

## **MINUTES OF STATE FISCAL ACCOUNTABILITY AUTHORITY MEETING**

**December 29, 2016 – 11:00 A. M.**

The State Fiscal Accountability Authority (Authority) met at 11:00 a.m. on Thursday, December 29, 2016, in Room 252 in the Edgar A. Brown Building, with the following member in attendance: Mr. Curtis M. Loftis, Jr., State Treasurer.

Mr. Richard Eckstrom, Comptroller General; Senator Hugh K. Leatherman, Sr., Chairman, Senate Finance Committee; and Representative W. Brian White, Chairman, Ways and Means Committee, participated in the meeting via telephone. Governor Nikki R. Haley, Chair, did not participate in the meeting.

Also attending were State Fiscal Accountability Authority Director Grant Gillespie; Authority General Counsel Keith McCook; Treasurer's General Counsel Bert Cassel; David Starkey, Comptroller General's office; Senate Finance Committee Budget Director Mike Shealy; Ways and Means Chief of Staff Beverly Smith; Authority Secretary Delbert H. Singleton, Jr., and other State Fiscal Accountability Authority staff.

### ***Adoption of Agenda for State Fiscal Accountability Authority***

Upon a motion by Mr. White, seconded by Mr. Eckstrom, the Authority adopted the agenda as proposed.

### ***Department of Administration, Real Property Services: SC State Ports Authority Sale of Real Property (R#1)***

The SC State Ports Authority (SCSPA) requested approval to sell and convey to Leucadia Coast Properties, LLC (Buyer) approximately 1.448 acres (+/-) of highland and 3.591 acres (+/-) of marsh/water located at 176 Concord Street (Parcel A) and approximately 0.300 acres (+/-) of highland and 1.193 acres (+/-) of marsh/water located at 186 Concord Street (Parcel B), both in Charleston, together with buildings and improvements. The Purchase Price is \$38,000,000, which is above the combined appraised value of the Parcels.

Parcel A is currently used for the SCSPA headquarters, and Parcel B, or Fleet Landing, is leased through 2024 to a private entity which operates Fleet Landing Restaurant on the site. The Buyer intends to leave that lease in place, while developing a hotel on Parcel A. Through a separate Parking Agreement, the SCSPA will also transfer its parking rights in the City of Charleston's Concord Parking Garage.

The SCSPA will convey both high ground and the wetland areas by quit claim deed to ensure the Buyer will only receive what the SCSPA can legally convey. As the Buyer intends to develop the property, the SCSPA has obtained a modification to an early Corps of Engineers permit that allowed fill for construction of the SCSPA office building. The permit has been modified to allow construction of the Buyer's proposed hotel. The Buyer has not shown any need for any disturbance of the adjacent wetlands, and no such disturbance could be done in the future without further state and federal permitting.

The SCSPA will lease Parcel A back for a period of up to twenty-four (24) months while it relocates its office operations to Mount Pleasant near the Wando Welch Terminal; however, pursuant to Section 11-35-710, the lease is exempt from the review and approval by the Joint Bond Review Committee and the State Fiscal Accountability Authority required by Section 11-56 (formerly codified as 11-35-1600).

Senator Leatherman asked how much the property was selling for per acre. Neil Robinson, counsel for the Ports Authority, appeared before the Authority. He stated the per acre price of the high ground is approximately \$22 million. He said that most of the acreage that is in the lots of record is marshlands and water lots. He said the State holds presumptive title to those. He said those interests will not be conveyed to the buyer. He stated that the buyer's interest is in the highlands. Senator Leatherman said that he applauds the Ports Authority for producing such a tremendous deal.

Mr. Loftis asked how many acres are left in the larger tract. Mr. Robinson said that in the Union Pier tract there are 60 or 70 acres total with 30 to 35 acres being high ground. He said if the Ports Authority is able to build its new cruise terminal it will sell the property and make it a part of the City of Charleston.

Senator Leatherman further asked if there was a reverter clause involved in the transaction. Mr. Robinson said there is a reverter on the small parcel where the restaurant is located. He said the reverter was in the deed from Charleston County to the Ports Authority 50 years ago. He said the reverter states that if the Ports Authority ceases the operation of wharfs and terminals in the City of Charleston that parcel would revert to the County. He said because of the location of the parcel it cannot be developed because of limitation of developing in that area. Mr. Robinson said that parcel will serve as the entrance to the new hotel and the restaurant

will remain in place and in operation through 2024. Senator Leatherman also asked if the Ports Authority chose to sell the Union Pier property whether the reverter clause will be implicated. Mr. Robinson said not as long as the Ports Authority continues to operate the Columbus Street Terminal. Mr. Robinson noted that the County was offered a substitute reverter and some cash and the County did not accept that offer because they wanted more money.

Mr. Eckstrom asked if the Ports Authority continued to operate in the entire footprint whether there was no risk of reversion. Mr. Robinson said that as long as they are operating wharfs or terminals in the Charleston City limits there will not be a reversion. Mr. Eckstrom asked if the Ports Authority had to occupy the property. Mr. Robinson said that was not the case because the reverter is not parcel specific.

Mr. Loftis asked if the Ports Authority believes that it can convey property below the high water mark. Mr. Robinson said that based on recent Attorney General Opinions they believe they could do so in Port Royal because there is a legislative mandate to sell all of the property the Ports Authority owned to include the marsh. He said in this case there is no legislative mandate and that only the Legislature can change that. He said the answer to Mr. Loftis' question is no. Mr. Loftis further asked if the Ports Authority could grant easements. Mr. Robinson stated that the Ports Authority could give permission for property that it owns for someone to apply for a permit, but it cannot grant an easement that would allow use unless it was properly permitted through the State and the federal governments. He also said he believes the decision of whether to grant an easement would come before the Ports Authority and not the Authority.

Mr. Loftis asked Mr. Robinson if he was convinced that title to property was not being conveyed below the high water mark. Mr. Robinson said that is correct.

In further discussion, Mr. Eckstrom asked if two years is adequate time to construct a new facility. Mr. Robinson said that the belief is that two years is adequate time to construct a new facility.

Upon a motion by Mr. Eckstrom, seconded by Senator Leatherman, the Authority approved the sale and conveyance to Leucadia Coast Properties, LLC (Buyer) of approximately 1.448 acres (+/-) of highland and 3.591 acres (+/-) of marsh/water located at 176 Concord Street (Parcel A) and approximately 0.300 acres (+/-) of highland and 1.193 acres (+/-) of marsh/water

located at 186 Concord Street (Parcel B), both in Charleston, together with buildings and improvements. The Purchase Price is \$38,000,000, which is above the combined appraised value of the Parcels. This transaction will not convey tidelands. Specifically, both parties to the sale have agreed to language in the quit claim deed providing that “The property rights conveyed herein . . . exclude any interest in the tidelands below the mean high water line and any interests created by or limitations on use imposed by South Carolina Code Sections 48-39-10 through 48-39-360, as amended, or any regulations promulgated pursuant to State Law.”

Information relating to this matter has been retained in these files and is identified as Exhibit 1.

### ***Adjournment***

The meeting adjourned at 11:15 a.m.

[Secretary’s Note: In compliance with Code Section 30-4-80, public notice of and the agenda for this meeting were posted on bulletin boards in the office of the Governor’s Press Secretary and in the Press Room, near the Authority Secretary’s office in the Wade Hampton Building, and in the lobbies of the Wade Hampton Building and the Edgar A. Brown Building at 10:25 a.m. on Wednesday, December 28, 2016.]