiggins, Jr., Director

2. Subject: REAL PROPERTY CONVEYANCE

3. Summary Background Information:

Controlling Agency:	Medical University of South Carolina
Acreage:	1.47± acres
Location:	165 Cannon Street, Charleston
County:	Charleston
Purpose:	To convey property known as the "M Lot" to the MUSC Foundation to be developed as a parking garage to support additional traffic at the Medical University Hospital Authority's Shawn Jenkins Children's Hospital, as well as future growth of MUSC's clinical enterprise. The Foundation will construct the garage and lease parking spaces to the University's Parking Management Services, who manages parking for both the University and the Hospital Authority.
Price/Transferred To:	\$10,250,000/MUSC Foundation
Disposition of Proceeds:	To be retained by MUSC.

4. What is Authority asked to do? Approve the property conveyance as requested.

5. What is recommendation of Department of Administration Division involved?
Recommend approval of the property conveyance as requested.

6. List of Supporting Documents:

- (a) Letter from Medical University of South Carolina dated November 5, 2015
(b) Map
(c) SC Code of Laws Section 1-11-65



Engineering and Facilities
97 Jonathan Lucas Street
MSC 190
Charleston, SC 29425
Tel 843 792 2721
Fax 843 792 0251

www.musc.edu/vpfa/eandf

November 5, 2015

Ms. Linda M. Gordon
Program Coordinator
Real Property Services
Division of General Services
The South Carolina Department of Administration
1200 Senate Street, Suite 460
Columbia, SC 29201

RE: Request to sell 165 Cannon Street, Charleston, SC (TMS#460-11-4-049)

Dear Ms. Gordon:

The Medical University of South Carolina (MUSC) is requesting the Department of Administration and State Fiscal Accountability Authority (SFAA) to approve the sale of 165 Cannon (aka 'M' Lot) to the MUSC Foundation. This sale was approved by our Board of Trustees at their October 9th, 2015 meeting (minutes enclosed).

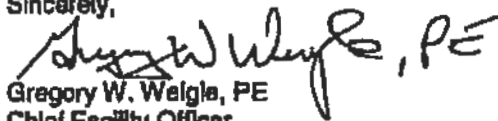
The University is completing both Strategic Planning and Master Facility Planning exercises and desires to monetize this asset for capital generation to support other construction deemed necessary by the aforementioned plans.

The site was selected as the preferred location for a parking garage to support additional traffic at the Hospital Authority's Shawn Jenkins Children's Hospital (SJCH) recently supported by the General Assembly. The future plans show additional clinical facility development in the same area of campus so the garage will support future growth of the clinical enterprise.

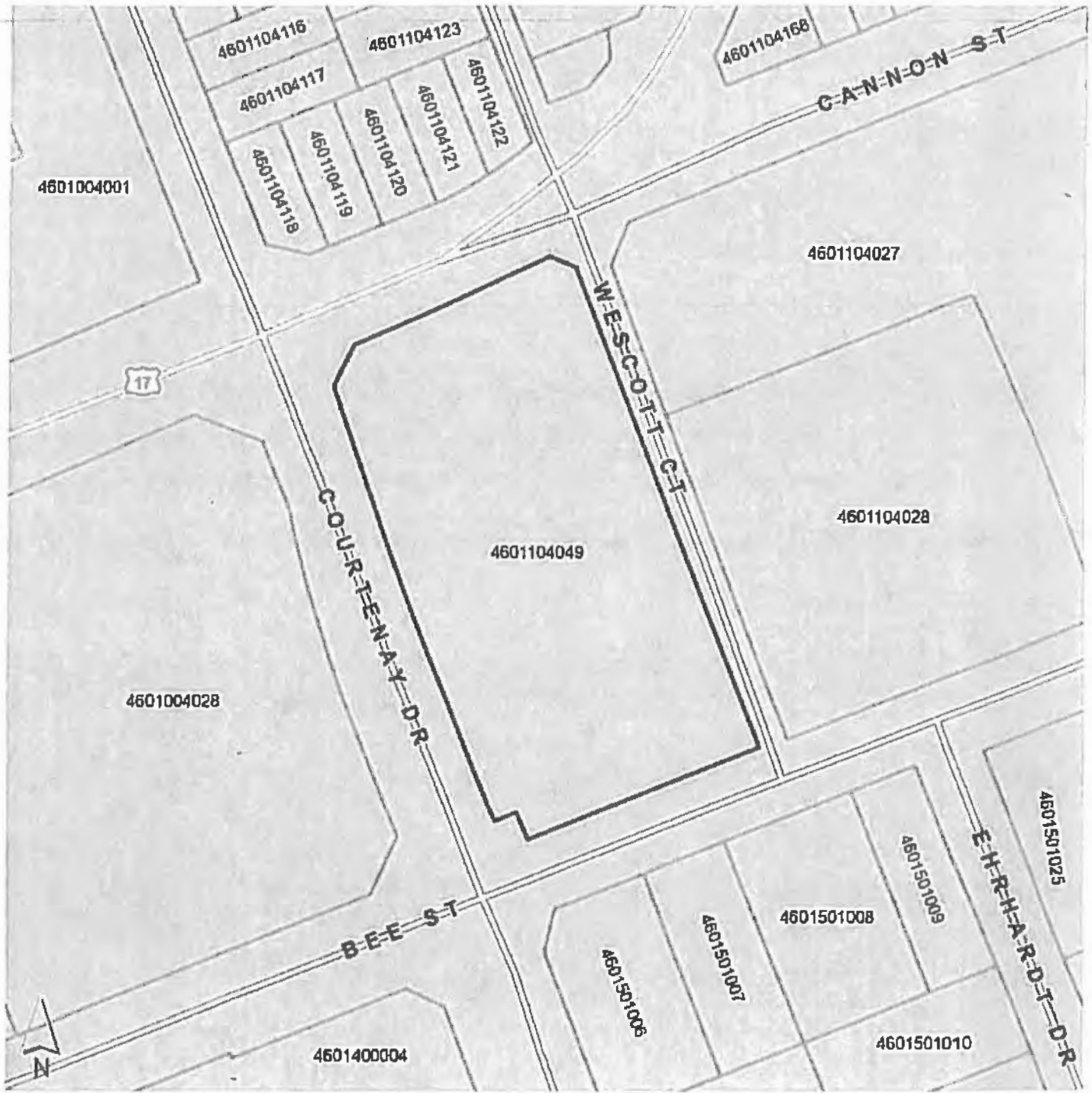
As the Hospital Authority could not absorb the debt of both the new SJCH and the parking garage, we feel it is in the best interest of the Agency to sell the property to the MUSC Foundation who will build the garage and lease parking spaces to the University's Parking Management Services, who manages parking for both the University and the Hospital Authority.

We believe the proposed sale to be beneficial to all stakeholders: the Agency, the Authority and the public via the most modern and patient centered care. We will be able to provide the women and children of not only the Lowcountry, but the State of South Carolina. We ask you to please approve this request.

Sincerely,


Gregory W. Weigle, PE
Chief Facility Officer
Medical University of South Carolina
(843)792-7526 weigle@musc.edu

Enclosure



Charleston County SC

Parcel ID: 4601104049

Owner1: MEDICAL UNIVERSITY OF
SOUTH

Prop St Number: 165

Prop St Name: CANNON

Prop Type: ST

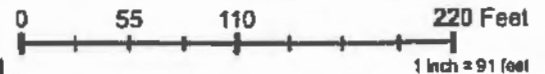
Acreage: 1.47

Class Code: 500 - General Commercial

Plat Book Page: F-51

Deed Book Page: J118-107

Jurisdiction: CITY OF CHARLESTON



CHARLESTON
COUNTY
SOUTH CAROLINA

Note: The Charleston County makes every effort possible to produce the most accurate information. The layers contained in the map service are for information purposes only. The Charleston County makes no warranty, express or implied, nor any guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the information provided. The County explicitly disclaims all representations and warranties. The reader agrees to hold harmless the Charleston County for any cause of action and costs associated with any causes of action which may arise as a consequence of the County providing this information.

Author: Charleston County SC

Date: 12/15/2015

AGENCY: Executive Director

SUBJECT: Qualified Public Educational Facilities (2015 Volume Cap Carryforward)

Internal Revenue Code Section 26 U.S.C. Section 142(k) for qualified public educational facilities and Section 142(a)(13) were added by Section 422(a) and (b) of P.L. 107-16 in 2001. Section 142(k) provides a separate and independent volume cap for qualified public educational facilities to be used for the issuance of bonds for public educational facilities. These bonds are not subject to the general volume limitation under Code Section 146 but are subject to a separate volume limitation set forth in Code Section 142(k). No regulations for this provision have been promulgated.

The volume cap for qualified public educational facilities is governed by Section 142(k)5. That Section provides, in part, the following:

(B) Allocation rules.

....

(ii) Rules for carryforward of unused limitation. A State may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of Section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).

The volume cap for calendar year 2015 was \$48,324,820 and has been unused. The Authority is asked to elect to carryforward the entire volume cap for 2015 to be used for the issuance of bonds for qualified public educational facilities as described in Section 142(a)(13) and authorize the filing of a carryforward election with the Internal Revenue Service in connection with such allocation. Pursuant to Section 142(k)(5)(B)(ii) the carryforward will be valid for the next three calendar years.

AUTHORITY ACTION REQUESTED:

Approve the carryforward of the unused volume cap allocation for qualified public educational facilities for calendar year 2015 to be used for the issuance of bonds of such bonds and authorize the filing of a carryforward election with the Internal Revenue Service in connection with such allocation to be valid for the next three calendar years.

ATTACHMENTS:

Internal Revenue Code 26 U.S.C. Section 142; Certification of 2015 State Ceiling for Qualified Public Educational Facilities Bonds

26 U.S.C.

United States Code, 2011 Edition

Title 26 - INTERNAL REVENUE CODE

Subtitle A - Income Taxes

CHAPTER 1 - NORMAL TAXES AND SURTAXES

Subchapter B - Computation of Taxable Income

PART IV - TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS

Subpart A - Private Activity Bonds

Sec. 142 - Exempt facility bond

From the U.S. Government Printing Office, www.gpo.gov**§142. Exempt facility bond****(a) General rule**

For purposes of this part, the term “exempt facility bond” means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

- (1) airports,
- (2) docks and wharves,
- (3) mass commuting facilities,
- (4) facilities for the furnishing of water,
- (5) sewage facilities,
- (6) solid waste disposal facilities,
- (7) qualified residential rental projects,
- (8) facilities for the local furnishing of electric energy or gas,
- (9) local district heating or cooling facilities,
- (10) qualified hazardous waste facilities,
- (11) high-speed intercity rail facilities,
- (12) environmental enhancements of hydroelectric generating facilities,
- (13) qualified public educational facilities,
- (14) qualified green building and sustainable design projects, or
- (15) qualified highway or surface freight transfer facilities.

(b) Special exempt facility bond rules

For purposes of subsection (a)—

(1) Certain facilities must be governmentally owned**(A) In general**

A facility shall be treated as described in paragraph (1), (2), (3), or (12) of subsection (a) only if all of the property to be financed by the net proceeds of the issue is to be owned by a governmental unit.

NIKKI HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

Office of the Executive Director
Marcia S. Adams
EXECUTIVE DIRECTOR

(803) 734-2320
Fax: (803) 734-2117

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS
COMMITTEE

January 16, 2015

**CERTIFICATION OF
2015 STATE CEILING ON ISSUANCE OF QUALIFIED PUBLIC EDUCATIONAL FACILITIES
BONDS ESTABLISHED IN THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION
ACT OF 2001**

In accord with Code Section 142(k) of the Economic Growth and Tax Relief Reconciliation Act of 2001, I have determined that the most recent census estimate of the resident population of the State of South Carolina published by the Bureau of the Census before the beginning of 2015 is 4,832,482.

That population estimate is included in Census Bureau release CB14-232 dated December 23, 2014.

On that basis, I have calculated and I certify the 2015 state ceiling on the issuance of qualified public educational bonds for the State of South Carolina, as established in Economic Growth and Tax Relief Reconciliation Act of 2001, to be \$48,324,820.

Delbert H. Singleton, Jr.
Secretary to the Board

STATE FISCAL ACCOUNTABILITY AUTHORITY
MEETING OF January 26, 2016

REGULAR SESSION
ITEM NUMBER 1

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

State Fiscal Accountability Authority approval is requested for the following permanent improvement project establishment requests and budget revisions which have been reviewed favorably by the Joint Bond Review Committee:

- (a) Summary 4-2016: JBRC Item 1. University of South Carolina - Columbia
Project: 6114, Football Operations Facility Construction

<u>Source of Funding Detail</u>	<u>Original Budget Amount</u>	<u>Cumulative Changes Since Original Budget</u>	<u>Current Budget</u>	<u>Current Budget Adjustment Requested</u>	<u>Total Budget After Current Adjustment</u>
Athletic, Operating Funds	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>1,000,000.00</u>	<u>1,000,000.00</u>
All Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>1,000,000.00</u>	<u>1,000,000.00</u>

Funding Source: \$1,000,000 Athletic, Operating Funds, which are those revenues generated by ticket sales, SEC conference distributions, Gamecock Club contributions, seat premiums, and corporate sponsorships. Athletic funds are auxiliary funds of the University and are self-supporting.

Request: Establish project and budget for \$1,000,000 (Athletic, Operating Funds) to begin design work to construct a new football operations facility at the University of South Carolina. The facility will be located at the west end of Gamecock Park that is adjacent to the existing indoor football practice facility. The proposed building will be approximately 105,000-gross-square-feet and will consolidate all training, coaching, operational and administrative activities associated with the football program. The building will contain public spaces, locker rooms, meeting rooms, a weight room, a nutrition area, training rooms with hydrotherapy, and an equipment storage area and administrative/coaches offices. Site utilities, parking and associated landscaping and hardscaping will also be included as part of the project. Consolidation will enhance operational efficiency and eliminate the need for student athletes to cross Bluff Road going from locker rooms at Williams-Brice Stadium to the practice fields. This facility will be an important component of the football recruiting process. The agency estimates that the complete project will cost approximately \$50,000,000.

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

- (b) Summary 4-2016: JBRC Item 2. University of South Carolina - Columbia
Project: 6115, Close-Hipp Renovation

<u>Source of Funding</u> <u>Detail</u>	<u>Original Budget</u> <u>Amount</u>	<u>Cumulative</u> <u>Changes Since</u> <u>Original Budget</u>	<u>Current Budget</u>	<u>Current Budget</u> <u>Adjustment</u> <u>Requested</u>	<u>Total Budget</u> <u>After Current</u> <u>Adjustment</u>
Other, Institutional Capital Project Funds	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>220,500.00</u>	<u>220,500.00</u>
All Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>220,500.00</u>	<u>220,500.00</u>

Funding Source: \$220,500 Other, Institutional Capital Project Funds, which are those funds generated from the portion of tuition and fees designated for Bond and Renovation Reserve. These funds pay debt service first and the remainder is used for capital improvements.

Request: Establish project and budget for \$220,500 (Other, Institutional Capital Project Funds) to begin design work to renovate the Close-Hipp building at the University of South Carolina. The Close building is 42 years old, while the Hipp building 32 years old. The combined gross-square-feet of the buildings is 340,978. The renovations will include replacing original mechanical and some plumbing and electrical systems that are at the end of their serviceable life. This project will also focus on life safety by installing a sprinkler system and an updated fire alarm system to comply with current building codes. Water intrusion issues will be addressed and the roof will be replaced. The College of Hospitality, Retail, and Sports Management will be relocated to Close-Hipp and will occupy approximately one-third of the building. Classrooms will also be renovated to include replacement of finishes, new classroom furniture as required, and installation of new A/V smart classroom technology. Other academic and student support services will occupy the building. This project will address the most serious maintenance needs and enhance energy efficiency of the building while providing significant academic and student support space. The agency estimates that the complete project will cost approximately \$14,700,000.

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

- (c) Summary 4-2016: JBRC Item 3. Medical University of South Carolina
Project: 9831, Parking Garage #1 Structural, Waterproofing and Masonry Repairs

<u>Source of Funding Detail</u>	<u>Original Budget Amount</u>	<u>Cumulative Changes Since Original Budget</u>	<u>Current Budget</u>	<u>Current Budget Adjustment Requested</u>	<u>Total Budget After Current Adjustment</u>
Other, Parking Revenue	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>26,250.00</u>	<u>26,250.00</u>
All Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>26,250.00</u>	<u>26,250.00</u>

Funding Source: \$26,250 Other, Parking Revenue, which are those revenues generated from operation of the MUSC parking system.

Request: Establish project and budget for \$26,250 (Other, Parking Revenue) to begin design work to repair the Jonathon Lucas Street Parking Garage at the Medical University of South Carolina. The parking garage is 42 years old, and is 191,670-gross-square-feet, of which 137,000-gross-square-feet will be renovated. This project will address structural and deferred maintenance issues on floors one through five in order to prevent further deterioration of the support structure. The work will repair/replace waterproofing systems, reinforce/repair masonry wall systems, upgrade vehicular impact systems to meet current code, and repair/paint structural support steel. Floors six and seven of this garage were previously repaired. The agency estimates that the complete project will cost approximately \$1,750,000.

- (d) Summary 4-2016: JBRC Item 5. Department of Transportation
Project: 9734, HQ Building Fire Sprinkler Installation and Waterproofing

<u>Source of Funding Detail</u>	<u>Original Budget Amount</u>	<u>Cumulative Changes Since Original Budget</u>	<u>Current Budget</u>	<u>Current Budget Adjustment Requested</u>	<u>Total Budget After Current Adjustment</u>
Other, State Highway Fund	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>60,000.00</u>	<u>60,000.00</u>
All Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>60,000.00</u>	<u>60,000.00</u>

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

Funding Source: \$60,000 Other, State Highway Fund, which are those revenues derived from the state motor fuel user fee.

Request: Establish project and budget for \$60,000 (Other, State Highway Fund) to begin design work to install a fire sprinkler system and to fireproof certain building components at the Department of Transportation headquarters building. This building is 38 years old and 228,000-square-feet. In 2002, building code violations were found within the headquarters building that affected the ability for persons to safely exit the building in the event of a fire. The State Engineer wrote a memo in 2002 regarding code deficiencies at this building. At a minimum, the agency was directed to install a fire sprinkler system to mitigate the code violations found. Fireproofing the steel columns and beams in the building with a spray-on coating will be evaluated. The exterior of the building has not been sealed since it was constructed, and the building leaks when it rains. This creates the potential for moisture damage and mold growth. This project will include sealing the joints in the limestone panels and windows. The agency estimates that the complete project will cost approximately \$3,748,500.

Establish Construction Budget

- (e) Summary 4-2016: JBRC Item 7. University of South Carolina – Beaufort Campus
Project: 9516, Hilton Head Island Hospitality Management Facility Construction

<u>Source of Funding Detail</u>	<u>Original Budget Amount</u>	<u>Cumulative Changes Since Original Budget</u>	<u>Current Budget</u>	<u>Current Budget Adjustment Requested</u>	<u>Total Budget After Current Adjustment</u>
Other, Town of Hilton Head Island	0.00	0.00	0.00	18,435,000.00	18,435,000.00
Other, Beaufort-Jasper County HEC	0.00	0.00	0.00	1,500,000.00	1,500,000.00
Other, Private Funds	<u>367,500.00</u>	<u>0.00</u>	<u>367,500.00</u>	<u>632,500.00</u>	<u>1,000,000.00</u>
All Sources	<u>367,500.00</u>	<u>0.00</u>	<u>367,500.00</u>	<u>20,567,500.00</u>	<u>20,935,000.00</u>

Funding Source: \$18,435,000 Other, Town of Hilton Head Island Funds, which are Tax Increment Financing from the Town of Hilton Head Island; \$1,500,000 Other, Beaufort-Jasper County HEC Funds, which are funds the Beaufort-Jasper

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

Higher Education Commission receives annually from Beaufort and Jasper County; and \$1,000,000 Other, Private Funds, which are donations or gifts for the USC Beaufort campus.

Request: Increase budget to \$20,935,000 (add \$18,435,000 Other, Town of Hilton Head Island Funds, \$1,500,000 Other, Beaufort-Jasper County HEC Funds, and \$632,500 Other, Private Funds) to construct the Hospitality Management Facility on Hilton Head Island for the University of South Carolina Beaufort. The project was established for pre-design in April 2015, which is now complete. This project will provide for the site development and construction of an approximately 39,752-square-foot facility to house the USC Beaufort third and fourth year Hospitality Management academic program on Hilton Head Island. The building will provide classrooms, a culinary lab, a library, office and support spaces and space for the Osher Lifelong Learning Institute. Hilton Head Island regards the presence of USC and a Hospitality Management program as a vital component to expanding their hospitality-driven economy. This project will be LEED Silver certified for energy savings. The Town of Hilton Head is committed to investing \$22,000,000 to substantially assist in the creation of this academic facility on Hilton Head Island, of which \$3,565,000 is a gift of 9.721 acres of property. The Beaufort-Jasper Higher Education Commission will add \$1,500,000 and \$1,000,000 will be privately gifted. The agency reports the total projected cost of this project is \$20,935,000 with additional annual operating costs of \$430,000. The agency also reports the projected date for execution of the construction contract is March 2017, and the projected date for completion of construction is July 2018.

- (f) Summary 4-2016: JBRC Item 10. Department of Transportation
Project: 9733, HQ Parking Garage Structural Repairs

<u>Source of Funding Detail</u>	<u>Original Budget Amount</u>	<u>Cumulative Changes Since Original Budget</u>	<u>Current Budget</u>	<u>Current Budget Adjustment Requested</u>	<u>Total Budget After Current Adjustment</u>
Other, State Highway Fund	<u>15,750.00</u>	<u>0.00</u>	<u>15,750.00</u>	<u>1,149,250.00</u>	<u>1,165,000.00</u>
All Sources	<u>15,750.00</u>	<u>0.00</u>	<u>15,750.00</u>	<u>1,149,250.00</u>	<u>1,165,000.00</u>

AGENCY: Department of Administration, Executive Budget Office

SUBJECT: Permanent Improvement Projects

Funding Source: \$1,165,000 Other, State Highway Fund, which are those revenues derived from the state motor fuel user fee.

Request: Increase budget to \$1,165,000 (add \$1,149,250 Other, State Highway Fund) to perform structural repairs and maintenance on the Headquarters Parking Garage at the Department of Transportation. The project was established for pre-design in June 2015, which is now complete. The 38-year-old, 207,900-square-foot facility provides 802 parking spaces. The last major repairs to the facility were performed in 2012, with annual maintenance being performed since that time. The repairs would include repairs to cracked and spalling concrete decking and structural tee sections, sealing deck joints. They would also include a concrete surface coating on the top level of the parking structure to help prevent water intrusion and repairing shear cracks on exterior beams. The agency reports the total projected cost of this project is \$1,165,000 with no additional annual operating costs. The agency also reports the projected date for execution of the construction contract is April 2016, and the projected date for completion of construction is July 2016.

AUTHORITY ACTION REQUESTED:

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

ATTACHMENTS:

Attachments

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

1. AGENCY
Code H36 Name USC Beaufort
2. PROJECT
Project # _____ Name Hilton Head Island Hospitality Management Facility Construction

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

☒ COSTS ☐ SAVINGS ☐ NO CHANGE

4.

TOTAL ADDITIONAL OPERATING COSTS/SAVINGS				
Projected Financing Sources				
(1)	(2)	(3)	(4)	(5)
Fiscal Year	General Funds	Federal	Other	Total
1) 2018-19	\$ 430,000.00	\$	\$	\$ 430,000.00
2) 2019-20	\$ 430,000.00	\$	\$	\$ 430,000.00
3) 2020-21	\$430,000.00	\$	\$	\$ 430,000.00

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

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

Increased revenues from academic program growth.

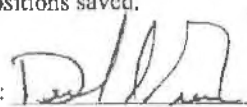
7. Itemize below the cost factors that contribute to the total costs or savings reported above in Column 5 for the first fiscal year.

COST FACTORS

AMOUNT

1. Utilities	\$161,000
2. Maintenance Supplies	\$10,000
3. Personnel	\$175,000
4. OCS	\$79,000
5. Insurance	\$5,000
6. _____	_____
7. _____	_____
8. _____	_____
TOTAL	\$430,000

8. If personal services costs or savings are reported in 7 above, please indicate the number of additional positions required or positions saved. 6

9. Submitted By:  Director, Planning and Programming 12/15/15
Signature of Authorized Official and Title Date

Permanent Improvement Project Information for January 26, 2016 SFAA Meeting

Agency/ Project No.	Agency/Project Name	Original Approved Budget	Date of Original Approval	Phase I Amount	Date of Phase I Approval	Included in CPIP	Total Projected Project Cost
H27-6114	University of South Carolina - Football Operations Facility Construction	N/A	N/A	\$1,000,000	N/A	Yes	\$50,000,000
H27-6115	University of South Carolina - Close-Hipp Renovation	N	N	\$220,500	N	Yes	\$14,700,000
H51-9831	Medical University of South Carolina - Parking Garage #1 Structural, Waterproofing and Masonry Repairs	N/A	N/A	\$26,250	N/A	Yes	\$1,750,000
U12-9734	Department of Transportation - HQ Building Fire Sprinkler Installation and Waterproofing	N	N	\$60,000	N	Yes	\$3,748,500
H36-9516	University of South Carolina-Beaufort - Hilton Head Island Hospitality Management Facility Construction	\$367,500	4/28/15	\$367,500	4/28/15	Yes	\$20,935,000
U12-9733	Department of Transportation - HQ Parking Garage Structural Repairs	\$15,750	6/16/15	\$15,750	6/16/15	Yes	\$1,165,000

Additional Information on Funding Sources for Higher Education Permanent Improvement Projects

Item (a) – University of South Carolina - Columbia – Football Operations Facility Construction

The source of funds for pre-design Athletic, Operating Funds, which are those revenues generated by ticket sales, SEC conference distributions, Gamecock Club contributions, seat premiums, and corporate sponsorships. Athletic funds are auxiliary funds of the University and are self-supporting.

The sources of funds for construction are anticipated to include:

Athletic Revenue Bonds, which are issued by the University of South Carolina pursuant to Part II, Section 9 of Act No. 518 passed by the General Assembly of the State of South Carolina in 1980, as amended by Act No. 545 of 1986, No. 302 of 1996, No. 6 of 1997, No. 182 of 2005, and No. 17 of 2007. The purpose of these bonds is to raise money to provide permanent financing for the costs of the construction, enlargement of, and improvements to Williams-Brice Stadium and other athletic facilities. There is a \$200M cap on bonds outstanding.

Private Funds, which are donations and gifts to the Athletics Department.

The University reports that no increase in any student fee or tuition will be required for this project.

Item (b) – University of South Carolina - Columbia – Close-Hipp Renovation

The source of funds for pre-design is Other, Institutional Capital Project Funds, which are those funds generated from the portion of tuition and fees designated for Bond and Renovation Reserve. These funds pay debt service first and the remainder is used for capital improvements.

The sources of funds for construction are anticipated to include:

Other, Institutional Capital Project Funds, which are those funds generated from the portion of tuition and fees designated for Bond and Renovation Reserve. These funds pay debt service first and the remainder is used for capital improvements.

Private Funds, which are donations and gifts to the College of Hospitality, Retail, and Sports Management program.

Institutional Funds, which are funds available to the University from a variety of sources including tuition and fees, sales and services activities, and other miscellaneous sources.

The University reports that no increase in any student fee or tuition will be required for this project.

Item (c) – Medical University of South Carolina – Parking Garage #1 Structural, Waterproofing and Masonry Repairs

The source of funds for pre-design is Other, Parking Revenue, which are those revenues generated from operation of the MUSC parking system.

The source of funds for construction is anticipated to be Other, Parking Revenue.

The University reports that no increase in any student fee or tuition will be required for this project.

Item (e) – University of South Carolina - Beaufort – Hilton Head Island Hospitality Management Facility Construction

The source of funds for pre-design was \$367,500 Other, Private Funds, which are donations or gifts for the USC Beaufort campus.

The sources of funds for construction are anticipated to be:

\$18,435,000 Other, Town of Hilton Head Island Funds, which are Tax Increment Financing from the Town of Hilton Head Island.

\$1,500,000 Other, Beaufort-Jasper County HEC Funds, which are funds the Beaufort-Jasper Higher Education Commission receives annually from Beaufort and Jasper County.

\$632,500 Other, Private Funds, which are donations or gifts for the USC Beaufort campus.

The College reports that no increase in any student fee or tuition will be required for this project.

AGENCY: Department of Administration, Division of General Services

SUBJECT: Department of Mental Health Amendment of Sale and Purchase Agreement between Department of Mental Health and Bull Street Development, LLC in Connection with Sale of Approximately 16 Acre Parcel of the Bull Street Property, the William S. Hall Psychiatric Institute

On June 14, 2011, the South Carolina Budget and Control Board approved the request of the Department of Mental Health ("DMH") to approve the Sale and Purchase Agreement dated December 16, 2010 (the "Sale Agreement") between DMH and Hughes Development Corporation for the sale of 165.79± acres on the Bull Street Campus (the "Campus") for not less than \$15,000,000. The Sale Agreement did not include the William S. Hall Psychiatric Institute (the "Hall Institute") and surrounding land, which DMH then intended to renovate and continue to operate as a children's psychiatric hospital..

On June 16, 2014, Hughes Development Corporation thereafter assigned all its right title and interest in the Sale Agreement to and the responsibilities and obligations of same were assumed by Bull Street Development, LLC ("Buyer").

Although DMH had initially desired to retain and renovate the Hall Institute for the purposes of continuing hospital operations, DMH subsequently changed the project to one to relocate the children's psychiatric hospital services provided at Hall Institute to its G. Werber Bryan Psychiatric Hospital. DMH now desires to sell the approximate 16.11± Hall Institute parcel to Buyer by amending the Sale Agreement.

Following an appraisal of the Hall Institute parcel and an analysis of other factors relating to the Campus, Buyer has agreed, as additional consideration, to amend the Sale Agreement (the "Amendment"), to purchase the Hall Institute parcel at the full appraised value of \$220,000 per acre less the cost of demolition and abatement, estimated at \$600,000, and to provide DMH additional economic incentives in the form of profit sharing.

DMH sought and received an order from the Court of Common Pleas in Richland County approving the sale of the Hall Institute parcel. The order in Case No. 2015-CP-40-07184 captioned, South Carolina Department of Mental Health, as Trustee, Plaintiff/Petitioner vs. Alan Wilson, Attorney General of South Carolina, and Bull Street Development, LLC Defendants/Respondents approving the sale under the terms of the Amendment with all proceeds to be held in trust for the benefit of DMH for the care and treatment of persons with mental illness was filed on December 17, 2015,

AGENCY: Department of Administration, Division of General Services

SUBJECT: Department of Mental Health Amendment of Sale and Purchase Agreement between Department of Mental Health and Bull Street Development, LLC in Connection with Sale of Approximately 16 Acre Parcel of the Bull Street Property, the William S. Hall Psychiatric Institute

AUTHORITY ACTION REQUESTED:

Upon the request of the Department of Mental Health, approve the First Amendment to Sale and Purchase Agreement between the Department of Mental Health and Bull Street Development, LLC, assignee from Hughes Development Corporation to sell approximately 16± acres at \$220,000.00 per acre, less cost of demolition and abatement, estimated at \$600,000, adjusted for Present Value.

ATTACHMENTS:

Agenda item worksheet; Letter of request from Department of Mental Health dated January 4, 2016; Order Case No. 2015-CP-40-07184 filed December 17, 2015; CC Code of Laws Sections 1-11-65

STATE FISCAL ACCOUNTABILITY AUTHORITY AGENDA ITEM WORKSHEET


Meeting Scheduled for: January 26, 2016

Regular Agenda

1. Submitted by:

(a) Agency: Department of Administration,
Division of General Services

(b) Authorized Official Signature:


Nolan L. Wiggins, Jr., Director

- 2. Subject:** Department of Mental Health Amendment of Sale and Purchase Agreement between Department of Mental Health and Bull Street Development, LLC in connection with sale of approximately 16 acre parcel of the Bull Street Property, the William S. Hall Psychiatric Institute

3. Summary Background Information:

On June 14, 2011, the South Carolina Budget and Control Board approved the request of the Department of Mental Health ("DMH") to approve the Sale and Purchase Agreement dated December 16, 2010 (the "Sale Agreement") between DMH and Hughes Development Corporation for the sale of 165.79± acres on the Bull Street Campus (the "Campus") for not less than \$15,000,000. The Sale Agreement did not include the William S. Hall Psychiatric Institute (the "Hall Institute") and surrounding land, which DMH then intended to renovate and continue to operate as a children's psychiatric hospital.

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- 4. What is SFAA asked to do?** Approve the First Amendment to Sale and Purchase Agreement

between the Department of Mental Health and Bull Street Development, LLC, assignee from Hughes Development Corporation to sell approximately 16± acres at \$220,000.00 per acre, less cost of demolition and abatement, estimated at \$600,000, adjusted for Present Value.

5. **What is recommendation of the Division of General Services?** Recommend approving that the Hall Property is encumbered by a charitable trust; and that that doctrine of equitable deviation permits the DMH to deviate from the terms of the charitable trust, and to sell the Hall Property when a court has directed a trustee to do so and that in the instant matter the Court of Common Pleas ordered that DMH may sell the Hall Property; that \$3,612,715 was a fair and reasonable price for the sale of the Hall Property; and that sale of the Hall Property by DMH pursuant to the Amendment for the consideration set forth in the Sale Agreement, as amended was authorized and approved.
-

6. **Supporting Documents:**

- (a) Letter of request from Department of Mental Health dated January 4, 2016
- (b) Order Case No. 2015-CP-40-07184 filed December 17, 2015
- (c) SC Code of Laws Sections 1-11-65

Effective: July 1, 2015

Code 1976 § 1-11-65

§ 1-11-65. Approval and recordation of real property transactions involving governmental bodies.

(A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the Department of Administration for transactions of one million dollars or less. For transactions of more than one million dollars, approval of the State Fiscal Accountability Authority is required in lieu of the department, although the recording will be with the department. Upon approval of the transaction, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the department's and authority's approval of the transaction as required. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The department and authority may exempt a governmental body from the provisions of this subsection.

(B) All state agencies, departments, and institutions authorized by law to accept gifts of tangible personal property shall have executed by its governing body an acknowledgment of acceptance prior to transfer of the tangible personal property to the agency, department, or institution.

Credits

HISTORY: 1985 Act No. 201, Part II, § 5; 1989 Act No. 26, § 1; 1997 Act No. 153, § 2; 2014 Act No. 121 (S.22), Pt V, § 7.C, eff July 1, 2015.



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
Joan Moore, Vice Chair
Beverly Cardwell
Jane B. Jones
Everard Rutledge, PhD
J. Buxton Terry
Sharon L. Wilson

January 4, 2016

2414 Bull Street • P.O. Box 485
Columbia, SC 29202
Information: (803) 898-8581

John H. McGill
State Director of Mental Health

Shawn Lavery DeJames
Assistant Director, Division of General Services
South Carolina Department of Administration
1200 Senate Street, Suite 408 Columbia, SC 29201

Re: State Fiscal Accountability Authority; Approval of Sale of Property

Dear Shawn:

As we discussed earlier, on behalf of the South Carolina Department of Mental Health I am requesting that the State Fiscal Accountability Authority review and approve a sale of property by the Department of Mental Health (DMH) to Bull Street Development, LLC.

The property which is the subject of the sale is an approximately 16 acre portion of the Bull Street Property, and the site of a former DMH hospital, the William S. Hall Psychiatric Institute (Hall Property.)

The agreement is styled as a "First Amendment" to the Sale and Purchase Agreement between DMH and Hughes Development Corporation (Hughes) that was entered into in December, 2010, for the majority of the Bull Street Property (165 acres). Bull Street Development, LLC is the successor in interest to Hughes with respect to its rights and obligations under the Sale and Purchase Agreement

DMH is requesting that the agreement to sell the Hall Property be placed on the next State Fiscal Accountability Authority agenda for approval.

Attached is a Circuit Court Order approving the sale of the Hall Property. The Order contains a recitation of the events following the 2011 approvals by the Court and the State Budget and Control Board of the Sale and Purchase Agreement between DMH and Hughes.

MISSION STATEMENT

To support the recovery of people with mental illnesses.

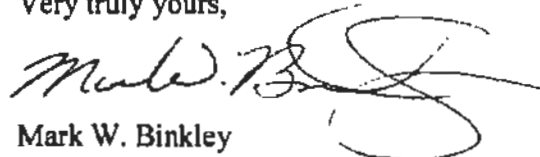


I have previously furnished to you electronically a copy of the First Amendment to the Sale and Purchase Agreement, a final appraisal report concerning the Hall property done by George (Jake) Knight, Jr. of Real Estate Appraisers and Consultants, LLC (REAC) for DMH, as well as a Review Appraisal obtained by the Attorney General's Office.

Please keep me informed and call me if you need any additional information or have any questions.

Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark W. Binkley", with a large, stylized flourish extending from the end of the signature.

Mark W. Binkley
Deputy Director, Division of Administrative Services

Attachment

cc: John H. Magill, State Director

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015CP4007184

South Carolina Dept of Mental Health

Alan Wilson

Attorney General of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. No. suit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____

☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge	Judge Code	Date
---------------------	------------	------

For Clerk of Court Office Use Only

This judgment was entered on the 13 day of Dec, 2015 and a copy mailed first class or placed in the appropriate attorney's box on this 13 day of Dec, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Mark W. Binkley

Larry Kimble Carter

Alan Wilson

William George Newsome III

Mary Frances G. Jowers

Alan Wilson

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

On December 2, 2010, the Mental Health Commission authorized the sale of approximately 165 acres of the Bull Street Property to Hughes Development Corporation (Hughes) for fifteen million (\$15,000,000). DMH subsequently entered into a Sale and Purchase Agreement ("Agreement") dated December 16, 2010 with Hughes.

The Hall Property, which is the subject of this action, was not included in the Agreement because it was anticipated that the Hall Property would continue to be used by DMH.

The Agreement was the subject of a Petition for Declaratory Relief by DMH, naming the current defendants or their predecessor in interest, and seeking Court approval of the Sale.

Circuit Court Judge J. Ernest Kinard, Jr. signed an Order approving the Agreement on June 10, 2011.

The Order concluded, in pertinent part, that DMH had proceeded in a commercially reasonable manner in marketing the property for sale, the purchase price and other terms of the Agreement were fair and reasonable, and the sale of the Property was in the best interests of DMH and the beneficiaries of the charitable trust, the citizens with mental illness.

The Agreement was subsequently approved by the State Budget and Control Board on June 14, 2011.

The Agreement provides for a "Commencement Date," which was contingent not only upon Court approval and approval by the State Budget and Control Board, but upon Hughes receiving approval by the City of Columbia to rezone the Bull Street Property as a Planned Unit Development, as well as Hughes obtaining certain Entitlements from the City.

The rezoning and a Development Agreement between Hughes and the City of Columbia providing for specified Entitlements from the City were accomplished, and the Agreement's "Commencement Date" is September 30, 2013.

Pursuant to the Agreement and with the consent of DMH, the Hall Property was included in the Planned Unit Development zoning requested and obtained by Hughes.

SCANNED

2/11/13

On June 16, 2014 Hughes transferred all its right, title and interest in the Agreement to defendant Bull Street Development, LLC. Bull Street Development, LLC, (hereinafter referred to as "Developer"), assumed all of Hughes obligations and responsibilities under the Agreement.

Until December 16, 2015, the Hall Property was the site of DMH's child and adolescent hospital, the William S. Hall Psychiatric Institute ("Hall Institute".)

DMH made the decision to relocate the children's hospital services provided by Hall Institute to its G. Werber Bryan Psychiatric Hospital ("BPH"), and initiated a construction and renovation project at BPH to create appropriate facilities to accommodate child and adolescent psychiatric hospital services.

After making the decision to relocate the children's hospital services to BPH, DMH obtained an independent appraisal ("Knight Appraisal") of the Hall Property from George E. ("Jake") Knight, Jr., MAI.

Mr. Knight is a certified general real estate appraiser previously qualified by the South Carolina Courts as an expert in real estate appraisal.

The Knight Appraisal supports a sale price of \$220,000 per acre if the Hall Institute and other structures were abated, demolished, cleared and removed. DMH obtained an estimate for demolition and abatement in the amount of \$600,000.

After obtaining the appraisal, DMH entered into negotiations with Developer.

During negotiations, Developer agreed to pay DMH \$220,000 per acre for the Hall Property, less the cost of demolition and abatement, and adjusted for Present Value.

DMH and Developer agreed to incorporate the terms and conditions for the purchase of the Hall Property into the existing Agreement by means of a First Amendment to the Sale and Purchase Agreement ("Amendment").

Under the Amendment, the amount attributable to the sale of the Hall Property, adjusted for Present Value, was added to the \$15,000,000 original purchase price, making the total purchase price for the Bull Street Property, including the Hall Property, \$18,612,715.00. The

SCANNED



minnum annual payment amount schedule in Paragraph 10 of the Agreement was modified to reflect the increased amounts due from Developer and adding one additional year to the term of the Agreement.

At the time of the Amendment negotiations, Hall Institute was still in operation and the parties included a number of terms to enable DMH to continue to occupy and operate Hall Institute while DMH completed the construction and renovations at BPH.

Additional changes to the Agreement made by the Amendment include modifications to the definition of a "qualifying sale" in Paragraph 9.3(a) of the Agreement.

The South Carolina Mental Health Commission authorized the DMH State Director to enter into the Amendment with Developer at its meeting of March 6, 2015, and the Amendment was executed on March 30, 2015.

On December 15, 2015, the patients at Hall Institute were admirted to BPH. Hall Institute is now vacant and no longer in operation.

The Attorney General called as a witness Joe Rosen, MAI, SAR, a certified general real estate appraiser, who was qualified by the Court as an expert in real estate appraisal. He testified that he was retained by Defendant/Respondent Alan Wilson, State Attorney General, to conduct a review appraisal of the appraisal done by Mr. Knight for DMH. Mr. Rosen explained the published uniform standards which exist for MAI appraisers regarding the methods and measures expected in producing a reliable appraisal. He stated he reviewed the appraisal completed by Mr. Knight applying those standards. It was his opinion that the appraisal done by Mr. Knight was in full accord with those standards and he found the appraisal to be thorough and comprehensive. Mr. Rosen also testified that he agreed with Mr. Knight's conclusion regarding the fair market value of the Hall Property.

SCANNED

⁴ MB

After carefully considering the evidence, testimony, exhibits and argument of counsel, I make the following Findings of Fact and Conclusions of Law pursuant to Rule 52, SCRPC. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such, and to the extent that any conclusions of law constitute findings of fact, they are so adopted.

FINDINGS OF FACT

1. The real property that is the subject of this case (Hall Property) is located in Columbia, South Carolina, and was the site of the William S. Hall Psychiatric Institute, a DMH Hospital, and is more fully described in the Appraisal introduced into evidence.
2. The Hall Property was included in a larger parcel known as the Bull Street Property which was previously the subject of a previous decision by the South Carolina Supreme Court entitled *Dept. of Mental Health v. McMaster, et al.*, 372 S.C. 175, 642, S.E. 2d 552 (2007).
3. As part of its efforts to sell the Hall Property, DMH arranged for an appraisal and obtained cost-estimates for the demolition of the building on the property.
4. The Defendant/Respondent Bull Street Development, LLC ("Developer") entered into a First Amendment to the Sale and Purchase Agreement for the Hall Property with DMH dated March 30, 2015.
5. An Appraisal of the Hall Property from George E. ("Jake") Knight, Jr., MAI, was obtained by DMH which concluded that its current fair market value of the Hall Property is \$2,944,200.
6. The Hall Property is no longer being used by DMH and is surplus to its needs.

CONCLUSIONS OF LAW

SCANNED

⁵ MB

- A. The South Carolina Supreme Court held that the Bull Steet Property is impressed with a charitable trust. *S.C. Dept. of Mental Health v. McMaster*, 642 S.E.2d 552 (S.C. 2007). The Court went on to state that "given the change in circumstances in the care and treatment of mental health patients, we hold that the doctrine of equitable deviation may be employed to allow a sale of property [that is impressed with a charitable trust] with the disbursement of the proceeds to be placed in trust for the benefit of DMH." 642 S.E.2d at 554.
- B. The purchase price and other terms of the Amendment are fair and reasonable.
- C. The sale of the Hall Property is in the best interests of DMH and the beneficiaries of the charitable trust, the citizens with mental illness.

IT IS THEREFORE DECLARED AND ORDERED:

- A. The doctrine of equitable deviation permits the South Carolina Department of Mental Health to deviate from the terms of the charitable trust, and to sell the Hall Property due to circumstances not known to or anticipated by the settlors of this charitable trust and because continued adherence would impair the accomplishment of the purpose of the trust;
- B. The Amendment and facts evidence that, although the sale of the Hall Property substantially deviates from the terms of the trust, the transfer of ownership of the Hall Property, which is no longer needed for the care of persons with mental illness, fulfills the purpose of the trust by generating funds for the benefit of persons with mental illness and the additional amount of \$3,612,715.00 due DMH under the terms of the Amendment is fair and reasonable;
- C. The Hall Property may be sold under the terms of the Amendment with all proceeds to be held in trust for the benefit of South Carolina Department of Mental Health for the care and treatment of persons with mental illness;
- D. The South Carolina Department of Mental Health, acting through its State Director or other duly designated agency officials may grant any necessary Protective Covenants, Conditions,

SCANNED

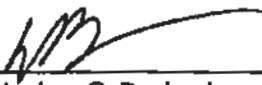
hmb

Restrictions and Easements and other documents related to the Hall Property which are required for the Department to comply with the terms of the Agreement, as amended;

E. By virtue of his participation as a party to this action, the approval of future easements granted by the Department over the Hall Property pursuant to the terms of the Agreement shall not require the approval of the Attorney General pursuant to S.C. Code Ann. Sec. 44-11-110;

F. The sale of the Hall Property by DMH pursuant to the Amendment for the consideration set forth in the Agreement, as amended, is hereby authorized and approved.

G. The Clerk of Court is directed to enter judgment on this Order authorizing and approving sale of the Hall Property pursuant to Rule 54(b) SCRPC.



DeAndrea G. Benjamin,
Circuit Judge

At Columbia, S.C.

12-17-15
Date

SCANNED

AGENCY: Department of Administration, Division of General Services

SUBJECT: Tri-County Technical College Ground Lease and Lease Associated with the Tri-County Technical College Student Success Center Project

In October 2015, the Joint Bond Review Committee ("JBRC") approved the construction of a new Student Success Center to house a Learning Commons and associated group study space, computer labs, campus store, café and a shipping and receiving facility as well as the refurbishment of Ruby Hicks Hall and the construction of a new Central Plant to provide cooling (the project was named the "Tri-County Technical College Student Success Center Project" and will hereafter be referred to as the "Project"). In connection with the Project, the State Fiscal Accountability Authority ("SFAA") authorized JEDA to issue Not Exceeding \$33,000,000 Education Facilities Revenue Bonds (the "Bonds"), expected to be repaid on or about June 30, 2037. The total estimated Project cost is approximately \$42,000,000, of which the College is providing approximately 36% of the Project-cost directly from funds on hand. The Bond financing represents the remaining 64% in an approximate amount of \$27,920,000. Relating to the Bonds and to facilitate the financing of the Project, the Tri-County Technical College Commission (the "Commission") desires to enter into certain leases between the Commission and the TCTC Foundation, LLC (the "Foundation") and hereby requests approval of these leases.

Upon approval by SFAA, the Commission will enter into a Base Lease and Conveyance Agreement (the "Ground Lease") wherein the Commission will lease certain real property as depicted on the attached survey (the "Land"), performed by 3D Land Surveying, dated December 8, 2015, at Tri-County Technical College's Pendleton Campus located at 7900 US Highway 76, Pendleton, South Carolina for thirty (30) years, with the right to extend the term for five (5) years. The Ground Lease is anticipated to begin February 2, 2016. The rent will be \$1.00 per year. Concurrent with the lease term, the Commission will grant, general, non-exclusive easements for the benefit of the Commission as may be necessary and at the Commission's discretion for the construction and maintenance of utility services, surface and storm water drainage, and property access.

Following the completion of the Project, anticipated to be no later than February 2019, and receipt of a certificate of occupancy, the Foundation will lease to the Commission (the "Lease") the Land together with any and all improvements located on or to be constructed on the Land for thirty (30) years with the right to extend the term for five (5) years, which extension will be subject to and conditioned upon receipt of certain approvals by governmental authorities, including but not limited to the State of South Carolina or an agency thereof. The rent for the Lease will be determined by the final cost and the final financing terms of the Bonds, but in any event is not anticipated to exceed \$1,816,000 per year for twenty years. The difference between the Lease term and the Bond term is to provide the lender with adequate security against the Foundation's leasehold interest. Upon payment of rent which totals repayment of the Bonds, the Foundation shall at the Commission's election: (i) surrender to the Commission the Land and sell, for nominal consideration to the Commission, the Project, including all buildings, other structures and improvements constructed on and/or located on the Land (the Project and all buildings, structures and improvements will be in the same condition as when construction of the Project was completed, with only natural and normal wear and tear excepted); (ii) continue to lease the Land and the Project to the Commission with rental not to exceed \$1 per year; or (iii)

AGENCY: Department of Administration, Division of General Services

SUBJECT: Tri-County Technical College Ground Lease and Lease Associated with the Tri-County Technical College Student Success Center Project

terminate the Lease and the Ground Lease and return the Land to the Commission in the same condition as it was on the date the lease term began, with only natural and normal wear and tear excepted.

Additionally, the Lease includes an option which allows the Commission to purchase the Project at a price equal to the outstanding Base Rent, plus any direct costs incurred by the Foundation in the administration of the Lease and outstanding, due through the date of purchase plus any other outstanding indebtedness (excluding all amounts owed on Bonds which are covered by Base Rent), fees or expenses of any nature, owed by the Foundation with respect to the Land and the Project at the time of the Foundation's purchase of the Project. In essence, if the Commission provided the Foundation with funds sufficient to retire the Bonds prior to their stated maturity, then the Commission could terminate both leases prior to their expiration, retake possession of the Land, and acquire title to all improvements (including the Project).

Any acquisition of the Project by the Commission will be subject to and conditioned upon receipt of certain approvals by governmental authorities, including but not limited to the State of South Carolina or an agency thereof.

The Commission will request operational costs and lease payments from Anderson, Oconee and Pickens Counties (in accordance with SC Code §59-53-250). The operational costs are estimated to be in the range of \$60,122 to \$136,302 annually, which costs are similar to the current operating costs of the two existing facilities.

The Lease and the Ground Lease were approved by the respective governing bodies of the Tri-County Technical College on December 1, 2015, and the Foundation on October 9, 2015, and JBRC on January 20, 2016. The Commission on Higher Education ("CHE") approved the Project on August 21, 2015 and we have been informed by the College that leasing arrangement does not require additional CHE consideration.

AUTHORITY ACTION REQUESTED:

As recommended by the Department of Administration, Division of General Services, approve the attached thirty-year Ground Lease from the Tri-County Technical College Commission to the TCTC Foundation, LLC and related easements and approve the attached thirty-year Lease from the Foundation to the Commission. The right to extend the leases for five (5) years is conditioned upon the parties obtaining all necessary approvals from appropriate governmental authorities, including but not limited to, the State of South Carolina or an agency thereof, prior to exercising the right to extend the leases. Material modifications to the leases prior to execution will require further Authority approval. Nonmaterial revisions to the leases prior to execution will be conditioned upon approval by SFAA staff.

ATTACHMENTS:

Agenda item worksheet; Request Letter from Tri-County Technical College; Request Letter from Counsel; Survey for Tri-County Technical College Student Success Center; Proposed Leases; SC Code of Laws Sections 1-11-55; 1-11-56; 10-1-130; and 59-53-250


SFAA AGENDA ITEM
WORKSHEET

Meeting Scheduled for: January 26, 2016

REGULAR AGENDA

1. Submitted by:

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


Nolan L. Wiggins, Jr., Director

2. Subject: Tri-County Technical College Ground Lease and Lease associated with the Tri-County Technical College Student Success Center Project

3. Summary Background Information:

In October 2015, the Joint Bond Review Committee ("JBRC") approved the construction of a new Student Success Center to house a Learning Commons and associated group study space, computer labs, campus store, café and a shipping and receiving facility as well as the refurbishment of Ruby Hicks Hall and the construction of a new Central Plant to provide cooling (the project was named the "Tri-County Technical College Student Success Center Project" and will hereafter be referred to as the "Project"). In connection with the Project, the State Fiscal Accountability Authority ("SFAA") authorized JEDA to issue Not Exceeding \$33,000,000 Education Facilities Revenue Bonds (the "Bonds"), expected to be repaid on or about June 30, 2037. The total estimated Project cost is approximately \$42,000,000, of which the College is providing approximately 36% of the Project-cost directly from funds on hand. The Bond financing represents the remaining 64% in an approximate amount of \$27,920,000. Relating to the Bonds and to facilitate the financing of the Project, the Tri-County Technical College Commission (the "Commission") desires to enter into certain leases between the Commission and the TCTC Foundation, LLC (the "Foundation") and hereby requests approval of these leases.

Upon approval by SFAA, the Commission will enter into a Base Lease and Conveyance Agreement (the "Ground Lease") wherein the Commission will lease certain real property as depicted on the attached survey (the "Land"), performed by 3D Land Surveying, dated December 8, 2015, at Tri-County Technical College's Pendleton Campus located at 7900 US Highway 76, Pendleton, South Carolina for thirty (30) years, with the right to extend the term for five (5) years. The Ground Lease is anticipated to begin February 2, 2016. The rent will be \$1.00 per year. Concurrent with the lease term, the Commission will grant, general, non-exclusive easements for the benefit of the Commission as may be necessary and at the Commission's discretion for the construction and maintenance of utility services, surface and storm water drainage, and property access.

Following the completion of the Project, anticipated to be no later than February 2019, and receipt of a certificate of occupancy, the Foundation will lease to the Commission (the "Lease") the Land together with any and all improvements located on or to be constructed on the Land for thirty (30) years with the right to extend the term for five (5) years, which extension will be subject to and conditioned upon receipt of certain approvals by governmental authorities, including but not limited to the State of South Carolina or an agency thereof. The rent for the Lease will be determined by the final cost and the final financing terms of the Bonds, but in any event is not anticipated to exceed \$1,816,000 per year for twenty years. The difference between the Lease term and the Bond term is to provide the lender with adequate security against the Foundation's leasehold interest. Upon payment of rent which totals repayment of the Bonds, the Foundation shall at the Commission's election: (i) surrender to the Commission the Land and sell, for nominal consideration to the Commission, the Project, including all buildings, other structures and

improvements constructed on and/or located on the Land (the Project and all buildings, structures and improvements will be in the same condition as when construction of the Project was completed, with only natural and normal wear and tear excepted); (ii) continue to lease the Land and the Project to the Commission with rental not to exceed \$1 per year; or (iii) terminate the Lease and the Ground Lease and return the Land to the Commission in the same condition as it was on the date the lease term began, with only natural and normal wear and tear excepted.

Additionally, the Lease includes an option which allows the Commission to purchase the Project at a price equal to the outstanding Base Rent, plus any direct costs incurred by the Foundation in the administration of the Lease and outstanding, due through the date of purchase plus any other outstanding indebtedness (excluding all amounts owed on Bonds which are covered by Base Rent), fees or expenses of any nature, owed by the Foundation with respect to the Land and the Project at the time of the Foundation's purchase of the Project. In essence, if the Commission provided the Foundation with funds sufficient to retire the Bonds prior to their stated maturity, then the Commission could terminate both leases prior to their expiration, retake possession of the Land, and acquire title to all improvements (including the Project).

Any acquisition of the Project by the Commission will be subject to and conditioned upon receipt of certain approvals by governmental authorities, including but not limited to the State of South Carolina or an agency thereof.

The Commission will request operational costs and lease payments from Anderson, Oconee and Pickens Counties (in accordance with SC Code §59-53-250). The operational costs are estimated to be in the range of \$60,122 to \$136,302 annually, which costs are similar to the current operating costs of the two existing facilities.

The Lease and the Ground Lease were approved by the respective governing bodies of the Tri-County Technical College on December 1, 2015, and the Foundation on October 9, 2015, and JBRC on January 20, 2016. The Commission on Higher Education ("CHE") approved the Project on August 21, 2015 and we have been informed by the College that leasing arrangement does not require additional CHE consideration.

4. What is SFAA asked to do? Approve the thirty-year Ground Lease from the Commission to the Foundation and related easements and approve the thirty-year Lease from the Foundation to the Commission.

5. What is recommendation of the Division of General Services? Recommend approval of the proposed thirty-year Ground Lease from the Commission to the Foundation and related easements and approve the proposed thirty-year Lease from the Foundation to the Commission.

6. List of Supporting Documents:

- Request Letter from Tri-County Technical College
- Request Letter from Counsel
- Survey for Tri-County Technical College Student Success Center
- SC Code of Laws Sections 1-11-55; 1-11-56; 10-1-130; and 59-53-250



Shawn Lavery DeJames, Assistant Director
Division of General Services, Office of Administration

1/14/2016

Dear Ms. DeJames:

I write to follow up on Michael Kozlarek's letter of January 13, 2016, to Delbert H. Singleton, Jr., copied to you. As he noted in his letter, he serves as bond counsel and borrower's counsel in connection with the issuance by the South Carolina Jobs-Economic Development Authority ("JEDA") of its Education Facilities Revenue Bonds on behalf of TCTC Foundation, LLC ("Foundation") in an amount not exceeding \$27,920,000 ("Bonds"). As he described, the Foundation, JEDA and South State Bank, as purchaser of the Bonds, will enter into a financing arrangement ("Financing") pursuant to which the Foundation will use the proceeds of the Bonds to defray the costs of certain capital projects located at Tri-County Technical College's ("College") Pendleton Campus ("Projects") located at 7900 US Highway 76, Pendleton, South Carolina 29670, which is operated by the Tri-County Technical College Commission ("Commission"), the governing body of the Tri-County Technical College District, all according to South Carolina Code Annotated sections 59-53-210, *et seq.* The Projects were approved by the Budget and Control Board in 2015. The Bonds and the Financing were approved by the State Fiscal Accountability Authority's ("Authority") during the October 27, 2015, meeting. The Project's scope, projected expenditures, and sources of funds were previously approved by the Commission on Higher Education ("CHE") and the Joint Bond Review Committee ("JBRC").

In connection with the Bonds and to facilitate the Financing and the construction of the Projects, the Commission and the Foundation desire to enter into certain leases between the Commission and the Foundation, as more particularly described herein. The leases have been approved by the respective governing bodies of the Commission and the Foundation. Michael submitted the leases described below to the Authority for consideration and approval at the Authority's January 26, 2016, meeting. We anticipate the leasing arrangement to be considered and approved by JBRC on January 20, 2016. We are informed from CHE staff, because of the Project's prior CHE approval, the leasing arrangement does not require additional CHE consideration.

Base Lease and Conveyance Agreement

To facilitate the completion of the Projects, the Commission will enter into a Base Lease and Conveyance Agreement, which Michael attached to his letter, with the Foundation. Pursuant to the terms of the Base Lease, the Commission will lease certain land located at the Pendleton Campus and convey any existing improvements on the land to the Foundation. The Base Lease will allow the construction and renovation the Projects for the benefit of and use by the Commission. The term of the Base Lease extends through the maturity of the Bonds and the Financing.

Lease Agreement

Following completion of the Projects, the Foundation will lease the Projects to the Commission for pursuant to a Lease Agreement, which Michael attached to his letter. Pursuant to the terms of the

Lease, the Commission will pay Base Rent, as defined in the Lease, to the Foundation annually, and the Foundation will lease the Premises exclusively to the Commission for use as part of the College. The term of the Lease extends through the maturity of the Bonds and the Financing. The Foundation will use the Base Rent to repay the Financing.

The above-described leases are an integral part of the plan of finance to be undertaken between the Commission and the Foundation for the purpose of defraying the costs of constructing the Projects for the benefit of and use by the Commission. The Commission and the Foundation have previously used a similar lease structure in connection with a financing for certain capital improvements made by the Foundation at the Anderson Campus in 2005.

Please do not hesitate to contact me with any questions you may have or if you should need additional information.

Kind regards,

Daniel T. Cooper

Daniel T. Cooper, Director
Government Relations & Economic Development
Tri-County Technical College



Michael E. Kozlarek

Partner

Bar Admissions: SC, NC, GA, VA

Telephone: 803.253.8924

Direct Fax: 803.255.8017

michaelkozlarek@parkerpoe.com

Charleston, SC

Charlotte, NC

Columbia, SC

Raleigh, NC

Spartanburg, SC

January 13, 2016

VIA ONLY EMAIL (DELBERT@SFAA.SC.GOV)

Delbert H. Singleton, Jr.

Assistant Executive Director and Authority Secretary

SC State Fiscal Accountability Authority

1200 Senate Street, Suite 600

Columbia, South Carolina 29201

Re: Leases / TCTC Foundation, LLC and Tri-County Technical College Commission

Dear Delbert,

We serve as bond counsel and borrower's counsel in connection with the issuance by the South Carolina Jobs-Economic Development Authority ("JEDA") of its Education Facilities Revenue Bonds on behalf of TCTC Foundation, LLC ("Foundation") in an amount not exceeding \$27,920,000 ("Bonds"). The Foundation, JEDA and South State Bank, as purchaser of the Bonds, will enter into a financing arrangement ("Financing") pursuant to which the Foundation will use the proceeds of the Bonds to defray the costs of certain capital projects located at Tri-County Technical College's ("College") Pendleton Campus ("Projects") located at 7900 US Highway 76, Pendleton, South Carolina 29670, which is operated by the Tri-County Technical College Commission ("Commission"), the governing body of the Tri-County Technical College District, all according to South Carolina Code Annotated sections 59-53-210, *et seq.*

We understand from the College's staff that the Projects were approved by the Budget and Control Board in 2015. The Bonds and the Financing were approved by the State Fiscal Accountability Authority's ("Authority") during the October 27, 2015, meeting. We understand from the College's staff that the Project's scope, projected expenditures, and sources of funds were previously approved by the Commission on Higher Education ("CHE") and the Joint Bond Review Committee ("JBRC"). The Bonds and the Financing are scheduled to close on February 2, 2016.

In connection with the Bonds and to facilitate the Financing and the construction of the Projects, the Commission and the Foundation desire to enter into certain leases between the Commission and the Foundation, as more particularly described herein. The leases have been approved by the respective governing bodies of the Commission and the Foundation. Attached to this letter are the most current version of the draft leases, which are described below in more detail. As previously requested, please include this item for consideration and approval on the Authority's January 28, 2016, meeting agenda. We anticipate the leasing arrangement to be considered and approved by JBRC on January 20, 2016. We understand from the College's

Mr. Delbert H. Singleton, Jr.
January 13, 2016

staff, the College staff has been informed from CHE staff, because of the Project's prior CHE approval, the leasing arrangement does not require additional CHE consideration.

Base Lease and Conveyance Agreement

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The above-described leases are an integral part of the plan of finance to be undertaken between the Commission and the Foundation for the purpose of defraying the costs of constructing the Projects for the benefit of and use by the Commission. The Commission and the Foundation have previously used a similar lease structure in connection with a financing for certain capital improvements made by the Foundation at the Anderson Campus in 2005.

Please do not hesitate to contact me with any questions you may have or if you should need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Kozlarek", written over a horizontal line.

Michael E. Kozlarek

Attachments: stated

cc: Shawn Lavery DeJames, Assistant Director, Division of General Services, Department of Administration (via only email)

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made as of February 1, 2016, by and between TCTC Foundation, LLC, a South Carolina Limited Liability Company of which Tri-County Technical College Foundation is the sole Member ("Landlord"), and Tri-County Technical College Commission ("Tenant").

1. Premises. In consideration of the obligation of Tenant to pay rent as provided in this Lease and in consideration of the other terms, provisions and covenants of this Lease, Landlord demises and leases to Tenant, and Tenant takes and leases from Landlord, that certain tract or parcel of Land, which is more particularly identified on Exhibit A, attached to and made a part of this Lease ("Land"), which the parties hereto agree to amend on completion of construction of the Projects, and together with any and all improvements located on or to be constructed on the Land (collectively, "Improvements"), including approximately 139,000 aggregate rentable square feet as contained in two structures (collectively, "Buildings"), all as more particularly depicted on Exhibit B, attached to and made a part of this Lease (Land, Building, and Improvements, are collectively, "Premises"), which the parties hereto agree to amend on completion of construction of the Projects.

2. Occupancy Term.

(a) Subject to the approval of the South Carolina State Fiscal Accountability Authority ("SFAA"), the term of occupancy of the Premises shall be approximately 30 years ("Occupancy Term"), commencing on the earlier of (i) the first day of the month after the month in which the Building is ready for occupancy evidenced by the receipt of a certificate of occupancy, or (ii) February 1, 2017, and ending February 1, 2047. Provided there is no continuing event of default hereunder by Tenant, Tenant shall have the right to extend the Occupancy Term for 5 years ("Extended Term"), upon the same terms as set forth in this Lease, by giving written notice to Landlord of Tenant's intent to extend at least 6 months prior to the expiration of the initial Occupancy Term, provided, however, the 5-year extension is subject to, and conditioned on, Tenant's obtaining certain approvals by other governmental authorities, including the State of South Carolina or an agency thereof.

(b) To the extent that such option will not result in this Lease being deemed a "financing agreement," as such term is defined in Section 11-27-110 of the South Carolina Code of Laws, 1976, as amended, the Landlord grants to Tenant the option to purchase all of Landlord's right, title and interest in the Premises at:

(i) any time prior to the expiration of the Occupancy Term or Extended Term of this Lease, at a price equal to (x) the outstanding Base Rent (as defined herein), (y) any Direct Cost Assessment (as defined herein) due through the date of purchase, and (z) any other outstanding indebtedness, fees or expenses of any nature, owed by Landlord with respect to the Premises at the time of Tenant's purchase of the Premises, provided, however, this option to purchase is subject to, and conditioned on, Tenant's obtaining certain approvals by other governmental authorities, including the State of South Carolina or an agency thereof;

(ii) at the expiration of the Occupancy Term or Extended Term of this Lease, at a price equal to \$1.00 plus (x) the outstanding Base Rent (as defined herein), (y) any Direct Cost Assessment (as defined herein) due through the date of purchase, and (z) any other outstanding indebtedness, fees or expenses of any nature, owed by Landlord with respect to the Premises at the time of Tenant's purchase of the Premises.

3. Rent and Direct Cost Assessment.

(a) Tenant, in consideration of the leasing of the Premises to Tenant by Landlord, covenants and agrees to pay to Landlord, subject to annual appropriation, base rent ("Base Rent") in advance on or before August 2 and February 2, of each calendar year beginning on August 2, 2017. Payment of Base Rent shall begin on such date regardless of whether the Occupancy Term has commenced under Section 2(a). Base Rent may be paid, at the option of Tenant, in whole via an annual payment, such annual payment to be forwarded to and received by Landlord on or before the February 2 of the year in which the rent is to be paid. The anticipated schedule of Base Rent payments is attached hereto as Exhibit C, and will be finally adjusted to reflect the actual amount of advances made to the Landlord from South State Bank pursuant to the Bond Purchase and Loan Agreement among the Landlord, the South Carolina Jobs-Economic Development Authority and South State Bank, dated of even date herewith, inclusive of any loan rates and legal costs.

(b) Tenant, in consideration of the leasing of the Premises to Tenant by Landlord, further covenants and agrees to reimburse Landlord for any direct costs incurred by Landlord in the administration of this Lease ("Direct Cost Assessment"). The Direct Cost Assessment, which shall be itemized and delivered to Tenant at least 30 days prior to the end of each year during the Occupancy Term and Extended Term, shall be reflective of actual costs incurred in said year. The Tenant shall forward payment of the Direct Cost Assessment to Landlord with Tenant's next Base Rent payment. Upon the expiration and/or termination of this Lease, Landlord shall deliver to Tenant a final Direct Cost Assessment for the final year, or fraction of the year, and Tenant shall tender payment for such final Direct Cost Assessment within 20 days of receipt of invoice. In no event shall the Direct Cost Assessment exceed \$20,000 in any year, plus the cost for any insurance the Landlord obtains related to the Premises ("Direct Cost Assessment Cap").

(c) No portion of the Base Rent shall be divided into principal and interest components, and this Lease does not contain any reference to any portion of any payment herein being treated as interest.

4. Permitted Uses. Tenant shall use the Premises solely for the purpose of constructing, maintaining and operating thereon a technical education and training center. Further, in no event shall Tenant use any part of the Premises or permit any part of the Premises to be used by any subtenant for any use prohibited by law, ordinance, code or regulation.

5. Utilities and Operating Expenses. Tenant shall be responsible for and shall pay all charges (including tap, transformer, connection, availability and "impact" charges) incurred for the use of utility services at the Premises, including, without limitation, electricity, water, sanitary sewer, gas and telephone services; provided, however, that Landlord shall cooperate with and assist Tenant in obtaining any such utilities. Subject to approval by the SFAA and/or South Carolina Department of Administration, when applicable, Tenant and Landlord further covenant and agree to execute easements encumbering the Property or any adjacent real property owned by Landlord and/or Tenant that may be necessary to obtain any utilities. Tenant shall additionally be solely responsible for all costs and expenses incurred in the maintenance and operations of the Premises. Such costs and operation expenses are not part of this Lease and shall not be paid to Landlord; any costs and expenses incurred in the maintenance and operations of the Premises shall be tendered by Tenant directly to the third party seeking payment.

6. Taxes.

(a) Tenant covenants and agrees with Landlord that Tenant shall pay, before any fine, penalty, interest or cost may be added thereto or become due or be imposed by operation of law for the nonpayment thereof, all taxes, assessments, charges or other governmental impositions, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever,

which at any time during this Lease may be assessed, levied, confirmed, imposed upon, or become due and payable out of or in respect of, or become a lien on, the Premises or any part thereof or any use or occupation of the Premises. In no event, however, shall Tenant be liable hereunder for or be required to pay any income, profit, excise or franchise taxes of Landlord, or any taxes, assessments or governmental impositions in replacement or substitution of the foregoing or of a similar character.

(b) Tenant shall pay the taxes and other charges as enumerated in this Paragraph 6 and shall deliver to Landlord, upon Landlord's request, official receipts evidencing such payment, which payment of taxes shall be made on or before the date such taxes would become delinquent. If, however, Tenant desires to contest the validity of any tax or tax claims, Tenant may do so at its sole cost and expense, and in such cases the disputed charge need not be paid until finally adjudged to be valid, unless the payment of all or some of the disputed taxes prior to the delinquency date is a legal prerequisite to such contest. At the conclusion of such contest, Tenant shall pay the charge contested to the extent it is held valid, together with all court costs, interests, penalties and other expenses relating thereto.

(c) In the event that Tenant shall fail, refuse or neglect to make the payments required by this Paragraph 6, then Landlord may, at its option, pay the same, and the amount or amounts so paid, shall be repaid by Tenant to Landlord, upon the demand of Landlord, and the payment thereof may be collected or enforced by Landlord in the same manner as though such amount were an installment of rent specifically required by the terms of this Lease to be paid by Tenant to Landlord.

7. Liability. Landlord shall not be liable to Tenant or any subtenant of the Premises or to their respective employees, agents, patrons or invitees, or any person whomsoever, for any injury or damage to persons or property on or about the Premises from any cause whatsoever, except as a direct result of the gross negligence or intentional act of Landlord, its agents or employees.

8. Property Insurance.

(a) Tenant shall, at all times during this Lease, maintain with the South Carolina Insurance Reserve Fund ("Fund"), a policy or policies of insurance in the form generally available from the Fund and generally known as public liability or landlord and tenant policies insuring the Tenant against any and all claims and demand made by any person or persons for injuries received in connection with the construction, operation, use, and maintenance of the Premises, and for any other risk insured against by such liability policies, each class of which policies shall have been written with limits of not less than the maximum amount available from the Fund. Such insurance shall name the mortgagee as insured mortgagee and loss payee, with right to notice of cancellation of insurance. The cost of such insurance shall be paid by Tenant.

(b) Tenant shall, at all times during this Lease, keep the Premises, together with all personal property, fixtures and equipment included therein, insured against loss by fire, flood, earthquake, and so-called extended coverage perils, in an amount of not less than the actual replacement cost thereof or the full insurable value thereof, whichever is greater, and including in either instance the cost of debris removal. In the event of casualty damage to the Premises, all insurance proceeds shall be held jointly by Tenant and Landlord, and subject to the terms of any mortgage on the Premises. Provided there is no Event of Default by Tenant, all insurance proceeds shall be applied to restore the Premises. Base Rent shall not abate during the period of restoration.

(c) Tenant shall deliver to Landlord (i) within 30 days of execution of this Lease, a true and complete copy of such policies if such policies are generally available, or, if such policies are not generally available, a letter confirming coverage of the Premises under the Fund; (ii) not later than 30 days prior to the expiration date(s) thereof, certificate(s) of insurance or other reasonable proof of

renewal of such policies; and (iii) promptly upon Tenant's receipt thereof, all notices of reduction, expiration, or lapse of any such coverage.

(d) Tenant may, at its option, provide all insurance required of it under this Paragraph 8 by means of a blanket policy. In such circumstances, Tenant shall only be required hereunder to provide a copy of the portions of such policy and the endorsements thereto that are relevant to Tenant's obligations under this Paragraph 8.

9. Repairs. Tenant shall take or cause to be taken good care of the Premises during the Lease, it being understood that Landlord shall not be required to make any repairs to the Premises during the Lease. At the end of the Occupancy Term, Extended Term, or other termination of this Lease, Tenant shall deliver to Landlord the Premises thereon in good repair and condition, ordinary wear and tear, depreciation, obsolescence and casualty and condemnation loss being excepted (provided that the foregoing shall not abrogate Tenant's obligations under Paragraph 13 hereof). Except as set forth in Paragraph 10, all repairs and maintenance to the interior and exterior of the Premises, including structural repairs, roof repair and replacement, and repair and replacement, as needed, of any operating systems and equipment contained therein shall be at the expense of Tenant and without cost to Landlord.

10. Building Plan.

(a) Prior to the Occupancy Term, Tenant shall implement the alterations and improvements described in Exhibit B attached hereto and incorporated herein by reference ("Building Plan"). Subject to the conditions of subsection (b), Landlord shall contribute to Tenant an amount not to exceed \$27,920,000 ("Landlord Contribution") for the purpose of implementing the Building Plan. The Tenant is responsible for costs of the Building Plan in excess of the Landlord Contribution.

(b) To receive draws of the Landlord Contribution to pay for the costs associated with the Building Plan, Tenant shall

(i) not be in default of any of the terms of this Lease;

(ii) forward requisitions from the general contractor with respect to the Building Plan that the Tenant intends to pay with the draw from the Landlord Contribution

(iii) represent to the Landlord that:

(A) the draw from the Landlord Contribution will be used to pay for construction costs associated with the Building Plan; and

(B) construction is being conducted in accordance with the Building Plan.

(c) In connection with the Building Plan, (i) Tenant shall select a general contractor to perform the renovations; (ii) Tenant is responsible, at its sole expense, for inspecting the improvements and for timely identifying to Landlord and such contractor in writing all objectionable deviations and defects in the alterations or improvements (including materials); (iii) Landlord is not liable or responsible for the quality of alterations or improvements and/or the materials used therewith except for objectionable deviations and defects so timely identified by Tenant as are not properly remedied; and (iv) Landlord is not liable or responsible for the timeliness of completion of such alterations or improvements except that such delays will impact the commencement date of this Lease.

11. Additional Alterations. Tenant shall have the right to make additional alterations, additions or improvements to the Premises, which Tenant deems necessary or appropriate, without the necessity of obtaining the prior written consent of Landlord and without the payment of any additional rent, provided

that such alterations, additions or improvements do not materially reduce the value of the Premises nor materially reduce the value of adjacent real property owned by Landlord or any of its affiliates. Notwithstanding anything to the contrary contained herein, if Tenant shall be required by any governmental authority to make any alterations, additions or improvements to the Premises, Tenant shall be entitled to make such alterations, additions or improvements without the necessity of obtaining the prior written consent of Landlord.

12. Title to Improvements. The title to the Improvements and all changes, additions and alterations therein, and all renewals and replacements thereof, when made, erected, constructed, installed or placed upon the Premises by Landlord, shall be and remain in Landlord.

13. Condemnation.

(a) If all the Premises (or if less than all but the remaining portion cannot be feasibly operated as then used or intended to be used) shall be acquired by the right of condemnation or eminent domain for any public or quasi-public use or purpose, or be sold to a condemning authority under threat of condemnation, then the this Lease shall cease and terminate as of the date of title vesting pursuant to such proceeding (or sale), and all rental shall be paid up to that date.

(b) In the event of a partial taking or condemnation which takes less than all of the Premises and the remaining portion can be feasibly operated as then used or intended to be used (including having sufficient parking facilities), then Tenant shall, to the extent Tenant receives compensation as a result of the partial taking or condemnation, subject to the exceptions provided below, promptly restore the Premises to an architectural whole and this Lease shall continue in full force and effect; in addition, if a partial taking occurs during the last 10 years of the Occupancy Term, and as a result the remaining portion of the Premises cannot be feasibly operated as then used or intended to be used (including having sufficient parking facilities) then in such event, Tenant shall have the option to terminate this Lease by giving Landlord written notice of such election within 180 days after the date title becomes vested in the condemning authority, provided that Tenant shall, to the extent Tenant receives compensation as a result of the partial taking or condemnation, remain responsible for removing all rubble and debris resulting from such taking and shall cause the Premises to be restored to a neat, clean, and safe condition. Failure by Tenant to give such written notice within said 180-day period shall be deemed as a waiver of Tenant's option to terminate this Lease.

(c) Landlord and Tenant each covenant and agree to seek separate awards in all such condemnation proceedings and to use their respective best efforts to see that such separate awards are made at all stages of all proceedings. In the event of a total taking or condemnation of the Premises or a partial taking that results in termination of this Lease, any award or proceeds delivered to Landlord and Tenant by way of compensation shall first be used to satisfy any outstanding debts incurred by Landlord under the operation and administration of this Lease. Any remaining award or proceeds after all of Landlord's debts have been satisfied in full, and Landlord has recovered the Landlord Contribution and other financial outlays as to any costs of acquiring the Land and financing the constructing of the Improvements, shall be delivered to and become the property of the Tenant.

14. Assignment and Subletting. Tenant shall not assign this Lease or sublet the Premises or any portion thereof without first obtaining the prior written consent of Landlord, which will not be unreasonably withheld. Tenant shall have the right, at any time and from time to time, to mortgage its Leasehold estate in the Premises; provided, however, that so long as Landlord has any outstanding debt with respect to the Premises, assignment and subletting and the granting of any mortgage or other lien by Tenant with respect to its Leasehold estate shall require the consent of Landlord's lender in its sole and absolute discretion.

15. Default.

- (a) The following events shall be "Events of Default" under this Lease:
- (i) Other than by reason of non-appropriation, Tenant shall fail to pay any installment of Base Rent, Direct Cost Assessment, or other monetary payment required to be paid under this Lease as and when the same shall become due and shall not cure such default within 10 days after written notice thereof is given by Landlord to Tenant;
 - (ii) Tenant shall fail to comply with any term, provision or covenant of this Lease (other than a monetary default) and shall not cure such failure within 60 days after written notice thereof is given by Landlord to Tenant; provided, however, with respect to a non-monetary default not susceptible of being cured within 60 days, Tenant shall not be in default unless it fails to commence all work required to cure such default within said 60 day period or fails to diligently prosecute the same to effect such cure within a reasonable time thereafter;
 - (iii) Tenant shall be adjudged insolvent, make a transfer in fraud of creditors, or make an assignment for the benefit of creditors;
 - (iv) A petition shall be filed by Tenant under any chapter of the United States Bankruptcy Code, or any similar proceeding is filed by Tenant under any state law; or a petition under any chapter of the United States Bankruptcy Code or any similar state law is filed against Tenant and Tenant fails to have the same dismissed within 60 days from date of filing; or
 - (v) A receiver or trustee (other than a bankruptcy trustee or receiver) shall be appointed for all or substantially all of the assets of Tenant, and Tenant shall fail to have such receivership or trusteeship terminated within 60 days after appointment.
- (b) Upon the occurrence of an Event of Default, Landlord shall have the option to pursue the following remedy with 10 days written notice: Terminate this Lease, in which event Tenant and anyone claiming through Tenant shall immediately surrender the Premises to Landlord, and if Tenant or anyone claiming through Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises, or any part thereof, without being liable to prosecution or for any claim for damages. Upon such termination, Landlord shall also be entitled to receive all rental and other income of and from the Premises. In addition to the foregoing, upon an Event of Default, Landlord shall be entitled to exercise any and all remedies available at law or in equity.
- (c) In the event of Tenant's failure to pay Base Rent due to non-appropriation, Landlord shall be entitled to terminate this Lease, but no other remedy.

16. Landlord's Representations.

- (a) Landlord represents to Tenant that:
- (i) Landlord has full right, power and authority to execute and deliver this Lease and to grant to Tenant the exclusive use and possession of the Premises and otherwise provided herein;
 - (ii) Except for zoning and other governmentally-imposed land use restrictions, the use of the Premises contemplated by this Lease will be a permitted use under all applicable statutes, codes, rules, regulations and ordinances now in effect and, to the best of the Landlord's knowledge without investigation, there are no pending proceedings that would be contrary to statutes, codes, rules, regulations and ordinances;

(iii) Landlord has received no notice that the Land, the Building, the Improvements, or any portion thereof, is being condemned or taken by eminent domain and, to the best of the Landlord's knowledge without investigation, no such proceedings are contemplated by any lawful authority;

(iv) There is available to the Building and the Premises adequate public water, gravity fed storm and sanitary sewers, electricity and telephone service for Tenant's intended use of the Premises as described in this Lease;

(v) Landlord shall not discontinue any service required to be provided by Landlord pursuant to this Lease and, if any such discontinuance is contemplated, Landlord will provide Tenant with written notice at least 30 days prior thereto together with a statement of the appropriate reduction in Base Rent as compensation for such discontinuance; and

(vi) Landlord shall provide peaceful and quiet enjoyment of the Premises to Tenant and will not allow such peaceful and quiet enjoyment to be disrupted or interfered with, by Landlord, by anyone claiming under Landlord or by any other person, party or entity.

(b) Landlord acknowledges that Tenant is relying upon each of the representations set forth in Paragraph 16(a) and the matters represented by Landlord are substantial and material to Tenant. In the event such representations shall be breached by Landlord, and Landlord does not cure the default(s) within sixty (60) days after receipt of notice by Tenant, then Tenant at its sole election and as its sole remedy, may terminate this Lease in accordance with Paragraph 25; provided, however, with respect to a non-monetary default not susceptible of being cured within thirty (30) days, Landlord shall not be in default unless it fails to commence all work required to cure such default within said 30-day period or fails to diligently prosecute the same to effect such cure within a reasonable time thereafter;

17. Landlord's Right of Entry. Landlord and its agents and representatives shall have the right to enter upon the Premises at all reasonable times to examine the condition and use thereof, provided that such right shall be exercised in such manner as not to interfere with Tenant or any of its subtenants in the conduct of their business on the Premises.

18. Personal Property and Fixtures. Tenant shall have the right to erect, install, maintain, store and operate within the Premises such appliances, furnishings, inventory, equipment, signs, fixtures and other personal property as may be deemed necessary or appropriate by Tenant, and such property shall not be deemed to be part of the Premises, but shall remain the property of Tenant. At any time during the term of this Lease and within 30 days after the termination thereof, Tenant shall have the right to remove from the Premises its appliances, furnishings, inventory, equipment, signs and other personal property, but excluding fixtures and nonstructural, decorative alterations, provided that all damages to the improvements caused by such removal shall be repaired. Notwithstanding the foregoing to the contrary, Tenant shall not have the right to remove any structural, mechanical, electrical or plumbing systems (including heating, ventilating or air conditioning systems), except in instances of obsolescence, casualty or replacement, and such systems as then exist shall remain with the Improvements at the end of the term of this Lease and title to such systems shall automatically pass to, vest in and belong to Landlord without further action on the part of either party hereto.

19. Holding Over By Tenant. Should Tenant or any assignee or subtenant holdover the Premises or any part thereof after the expiration or termination of this Lease, such holdover shall not constitute a renewal of this Lease and shall constitute and be construed as a tenancy from month-to-month only, for which Tenant shall pay rental equal to the Base Rent paid or to be paid to Landlord hereunder for the last month of the term immediately preceding such holdover period, and otherwise subject to all of the

conditions, provisions and obligations of this Lease insofar as the same are applicable to a month-to-month tenancy.

20. Reserved.

21. Subordination and Non-Disturbance. Any mortgage which may now or hereafter affect the Premises, or any part thereof, and any renewals, modifications, consolidations, replacements or extensions thereof shall provide that so long as there shall be no continuing event of default by Tenant hereunder, the leasehold estate of Tenant created hereby and Tenant's peaceful and quiet possession of the Premises shall be undisturbed by any foreclosure of such mortgage. In the event that any such mortgage affects the Premises, or any portion thereof, as of the commencement date of this Lease, Landlord and Tenant agree to execute a subordination, attornment and non-disturbance agreement as reasonably requested by Landlord's mortgagee, provided that such agreement shall not change the material rights of the parties under this Lease.

22. Signage and Parking. Tenant may erect and shall maintain a sign at or near the driveway entrance to Tenant's Premises. The size and design of the sign shall be subject to approval by Landlord which approval shall not be unreasonably withheld. Landlord grants Tenant a non-exclusive license for parking in the Landlord's parking lots, subject to all rules, regulations and parking fees (if any) applicable thereto, as such may change from time to time.

23. Notices. Any notice or document required or permitted to be delivered hereunder or by law shall be deemed to be delivered, whether actually received or not, when delivered personally or by guaranteed overnight air courier, addressed to the parties hereto at the respective addresses below, or at such other address as theretofore specified by written notice delivered in accordance herewith:

Landlord: TCTC Foundation, LLC
c/o Tri-County Technical College Foundation
7900 Highway 76
Post Office Box 587
Pendleton, South Carolina 29670
Attention: Grayson A. Kelly

Tenant: Tri-County Technical College Commission
7900 Highway 76
Post Office Box 587
Pendleton, South Carolina 29670
Attention: Cara T. Hamilton

State: South Carolina Department of Administration,
Division of General Services
1200 Senate Street, Suite 408
Columbia, South Carolina 29201
Attention: Real Property Services

24. Miscellaneous.

(a) This Lease contains the entire agreement of the parties with respect to the subject matter of this Lease, and can be altered, amended or modified only by written instrument executed by all parties.

(b) This Lease shall be governed by and construed in accordance with the laws of the State of South Carolina.

(c) This Lease shall be binding upon and shall inure to the benefit of the undersigned parties and their respective legal representatives, successors and assigns.

(d) The captions used in this Lease are for convenience only and shall not be deemed to amplify, modify or limit the provisions of this Lease.

(e) In case any one or more of the provisions contained in this Lease shall for any reason be held invalid, illegal or unenforceable in any respects, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Lease shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Lease.

(f) At the request of either Landlord or Tenant, the parties hereto shall execute a short form memorandum of this Lease in recordable form setting forth a description of the Land, the Occupancy Term, the extension options and such other provisions hereof as Landlord and Tenant shall agree upon. The party requesting such short form Lease may record same, and, after recording, a photocopy of the recorded document shall be delivered to the other party.

(g) Landlord and Tenant each represent to the other party that they have not dealt with any real estate broker, agent or finder in connection with this transaction.

(h) Landlord and Tenant agree to execute and deliver to each other, within 10 days after requested by the other party, a certificate evidencing:

- (i) whether or not this Lease is in full force and effect;
- (ii) whether or not this Lease has been modified or amended in any respect, and submitting copies of such modifications or amendments, if any;
- (iii) whether or not there are existing defaults hereunder to the knowledge of the party executing such certificate, and specifying the nature of such defaults, if any; and
- (iv) such other matters as may be reasonably requested by the other party.

(i) *Reserved.*

(j) Landlord shall assist and cooperate with Tenant in connection with obtaining any zoning variances with respect to the Property, as well as with obtaining any site plan approvals, grading permits, development permits, building permits, sign permits or any other permits, approvals or licenses required of or from any governmental entities or officials in connection with the development, construction and operation of the Improvements. Landlord hereby agrees to execute any applications for any such variances, approvals, permits or licenses and hereby appoints and authorizes Tenant, as Landlord's agent and attorney-in-fact, to seek, apply for and pursue such variances, approvals, permits or licenses in the name, place and stead of Landlord, but at the sole cost and expense of Tenant; provided, however, that Tenant shall not institute or apply for any rezoning without obtaining the prior written consent and approval of Landlord.

(k) A fully-executed copy of the Base Lease and Conveyance Agreement between the Tenant and the Landlord of even date herewith is attached as Exhibit D.

25. Tenant's Right of Cancellation. Notwithstanding the Occupancy Term, as set forth in Paragraph 2, above, the Tenant shall have the right to cancel this Lease upon the occurrence of any cancellation event enumerated in South Carolina Code Annotated section 1-11-56(A)(3). Further, Tenant shall have the right to cancel this Lease if Landlord shall have breached any covenant, condition, representation made by Landlord in this Lease and such breach shall have continued uncorrected or uncured for a period

of 30 days after notice by Tenant to Landlord of such breach and request to correct or cure, subject to the provisions of Section 15(b).

[REMAINDER OF PAGE INTENTIONALLY BLANK]
[SINGLE SIGNATURE PAGE FOLLOWS]

SUBJECT TO REVISION

IN WITNESS WHEREOF, the parties hereto have executed this Lease under seal as of the day and year first above written.

Signed, sealed, and
delivered in the
presence of:

LANDLORD:

TCTC Foundation, LLC
a South Carolina Limited Liability Company

Witness

By: _____
Its: _____

Witness

By: _____
Its: _____

Witness

Witness

Signed, sealed, and
delivered in the
presence of:

TENANT:

Tri-County Technical College Commission

Witness

By: _____
Its: _____

Witness

This Lease is approved in accordance with the South Carolina Code of Regulations §19-447.1000 by the Department of Administration, Division of General Services, this _____ day of _____, 2016. This Lease was approved by the Joint Bond Review Committee at its January 20, 2016, meeting and was approved by the State Fiscal Accountability Authority at its January 26, 2016, meeting.

Nolan L. Wiggins Jr.
Director of General Services

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

ACKNOWLEDGMENT

I, _____, a notary public, do hereby certify that _____,
as _____ of TCTC Foundation, LLC, a South Carolina Limited Liability
Company, personally appeared before me this day and acknowledged his(her) execution of the foregoing
Lease.

Witness my hand and official seal this _____ day of _____, 2016.

Notary Public for South Carolina
My Commission expires: _____

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

ACKNOWLEDGMENT

I, _____, a notary public, do hereby certify that _____,
as _____ of TCTC Foundation, LLC, a South Carolina Limited Liability
Company, personally appeared before me this day and acknowledged his(her) execution of the foregoing
Lease.

Witness my hand and official seal this _____ day of _____, 2016.

Notary Public for South Carolina
My Commission expires: _____

STATE OF SOUTH CAROLINA)

ACKNOWLEDGMENT

COUNTY OF ANDERSON)

I, _____, a notary public, do hereby certify that _____,
as _____ of Tri-County Technical College Commission, personally appeared
before me this day and acknowledged his(her) execution of the foregoing Lease.

Witness my hand and official seal this ____ day of _____, 2016.

Notary Public for South Carolina
My Commission expires: _____

(SEAL)

(SEAL)

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

(To be amended on completion of construction of the Projects according to Section 1 of this Lease)

"Land," as identified and referenced in the attached Lease, is all that certain piece, parcel or lot of land, situate, lying and being in the, County of Anderson, State of South Carolina, consisting of 2.06 acres, as shown on survey entitled "Survey for Tri-County Technical College Student Success Center" prepared by 3D Land Surveying, dated December 8, 2015, and recorded in Record Book _____, Page _____, ROD Office for Anderson County. Reference to said survey is made for a more complete and accurate description.

Together with, for the term of the Lease, a non-exclusive easement to use Perimeter Road for pedestrian and vehicular ingress and egress from the above-described property to public roads.

This being a portion of the property conveyed by The Clemson Agricultural College of South Carolina to Anderson-Oconee-Pickens Technical Education and Training Commission, now known as Tri-County Technical College Commission, by deed dated July 9, 1962, recorded in the ROD Office for Anderson County in Record Book 13-D, Page 404.

(portion) Anderson County Tax Map 040-00-03-001

EXHIBIT B
BUILDING DEPICTION

(To be amended on completion of construction of the Projects according to Section 1 of this Lease)

SUBJECT TO REVISION

EXHIBIT C
BASE RENT SCHEDULE
(To be amended according to Section 3 of this Lease)

<u>DATE</u>	<u>BASE RENT</u>	<u>CUMULATIVE BASE RENT</u>	<u>PROJECTED BALANCE BASE RENT</u>
08/02/2017	\$ 369,187.71	\$ 369,187.71	\$36,021,141.14
02/02/2018	1,450,306.84	1,819,494.55	34,570,834.30
08/02/2018	354,972.93	2,174,467.48	34,215,861.37
02/02/2019	1,465,856.46	3,640,323.94	32,750,004.91
08/02/2019	340,361.45	3,980,685.39	32,409,643.46
02/02/2020	1,481,002.80	5,461,688.19	30,928,640.66
08/02/2020	327,150.81	5,788,839.00	30,601,489.85
02/02/2021	1,490,745.88	7,279,584.88	29,110,743.97
08/02/2021	310,014.54	7,589,599.42	28,800,729.43
02/02/2022	1,510,152.90	9,099,752.32	27,290,576.53
08/02/2022	294,212.99	9,393,965.31	26,996,363.54
02/02/2023	1,524,089.44	10,918,054.75	25,472,274.10
08/02/2023	278,014.74	11,196,069.49	25,194,259.36
02/02/2024	1,542,622.72	12,738,692.21	23,651,636.64
08/02/2024	262,797.64	13,001,489.85	23,388,839.00
02/02/2025	1,555,685.52	14,557,175.37	21,833,153.48
08/02/2025	244,295.95	14,801,471.32	21,588,857.53
02/02/2026	1,573,345.06	16,374,816.38	20,015,512.47
08/02/2026	226,775.40	16,601,591.78	19,788,737.07
02/02/2027	1,590,534.11	18,192,125.89	18,198,202.96
08/02/2027	208,792.05	18,400,917.94	17,989,410.91
02/02/2028	1,612,252.69	20,013,170.63	16,377,158.22
08/02/2028	191,331.04	20,204,501.67	16,185,827.18
02/02/2029	1,628,433.58	21,832,935.25	14,557,393.60
08/02/2029	171,304.68	22,004,239.93	14,386,088.92
02/02/2030	1,649,143.99	23,653,383.92	12,736,944.93
08/02/2030	151,800.68	23,805,184.60	12,585,144.25
02/02/2031	1,669,316.71	25,474,501.31	10,915,827.54
08/02/2031	131,767.75	25,606,269.06	10,784,059.79
02/02/2032	1,688,951.74	27,295,220.80	9,095,108.05
08/02/2032	111,820.29	27,407,041.09	8,983,287.76
02/02/2033	1,708,049.09	29,115,090.18	7,275,238.67
08/02/2033	90,115.12	29,205,205.30	7,185,123.55
02/02/2034	1,731,608.74	30,936,814.04	5,453,514.81
08/02/2034	68,429.31	31,005,243.35	5,385,085.50
02/02/2035	1,749,563.50	32,754,806.85	3,635,522.00
08/02/2035	46,214.58	32,801,021.43	3,589,307.42
02/02/2036	1,771,980.57	34,573,002.00	1,817,326.85
08/02/2036	23,534.12	34,596,536.12	1,793,792.73
02/02/2037	1,793,792.73	36,390,328.85	0

EXHIBIT D
FULLY-EXECUTED BASE LEASE AND CONVEYANCE AGREEMENT

SUBJECT TO REVISION

BASE LEASE AND CONVEYANCE AGREEMENT

between

**ANDERSON OCONEE PICKENS TECHNICAL EDUCATION AND TRAINING COMMISSION,
now known as TRI-COUNTY TECHNICAL COLLEGE COMMISSION**

as lessor

and

TCTC FOUNDATION, LLC

as lessee

Dated: February 1, 2016

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BASE LEASE AND CONVEYANCE AGREEMENT

THIS BASE LEASE AND CONVEYANCE AGREEMENT, effective February 1, 2016 ("Base Lease"), is between Anderson Oconee Pickens Technical Education and Training Commission, now known as Tri-County Technical College Commission ("Commission"), as lessor, and TCTC Foundation, LLC ("Foundation"), a South Carolina limited liability company of which Tri-County Technical College Foundation, Inc., an organization described in Section 501(c)(3) of the Internal Revenue Code, is the sole member, as lessee.

WITNESSETH

WHEREAS, the Commission desires to lease the Real Property (as defined herein) and convey the Conveyed Improvements (as defined herein) to the Foundation so that the Foundation may (i) acquire the Projects (as defined herein), as constructed by the College from funds available to the College, a portion of which are provided by the Foundation, and (ii) lease the Premises (as defined in the Lease Agreement between the Commission and the Foundation dated of even date herewith ("Lease")) to the Commission, which is attached hereto as Exhibit A;

WHEREAS, the Commission and the Foundation desire to enter into this Base Lease to achieve the foregoing purposes.

NOW, THEREFORE, in consideration of, the payment of the Base Lease Rent (as defined herein) and the premises and the mutual covenants and agreements herein set forth the Commission and the Foundation do hereby covenant and agree as follows:

ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 1.1. Definitions of Words and Terms. Capitalized terms not otherwise defined herein are used either with the meanings provided therefore in the Lease or the Purchase and Loan Agreement or shall have the following meanings, unless some other meaning is plainly intended:

"Base Lease Term" means the term of this Base Lease, commencing on February 2, 2016, and expiring on contemporaneously with the expiration of the Occupancy Term (as defined in the Lease), as may be extended pursuant to the terms of the Lease.

"Base Rent" means those payments required to be made by the Commission to the Foundation pursuant to the Lease.

"Bond" means all bond(s) issued to the Purchaser pursuant to the Purchase and Loan Agreement.

"Conveyed Improvements" means the improvements and fixtures located on the Real Property, all as described in Exhibit C.

"Credit Agreement" means the Credit Agreement between Purchaser and the Foundation with respect to finalizing the Projects.

"Event of Default" means any Event of Default as defined in Section 14 of the Lease.

"Event of Non-Appropriation" means the failure of the Commission to pay rent under the Lease when due as a result of the South Carolina General Assembly failing to appropriate sufficient funds to the

Commission for such purpose.

“Leasehold Mortgage” means any holder of a Permitted Mortgage.

“Permitted Mortgage” means a leasehold mortgage encumbering the Foundation’s debt under the Bond or any refinancing thereof.

“Premises” has the meaning set forth in the Lease, and includes the Real Property, the Conveyed Improvements and all improvements thereto made in accordance with the Lease.

“Projects” means the improvements to be made by the College to the Real Property and the Conveyed Improvements as provided for in the Lease, from funds available to the College, a portion of which are provided by the Foundation.

“Purchase and Loan Agreement” means the Bond Purchase and Loan Agreement dated of even date herewith between the Foundation and Purchaser.

“Purchaser” means South State Bank.

“Real Property” shall mean the Real Property leased to the Foundation from the Commission pursuant to this Base Lease, all as more particularly described in Exhibit B.

“Rent” means those items referred to as such in Section 3.4 of this Base Lease.

“State” means the State of South Carolina.

SECTION 1.2. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing person shall include limited liability companies, partnerships, associations, corporations and other legal entities, including public bodies, as well as natural persons.

The table of contents hereto and the headings and captions herein are not a part of this document.

SECTION 1.3. Accounting Terms. Accounting terms used herein and not otherwise specifically defined shall have the meaning ascribed to such terms by accounting principles generally accepted in the United States as from time to time in effect.

ARTICLE II REPRESENTATIONS

SECTION 2.1. Representations by the Commission. The Commission represents as follows:

(a) The Commission is a duly constituted commission established under the laws of the State.

(b) The conveyance of title to the Conveyed Improvements and the demise and lease of the Real Property by the Commission to the Foundation, as provided in this Base Lease, to allow the Foundation to acquire the Projects, as constructed by the College from funds available to the College, a portion of which are provided by the Foundation pursuant to the Purchase and Loan Agreement, and the lease of the Premises to the Commission pursuant to the Lease has been undertaken to enable the Commission to provide suitable educational facilities.

(c) Subject to approval by the South Carolina State Fiscal Accountability Authority ("SFAA"), the Commission has full power and authority to enter into the transactions contemplated by this Base Lease and to carry out its obligations hereunder.

(d) Neither the execution and delivery of this Base Lease, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Commission is now a party or by which the Commission is bound.

(e) The Commission has not made, done, executed or suffered, and will not make, do, execute or suffer, any act or thing whereby the Commission's interests in the Real Property and the Premises shall be or may be impaired, changed or encumbered in any manner whatsoever, except as permitted by this Base Lease or the Purchase and Loan Agreement.

(f) The Commission is the owner of the Real Property and the Conveyed Improvements, and the same are free and clear of all liens, encumbrances and restrictions (including, without limitation, leases) other than those as are disclosed to the Foundation and the Purchaser, including specifically any restrictions in the deed from The Clemson Agricultural College to the Commission dated July 9, 1962, and recorded July 10, 1962, in the ROD Office for Anderson County in Record Book 13-D, Page 404 .

SECTION 2.2. Representations by the Foundation. The Foundation represents as follows:

(a) The Foundation is a limited liability company organized under the laws of the State and has corporate power to enter into this Base Lease. By proper action of the sole member of the Foundation, the officers of the Foundation signing below have been duly authorized to execute and deliver this Base Lease.

(b) The execution and delivery of this Base Lease and the consummation of the transactions herein and therein contemplated will not conflict with or constitute a breach of or default under the Foundation's articles of organization or bylaws or any bond, debenture, note or other evidence of indebtedness of the Foundation, or any contract, agreement, or instrument to which the Foundation is a party or by which it is bound.

(c) The Foundation has full power and authority to enter into the transactions contemplated by this Base Lease and to carry out its obligations hereunder.

(d) To provide funds to defray the cost of the Projects, the Foundation will enter into the Purchase and Loan Agreement.

ARTICLE III LEASE OF THE REAL PROPERTY AND CONVEYANCE OF IMPROVEMENTS

SECTION 3.1. Transfer of Conveyed Improvements and Lease of the Real Property. The Commission hereby demises and leases to the Foundation and the Foundation hereby leases from the Commission the Real Property for the Base Lease Term for the rentals and other consideration set forth in Section 3.4 hereof and in accordance with the provisions of this Base Lease. The Commission hereby conveys the Conveyed Improvements to the Foundation and the Foundation hereby accepts such conveyance from the Commission. The parties hereto agree to amend Exhibit B to this Base Lease on completion of construction of the Projects.

SECTION 3.2. Lease of the Premises. Pursuant to the terms of the Lease, the Foundation will acquire the Projects, as constructed by the College from funds available to the College, a portion of which are provided by the Foundation pursuant to the Purchase and Loan Agreement, and will lease the Premises (including but not limited to the Projects) to the Commission, subject to the terms of the Lease and the Purchase and Loan Agreement and the reservation of certain rights under this Base Lease.

SECTION 3.3. Assignments, Subleases and Mortgages The Foundation may grant a leasehold mortgage and otherwise encumber the Premises only (i) as provided in the Purchase and Loan Agreement and the Credit Agreement, and (ii) with respect to any debt incurred by the Foundation to refinance from time to time the remaining outstanding indebtedness on the Bond until such indebtedness is paid in full. Otherwise, except for the Lease, and in accordance with this Base Lease, the Foundation may not (a) lease, assign, transfer or otherwise dispose of its interest in the Real Property or the Premises or any portion thereof or (b) remove, modify or alter the Real Property or the Premises or any portion thereof, without the written consent of the Commission.

SECTION 3.4. Rent and Other Consideration. As and for rental hereunder and in consideration for the leasing of the Real Property to the Foundation hereunder, the Foundation has paid herewith, and the Commission acknowledges receipt of, the sum of \$30.00 as a prepayment of the annual Rent of One Dollar per year for periods beginning on each January 1 and ending on each December 31 with an initial period beginning February 2, 2016, and ending on December 31, 2016. The Foundation agrees to fulfill its obligations with respect to the Premises as provided in the Purchase and Loan Agreement.

SECTION 3.5. Taxes and Insurance, Restoration.

(a) Pursuant to the terms of the Lease, the Commission shall pay and have responsibility for all taxes and assessments on the Real Property and the Conveyed Improvements, including the Premises.

(b) During the construction of the Project, the cost of all builder's risk insurance and all liability insurance with respect to the Premises shall be paid by the Commission unless otherwise provided in the Lease. After completion of the Project, the Commission shall pay the entire cost of all property and liability insurance as provided in the Lease. In the event of casualty damage to the Premises, the Lease shall govern responsibility for the restoration thereof. The Commission shall provide certificates of insurance to the Foundation as provided in the Lease. Such insurance shall name the mortgagee as insured mortgagee and loss payee, with right to notice of cancellation of insurance.

SECTION 3.6. Granting of Easements, Rights of Way, Releases and Substitutions of Property.

(a) In the event the Commission requires easements across the Real Property for road construction, utilities or other purposes in order to serve other parts of the college campus, upon the Commission's request the Foundation will consent to and join in any such easements (together with the Commission as owner), provided that such easements will not have a material adverse effect on the Premises and subject to approval by the SFAA and review and approval of the form of the easement and execution by the South Carolina Department of Administration ("SCDOA"), when applicable. In the event the Foundation requires easements across the Commission's property for utilities or other improvements which will serve the Premises, subject to approval by the SFAA and review and approval of the form of the easement and execution by the SCDOA, when applicable, the Commission will provide such easements, provided that such easements will not have a material adverse effect on the Real Property.

(b) The Commission may, with the prior written consent of the Foundation and the Purchaser (or any subsequent Leasehold Mortgagee), not to be unreasonably withheld, terminate this Base Lease with respect to any portion of the Real Property deemed excessive or unneeded for the continued operation of the Premises and the related facilities for the purposes for which they were designed or are then being used, and the Foundation and the Purchaser release their respective interests in such portion to the Commission without consideration, upon receipt by the Foundation of the following: (a) a recorded plat showing the location of the Premises and related facilities and the portion of the Real Property deemed excessive or unneeded; (b) an amendment to Exhibit B hereto deleting the released portion from the Real Property; (c) a certificate from an engineer or architect stating that the remaining Real Property will be adequate for the continued operation of the Premises and related facilities for the purpose for which they were designed or are then being used, including a certification that there will be adequate access to the remaining Real Property for ingress and egress; and (d) a certification from the Commission that the portion of the Real Property being released from the provisions hereof is in excess to or unneeded for the continued operation of the Premises and related facilities for the purposes for which they were designed or are then being used.

(c) The Commission and the Foundation agree to amend Exhibit B to this Base Lease to substitute or release portions of the Real Property in accordance with the provisions of this Section 3.6.

(d) The Foundation shall have no obligation or responsibility to prepare or record any instrument authorized hereunder.

ARTICLE IV TERMINATION, REMEDIES

SECTION 4.1. Termination.

(a) This Base Lease shall terminate upon the completion of the Base Lease Term; provided, however, in the event the Commission exercises one of the options to purchase the Premises as provided in Section 2(b) of the Lease and satisfies the conditions thereof, then this Base Lease shall be considered terminated upon completion of such purchase including repayment in full of the Bond or of any refinancing thereof.

(b) The Foundation agrees, upon any termination or completion of the Base Lease Term or the exercise by the Commission of its option to purchase as provided in Section 2(b) of the Lease, to quit and surrender the Real Property, and that all title and interest in the Premises and the Real Property shall vest in the Commission free and clear of the encumbrance of this Base Lease.

SECTION 4.2. Default by the Foundation. The Commission shall not have the right to exclude the Foundation from the Real Property or the Premises or to take possession of the Real Property or the Premises (except pursuant to the Lease) or to terminate this Base Lease prior to the expiration of the Base Lease Term notwithstanding any default by the Foundation hereunder; except that if, upon exercise of the option to purchase the Foundation's entire interest in the Premises granted to the Commission in the Lease and after the payment of the purchase price specified therein and the other sums payable under the Lease, the Foundation fails to convey its interest in the Premises to the Commission pursuant to said option, then the Commission shall have the right to terminate this Base Lease, such termination to be effective 30 days after delivery of written notice of such termination to the Foundation. However, in the event of any default by the Foundation hereunder, the Commission may maintain an action, if permitted in equity, for specific performance.

SECTION 4.3. Quiet Enjoyment. Subject to the Lease, the Foundation at all times during the term of this Base Lease shall peaceably and quietly have and enjoy the Real Property and the Premises.

SECTION 4.4. No Merger. Except as expressly provided herein, no union of the interests of the Commission and the Foundation herein or in the Lease shall result in a merger of this Base Lease and the title to the Premises. The Foundation and Commission confirm that the Projects shall be property of the Foundation and title thereto shall remain vested in the Foundation as the Premises are renovated, expanded or constructed and shall not merge into the leasehold estate of the Foundation in the Real Property subject to the provisions of this Base Lease and the Lease.

SECTION 4.5. Reserved.

SECTION 4.6. Maintenance of Premises. Upon the Commission taking possession of the Premises pursuant to the Lease, the Commission is responsible for maintenance of the Premises, and the Foundation shall thereafter have no responsibility with respect to maintenance. At the conclusion of the term hereof, the Real Property shall be returned to the Commission in substantially the condition thereof as of the date hereof, subject to normal wear and tear. At the conclusion of the term hereof, the Project and any other improvements thereto, shall be returned to the Commission in substantially the condition thereof as of the date of their initial completion, subject to normal wear and tear. Except as contemplated under the Purchase and Loan Agreement, for so long as the Commission performs its obligations under the Lease, the Foundation shall not make or consent to any other improvements, modifications or alterations to the Real Property or the Premises or any portion thereof, or remove any part thereof without the prior written consent of the Commission.

ARTICLE V CONTROL OF REAL PROPERTY AND PREMISES DURING BASE LEASE TERM

SECTION 5.1. Control of Real Property and Premises During Base Lease Term. Subject to the Lease and to Section 4.6 hereof, during the Base Lease Term the Foundation shall have complete control over the Real Property and the Premises and their operation. Further, the Commission grants to the Foundation a non-exclusive license for parking in the Commission's parking lots, subject to all Commission's rules, regulations and parking fees (if any) applicable thereto, as such may change from time to time.

ARTICLE VI LEASEHOLD MORTGAGES

SECTION 6.1. Rights of Commission and Leasehold Mortgagee to Cure Defaults. Any Permitted Mortgage must contain provisions (or the Leasehold Mortgagee shall enter into a separate written agreement with the Commission) providing that the Leasehold Mortgagee will provide the Commission with copies of any notice of any event of default by the Foundation on the debt secured by the Permitted Mortgage. In the event the Commission receives notice of an event of default by the Foundation on the debt secured by the Permitted Mortgage (the "Mortgagee Notice"), the Commission will have the right but not the obligation: (A) to the extent permitted by law, to cure any payment default within the same cure period as provided to the Foundation, or (B) to terminate the Permitted Mortgage and this Base Lease by paying a termination payment to the Leasehold Mortgagee in an amount equal to the then outstanding balance of the debt secured by the Permitted Mortgage (including any prepayment fees or other charges or sums owed to the Leasehold Mortgagee to fully satisfy the indebtedness secured

by the Permitted Mortgage), and upon the exercise of either of these options by the Commission, this Base Lease will be automatically terminated.

(b) The Commission agrees not to exercise any remedies under this Base Lease with respect to a default by the Foundation hereunder unless the Commission first gives the Leasehold Mortgagee (i) a notice of its intent to exercise its rights hereunder (the "Remedies Notice") containing a statement of all existing defaults by the Foundation under this Base Lease, and (ii) the opportunity to cure such defaults, as follows: the Leasehold Mortgagee shall be entitled to cure any stated default by the Foundation for a period of 30 days after receipt of such Remedies Notice, provided that if the default by the Foundation is non-monetary in nature and is of such a nature that it is not reasonably susceptible of cure within said additional 30 day period then, provided the Leasehold Mortgagee has commenced to cure such default within such 30 day period and thereafter prosecutes the same to completion with reasonable diligence, such Leasehold Mortgagee shall be entitled to such additional time as is commercially reasonable to cure such default. The Leasehold Mortgagee shall have the right to enter upon the Premises for the purpose of remedying any such default by the Foundation.

SECTION 6.2. Agreement Between the Commission and the Leasehold Mortgagee. The Commission, upon request, shall execute, acknowledge and deliver to the Leasehold Mortgagee an agreement, in form reasonably satisfactory to the Leasehold Mortgagee and the Commission, by and among the Commission, the Foundation and the Leasehold Mortgagee, agreeing to all of the provisions of Section 6.1.

ARTICLE VII MISCELLANEOUS

SECTION 7.1. Premises Use. Notwithstanding anything in this Base Lease to the contrary, for so long as the Lease remains in effect, neither the Foundation nor any assignee of the Foundation's interest hereunder nor any sublessee of the Foundation shall operate the Premises for any purpose which is not the constructing, maintaining and operating thereon a technical education and training center. Further, in no event shall the Foundation or any assignee of the Foundation's interest hereunder or any sublessee of the Foundation use any part of the Premises or permit any part of the Premises to be used by any subtenant for any use prohibited by law, ordinance, code or regulation.

SECTION 7.2. Covenants Running with the Real Property. All covenants, promises, conditions and obligations herein contained or implied by law are covenants running with the Real Property and shall attach and bind and inure to the benefit of the Commission and the Foundation and their respective heirs, legal representatives, successors and assigns, except as otherwise provided herein.

SECTION 7.3. Binding Effect. This Base Lease shall inure to the benefit of and shall be binding upon the Commission, the Foundation and their respective successors and assigns. The Bond Insurer, if any, is a third-party beneficiary to this Base Lease.

SECTION 7.4. Severability. In the event any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

SECTION 7.5. Amendment, Changes and Modifications. This Base Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the Commission and the Purchaser except to the extent anticipated in Section 3.1 and Section 3.6 hereof.

SECTION 7.6. Execution in Counterparts. This Base Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument.

SECTION 7.7. Applicable Law. This Base Lease shall be governed by and construed in accordance with the laws of the State.

SECTION 7.8. Captions. The Section and Article headings herein are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions hereof.

SECTION 7.9. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Base Lease to be given to or filed with the Commission, the Foundation, or the Purchaser if the same is given or filed in the manner and at the addresses specified in the Purchase and Loan Agreement, regardless of whether the Purchase and Loan Agreement remains in effect.

SECTION 7.10. Memorandum. The Commission and the Foundation shall, upon the request of either party, execute a memorandum of this Base Lease for recording in the records of Anderson County, South Carolina.

SECTION 7.11. Successors and Assigns. All covenants, promises and agreements contained in this Base Lease by or on behalf of or for the benefit of the Commission or the Foundation, shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

[ONE SIGNATURE PAGE FOLLOWS]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

WITNESS the due execution of this Base Lease, effective as of the date first above written.

(SEAL)

LESSOR:
ANDERSON OCONEE PICKENS TECHNICAL
EDUCATION AND TRAINING COMMISSION,
now known as
TRI-COUNTY TECHNICAL COLLEGE
COMMISSION

By: _____
CHAIRMAN OF COMMISSION

Attest: _____
SECRETARY OF COMMISSION

(SEAL)

LESSEE:
TCTC FOUNDATION, LLC

By: _____
PRESIDENT

Attest: _____
SECRETARY

This Base Lease is approved in accordance with the South Carolina Code of Regulations §19-447.1000 by the Department of Administration, Division of General Services, this _____ day of _____, 2016. This Base Lease was approved by the Joint Bond Review Committee at its January 20, 2016, meeting and was approved by the State Fiscal Accountability Authority at its January 26, 2016, meeting.

Nolan L. Wiggins Jr.
Director of General Services

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that _____, the duly authorized Chairman, and _____, the duly authorized Secretary of Anderson Oconee Pickens Technical Education and Training Commission, now known as Tri-County Technical College Commission, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 20__.

(SEAL)

Notary Public, State of South Carolina

Notary Name Printed: _____

My Commission Expires: _____

SUBJECT TO REVIEW

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that _____, the duly authorized President, and _____, the duly authorized Secretary, of the Board of Directors of TCTC Foundation, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 20__.

(SEAL)
Notary Public, State of South Carolina
Notary Name Printed: _____
My Commission Expires: _____

SUBJECT TO REVISION

EXHIBIT A
FORM OF LEASE AGREEMENT BETWEEN THE COMMISSION AND THE FOUNDATION

SUBJECT TO REVISION

EXHIBIT B

LEGAL DESCRIPTION OF THE REAL PROPERTY

(To be amended on completion of construction of the Projects according to Section 3.1 of this Base Lease)

All that certain piece, parcel or lot of land, situate, lying and being in the, County of Anderson, State of South Carolina, consisting of 2.06 acres, as shown on survey entitled "Survey for Tri-County Technical College Student Success Center" prepared by 3D Land Surveying, dated December 8, 2015, and recorded in Record Book _____, Page _____, ROD Office for Anderson County. Reference to said survey is made for a more complete and accurate description.

Together with, for the term of this Base Lease, a non-exclusive easement to use Perimeter Road for pedestrian and vehicular ingress and egress from the above-described property to public roads.

This being a portion of the property conveyed by The Clemson Agricultural College of South Carolina to Anderson-Oconee-Pickens Technical Education and Training Commission, now known as Tri-County Technical College Commission, by deed dated July 9, 1962, recorded in the ROD Office for Anderson County in Record Book 13-D, Page 404.

(portion) Anderson County Tax Map 040-00-03-001

SUBJECT TO REVIEW

EXHIBIT C
CONVEYED IMPROVEMENTS

All existing improvements located on the Real Property

SUBJECT TO REVISION

§ 1-11-55. Leasing of real property for governmental bodies.

(1) "Governmental body" means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, agency, government corporation, or other establishment or official of the executive branch of this State. Governmental body excludes the General Assembly, Legislative Council, the Legislative Services Agency, the judicial department and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts.

(2) The Division of General Services of the Department of Administration is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section. However, a technical college, with the approval by the State Board for Technical and Comprehensive Education, and a public institution of higher learning, may enter into any lease agreement or renew any lease agreement up to one hundred thousand dollars annually for each property or facility.

(3) When any governmental body needs to acquire real property for its operations or any part thereof and state-owned property is not available, it shall notify the Division of General Services of its requirement on rental request forms prepared by the division. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as General Services may require. Upon receipt of any such request, General Services shall conduct an investigation of available rental space which would adequately meet the governmental body's requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been located which the governmental body and the division agree meets necessary requirements and standards for state leasing as prescribed in procedures of the department as provided for in subsection (5) of this section, General Services shall give its written approval to the governmental body to enter into a lease agreement. All proposed lease renewals shall be submitted to General Services by the time specified by General Services.

(4) The department shall adopt procedures to be used for governmental bodies to apply for rental space, for acquiring leased space, and for leasing state-owned space to nonstate lessees.

(5) Any participant in a property transaction proposed to be entered who maintains that a procedure provided for in this section has not been properly followed, may request review of the transaction by the Director of the Division of General Services of the Department of Administration or his designee.

Credits

HISTORY: 1997 Act No. 153, § 2; 2002 Act No. 333, § 1; 2002 Act No. 356, § 1, Pt VI.P(1); 2011 Act No. 74, Pt VI, § 13, eff August 1, 2011; 2013 Act No. 31, § 1, eff May 21, 2013; 2014 Act No. 121 (S.22), Pt V, § 7.A, eff July 1, 2015.

§ 1-11-56. Program to manage leasing; procedures.

(A) The Division of General Services of the Department of Administration, in an effort to ensure that funds authorized and appropriated for rent are used in the most efficient manner, is directed to develop a program to manage the leasing of all public and private space of a governmental body. The department must submit regulations for the implementation of this section to the General Assembly as provided in the Administrative Procedures Act, Chapter 23, Title 1. The department's regulations, upon General Assembly approval, shall include procedures for:

- (1) assessing and evaluating agency needs, including the authority to require agency justification for any request to lease public or private space;
- (2) establishing standards for the quality and quantity of space to be leased by a requesting agency;
- (3) devising and requiring the use of a standard lease form (approved by the Attorney General) with provisions which assert and protect the state's prerogatives including, but not limited to, a right of cancellation in the event of:
 - (a) a nonappropriation for the renting agency;
 - (b) a dissolution of the agency; and
 - (c) the availability of public space in substitution for private space being leased by the agency;
- (4) rejecting an agency's request for additional space or space at a specific location, or both;
- (5) directing agencies to be located in public space, when available, before private space can be leased;
- (6) requiring the agency to submit a multiyear financial plan for review by the department with copies sent to Ways and Means Committee and Senate Finance Committee, before any new lease for space is entered into; and
- (7) requiring prior review by the Joint Bond Review Committee and the requirement of State Fiscal Accountability Authority approval before the adoption of any new or renewal lease that commits more than two hundred thousand dollars annually in rental or lease payments or more than one million dollars in such payments in a five-year period.

(B) Leases or rental agreements involving amounts below the thresholds provided in subsection (A)(7) may be executed by the Department of Administration without this prior review by the Joint Bond Review Committee and approval by the State Fiscal Accountability Authority.

(C) The threshold requirements requiring review by the Joint Bond Review Committee and approval by the State Fiscal Accountability Authority as contained in subsection (A)(7) also apply to leases or rental agreements with nonstate entities whether or not the state or its agencies or departments is the lessee or lessor.

Credits

HISTORY: 1997 Act No. 153, § 2; 2014 Act No. 121 (S.22), Pt V, § 7.B, eff July 1, 2015.

Code 1976 §10-1-130

§ 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.

Credits

HISTORY: 1962 Code § 1-49.3; 1963 (53) 177; 2014 Act No. 121 (S.22), Pt V, § 7.K, eff. July 1, 2015.

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Code 1976 § 10-1-130, SC ST § 10-1-130

Current through End of 2015 Reg. Sess.

Code 1976 § 59-53-250

§59-53-250. Cost of operation and maintenance of center.

All expenses of original cost and cost of operation and maintenance of the center, and expenses of the Commission, shall be borne by the three counties as follows: Anderson County, fifty per cent; Oconee County, twenty-five per cent; and Pickens County, twenty-five per cent.

Credits

HISTORY: 1962 Code § 21-705.4; 1962 (52) 2210.

STATE FISCAL ACCOUNTABILITY AUTHORITY
MEETING OF January 26, 2016

REGULAR SESSION
ITEM NUMBER 4

AGENCY: Department of Administration, Division of General Services

SUBJECT: Workers' Compensation Commission Lease for Space at 1333 Main Street,
Columbia

The Workers' Compensation Commission ("WCC") requests approval to continue to lease space at 1333 Main Street, Columbia, SC from Vista Investments, LLC located at 1333 Main Street. The WCC will lease 22,719 rentable square feet (RSF), which is a reduction of 6,244 RSF from their previous lease. Continuing to lease this space will eliminate any downtime or relocation costs.

A solicitation was conducted, listing the requirement on SC Business Opportunities network, as well as sending requests for proposals to 390 commercial property owners and agents and all state agencies, and only two (2) responses were received, of which the selected location represents the least costly bid over the term. The term of the lease will be slightly more than six (6) years beginning on February 1, 2016 after approved by the State Fiscal Accountability Authority, which allows the WCC to begin receiving the benefit of the savings from reducing its square footage prior to the end of the term of the current lease. This reduction in square footage for this partial year represents a savings of approximately \$16,390 for the remainder of the previous lease term and over the entire term of the new lease represents a savings of \$662,644.18 compared to the previous lease. Rent for the partial year will be charged at a rate of \$15.75 per rentable square foot with an annual escalation of base rent of approximately \$.40 per RSF. This is a gross lease. The WCC will pay as additional rent its pro rata share of increases in building operating cost above the base year ending March 31, 2018. The pro rata share of building operating cost increases will be capped at 3% per year over the previous year, a savings compared to the previous lease, which was capped at 4% per year. Assuming operating expense increases at three percent per year, the maximum rent over the term of the lease is as follows:

TERM	PERIOD: FROM-TO	RENT/RSF	ANNUAL RENT	MONTHLY RENT	MAXIMUM OPERATING COST
Partial Year	2/1/2016 - 3/31/2016	\$15.75	\$59,637.88	\$29,818.69	0
YEAR 1	4/1/2016 - 3/31/2017	\$16.25	\$369,183.72	\$30,765.31	0
YEAR 2	4/1/2017 - 3/31/2018	\$16.65	\$378,271.32	\$31,522.61	0
YEAR 3	4/1/2018 - 3/31/2019	\$17.05	\$387,358.92	\$32,279.91	\$4,600.60
YEAR 4	4/1/2019 - 3/31/2020	\$17.45	\$396,446.52	\$33,037.21	\$4,738.62
YEAR 5	4/1/2020 - 3/31/2021	\$17.85	\$405,534.12	\$33,794.51	\$4,880.78
YEAR 6	4/1/2021 - 3/31/2022	\$18.25	\$414,621.72	\$34,551.81	\$5,027.20

AGENCY: Department of Administration, Division of General Services

SUBJECT: Workers' Compensation Commission Lease for Space at 1333 Main Street, Columbia

Below are tables representing rates paid by some state agencies in the Columbia area. Additionally, the Colliers International 2015 Third Quarter Market Report indicates an average commercial lease rate per square foot of \$19.58 in the Columbia central business district and \$14.82 in the suburban market area.

Agency	Address	Lease Term	Rate/SF
Education Lottery	1333 Main St. Suite 400	8/1/2014 – 7/31/2021	\$15.95
Lieutenant Governor's Office	1301 Gervais St. Suite 350	7/1/2015 – 6/30/2020	\$14.95
Department of Insurance	1201 Main Street, Suite 1000	3/1/2014 – 2/28/2021	\$15.50

Lease payments will be made from revenue primarily from fines and hearing fees. Landlord is offering 55 requested parking spaces (46 garage and 9 surface) at a cost to the WCC of \$25 per parking space per month. The normal rate for the offered parking spaces is between \$45-65 for garage parking spaces and \$105 per for surface parking spaces. At Landlord's cost, Landlord will make renovations to the premises in accordance with construction drawings as agreed to by WCC. There are adequate funds for the lease according to a Budget Approval Form and multi-year plan submitted by WCC.

The lease was approved by Gary M. Cannon, Executive Director of WCC. This lease was approved by JBRC on December 8, 2015.

AUTHORITY ACTION REQUESTED:

As recommended by the Department of Administration, Division of General Services, approve the proposed multi-year lease at 1333 Main Street, Columbia, for Workers' Compensation Commission.

ATTACHMENTS:

Agenda item worksheet; Request letters from WCC, SC Code of Laws Section 1-11-55 and 1-11-56


**SFAA AGENDA ITEM
WORKSHEET**

Meeting Scheduled for: January 26, 2016

REGULAR AGENDA

1. Submitted by:

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


Nolan L. Wiggins, Jr., Director

2. Subject: The Workers Compensation Commission Lease for Space at 1333 Main Street Columbia, SC

3. Summary Background Information:

The Workers Compensation Commission ("WCC") requests approval to continue to lease space at 1333 Main Street, Columbia, SC from Vista Investments, LLC located at 1333 Main Street. The WCC will lease 22,719 rentable square feet (RSF), which is a reduction of 6,244 RSF from their previous lease. Continuing to lease this space will eliminate any downtime or relocation costs.

A solicitation was conducted, listing the requirement on SC Business Opportunities network, as well as sending requests for proposals to 390 commercial property owners and agents and all state agencies, and only two (2) responses were received, of which the selected location represents the least costly bid over the term. The term of the lease will be slightly more than six (6) years beginning on February 1, 2016 after approved by the State Fiscal Accountability Authority, which allows the WCC to begin receiving the benefit of the savings from reducing its square footage prior to the end of the term of the current lease. This reduction in square footage for this partial year represents a savings of approximately \$16,390 for the remainder of the previous lease term and over the entire term of the new lease represents a savings of \$662,644.18 compared to the previous lease. Rent for the partial year will be charged at a rate of \$15.75 per rentable square foot with an annual escalation of base rent of approximately \$.40 per RSF. This is a gross lease. The WCC will pay as additional rent its pro rata share of increases in building operating cost above the base year ending March 31, 2018. The pro rata share of building operating cost increases will be capped at 3% per year over the previous year, a savings compared to the previous lease, which was capped at 4% per year. Assuming operating expense increases at three percent per year, the maximum rent over the term of the lease is as follows:

TERM	PERIOD: FROM-TO	RENT/RSF	ANNUAL RENT	MONTHLY RENT	MAXIMUM OPERATING COST
Partial Year	2/1/2016 - 3/31/2016	\$15.75	\$59,637.88	\$29,818.69	0
YEAR 1	4/1/2016 - 3/31/2017	\$16.25	\$369,183.72	\$30,765.31	0
YEAR 2	4/1/2017 - 3/31/2018	\$16.65	\$378,271.32	\$31,522.61	0
YEAR 3	4/1/2018 - 3/31/2019	\$17.05	\$387,358.92	\$32,279.91	\$4,600.60

YEAR 4	4/1/2019 – 3/31/2020	\$17.45	\$396,446.52	\$33,037.21	\$4,738.62
YEAR 5	4/1/2020 – 3/31/2021	\$17.85	\$405,534.12	\$33,794.51	\$4,880.78
YEAR 6	4/1/2021 – 3/31/2022	\$18.25	\$414,621.72	\$34,551.81	\$5,027.20

Below are tables representing rates paid by some state agencies in the Columbia area. Additionally, the Colliers International 2015 Third Quarter Market Report indicates an average commercial lease rate per square foot of \$19.58 in the Columbia central business district and \$14.82 in the suburban market area.

Agency	Address	Lease Term	Rate/SF
Education Lottery	1333 Main St. Suite 400	8/1/2014 – 7/31/2021	\$15.95
Lieutenant Governor's Office	1301 Gervais St. Suite 350	7/1/2015 – 6/30/2020	\$14.95
Department of Insurance	1201 Main Street, Suite 1000	3/1/2014 – 2/28/2021	\$15.50

Lease payments will be made from revenue primarily from fines and hearing fees. Landlord is offering 55 requested parking spaces (46 garage and 9 surface) at a cost to the WCC of \$25 per parking space per month. The normal rate for the offered parking spaces is between \$45-65 for garage parking spaces and \$105 per for surface parking spaces. At Landlord's cost, Landlord will make renovations to the premises in accordance with construction drawings as agreed to by WCC. There are adequate funds for the lease according to a Budget Approval Form and multi-year plan submitted by WCC.

The lease was approved by Gury M. Cannon, Executive Director of WCC. This lease was approved by JBRC on December 8, 2015.

4. What is SFAA asked to do? Approve the proposed multi year lease at 1333 Main Street Columbia, SC to Workers Compensation Commission

5. What is recommendation of the Division of General Services? Recommend approval of the proposed multi year lease at 1333 Main Street Columbia, SC to Workers Compensation Commission

6. List of Supporting Documents:

- Request Letters from WCC
- SC Code of Laws Section 1-11-55 and 1-11-56

State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 1715
Columbia, S.C. 29201-1715



TEL: (803) 737-5700
www.wcc.sc.gov

Workers' Compensation Commission

November 17, 2015

Ms. Shawn L. DeJames
Assistant Director, Division of General Services
Department of Administration
1200 Senate Street, Suite 408
Columbia, SC 29201

Dear Ms. DeJames:

The Office of General Services solicited lease proposals for lease of office space of 18,000 to 22,500 square feet for the SC Workers' Compensation Commission (Commission). The two proposals received on October 9, 2015 were from CB Richard Ellis (CBRE) for reduced space at the current location, 1333 Main Street, Columbia, SC, and M. Burgess Mills and Associates for property located at 1777 Saint Julian Place, Columbia SC.

After a thorough review of the proposals, the Commission requests to lease the space offered by our current landlord, CBRE, 22,719 square feet for a seven year period.

This request is based on the following factors:

- CBRE submitted a proposal for the amount of space needed by the Commission, 19,660 sq. ft. This is less than the current 28,000 sq. ft. of space we currently lease. The need for the reduced space is a result of the Commission's improvements in business operations.
- Remaining at the current location will allow us to continue serving our stakeholders. Relocating will require closing the office during the move. Staff productivity will be impacted.
- The one-time cost for moving and purchasing office furniture is estimated at \$250,000. This was not anticipated nor budgeted for this Fiscal Year. The present location is easily accessible to I-26 and I-20 and other major highways entering and leaving Columbia. Our stakeholders are satisfied with the ease and accessibility to our offices for Commissioner Hearings, Appellate Hearings and other public meetings conducted by the Commission.
- The current location provides 24/7 security for the building. The annual cost for providing the same level of security at the new location will exceed \$150,000 annually.
- The existing location is within three (3) blocks of the Statehouse. The proposed new

Ms. Shawn L. DeJames

November 17, 2017

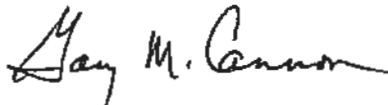
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location is several miles from the Statehouse complex. This location is preferable due to the proximity of the General Assembly and other State agencies with which the Commission has regular interaction.

Therefore, given the aforementioned reasons, we are requesting that the Commission be granted permission to remain at its present location, 1333 Main Street, Columbia, SC, and enter into a six year and three and 1/2 months lease for the reduced office space and that Division of General Services present this request to JBRC and the SFAA.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Gary M. Cannon". The signature is fluid and cursive, with the first name "Gary" being more prominent.

Gary M. Cannon
Executive Director

State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 1715
Columbia, S.C. 29202-1715



TEL: (803) 737-5700
www.wcc.sc.gov

Workers' Compensation Commission

January 8, 2016

Ms. Shawn Lavery DeJames
Deputy Director
Department of Administration, Division of General Services
1200 Senate Street, Suite 408
Columbia, SC 29201

RE: SC Workers' Compensation Commission Lease Renewal

Dear Ms. DeJames:

The SC Workers' Compensation Commission (Commission) has pending before State Fiscal Accountability Authority (SFAA) a request to renew a lease agreement for office space at its current location¹. The request was on the agenda for the SFAA's meeting on December 15; however, the matter was carried over until January in order to obtain additional information with regard to the justification of leasing property downtown.

The Commission² currently leases 28,000 square feet from Vista Investments, LLC represented by CB Richard Ellis (CBRE) at 1333 Main Street, Columbia, SC. The term of the lease expires March 31, 2016. In anticipation of the expiration of the lease, the Division of General Services initiated the process to solicit proposals for office space for the Commission in August 2015³. In September 2015, the Division of General Services solicited proposals for the lease of 18,000 to 22,500 square feet office space in Richland County. In addition to being listed on SC Business Opportunities network, requests for proposals were sent to 390 commercial property owners and agents via email and US Postal Service and all state agencies.

¹ In 2009, the Commission relocated to its current location at 1333 Main Street from 1620 Marion Street, Columbia, SC. Since that relocation, the Commission has continued to improve the efficiency of the operations and realigned business processes and functions resulting in the reduction of the number of approved positions from 75 to 64 and the reduction of required office space from 28,000 to 22,000 square feet.

² The Commission currently has 54 active FTEs and 2 part time temporary employees.

³ The Commission submitted the Request for Space Form pursuant to the S.C. Code Ann. sections §1-11-55 and §1-11-56.

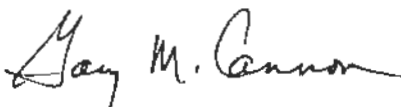
Only two proposals were received. CBRE submitted a proposal to renew the lease for space at the Commission's current location, 1333 Main Street, Columbia, SC and M. Burgess Mills and Associates submitted a proposal for property located at 1777 Saint Julian Place, Columbia, SC. After reviewing the proposals, the Department of Administration recommended approval of the proposal submitted by CBRE for 22,719 square feet at the Commission's current location, 1333 Main Street, for a period of 6 years and 4 months as the least costly bid. The Joint Bond Review Committee approved the proposal on December 8, 2015.

At the SFAA meeting on December 15 Treasurer Loftis requested the SFAA carry the matter over until additional information could be provided justifying leasing the office space in the central business district of the City of Columbia.

While, the RFP indicated a preference that the leased space be "...with-in a three block radius of the Capitol Complex..." this was not a mandatory requirement. The Commission's preference was suggested for many reasons. The Commission's core base of stakeholders and attorneys are located in the downtown area. The Commission's current downtown location is on a major bus route, one block from the bus stop with handicap parking available adjacent to the building. Additionally, the Commission desires to remain at its current location because of the financial implications for relocating, the ease of access to I-20 and I-26, ample parking for stakeholders, and less disruption to the business operations for not closing during the relocation. The Commission would have considered and in fact did consider other locations. No proposals were received from suburban locations. In considering all factors, including but not limited to costs of relocating⁴ and security⁵, remaining at the Commission's current location was considered more cost effective.

I trust this information will assist you in the consideration of our request. I stand ready to respond to any questions members of the SFAA may have.

Sincerely,



Gary M. Cannon
Executive Director

⁴ Estimated to cost \$255,365 to acquire furniture (furniture was included in current lease) and relocation expenses.

⁵ The current location provides 24/7 security for the building, the cost of which is included in the lease. The annual cost for providing the same level of security at the new location will exceed \$150,000 annually

(1) "Governmental body" means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, agency, government corporation, or other establishment or official of the executive branch of this State. Governmental body excludes the General Assembly, Legislative Council, the Legislative Services Agency, the judicial department and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts.

(2) The Division of General Services of the Department of Administration is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section. However, a technical college, with the approval by the State Board for Technical and Comprehensive Education, and a public institution of higher learning, may enter into any lease agreement or renew any lease agreement up to one hundred thousand dollars annually for each property or facility.

(3) When any governmental body needs to acquire real property for its operations or any part thereof and state-owned property is not available, it shall notify the Division of General Services of its requirement on rental request forms prepared by the division. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as General Services may require. Upon receipt of any such request, General Services shall conduct an investigation of available rental space which would adequately meet the governmental body's requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been located which the governmental body and the division agree meets necessary requirements and standards for state leasing as prescribed in procedures of the department as provided for in subsection (5) of this section, General Services shall give its written approval to the governmental body to enter into a lease agreement. All proposed lease renewals shall be submitted to General Services by the time specified by General Services.

(4) The department shall adopt procedures to be used for governmental bodies to apply for rental space, for acquiring leased space, and for leasing state-owned space to nonstate lessees.

(5) Any participant in a property transaction proposed to be entered who maintains that a procedure provided for in this section has not been properly followed, may request review of the transaction by the Director of the Division of General Services of the Department of Administration or his designee.

Credits

HISTORY: 1997 Act No. 153, § 2; 2002 Act No. 333, § 1; 2002 Act No. 356, § 1, Pt VI.P(1); 2011 Act No. 74, Pt VI, § 13, eff August 1, 2011; 2013 Act No. 31, § 1, eff May 21, 2013; 2014 Act No. 121 (S.22), Pt V, § 7.A, eff July 1, 2015.

SC Code of Laws Section 1-11-56, effective July 1, 2015.

(A) The Division of General Services of the Department of Administration, in an effort to ensure that funds authorized and appropriated for rent are used in the most efficient manner, is directed to develop a program to manage the leasing of all public and private space of a governmental body. The department must submit regulations for the implementation of this section to the General Assembly as provided in the Administrative Procedures Act, Chapter 23, Title 1. The department's regulations, upon General Assembly approval, shall include procedures for:

- (1) assessing and evaluating agency needs, including the authority to require agency justification for any request to lease public or private space;
- (2) establishing standards for the quality and quantity of space to be leased by a requesting agency;
- (3) devising and requiring the use of a standard lease form (approved by the Attorney General) with provisions which assert and protect the state's prerogatives including, but not limited to, a right of cancellation in the event of:
 - (a) a nonappropriation for the renting agency;
 - (b) a dissolution of the agency; and
 - (c) the availability of public space in substitution for private space being leased by the agency;
- (4) rejecting an agency's request for additional space or space at a specific location, or both;
- (5) directing agencies to be located in public space, when available, before private space can be leased;
- (6) requiring the agency to submit a multiyear financial plan for review by the department with copies sent to Ways and Means Committee and Senate Finance Committee, before any new lease for space is entered into; and
- (7) requiring prior review by the Joint Bond Review Committee and the requirement of State Fiscal Accountability Authority approval before the adoption of any new or renewal lease that commits more than two hundred thousand dollars annually in rental or lease payments or more than one million dollars in such payments in a five-year period.

(B) Leases or rental agreements involving amounts below the thresholds provided in subsection (A)(7) may be executed by the Department of Administration without this prior review by the Joint Bond Review Committee and approval by the State Fiscal Accountability Authority.

(C) The threshold requirements requiring review by the Joint Bond Review Committee and approval by the State Fiscal Accountability Authority as contained in subsection (A)(7) also apply to leases or rental agreements with nonstate entities whether or not the state or its agencies or departments is the lessee or lessor.

Credits

HISTORY: 1997 Act No. 153, § 2; 2014 Act No. 121 (S.22), Pt V, § 7.B, eff July 1, 2015.

STATE FISCAL ACCOUNTABILITY AUTHORITY
MEETING OF January 26, 2016

REGULAR SESSION
ITEM NUMBER 5

AGENCY: State Fiscal Accountability Authority

SUBJECT: Future Meeting

The next regular meeting of the State Fiscal Accountability Authority will be held at 9:30 a.m. on Tuesday, March 1, 2016, in Room 252, Edgar A. Brown Building.

State Fiscal Accountability Authority Meetings Remaining in 2016

Tuesday, June 7
Tuesday, August 9
Tuesday, September 20
Tuesday, November 1
Tuesday, December 13

AUTHORITY ACTION REQUESTED:

Agree to meet at 9:30 a.m. on Tuesday, March 1, 2016, in Room 252, Edgar A. Brown Building.

ATTACHMENTS: