

Amendment to Use Agreement – University of North Carolina School of the Arts

ISSUE OVERVIEW

University of North Carolina School of the Arts (UNCSA) requests that the Board of Governors authorize an amendment to a previously-approved use agreement related to the financing of the Center Stage student housing facility on the campus of UNCSA that were acquired through a university-affiliated nonprofit entity, University of North Carolina School of the Arts Housing Corporation (the “Company”).

The Company was created for the purpose of acquiring student housing near the campus of UNCSA. To refinance the student housing facilities, the Company previously executed and delivered a Certificate of Participation, Series 2015 (the “2015 COP”), and UNCSA entered into a use agreement and a lease agreement, which were previously approved by the Board and the Council of State. The use agreement established UNCSA’s payment obligations under the lease in an amount equal to the debt service on the 2015 COP.

Due to the current favorable interest rate environment, the Company has the opportunity to refinance the 2015 COP and pass on the savings to UNCSA, which UNCSA anticipates will reduce its payment obligations under the lease and use agreement by approximately \$141,700 on a net present value basis, representing approximately 4.0% of the par amount refunded.

Refinancing the 2015 COP will require an amendment to the use agreement to reflect UNCSA’s lower payment obligations with respect to the 2015 COP. In exchange for locking in a lower rate (from 2.99 percent to 2.00 percent), Capital One requires a waiver to the June 1, 2023 call provision.

Capital One Public Funding, LLC, the current holder of the 2015 COP, has committed to refinance the 2015 COP at lower, fixed rate of interest for all principal payments due after June 1, 2021, eliminating interest rate risk related to the refinancing and reducing costs of issuance.

UNCSA currently has an issuer credit rating of “A2” by Moody’s Investors Service with a stable outlook. UNCSA is currently not rated by Standard & Poor’s or Fitch Ratings. This transaction is expected to have no impact on the credit rating for UNCSA.

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

RECOMMENDATION

It is recommended that UNCSA be authorized to enter into the amendment to the use agreement as set out in the attached resolution.

APPENDIX I

A RESOLUTION AUTHORIZING AMENDMENTS TO AGREEMENTS RELATED TO THE CONSTRUCTION OF STUDENT HOUSING FACILITIES ON THE CAMPUS OF THE UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS

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

WHEREAS, NCSA Housing Corporation, now known as University of North Carolina School of the Arts Housing Corporation (the “Corporation”), executed and delivered its Certificates of Participation (North Carolina School for the Arts Student Housing Project), Series 2005 (the “2005 Certificates”), the proceeds of which were used to acquire a student housing facility containing 156 beds and certain related facilities (the “Project”) connected to the campus of The University of North Carolina School of the Arts (“UNCSA”); and

WHEREAS, the Corporation, as lessor, and the State of North Carolina (the “State”), as lessee, have entered into a Lease Agreement dated as of September 16, 2005 (the “Lease”), whereby the Corporation leases to the State the Project and the real property on which the Project is located and whereby UNCSA, under a Use Agreement dated as of September 1, 2005 (the “2005 Use Agreement”) between UNCSA and the Corporation, agrees to pay Base Rentals and any Additional Rentals (as those terms are defined in the Use Agreement defined below and collectively referred to herein as “Rent”); and

WHEREAS, under an Indenture of Trust dated as of September 1, 2005 (the “2005 Indenture”) between the Corporation and Wachovia Bank, National Association, the successor to which is U. S. Bank National Association, as trustee (the “Trustee”) and Supplemental Indenture, Number 1 dated as of June 1, 2015 (the “First Supplement”) between the Corporation and Trustee, the Corporation executed and delivered a Refunding Certificate of Participation (The University of North Carolina School for the Arts Student Housing Project), Series 2015 (the “2015 Certificate”), to provide the funds to prepay the 2005 Certificates in advance of their maturities; and

WHEREAS, Capital One Public Funding, LLC (“COPF”), the holder of the 2015 Certificate, has committed to reduce the interest rate with respect to the portion of the 2015 Certificate due on and after June 1, 2022 in exchange for eliminating UNCSA’s ability to optionally prepay such amounts; and

WHEREAS, to achieve debt service savings and reduce the interest cost to UNCSA, UNCSA has determined that it is in its best interests to request that the Corporation enter into a Supplemental Indenture, Number 2 (the “Second Supplement” and together with the First Supplement and the 2005 Indenture, the “Indenture”) to execute and deliver a new Refunding Certificate of Participation (The University of North Carolina School of the Arts Student Housing Project) (the “2021 Certificate”) that will prepay the portion of the 2015 Certificate due on and after June 1, 2022, bear interest at the reduced interest rate, not be subject to optional prepayment before maturity, and be subject to other changes COPF requires in connection with the interest rate change; and

WHEREAS, UNCSA has determined that it is in its best interests to amend the Use Agreement in connection with the execution and delivery of the Second Supplement so as to reduce its base rentals over the term of the Lease and establish Base Rentals in an amount sufficient to pay the principal and interest with respect to the 2021 Certificate and make other conforming changes (the “Amendment” and

APPENDIX I

collectively with the 2005 Use Agreement, as previously amended, the “*Use Agreement*”); and

WHEREAS, the 2021 Certificate is not and will not be an obligation of the Board or UNCSEA, but will be secured solely from the Base Rentals paid by UNCSEA; and

WHEREAS, there has been presented to the Board forms of the Amendment and the Second Supplement (collectively, the “*Financing Documents*”) which the Board proposes to approve and authorize UNCSEA 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 the Financing Documents. That the form and content of the Financing Documents be and the same hereby are in all respects authorized, approved and confirmed, and the Chancellor and Vice Chancellor for Finance and Administration of UNCSEA and the President, the President and Senior Vice President for Finance and Administration and CFO of the UNC System (individually and collectively, the “*Authorized Officers*”), be and they hereby are authorized, empowered and directed to execute, approve and deliver the Financing Documents, 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.

Section 2. General Authority. From and after the execution and delivery of the Financing Documents, the Authorized Officers are each 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 Financing 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 Financing Documents and ongoing administration thereof. Any provision in this Resolution that authorizes more than one Authorized Officer to take certain actions shall be read to permit such Authorized Officers to take the authorized actions either individually or collectively

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 22nd day of April, 2021.