

APPENDIX C

Loan Agreement and Promissory Note – University of North Carolina at Pembroke

ISSUE OVERVIEW

The University of North Carolina Board of Governors (the “Board”) is authorized to issue special obligation bonds for capital improvements projects that have been approved by the North Carolina General Assembly. Although a specific source of funding is used by a campus when retiring these bonds, special obligation bonds are generally payable from all campus revenues excluding tuition, State appropriations, and restricted reserves. The Board may also enter into or negotiate a note with an acceptable bank in lieu of issuing special obligation bonds for the financing of special obligation bond projects.

The University of North Carolina at Pembroke (“UNCP”) requests that the Board enter into a loan agreement not to exceed \$9.511 million (the “Loan Agreement”) and promissory note (the “Note”) for the purpose of (1) financing the construction of the Campus Recreation/Baseball Softball Outdoor Complex (the “Special Obligation Bond Project”), (2) as market conditions warrant, refinancing UNCP’s allocable share of the outstanding 2008A UNC System Pool Revenue Bonds (the “2008A Bonds”), and (3) paying issuance expenses and other related additional costs. UNCP estimates that it can achieve approximately \$30,000 in net present value savings by refunding the 2008A Bonds, representing roughly 2.6 percent of the par amount refunded. UNCP’s expected cost of funds is approximately four percent.

The total project cost for the Campus Recreation/Baseball Softball Outdoor Complex is estimated to be \$11.3 million. The General Assembly authorized financing of \$4.4 million under S.L. 2018-35 and authorized an increase of \$3.42 million under S.L. 2023-66. UNCP will contribute up to \$3.48 million from previously collected debt service fees or university reserves.

The Loan Agreement and Note may be entered into with respect to financing the Special Obligation Bond Project and related costs in an aggregate principal amount not to exceed \$7.82 million plus up to five percent of such amount to pay issuance expenses and other related additional costs. The Loan Agreement and Note may be entered into with respect to refinancing the 2008A Bonds allocable to UNC Pembroke and finance related issuance expenses and other related additional costs in an aggregate principal amount not to exceed \$1.3 million. Loan Agreement and Note will be entered into with DNT Asset Trust, a wholly owned subsidiary of JPMorgan Chase Bank, N.A., (the “Lender”), which was selected through a competitive Request for Proposal process. UNCP’s interest payments to the Lender will be exempt from federal taxes.

UNCP’s existing special obligation bonds do not carry a credit rating, and the Note is likewise not expected to be rated. Entering into the Loan Agreement and Note is thus expected to have no impact on UNCP’s credit rating.

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

RECOMMENDATION

It is recommended that the president of the University, or his designee, be authorized to enter into a loan agreement, in lieu of selling a special obligation bond, through the attached resolution.

**RESOLUTION OF THE BOARD OF GOVERNORS
OF THE UNIVERSITY OF NORTH CAROLINA SYSTEM AUTHORIZING
THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE
TO ENTER INTO A LOAN TO FINANCE AND REFINANCE
SPECIAL OBLIGATION BOND PROJECTS**

WHEREAS, pursuant to 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, the Board is authorized by Chapter 116D of the General Statutes of North Carolina (the “*Act*”) to issue, subject to the approval of the Director of the Budget, at one time or from time to time, (1) special obligation bonds of the Board for the purpose of paying all or any part of the cost of acquiring, constructing, or providing special obligation projects and (2) refunding bonds for the purpose of refunding any bonds by the Board under the Act or under any Article of Chapter 116 of the General Statutes of North Carolina, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds refunded; and

WHEREAS, the Board may enter into or negotiate a note with an acceptable bank in lieu of issuing special obligation bonds for the financing of special obligation bond projects under the Act;

WHEREAS, the University of North Carolina at Pembroke (“*UNC Pembroke*”) has advised the Board that it is ready to undertake the construction of a campus recreation center / baseball and softball outdoor complex as authorized by S.L. 2018-35 of the 2018 Session of the North Carolina General Assembly and supplemented by S.L. 2023-66 of the 2023 Session of the North Carolina General Assembly (the “*Special Obligation Bond Project*”);

WHEREAS, UNC Pembroke and its financial advisor have advised the Board that it may be able to achieve debt service savings related to refunding the portion of The University of North Carolina System Pool Revenue Bonds, Series 2008A (the “*2008A Bonds*”) allocable to UNC Pembroke, previously issued by the Board to finance and refinance the acquisition, construction and equipping of a football/multipurpose tower at UNC Pembroke;

WHEREAS, UNC Pembroke requests that the Board authorize UNC Pembroke, on the Board’s behalf, to enter into a loan agreement (the “*Loan Agreement*”) and promissory note (the “*Note*”) with DNT Asset Trust, a wholly owned subsidiary of JPMorgan Chase Bank, N.A. (the “*Lender*”), selected through a request for proposal process, to (1) finance the Special Obligation Bond Project, (2) refinance the portion of the 2008A Bonds allocable to UNC Pembroke and (3) pay the costs of entering into the Loan Agreement and Promissory Note; and

WHEREAS, the obligations under the Loan Agreement and Note will be payable solely from any legally available funds of UNC Pembroke, or of the Board held for UNC Pembroke, in each Fiscal Year, but excluding (1) appropriations by the General Assembly of the State of North Carolina (the “*State*”) from the State General Fund, (2) tuition payments by UNC Pembroke students, (3) funds whose purpose has been restricted by the gift, grant or payee thereof, (4) revenues generated by Special Facilities, and (5) funds restricted by law (the “*Available Funds*”); and

WHEREAS, in order to lock the interest rate with the Lender until the execution and delivery of the Loan Agreement and the Note, UNC Pembroke will either enter into a separate agreement with the Lender (a "*Rate Lock Agreement*") to pay an amount necessary to make the Lender whole for a change in interest rates if UNC Pembroke does not execute and deliver the Loan Agreement and Note as described in this Resolution;

WHEREAS, there have been made available to the Board form of the Loan Agreement, Note and the Rate Lock Agreement (collectively, the "*Financing Documents*") which the Board proposes to approve, ratify and authorize UNC Pembroke to execute and deliver to effectuate the financing; and

WHEREAS, the execution and delivery of the Financing Documents does not directly or indirectly or contingently obligate the State or any agency or political subdivision of the State to levy or to pledge any taxes to pay the cost, in whole or in part, of the financing and refinancing described herein in compliance with Section 116D-23 of the Act;

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. ***Authorization of Financing Documents.*** That the form and content of the Loan Agreement and Note are and the same hereby are in all respects authorized, approved and confirmed, and to finance the Special Obligation Bond Project, refinance the portion of the 2008A Bonds allocable to UNC Pembroke and pay the costs of entering into the Loan Agreement and Promissory Note, the Chancellor and Vice Chancellor for Finance and Administration of UNC Pembroke, and their respective designees, be and they hereby are each authorized, empowered and directed to execute and deliver the Loan Agreement and Note for and on behalf of the Board and UNC Pembroke, 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. The Loan Agreement and Note may be entered into with respect to financing the Special Obligation Bond Project and related costs in an aggregate principal amount not to exceed \$7,820,000, plus up to five percent (5%) of such amount to pay issuance expenses and other related additional costs. The Loan Agreement and Note may be entered into with respect to refinancing the 2008A Bonds allocable to UNC Pembroke and finance related issuance expenses and other related additional costs in an aggregate principal amount not to exceed \$1,300,000.

In order to lock the interest rate before the execution and delivery of the Loan Agreement and the Note, the Chancellor and Vice Chancellor for Finance and Administration of UNC Pembroke, and their respective designees, individually or collectively, are authorized to (1) either enter into a Rate Lock Agreement whereby UNC Pembroke will agree to make a payment under certain circumstances to compensate the Lender for a change in interest rates if the Loan Agreement and the Note are not executed and delivered, and (2) to the extent necessary, make any such payment from any legally available funds of UNC Pembroke that may be required under the Rate Lock Agreement.

Section 2. ***Sufficiency of Available Funds.*** The Board hereby finds that sufficient Available Funds are available to pay the principal of and interest on the Loan Agreement and the Note and to provide for the maintenance and operation of the facilities at UNC Pembroke to the extent required under the Loan Agreement and the Note.

Section 3. **General Authority.** From and after the execution and delivery of the Loan Agreement and Note, the Chancellor and Vice Chancellor for Finance and Administration of UNC Pembroke and the President and the Senior Vice President for Finance and Administration and CFO of the UNC System (the “SVP-Finance”), the Chair, the Secretary and the Assistant Secretary of the Board and the Secretary of the UNC System, or anyone acting in an interim capacity, and their respective designees, individually and collectively, 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 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 the issuance and on-going administration of the Loan Agreement and Note.

Section 4. **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 5. **Effective Date.** This Resolution is effective immediately on the date of its adoption.

PASSED, ADOPTED, AND APPROVED this 19th day of July, 2023.

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 Board of Governors of the University of North Carolina System (the "*Board of Governors*") at its meeting on July 19, 2023, and appearing in the minutes of such meeting, (2) notice of the meeting of the Board of Governors held on July 19, 2023, was sent to each member of the Board of Governors, and (3) a quorum was present at the meeting on July 19, 2023, at which time the foregoing Resolution was adopted.

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

[SEAL]

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