

Amendments to Use and Management Agreements – University of North Carolina at Pembroke

ISSUE OVERVIEW

The University of North Carolina at Pembroke (“UNCP”) requests that the University of North Carolina Board of Governors authorize amendments to a previously approved use agreement and management agreement, both related to the financing of the University Courtyard Apartments student housing facilities (“Courtyard”). Courtyard’s two-phase construction was financed through the UNCP University Foundation, LLC (the “Foundation”), a Foundation nonprofit entity.

Approval by the Board to amend the use agreement and management agreement will facilitate the purchase of existing Foundation indebtedness (the “2019AB Bonds”) by DNT Asset Trust, a wholly owned subsidiary of JP Morgan Chase Bank, N.A. (“JP Morgan”), from PNC Bank, N.A. (“PNC”) prior to the 2019AB Bonds mandatory tender date of June 1, 2024. The aggregate principal amount of approximately \$16.5 million will be purchased by JP Morgan. The purchase will not affect that outstanding par amount or the financing terms of the 2019AB Bonds. The existing rate of the 2019AB Bonds with PNC is 3.42 percent, which will expire on the mandatory tender date.

In May 2019, the Foundation issued the 2019AB Bonds through the Public Finance Authority on a tax-exempt basis to refinance an interim loan whose proceeds (1) refinanced the Foundation’s 2001A Bonds, which financed the construction of Courtyard Phase I, and (2) financed the construction of Courtyard Phase II. PNC Bank, N.A. (“PNC”) purchased the 2019AB Bonds, providing a fixed rate that expires on June 1, 2024. UNCP and the Foundation solicited bids from leading financial institutions, including PNC, to provide a new fixed rate commitment on the 2019AB Bonds. Upon review, they determined that JP Morgan offered the most favorable combination of both rate and terms.

Amending the use and management agreements will facilitate JP Morgan’s purchase of the 2019AB Bonds from PNC prior to June 1, 2024, and for a new five-year term. After the purchase, the 2019AB Bonds cost of debt will be approximately 4.38 percent. No other terms of the 2019AB Bonds will change in connection with the purchase.

Neither UNCP nor the Foundation carries a public credit rating. The 2019AB Bonds do not currently have a public credit rating and will continue not to have a public credit rating after purchase by JP Morgan.

Parker Poe Adams & Bernstein LLP is bond counsel, and First Tryon Advisors is the financial advisor to UNCP.

RECOMENDATION

It is recommended that the president of the University, or his designee, be authorized to amend the use and management agreements as set out in the attached resolution.

**A RESOLUTION OF THE UNIVERSITY OF NORTH CAROLINA BOARD OF
GOVERNORS AUTHORIZING AGREEMENTS RELATED TO THE
REFINANCING OF RENTALS RELATED TO THE PRIVATE HOUSING
FACILITIES ON THE CAMPUS OF
THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE**

WHEREAS, by Chapter 116 of the General Statutes of North Carolina, the University of North Carolina Board of Governors (the “Board”) of is vested with general control and supervision of the constituent institutions of the University of North Carolina System (“the UNC System”); and

WHEREAS, The UNCP University Foundation, LLC (the “Foundation”) is a North Carolina limited liability company;

WHEREAS, the Public Finance Authority issued its Student Housing Revenue Bonds (the UNCP University Foundation, LLC Project), Series 2019A (the “2019A Bonds”) pursuant to the terms of a Bond Purchase and Loan Agreement (the “BPLA”) among the Public Finance Authority (the “Issuer”), the Foundation and PNC Bank, National Association dated as of May 1, 2019, in order to refinance certain indebtedness used to finance the construction of the project known as University Courtyard Apartments (the “2001 Project”);

WHEREAS, the Issuer issued its Student Housing Revenue Bonds (the UNCP University Foundation, LLC Project), Series 2019B (the “2019B Bonds” together with the 2019A Bonds, the “2019 AB Bonds”) pursuant to the terms of the BPLA in order to provide funds to finance and refinance the costs of the construction of a student housing facility consisting of approximately 196 beds located adjacent to the 2001 Project (the “2019 Project” together with the 2001 Project, the “Project”);

WHEREAS, the 2019AB Bonds are subject to mandatory tender for purchase on June 1, 2024, (the “Tender Date”);

WHEREAS, in conjunction with the 2019 Project, the University of North Carolina at Pembroke (“UNC Pembroke”) has utilized the expertise of its Residential Life Office for the purpose of managing the 2019 Project in accordance with its residential life programs, policies, and procedures pursuant to the terms and conditions of a Management Agreement among the University and the Foundation dated as of May 23, 2019 (the “Management Agreement”); which UNC Pembroke and the Foundation wish to amend to reflect certain modifications with respect to the purchase of the Bonds by the Purchaser on the Tender Date pursuant to a First Amendment to Management Agreement (the “First Amendment to Management Agreement”) to be dated on or prior to the Tender Date;

WHEREAS, UNC Pembroke also desires to amend the Use Agreement between itself and the Foundation dated as of June 21, 2017, by entering into a Second Amendment to Use Agreement (as amended from time to time, the “Second Amendment to Use Agreement” together with the First Amendment to Management Agreement, the First Amendment to BPLA, and any rate lock agreement to be executed between the Foundation and the Purchaser, the “Transaction Documents”) to reflect certain modifications with respect to the purchase of the Bonds by the Purchaser on the Tender Date;

WHEREAS, in order to have the First Amendment to Management Agreement and Second Amendment to Use Agreement executed and delivered by UNC Pembroke, the prior approval of the Board of Trustees of UNC Pembroke, and of the Board of Governors of the University of North Carolina is being

requested;

WHEREAS, there has been presented to the Board forms of the Second Amendment and the Fourth Supplement which the Board proposes to approve and authorize UNC Pembroke to execute and deliver.

NOW, THEREFORE, THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Authorization of Second Amendment to Use Agreement and the First Amendment to Management Agreement. That the form and content of the Second Amendment to Use Agreement and the First Amendment to Management Agreement be and the same hereby are in all respects authorized, approved, and confirmed, and the Chancellor or Vice Chancellor for Finance and Administration of UNC Pembroke and the President, Senior Vice President and Chief Operating Officer, and the Senior Vice President for Finance and Budget of the University be and they hereby are authorized, empowered, and directed to execute, approve, and deliver the Second Amendment to Use Agreement and the First Amendment to Management Agreement, as applicable, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions, or deletions therein as to them seem necessary, desirable, or appropriate, their execution thereof to constitute conclusive evidence of the Board's approval of any and all such changes, modifications, additions, or deletions therein, and that from and after the execution and delivery of the Second Amendment to Use Agreement and the First Amendment to Management Agreement, the Chancellor or Vice Chancellor for Finance and Administration of UNC Pembroke and the President, Senior Vice President and Chief Operating Officer, and the Senior Vice President for Finance and Budget of the University are hereby authorized, empowered, and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Second Amendment to Use Agreement and the First Amendment to Management Agreement as executed.

Section 2. General Authority. From and after the execution and delivery of the documents hereinabove authorized, the Chairman, President, Senior Vice President and Chief Operating Officer, the Senior Vice President for Finance and Budget, the Secretary and the Assistant Secretary of the Board, and the Chancellor or Vice Chancellor for Finance and Administration of UNC Pembroke are hereby authorized, empowered, and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed, and are further authorized to take any and all further actions to execute and deliver any and all other documents as may be necessary to complete the transaction contemplated by the Second Amendment to Use Agreement and the First Amendment to Management Agreement.

Section 3. Conflicting Provisions. All resolutions or parts thereof of the Board in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 4. Effective Date. This Resolution is effective on its adoption.

PASSED, ADOPTED, AND APPROVED this 23rd day of May, 2024.

STATE OF NORTH CAROLINA

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SECRETARY'S CERTIFICATE

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SS:

OF AUTHENTICATION

COUNTY OF WAKE

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I, Meredith R. McCullen, Associate Vice President and Secretary of the University of North Carolina System, *DO HEREBY CERTIFY* that (1) the foregoing is a full, true and correct copy of the approving resolution adopted by the University of North Carolina Board of Governors (the "Board of Governors") at its meeting on May 23, 2024 and appearing in the minutes of such meeting, (2) notice of the meeting of the Board of Governors held on May 23, 2024 was sent to each member of the Board of Governors, and (3) a quorum was present at the meeting on May 23, 2024 at which time the foregoing Resolution was adopted.

WITNESS, my hand and the seal of the University of North Carolina System this ____ day of _____, 2024.

[SEAL]

Meredith R. McCullen, Associate Vice President and
Secretary of the University of North Carolina System