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University of South Carolina

BOARD OF TRUSTEES

Executive Committee

December 18, 2006

The Executive Committee of the University of South Carolina Board of Trustees met on Monday, December 18, 2006, at 9:30 a.m. in the 1600 Hampton Street Board Room.

Members present were: Mr. Herbert C. Adams, Chairman; Mr. James Bradley; Dr. C. Edward Floyd; Mr. Miles Loadholt; Mr. Michael J. Mungo; and Mr. Mack I. Whittle, Jr. Other Trustees present were: Mr. William L. Bethea, Jr.; Mr. Mark W. Buyck, Jr.; Mr. John W. Fields; Mr. Samuel R. Foster, II; Mr. William W. Jones; Mr. M. Wayne Staton; Mr. John C. von Lehe, Jr.; Mr. Eugene P. Warr, Jr.; and Mr. Othniel H. Wienges, Jr.

Others present were: President Andrew A. Sorensen; Secretary Thomas L. Stepp; Executive Vice President for Academic Affairs and Provost Mark P. Becker; Vice President and Chief Financial Officer Richard W. Kelly; Vice President for Research and Health Sciences Harris Pastides; Vice President for Advancement Brad Choate; Vice President for Student Affairs Dennis A. Pruitt; General Counsel Walter (Terry) H. Parham; Vice Provost and Executive Dean for Regional Campuses and Continuing Education Chris P. Plyler; Chancellor of USC Aiken Thomas L. Hallman; Vice Chancellor of USC Aiken Virginia Steel Hudock; Dean of USC Lancaster John Catalano; Assistant Vice Provost for Academic Affairs William T. Moore; Dean of the School of Law Walter F. Pratt, Jr.; Dean of University Libraries Paul A. Willis; Director of the Children's Law Center Harry Davis; Director of Athletics Eric C. Hyman; Director of Government Affairs and Legislative Liaison Johnny D. Gregory; Assistant Treasurer Susan D. Hanna; Assistant to the Vice President, Division of Business and Finance, Ken Corbett; Associate Director of Governmental Affairs and Legislative Liaison Casey Martin; Director of Administrative Services, University Libraries, C. J. Cambre, Jr.; Director of the Thomas Cooper Library Thomas F. McNally; Head of Acquisitions, University Libraries, Joseph M. Pukl, Jr.; Professor in the College of Pharmacy and Chair of the Faculty Senate C. Eugene Reeder; USC Columbia Student Government Association President Tommy Preston; Bond Counsel Wayne Corley, McNair Law Firm, LLC; Bond Counsel John Van Duys, Haynesworth Sinkler Boyd, P.A.; Bond Counsel, Dianne McNabb, A.G. Edwards and Sons; Director of the Office of

University Communications, Division of University Advancement, Russ McKinney, Jr.; Board staff members Vera Stone and Karen Tweedy; and members of the media.

Chairman Adams called the meeting to order and asked Mr. McKinney to introduce members of the media who were in attendance. Chairman Adams stated that notice of the meeting had been posted and the press notified as required by the Freedom of Information Act; the agenda and supporting materials had been circulated to members of the Committee; and a quorum was present to conduct business.

Chairman Adams stated that there were contractual matters relative to naming opportunities and a property acquisition which were appropriate for discussion in Executive Session. Chairman Adams called for a motion to enter Executive Session. Mr. Whittle so moved. Mr. Bradley seconded the motion. The vote was taken, and the motion carried.

The following persons were invited to remain: President Sorensen, Secretary Stepp, Mr. Parham, Mr. Kelly, Mr. Choate, Dr. Becker, Dr. Pastides, Dr. Pruitt, Dr. Plyler, Mr. Hyman, Mr. McKinney, Ms. Stone and Ms. Tweedy.

Return to Open Session

I. Contractual Matters: Naming Opportunities: Chairman Adams called on Secretary Stepp who reported that the following gift naming opportunity, in conjunction with an appropriate donation, had been received and was unanimously recommended by the Gift Naming Opportunities Committee. The contribution from Dolores Anderson was to establish the naming opportunity for the Academic Enrichment Center.

A. "The Dolores Anderson Academic Enrichment Center" Athletics Department: Chairman Adams stated that this naming opportunity was presented to the Executive Committee in Executive Session without objection and would be presented to the full Board in Executive Session.

B. "The Charlton F. Hall, Sr. Baseball Field" - Athletics Department: Chairman Adams advised that a copy of this report had been distributed to members in the materials for this meeting and was read into the record in Executive Session of the Executive Committee meeting. This report dealt with real estate transactions with respect to the Baseball Stadium.

II. Contracts Valued In Excess of \$250,000:

A. Proposed Whaley House Purchase: Mr. Parham reported that the Children's Law Center was established by the USC School of Law in 1995 to serve as a training and resource center for family court workers and attorneys who participated in legal proceedings involving children. The Center taught courses at the Law School, provided Continuing Legal Education and legal research for attorneys and judges, trained guardian ad litem and state agency case workers, and performed research-based juvenile justice programs. Currently, the Center provided more than 225 training programs and professional meetings annually to more than 5,000 professionals who protected, served and represented children in family courts. The Center was currently located on the 5th floor of 1600 Hampton Street where it had no on-site training or meeting space.

For that reason, Harry Davis, Director of the Children's Law Center, with the approval of Dean Jack Pratt and President Sorensen, was seeking approval from the Executive Committee to enter into a Contract of Sale to purchase the property located at 1527 Gervais Street as the new home for the Children's Law Center. This property was located directly across Gervais Street from the proposed site of the new law school. It consisted of approximately 1.25 acres, and contained 2 structures: the Whaley House (8,012 square feet), and an adjacent Carriage House (5,140 square feet). There were also 70 parking spaces on the property. Mr. Parham stated that the Dunbar Funeral Home had occupied this property for many years and the property was owned by Stewart Enterprises, Inc.

Mr. Parham noted that the purchase price was \$1.5 million. Under the terms of the Contract of Sale, the Children's Law Center will deposit \$10,000 earnest money with the seller upon the execution of the contract, and will have 180 days to inspect the property and engage in fundraising activities. The Center could extend the inspection period for an additional 90 days by making an additional escrow deposit of \$15,000. If the Center terminated the contract at any time during the inspection period, it will receive a full refund of its escrow deposits.

The Children's Law Center will be responsible for raising funds necessary to purchase the property as well as funds for renovation. Renovation costs were estimated to be approximately \$1,500,000. The fundraising activities will be directly supervised and coordinated by the Law School in conjunction with its on-going capital campaign.

In order to protect the Children's Law Center, the Center's obligation to close on this transaction had been made subject to a number of contingencies stated in the Contract of Sale, including: the Center's obtaining necessary funding to pay the purchase price and cost of renovations; the property's being appraised at a value equal to or greater than the purchase price; and the Center's obtaining all necessary governmental approvals to purchase the property, including the approval of the Board of Trustees and the S.C. Budget and Control Board.

Mr. Parham advised that there were two slight modifications to the Contract of Sale included in the agenda package. Paragraph III (B) on page 2 had been amended to include a reference to Paragraph VII (D), and Paragraph VII (D) had been amended to delete the phrase "as set forth in Paragraph III."

Mr. Parham commented that Mr. Davis and Dean Pratt were available to answer questions if needed.

Mr. Whittle moved approval of the contract as presented and described in the materials distributed for the meeting. Mr. Bradley seconded the motion. The vote was taken, and the motion carried.

Mr. Whittle asked if the building was on the National Registry of Historic Places, and if so, will it require any special maintenance and upkeep and/or will it limit the usage in the future as to how the property can be used?

Mr. Harry Davis, Director of the Children Law Center, responded that the building was on the historic register. The University had several discussions with the Columbia Historic Foundation and discussions with the architects and engineers. And, it was his understanding that the University would not be permitted to alter the exterior of the building without permission of the Columbia Historic Foundation. However, interior renovations could be made as the University might

desire. The USC engineer had also looked at the building in a preliminary examination and stated that it appeared to be a sound structure.

Mr. Bradley asked if the funeral home had a long term lease.

Mr. Davis responded that Stewart Enterprises was a New Orleans Corporation and owned approximately 250 funeral homes throughout the nation. This facility was acquired from the Dunbar family approximately 10 years ago. Stewart Enterprises owned it free and clear and there was no part of the premises under lease.

Mr. Whittle was concerned that this project might divert from the fundraising efforts of the Law School. Dr. Sorensen stated that if the Board directed the Development Foundation, it could be instructed by the Board to acquire the property. President Sorensen stated that he had made it very clear to the dean that if this agreement was approved, the Law School had to raise 100 percent of the funding for this property. Mr. Whittle stated that in the spirit of what the Development Foundation was for, it could buy, acquire, hold and incubate properties so that the University would not have to use their capital.

B. Global Spectrum - USC Aiken: Mr. Parham reported that on behalf of Chancellor Tom Hallman, and with the approval of President Sorensen, USC Aiken was seeking approval to enter into a Facilities Management Agreement with Global Spectrum, LP for the management and operation of the USC Aiken Convocation Center. The Convocation Center would open in April 2007 as a 105,000 square foot, multi-purpose venue with more than 3,300 fixed seats and a total seating capacity of approximately 4,000. The facility included a main gymnasium area, VIP banquet room, 2 upper level playing courts, athletics training facilities and offices. The facility was designed to accommodate a variety of events and would be the home court for USC Aiken's intercollegiate basketball games.

The contract had resulted from a competitive solicitation in accordance with the South Carolina Consolidated Procurement Code. Global Spectrum was selected because of its vast experience in managing event venues, including USC's own Colonial Center. The initial term of the contract was for a 3 year period beginning January 1, 2007. USC Aiken had the right to extend the term for an additional 2 year period by giving Global not less than 90 days written notice prior to the expiration of the initial term.

Mr. Parham noted that USC Aiken had the right to terminate the contract: (1) without penalty for non-performance by Global Spectrum; (2) without penalty upon 60 days notice in the event Global Spectrum failed to achieve at least 90 percent of the net revenue projected in its operating budget for the 2008-09 Operating Year (\$158,000 was projected); and, (3) at any time without cause upon 60 days notice, but USC Aiken would be required to pay liquidated damages of \$84,000.

In addition, Global Spectrum would be granted the right to act as the exclusive manager and operator of the Convocation Center. In essence, Global Spectrum would perform the same functions at the Convocation Center that they currently performed at the Colonial Center. Those functions included such things as:

(1) Manage all aspects of the facility, including security, crowd control, routine repairs, preventative maintenance, event janitorial services, event promotions and sponsorships, box office, admission procedures, and general user services.

(2) Establish and adjust prices, rates and rate schedules for users of the facility, event advertising agreements, and booking commitments.

(3) Arrange for and otherwise book events at the facility in accordance with a booking schedule to be developed by Manager in full consultation with and approved by USC Aiken.

(4) Hire or otherwise engage, pay, supervise, and direct all personnel deemed necessary for the operation of the facility.

(5) Maintain detailed, accurate and complete financial and other records of all its activities in accordance with generally accepted accounting principles, which records shall be made available to USC Aiken upon request.

(6) Prepare a proposed annual operating budget and submit such proposed budget to USC Aiken for approval.

(7) Prepare and implement public relations and other promotional programs for the facility.

(8) Manage risk management and insurance needs of the facility.

Mr. Parham stated that in exchange for managing and operating the facility, Global would receive the following compensation:

(1) Management Fee. Global Spectrum would receive a fixed management fee equal to \$4,000 per month for January - March, 2007. This was the pre-opening period. Beginning April 2007 when the facility opens, Global would receive a fixed management fee of \$7,000 per month through June 30, 2008. At that point, the fixed management fee would increase each succeeding year by the percentage increase in the Consumer Price Index for the local Aiken, SC area, as published by the United States Department of Labor, Bureau of Labor Statistics or such other successor or similar index ("Local CPI"), not to exceed three (3%) percent per year.

(2) Incentive Fee. Global Spectrum would also receive an incentive fee in the event gross revenues generated by Global were in excess of the following benchmarks:

<u>Operating Year</u>	<u>Revenue Benchmark</u>	<u>Incentive Fee</u>
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4-1-07 - 6-30-08	Less than \$1,030,000	\$ 0	
	\$1,030,000	\$ 25,000	(2.42 percent)
	\$1,131,000	\$ 50,000	(4.42 percent)
	\$1,230,000	\$ 75,000	(6.09 percent)
	\$1,330,000	\$105,000	(7.89 percent)
7-1-08 - 6-30-09	Less than \$903,000	\$ 0	
	\$ 903,400	\$ 25,000	(2.76 percent)
	\$1,003,400	\$ 50,000	(4.98 percent)
	\$1,103,400	\$ 75,000	(6.79 percent)
	\$1,149,500	\$ 85,525	(7.44 percent)

For Operating Years 3, 4 and 5, the revenue benchmark shall be equal to that of the previous year plus an increase in accordance with the percentage increase in Local CPI (not to exceed 3 percent per year).

Mr. Parham reported that annually, USC Aiken would receive all net revenue generated at the Convocation Center. Net revenue was defined as gross revenues less approved operating expenses, including the management fees and incentive fees mentioned previously. Operating budgets for the first 3½ years had been developed and agreed to by the parties. Based on these budgets, USC Aiken projected that they would receive \$350,000 in net revenue during this time period. Other projections were as follows:

January - March, 2007: net loss of \$112,000
 April 2007 - June, 2008: projected net revenue to USCA - \$157,000
 July 1, 2008 - June 30, 2009: projected net revenue to USCA - \$158,000

Certain sponsorship agreements and naming opportunities at the Convocation Center had been sold by USC Aiken. These sponsorships were listed in Exhibit B of the contract and totaled approximately \$489,000.

Mr. Parham stated that Ginger Huddock, USC Aiken's Vice Chancellor for Business and Finance was available to answer questions about this contract.

Mr. Loadholt moved approval of the contract as presented and as described in the materials distributed for the meeting. Mr. Mungo seconded the motion. The vote was taken, and the motion carried.

C. Elsevier B.V. License Agreement - Thomas Cooper Library: Mr. Parham reported that another contract for Board consideration was the agreement between the University's Library and a company named Elsevier. Elsevier owned and operated an on-line periodical service called ScienceDirect which provided subscribers with electronic access to science journals.

Mr. Parham stated that in 2004, the Executive Committee had approved a 3 year license agreement between the University's Library and Elsevier. That contract would expire December 31, 2006 and the agreement before the Committee today was to extend the license.

The term of the new license agreement was for five years commencing

January 1, 2007 and ending December 31, 2011. The University would pay as follows:

Year 1:	\$1,098,389.92
Year 2:	\$1,168,745.95
Year 3:	\$1,241,808.25
Year 4:	\$1,307,711.16
Year 5:	<u>\$1,370,346.72</u>
Total:	\$6,187,001.00

These funds would be paid from the Library's Materials budget (which had approximately \$5 million per year). In exchange for these payments, the University would be granted on-line access to approximately 619 science journals plus approximately 939 titles in what was called the "Freedom Collection." In addition, the University received print subscriptions to approximately 60 titles.

The on-line access would be available to all University faculty, staff and students on all campuses, including the Medical School and the Law School. Mr. Parham stated that this was a significant benefit to our faculty and students because it allowed them the ability to access the science database and to conduct research from their offices and homes rather than having to go to the Library.

Mr. Whittle moved approval of the agreement as described in the materials distributed for the meeting. Mr. Mungo seconded the motion. The vote was taken, and the motion carried.

Mr. Parham stated that the University had paid approximately \$2,802,508 under the previous agreement with Elsevier, therefore, the new agreement was slightly higher.

D. South Carolina Net d/b/a/ Spirit Telecom: Mr. Parham stated that on behalf of Dr. Hogue who was unable to attend the meeting due to an illness, he was requesting permission to accept a donation from Spirit Telecom of 2 fiber optic cables and associated electronics. This telecommunications infrastructure would be used by the University to deliver voice, video, and data services throughout the University system on campus. The term of the donation was one year beginning June, 2006. The value of the gift was \$348,600. By accepting the gift, the University would not incur any additional financial obligations.

Mr. Parham remarked that Dr. Hogue was particularly appreciative of the gift. Without it, he would be forced to incur the expense of purchasing similar telecommunications access capability elsewhere.

Mr. Bradley moved approval of the agreement as presented and described in the materials distributed for the meeting. Mr. Mungo seconded the motion. The vote was taken, and the motion carried.

E. Innovista Parking Garage Resolution: Mr. Adams called on Mr. Kelly who requested approval of the Innovista Parking Garage Resolution. Mr. Kelly stated that two parking garages would be constructed as part of the Innovista project. One parking lot, Horizon, was being funded jointly by the City of Columbia and Richland County and the other, Discovery Plaza garage, would be funded solely by the City of Columbia. The parties contemplated amending the Operating Agreement so that the University would arrange for a letter of credit to be provided for approximately 55 percent of the annual debt service which would be due and payable in connection with a Special Revenue Bond issue in the amount of approximately \$18,500,000.

Mr. Mungo moved approval as described in the materials distributed for the meeting. Mr. Bradley seconded the motion. The vote was taken, and the motion carried.

III. Arena Athletics Facilities Revenue BAN: Mr. Kelly stated that annually a request was made so that these BANs were preapproved to be paid down over the next three years. These BANs were in accordance with that schedule. He requested to approve the issuance of Athletic Facilities Revenue Bond Anticipation notes Series 2007A, in the principal amount not to exceed \$3,560,000.

Among questions raised was how much pay down would the University experience and what were the rates on the BAN borrowing. Mr. Kelly responded that the rates were slightly higher than last year, approximately 3.75 percent. Also, the stadium BANs would be paid from \$3.3 million down to \$1.8 million and the next one would be from \$2.7 million down to \$1.8 million.

Mr. Mungo moved approval as described in the materials distributed for the meeting. Mr. Loadholt seconded the motion. The vote was taken, and the motion carried.

IV. Stadium Athletics Facilities Revenue BAN: Mr. Kelly requested approval to refund and refinance the Stadium Athletics Facilities Revenue BAN, Series 2007B, in the principal amount of not exceeding \$3,295,000.

Mr. Mungo moved approval as described in the materials distributed for the meeting. Mr. Bradley seconded the motion. The vote was taken, and the motion carried.

Mr. Mungo made an inquiry as to what was the original amount and what was the current amount? Mr. Kelly responded that the arena BAN was initially \$7 million and that the current balance was \$2.7 million; it would be paid down to \$1.8 million.

V. Higher Education Revenue Bond Act - Columbia Housing Resolution: Mr. Kelly requested approval of a Housing Revenue Bond Resolution that provided for

revenue bonds to finance the construction, capitalized interest and issuance costs of the Honors Residence Hall to be built on the site of the Towers block. The principal amount would not exceed \$52,000,000.

Mr. Loadholt moved approval as described in the materials distributed for the meeting. Mr. Whittle seconded the motion. The vote was taken, and the motion carried.

VI. Other Matters: Request for Special Tuition Rate - College of

Education: Chairman Adams called on Vice Provost Ted Moore who requested on behalf of Dean Les Sternberg, Board approval of a special tuition rate for a Masters of Education program. Dr. Moore stated that the South Carolina Department of Social Services had contracted with USC to assist the agency in preparing the next generation of early care and education leaders. A component of the contract was to offer the Master of Education degree to 18 - 25 individuals who served in the early childhood care area. The Dean of the College of Education proposed the special contract rate of \$6,000 per course for eight courses in the standard Master of Education program and \$5,500 per course for two professional development courses. The total amount received for the courses would be \$59,000.

Mr. Mungo moved approval of the agreement as described in the materials distributed for the meeting. Mr. Loadholt seconded the motion. The vote was taken, and the motion carried.

Since there were no other matters to come before the Committee, Chairman Adams declared the meeting adjourned at 10:30 a.m.

Respectfully submitted,

Thomas L. Stepp
Secretary