

Refinance Limited Obligation Bonds – Western Carolina University

ISSUE OVERVIEW

The Western Carolina University Board of Trustees (WCU) requests authorization to amend the use agreement related to the financing of The Village and Norton Residence Hall student housing facilities (the “Student Housing Facilities”) that were financed through Affinity Housing LLC (the “Company”), a university-created nonprofit entity.

The amendment to the use agreement will authorize the Company to issue a refunding limited obligation bond (the “2023 Bond”) in a principal amount not to exceed \$5,700,000 for the purpose of (1) refunding the callable maturities of the Company’s Refunding Limited Obligation Bonds, Series 2013 (the “2013 Bonds”) and (2) paying costs of issuance related to the 2023 Bonds.

The Company was created for the purpose of constructing student housing at WCU. To finance and refinance the student housing facilities, the Company previously executed and delivered (1) Certificates of Participation (Western Carolina University Student Housing Project), Series 2003 (the “2003 Certificates”) and (2) the 2013 Bonds. In connection with the 2013 Bonds, WCU entered into a Second Amended and Restated Use Agreement, a Second Amended and Restated Ground Lease Agreement, and a Second Amended and Restated Lease Agreement, all of which were previously approved by the University of North Carolina Board of Governors. The Second Amended and Restated Use Agreement established WCU’s payment obligations under the Second Amended and Restated Lease Agreement in an amount equal to the debt service on the Company’s debt.

In anticipation of the June 1, 2023 call date, the Company may refinance the 2013 Bonds at a lower interest rate for debt service savings. WCU estimates that the refinancing will reduce its payment obligations under the related lease and use agreement by approximately \$208,000 on a net present value basis, representing an estimated 3.8 percent of the par amount refunded. The refunding of WCU’s 2013 Bonds will be subject to final review by the System Office to verify savings based on the interest rate environment at the time of the sale of the 2023 Bonds. Refinancing the 2013 Bonds will require an amendment to the use agreement to reflect WCU’s lower payment obligations with respect to the 2023 Bonds.

The 2023 Bonds will be issued on a tax-exempt basis and purchased by DNT Asset Trust, a wholly owned subsidiary of JPMorgan Chase Bank, N.A. (the “Bank”). The Bank was selected through a competitive request for proposals (RFP) process. The 2023 Bonds are expected to be delivered for settlement on or before June 1, 2023, which is the call date for the 2013 Bonds.

WCU currently has an issuer credit rating of “Aa3” with a Stable Outlook by Moody’s. Standard and Poor’s has assigned a rating of “A” with a Stable Outlook to the Company’s 2013 Bonds. This transaction is expected to have no impact on the credit ratings for WCU or the Company.

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

RECOMENDATION

It is recommended that the Board of Governors authorize WCU to amend the use agreement for the student housing facilities as set out in the attached resolution.

**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 System (the "*UNC System*") is vested with general control and supervision of the constituent institutions of the UNC System; and

WHEREAS, Affinity Housing, LLC (the "*Company*") executed and delivered its Certificates of Participation (Western Carolina University Student Housing Project), Series 2003 (the "*2003 Certificates*"), the proceeds of which were used to construct, acquire, and equip an approximately 252-bed student housing facility on the campus of WCU (the "*2003 Project*"); and

WHEREAS, the Company executed and delivered its Certificates of Participation (Western Carolina University Student Housing Project), Series 2005 (the "*2005 Certificates*"), the proceeds of which were used to construct, acquire, and equip an approximately 290-bed student housing facility on the campus of WCU (the "*2005 Project*" and together with the 2003 Project, the "*Project*"); and

WHEREAS, the Company and the State of North Carolina (the "*State*") have entered into a Second Amended and Restated Ground Lease Agreement dated as of March 27, 2013 (the "*Ground Lease*"), whereby the Company leases from the State the real property on which the Company has constructed the Project; and

WHEREAS, the Company, as lessor, and the State, as lessee, have entered into a Second Amended and Restated Lease Agreement dated as of March 27, 2013 (the "*Lease*"), whereby the Company leases to the State the Project and the real property on which the Project is located and whereby WCU agrees to pay 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 have entered into a Second Amended and Restated Use Agreement dated as of March 1, 2013 (the "*Use Agreement*"), whereby WCU assumes the obligations of the State under the Lease and is obligated to pay Rent to the Company. Base Rentals are paid from (1) revenues of the Project and (2) to the extent such revenues are insufficient therefore, 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

WHEREAS, the Company executed and delivered its Refunding Limited Obligation Bonds (Western Carolina University Student Housing Project), Series 2013 (the "*2013 Bonds*"), the proceeds of which were used to prepay in advance of their maturities the 2003 Certificates; and

WHEREAS, the Company executed and delivered its Refunding Limited Obligation Bonds (Western Carolina University Student Housing Project), Series 2015 (the "*2015 Bonds*"), the proceeds of which were used to prepay in advance of their maturities the 2005 Certificates; and

WHEREAS, WCU and the Company and its financial advisor have advised the Board that it may be able to achieve debt service savings by refunding all or a portion of the 2013 Bonds and thereby decrease the Rent for the Project; and

WHEREAS, pursuant to an Indenture of Trust Dated as of October 15, 2003 (the “2003 Indenture”) between the Company and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), as previously supplemented and amended, and Supplemental Indenture, Number 4 (the “Fourth Supplement” and together with the 2003 Indenture, the “Indenture”) between the Company and Trustee, the Company will execute and deliver refunding limited obligation bonds (the “2023 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 2013 Bonds; and

WHEREAS, in conjunction with the prepayment of the 2013 Bonds the Company and WCU will enter into an amendment to the Use Agreement (the “Amendment to the Use Agreement”) to account for the execution and delivery of the 2023 Bonds, including revisions to Exhibit B to reflect the decrease in Base Rentals resulting from the prepayment of the 2013 Bonds; and

WHEREAS, the 2023 Bonds 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 have been presented to the Board a form of the Amendment to the Use Agreement and the Fourth 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 Amendment to the Use Agreement and Fourth Supplement.

That the form and content of the Amendment to the Use Agreement and the Fourth 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 Chairman of the Board, the President of the UNC System, the Senior Vice President for Finance and Administration of the UNC System, the Secretary and the Assistant Secretary of the UNC System, or anyone acting in an interim capacity, individually or collectively (collectively, the “Authorized Officers”), be and they hereby are authorized, empowered and directed to execute, approve and deliver the Amendment to the Use Agreement and the Fourth 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 Amendment to the Use Agreement and the Fourth Supplement, the Authorized Officers 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 Use Agreement and the Indenture, as supplemented and amended, including the execution and delivery of amendments to the Ground Lease and Lease if necessary to consummate the transaction described in this Resolution.

Section 2. General Authority. From and after the execution and delivery of the documents hereinabove authorized, the Authorized Officers 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 and administer the transaction contemplated by the Ground Lease, the Lease, the Amendment to Use

Agreement, the Fourth Supplement, the Use Agreement and the Indenture, as supplemented and amended, and the execution and delivery of the 2023 Bonds.

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 ____ day of April, 2023.

**SECRETARY'S CERTIFICATION
OF AUTHENTICATION**

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

I, Meredith 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 Board of Governors of the University of North Carolina System at its regular meeting on April __, 2023 and appearing in the minutes of such meeting, (2) notice of the meeting of the Board of Governors of the University of North Carolina System held on April __, 2023 was sent to each member of the Board, and (3) a quorum was present at the meeting on April __, 2023 at which time the foregoing Resolution was adopted.

WITNESS, my hand and the seal of the University of North Carolina this ____ day of April, 2023.

[SEAL]

Associate Vice President and Secretary of the
University of North Carolina System