



Oct. 19, 2012

Meeting of the Executive Committee of the Board of Visitors
of Virginia Commonwealth University

Minutes

A meeting of the Executive Committee of the Board of Visitors of Virginia Commonwealth University was held on Friday, Oct. 19, 2012, at 1:15 pm in the President's Office Conference Room located at 910 W. Franklin St. The full Board was invited to attend.

Present were Dr. Doswell (rector); Messrs. Ginther, Farrell and Siegel; and Mesdames James and Stone. Mr. Shenoy and Mrs. Lambert were absent. Other Board members present were Dr. Perkinson and Mr. McMurtrie. Mr. Royall participated via telephone. Also present were Drs. Rao, Hanson, Macrina and Warren; Messrs. Davenport and Johnson; and Mesdames Balmer, Carter and Hamlett.

The meeting was called to order. The Resolution Authorizing the 2012 Series of Debt to the Virginia College Building Authority for Biotech Renovations was presented. On motion made and seconded, the Executive Committee approved the Resolution Authorizing the 2012 Series of Debt to the Virginia College Building Authority for Biotech Renovations:

**RESOLUTION OF THE EXECUTIVE COMMITTEE OF THE
BOARD OF VISITORS OF
VIRGINIA COMMONWEALTH UNIVERSITY**

**VIRGINIA COLLEGE BUILDING AUTHORITY FINANCING
AUTHORIZATION OF BONDS FOR RENOVATION OF BIOTECH ONE**

WHEREAS, pursuant to and in furtherance of Chapter 3.2, Title 23 of the Code of Virginia of 1950, as amended (the "Act"), the Virginia College Building Authority (the "Authority") developed a program (the "Program") to purchase debt instruments issued by public institutions of higher education in the Commonwealth of Virginia ("Participating Institutions" and each a "Participating Institution") to finance or refinance projects of capital improvement ("Capital Projects" and each a "Capital Project") included in a bill passed by a majority of each house of the General Assembly of Virginia (the "General Assembly");

WHEREAS, under the Program, the Authority from time to time issues its Educational Facilities Revenue Bonds (Public Higher Education Financing Program) ("Pooled Bonds") to finance the purchase or refunding of debt instruments issued by Participating Institutions to finance or refinance Capital Projects;

WHEREAS, if a Participating Institution desires to finance or refinance a Capital Project through the Program it must enter into a loan agreement with the Authority, under which: (i) the Participating Institution will issue its promissory note pursuant to Chapter 3, Title 23 of the Code of Virginia of 1950, as amended, to evidence a loan to it by the Authority; (ii) the Authority will agree to issue Pooled Bonds and use proceeds thereof to purchase the promissory note; (iii) the Participating Institution will agree to use proceeds of Pooled Bonds, loaned to it and received in exchange for its promissory note, to finance or refinance the Capital Project and to not take actions that may jeopardize any federal tax-exempt status of interest on Pooled Bonds allocable to financing or refinancing the Capital Project; and (iv) the Participating Institution will agree to make payments under the promissory note in sums sufficient to pay, together with certain administrative and arbitrage rebate payments, the principal of, premium, if any, and interest due on such Pooled Bonds;

WHEREAS, Chapter 6.1, Title 23 of the Virginia Code, creates Virginia Commonwealth University (the “University” or the “Institution”), which is governed by a Board of Visitors (the “Board”) vested with the supervision, management and control of the University;

WHEREAS, between meetings of the Board, the Executive Committee of the Board (the “Executive Committee”) is vested with the supervision, management and control of the University;

WHEREAS, the University is empowered to incur indebtedness pursuant to (1) Chapter 4.10, Title 23 of the Virginia Code, especially Section 23-38.108, and (2) Chapter 594 of the Acts of Assembly of 2008, being the 2008 Management Agreement between the Commonwealth of Virginia (the “Commonwealth”) and Virginia Commonwealth University, especially Exhibit F, Section X;

WHEREAS, the Institution from time to time desires to finance or refinance Capital Projects for the Institution as a Participating Institution under the Program, and now proposes that the Institution issue its promissory note or notes (collectively, the “Note”) to be sold to the Authority in accordance with a loan agreement or loan agreements between the Institution and the Authority (collectively, the “Loan Agreement”), under which proceeds of Pooled Bonds will be loaned to and received by the Institution in exchange for the Note, to finance or refinance costs of the following Capital Projects authorized for bond financing by the General Assembly: the renovation of the existing three-story research laboratory and office building known as Biotech One (Project Code 17897) (the “Project”) acquired last year by the University;

WHEREAS, the Board has previously approved the issuance of a promissory note of the University in an amount up to \$12,955,000 to finance the Project, and pursuant to that authorization the University issued a promissory note in the amount of \$9,624,662.38 to finance a portion thereof with proceeds of bonds issued by the Authority in 2011; and

WHEREAS, the Executive Committee now desires to approve the issuance of a promissory note of the University in an amount not to exceed \$3,330,337.62 in order to finance the remaining costs of the Project and to such end designates certain Institution officers delegated the authority to approve the forms of and to execute and deliver the Loan Agreement, the Note and any amendments thereto, and any other documents necessary or desirable in connection with financing or refinancing costs of the Project through and participation in the Program.

NOW, THEREFORE, BE IT RESOLVED BY THE EXECUTIVE COMMITTEE OF THE BOARD OF TRUSTEES OF VIRGINIA COMMONWEALTH UNIVERSITY:

Section 1. The Project is hereby designated to be undertaken and financed or refinanced by the Authority and, accordingly, the Vice President for Finance and Administration, the Associate Vice President for Finance and Administration and Treasurer and Director, Treasury Services (the “Authorized Officers”) are each hereby delegated and invested with full power and authority to approve the forms of the Loan Agreement, the Note and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), and any pledge to the payment of the Note and any amendment thereto of total gross university sponsored overhead, unrestricted endowment income, tuition and fees, indirect cost recoveries, auxiliary enterprise revenues, general and nongeneral fund appropriations and other revenues not required by law or previous binding contract to be devoted to some other purpose, restricted by a gift instrument for another purpose or excluded from such pledge as provided in the Loan Agreement, subject to the provisions of Section 3 hereof.

Section 2. Subject to the provisions of Section 3 hereof, the Authorized Officers are each hereby delegated and invested with full power and authority to execute, deliver and issue, on behalf of the Institution, (a) the Loan Agreement, the Note and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), with approval of such documents in accordance with Section 1 hereof evidenced conclusively by the execution and delivery of the respective document, and (b) any other documents, instruments or certificates as may be deemed necessary or desirable to finance or refinance costs of the Project through and participate in the Program, and to further carry out the purposes and intent of this resolution. The Authorized Officers are directed to take such steps and deliver such certificates in connection with delivery of the Note, and any amendment thereto, as

may be required under any existing obligations, including bond resolutions relating to any outstanding general revenue pledge bonds.

Section 3. The authorizations given above as to the approval, execution, delivery and issuance of the Loan Agreement, the Note and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise) are subject to the following parameters: (a) the principal amount to be paid under the Note allocable to any component of the Project, together with the principal amount of any other indebtedness with respect to such component, shall not be greater than the amount authorized for such component by the General Assembly plus amounts needed to fund issuance costs, original issue discount, other financing (including without limitation refunding) expenses and any other increase permitted by law; (b) the aggregate principal amount of the Note shall in no event exceed \$3,330,337.62 as the same may be so increased; (c) the aggregate interest rate payable under the Note shall not exceed a “true” or “Canadian” interest cost more than 50 basis points higher than the interest rate for “AA” rated securities with comparable maturities, as reported by Thomson Municipal Market Data (MMD) or another comparable service or index, as of the date that the interest rates are determined, taking into account any original issue discount or premium; (d) the weighted average maturity of the principal payments due under the Note shall not exceed 20 years after the original issue date of the Note; (e) the last principal payment date under the Note shall not extend beyond the reasonably expected weighted economic life of the Project; and (f) subject to the foregoing, the actual amount, interest rates, principal maturities, and date of the Note shall be approved by an Authorized Officer, as evidenced by the execution thereof.

Section 4. The Executive Committee acknowledges that if there is a failure to make, as and when due, any payment of the principal of, premium, if any, and interest on any promissory note issued by the Institution as a Participating Institution to the Authority under the Program, including without limitation the Note and any amendments thereto, the State Comptroller is authorized under the Program and Section 23-30.29:3 of the Code of Virginia of 1950, as amended, to charge against appropriations available to the Institution all future payments of principal of, premium, if any, and interest on such promissory note when due and payable and to make such payments to the Authority or its designee, so as to ensure that no future default will occur on such promissory note.

Section 5. The Executive Committee agrees that if the Authority determines the Institution as a Participating Institution shall be subject to continuing disclosure obligations under Rule 15c2-12 of the federal Securities and Exchange Commission with respect to any Pooled Bonds, (a) an Authorized Officer shall, and is hereby authorized and directed to, enter into a continuing disclosure undertaking in form and substance reasonably satisfactory to the Authority, and (b) the Institution will comply with the provisions and disclosure obligations contained therein.

Section 6. The Executive Committee directs the Treasurer and Director, Treasury Services, directly or through a designee, to carry the procedures previously adopted by the University regarding post-issuance compliance with respect to tax-exempt bonds as they apply to the Note and the Pooled Bonds, including the Loan Agreement and any amendments thereto, related to maintaining tax-exempt status for federal income tax purposes of interest on any Pooled Bonds, including without limitation monitoring the use of any portion of the Institution Capital Projects financed or refinanced with such Pooled Bonds and compliance with any applicable federal income tax remedial action requirements in connection with certain changes in such use. Such officer shall make a determination as to such post-issuance compliance at least annually for so long as such Pooled Bonds remain outstanding.

Section 7. This resolution shall take effect immediately upon its adoption.

The meeting was adjourned at 1:20 pm.