

APPENDIX G

Refinancing of Housing Foundation Indebtedness – WCU

Western Carolina University requests that the Board authorize an amendment to a previously approved use agreement. WCU Research and Development Corporation, a nonprofit entity created for the purpose of constructing student housing on the campus, financed the construction through the issuance of debt. Previously approved by the Board of Governors and the Council of State, WCU entered into a lease agreement and a use agreement that established a debt service schedule, and the amount of rent to be paid by WCU to WCU R&D Corp. for the student housing facility. Due to the current favorable interest rate environment, the outstanding debt can be refinanced and the savings can be passed on to WCU. To accomplish this, the existing use agreement must be amended to adjust the debt service schedule to reflect the savings from the refinancing, make certain conforming changes to reduce or eliminate covenant requirements on WCU, and also adjust the rent to be paid by WCU to WCU R&D Corp.

WCU R&D Corp. plans to refinance approximately \$37 million in outstanding Limited Obligation Bonds (LOBs) for the student housing project financed in 2008. Specifically, refunding bonds will be issued for the purpose of (1) refunding \$37 million of Student Housing Project, Series 2008 Limited Obligation Bonds and, (2) paying transaction costs incurred in connection with the refunding (2016 Bonds).

In total, the University will achieve approximately \$5 million in gross cash savings and \$3.6 million in net present value savings representing 9.59% of refunded par amount of bonds.

First Tryon Advisors is serving as the financial advisor. Parker Poe Adams & Bernstein LLP serves as bond counsel.

It is recommended that WCU be authorized to enter into the revised agreements as set out in the attached resolution.

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A RESOLUTION AUTHORIZING AGREEMENTS RELATED TO THE REFINANCING OF RENTALS RELATED TO THE CONSTRUCTION OF PRIVATE HOUSING FACILITIES ON THE CAMPUS OF WESTERN CAROLINA UNIVERSITY

WHEREAS, by Chapter 116 of the General Statutes of North Carolina, the Board of Governors (the “*Board*”) of the University of North Carolina (the “*University*”) is vested with general control and supervision of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, The University of North Carolina School of the Arts, North Carolina State University, The University of North Carolina at Asheville, The University of North Carolina at Chapel Hill, The University of North Carolina at Charlotte, The University of North Carolina at Greensboro, The University of North Carolina at Pembroke, The University of North Carolina at Wilmington, Western Carolina University (“*WCU*”) and Winston-Salem State University and other institutions; and

WHEREAS, Western Carolina University Research and Development Corporation (the “*Company*”) executed and delivered its Certificates of Participation (Western Carolina University Student Housing Project), Series 2008 (the “*2008 Certificates*”), the proceeds of which were used to construct, acquire and equip student housing facilities with approximately 832 beds on the campus of WCU (the “*Project*”); and

WHEREAS, WCU has determined that it is in its best interests to prepay the 2008 Certificates maturing on and after June 1, 2019 (the “*Refunded 2008 Certificates*”) in advance of their maturities; and

WHEREAS, pursuant to an Indenture of Trust dated as of March 1, 2008 (the “*2008 Indenture*”) between U.S. Bank National Association (the “*Trustee*”) and the Company and Supplemental Indenture, Number 1 (the “*First Supplement*” and together with the 2008 Indenture (the “*Indenture*”), between the Trustee and the Company, the Company will execute and deliver Refunding Limited Obligation Bonds (Western Carolina University Student Housing Project), Series 2016 (the “*2016 Bonds*”) evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the Indenture), to prepay the Refunded 2008 Certificates; and

WHEREAS, the Company, as lessee, entered into a Ground Lease dated March 5, 2008 (as subsequently amended and restated from time to time, the “*Ground Lease*”), whereby the Company leased from the State of North Carolina (the “*State*”) the premises on which the Company has constructed student housing facilities with approximately 832 beds for students at Western Carolina University (the “*Project*”); and

WHEREAS, the Company, as lessor, and the State, as lessee, entered into a Lease Agreement dated March 5, 2008 (the “*Lease*”), whereby the Company leased to the State for a term terminating on or about March 1, 2040 (subject to renewal periods) the Project and the real property on which the Project is located and whereby WCU will agree to pay Base Rentals and any Additional Rentals (as those terms are defined in the Use Agreement hereinafter defined) to the Company and which such Lease provides for the amount of and payment timing of Base Rentals and any Additional Rentals (as those terms are defined in the Use Agreement (as defined below) and collectively referred to herein as “*Rent*”); and

WHEREAS, the Company and WCU will enter into a First Amendment to Use Agreement dated as of April 1, 2016 (the “*First Amendment*”), which amends the Use Agreement between the Company and WCU dated as of March 1, 2008 (the “*Prior Use Agreement*” together with the First Amendment, the “*Use Agreement*”), under which WCU assumes the obligations of the State under the Lease and will be obligated to pay Base Rentals and Additional Rentals to the Company. Base Rentals are to be paid from (1) revenues of the Project and (2) to the extent such revenues are insufficient therefor, revenues received by WCU from its dormitory system after payment of the existing obligations of WCU with respect to its dormitory system specified in the Use Agreement; and

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WHEREAS, the Company will execute and deliver the 2016 Bonds evidencing proportionate undivided interests in the Base Rentals with respect to the Project paid by WCU under the Lease, in order to prepay the Refunded 2008 Certificates. The Base Rentals will be in an amount not less than the payments on the 2016 Bonds and the 2008 Certificates remaining outstanding after execution and delivery of the 2016 Bonds (the “*Unrefunded 2008 Certificates*”), and the Company has assigned its rights to receive such Base Rentals under the Lease to the Trustee for the benefit of the holders of the 2016 Certificates and the Unrefunded 2008 Certificates under the Indenture; and

WHEREAS, WCU and U.S. Bank National Association, as escrow agent, will enter into an Escrow Agreement (the “*Escrow Agreement*”) for the purposes of applying the proceeds of the 2016 Bonds to the payment and prepayment of the Refunded 2008 Certificates; and

WHEREAS, the 2016 Bonds and the Unrefunded 2008 Certificates are not and will not be an obligation of the Board or WCU, but will be secured solely from the Base Rentals paid by WCU under the Lease; and

WHEREAS, there has been presented to the Board forms of the Escrow Agreement, the First Amendment to Use Agreement and the First Supplement which the Board proposes to approve and authorize WCU to execute and deliver; and

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

Section 1. Authorization of First Amendment to Use Agreement, Escrow Agreement and First Supplement. That the form and content of the First Amendment to Use Agreement, the Escrow Agreement and the First Supplement be and the same hereby are in all respects authorized, approved and confirmed, and the Chancellor and Vice Chancellor for Administration and Finance of WCU and the President, the Senior Vice President and Chief Operating Officer of the University or the Vice President-Finance and Chief Financial Officer of the University be and they hereby are authorized, empowered and directed to execute, approve and deliver the First Amendment to Use Agreement, the Escrow Agreement and the First Supplement, 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 First Amendment to Use Agreement, the Escrow Agreement and the First Supplement, the Chancellor and Vice Chancellor for Administration and Finance of WCU and the President, the Vice President-Finance or the Chief Financial Officer 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 First Amendment to Use Agreement, the Escrow Agreement and the First Supplement as executed.

Section 2. General Authority. From and after the execution and delivery of the documents hereinabove authorized the President, the Senior Vice President and Chief Operating Officer of the University or the Vice President-Finance and Chief Financial Officer of the University, the Secretary and the Assistant Secretary of the Board and the Chancellor and Vice Chancellor for Administration and Finance of WCU 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 First Amendment to Use Agreement, the Escrow Agreement and the First Supplement and the execution and delivery of the 2016 Bonds.

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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.

The foregoing Resolution was duly adopted by the Board at a regular meeting of the Board held on the 4th day of March, 2016 and that the same was passed and adopted by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2016.