

Approval of Resolution Authorizing a Commercial Paper Program

FINANCE AND RESOURCE MANAGEMENT COMMITTEE

July 30, 2021

Virginia Tech issues commercial paper through the Virginia Municipal League/Virginia Association of Counties (VML/VACo) to finance capital projects on an interim basis pending long-term bond financing. Under the program, the university has access to a revolving tax-exempt facility to finance, and refinance, up to \$120 million for capital projects that have been approved by the Board of Visitors for debt financing. Given the size and scope of the strategic initiatives in the greater Washington, D.C. metro area, Roanoke, and Blacksburg, and the corresponding anticipated growth in the capital program over the next several years, the university is seeking approval to increase the maximum authorized amount of commercial paper issuance to \$175 million.

With the anticipated growth in the capital program, the university believes there would be significant cost savings to issuing commercial paper on its own. Additionally, to facilitate the commercial paper program, one or more line(s) of credit will be obtained as a backup facility to pay off investors in the event of a failed remarketing. Both the commercial paper and line(s) of credit will be secured by a pledge of the university's general revenues. Based on current market conditions, forecasted use of commercial paper, and assumed usage of 75 percent tax-exempt and 25 percent taxable, the estimated average annual cost of using VML/VACo over the next three years would be \$630,000 versus \$278,000 with an in-house commercial paper program and a \$100 million line of credit. That would be a projected savings of \$352,000 annually.

The proposed resolution increases the authorized use of commercial paper from \$120 million to \$175 million; authorizes the university to issue its own commercial paper on a tax-exempt or taxable basis in an aggregate principal amount of up to \$175 million; authorizes the university to enter into one or more line(s) of credit in an aggregate principal amount of up to \$175 million; and authorizes the university to enter into one or more commercial paper broker-dealer agreement(s) provided that the line of credit and broker-dealer terms are at least as favorable as those presented to the Board.

The resolution authorizes the Vice President for Finance and University Treasurer (collectively, the "Authorized Officers"), in consultation with the Chief Business Officer, to negotiate, execute, deliver, and enter into the commercial paper program documents, extensions, and amendments of all documents related to the commercial paper program.

RESOLUTION ON FINANCING FOR COMMERCIAL PAPER PROGRAM
FINANCE AND RESOURCE MANAGEMENT COMMITTEE

WHEREAS, Chapter 26, Title 23.1 of the Code of Virginia of 1950, as amended (the "Virginia Code"), establishes a public corporation under the name and style of Virginia Polytechnic Institute and State University (the "University") which is governed by a Board of Visitors (the "Board"); and

WHEREAS, by Chapter 10, Title 23.1 of the Virginia Code (the "Act"), the University entered into a management agreement with the Commonwealth of Virginia, which was enacted as Chapter 1 of Chapter 933 of the 2006 Virginia Acts of Assembly, as amended, pursuant to which the University is (a) classified as a public institution of higher education and (b) granted the authority, pursuant to the Act, to issue bonds, notes, or other obligations that are consistent with debt capacity and management policies and guidelines established by the Board and without (i) obtaining the consent of any legislative body, elected official, commission, board, bureau, political subdivision, or agency of the Commonwealth, (ii) the approval required by the provisions of Article 8 of Chapter 24 of Title 2.2 of the Virginia Code, or (iii) any regulation or procedure, including a review or approval procedure, adopted pursuant to Chapter 11 of Title 23.1 of the Virginia Code; and

WHEREAS, the Act further authorizes the University to provide for the payment of the principal of and the interest on such bonds, notes, or other obligations from any one or more of the following sources: (a) its revenues generally; (b) income and revenues derived from the operation, sale, or lease of a particular project or projects, whether or not they are financed or refinanced from the proceeds of such bonds, notes, or other obligations; (c) funds realized from the enforcement of security interests or other liens or obligations securing such bonds, notes, or other obligations; (d) proceeds from the sale of bonds, notes, or other obligations; (e) payments under letters of credit, policies of municipal bond insurance, guarantees, or other credit enhancements; (f) any reserve or sinking funds created to secure such payment; (g) accounts receivable of the University; or (h) other available funds of the University; and

WHEREAS, the University has determined to facilitate the financing or refinancing from time to time of costs associated with capital projects of the University approved by the Board or other costs of the University which are permitted by law (including without limitation, capitalized interest, financing costs and working capital or costs) or consistent with the University's debt policy on a short-term basis through the issuance of commercial paper in an aggregate outstanding principal amount not to exceed \$175,000,000 (the "Commercial Paper Program"); and

WHEREAS, the Commercial Paper Program will (a) be a revolving program under which, the principal amount of which may be borrowed, repaid, and re-borrowed and (b) be secured under one or more Note Resolutions (each a "Note Resolution"), approved by

the University in accordance with the terms of this Resolution by the University's issuance of one or more series of notes (the "Commercial Paper Notes"), which are secured under the Note Resolution by the University's general revenue pledge; and

WHEREAS, the Note Resolutions and the Commercial Paper Notes will not be in any way a debt of the Commonwealth of Virginia (the "Commonwealth") and shall not create or constitute any indebtedness or obligation of the Commonwealth, either legal, moral, or otherwise; and

WHEREAS, the University has solicited proposals from various institutions to serve as the broker-dealer for the Commercial Paper Notes (collectively, the "Dealer Proposals"), the terms of which Dealer Proposals under consideration were presented to the Board; and

WHEREAS, under the terms of the Dealer Proposals, the University will enter into one or more dealer agreements or similar agreements that set forth the terms and conditions of the broker-dealers engagement to market, place, and remarket the Commercial Paper Notes on the University's behalf; and

WHEREAS, to provide liquidity for the University in connection with the Commercial Paper Program, the University will enter into one or more lines of credit (the "Lines of Credit"); and

WHEREAS, the University has solicited proposals from various financial institutions to provide the Lines of Credit (collectively, the "Line of Credit Proposals" and together with the Dealer Proposals, the "Proposals"), the terms of which Line of Credit Proposals under consideration were presented to the Board; and

WHEREAS, under the terms of the Line of Credit Proposals, the University will enter into one or more credit agreements or similar agreements that set forth the terms and conditions of the applicable Line of Credit, in substantially the form presented to the Board (each a "Credit Agreement"); and

WHEREAS, to evidence its obligations under a Credit Agreement, the University will execute a promissory note in favor of the applicable financial institution, in substantially the form attached as an exhibit to the applicable Credit Agreement (each a "Line of Credit Note"); and

WHEREAS, the Board intends (a) to authorize the Commercial Paper Program, (b) to approve the presented terms of the Proposals, (c) to authorize the Authorized Officers to determine the final forms of the Note Resolution, the form of Commercial Paper Note, the form of the Credit Agreement, and the Line of Credit Note, and (d) take such other actions as are authorized in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF VISITORS OF VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY:

1. Authorization of Credit. (a) For the purpose of providing funds for the purposes described above, the Board authorizes the Commercial Paper Program in an aggregate principal amount of up to \$175,000,000. The Commercial Paper Notes shall bear interest on a tax-exempt or taxable basis, and the payment of principal of and interest on the Commercial Paper Notes shall be from one or more of the sources authorized by the Act, all as more particularly described in the Note Resolution.

(b) For the purpose of providing liquidity support to the University to support the Commercial Paper Program, the Board authorizes the Lines of Credit in an aggregate principal amount of up to \$175,000,000. The Lines of Credit shall bear interest on a taxable basis, and the payment of principal of and interest on the Lines of Credit shall be from one or more of the sources authorized by the Act, all as more particularly described in the applicable Line of Credit Proposal and Credit Agreement.

2. Dealer Agreements and Disclosure Matters. To provide for one or more broker-dealers for the Commercial Paper Program, the Board authorizes the University to enter into one or more Dealer Agreements. The Board hereby approves of the terms of the Dealer Agreements provided they are at least as favorable to the University as those described in the Dealer Proposals. The officers and staff of the University are hereby authorized and directed to prepare disclosure materials (the "Disclosure Statement") in preliminary and final forms, and the Authorized Officers are hereby authorized and directed to execute the Disclosure Statement in final form.

3. Delegation and Execution. (a) The Board authorizes the Vice President for Finance and the University Treasurer (collectively, the "Authorized Officers"), in consultation with the Chief Business Officer, (1) to determine the final forms of the Note Resolution, the Commercial Paper Notes, the Credit Agreements and the Line of Credit Notes, and other documents related to the Commercial Paper Program, and (2) to negotiate, execute, and deliver all certificates, documents, and instruments related to the Commercial Paper Program, including the Lines of Credit. The final approval of the forms of the documents and the terms and conditions of the Commercial Paper Program, including the Lines of Credit and the final selection of the financial institutions and broker-dealers shall be evidenced by the execution and delivery of the Note Resolution, Commercial Paper Notes, Credit Agreements, Line of Credit Notes, or Dealer Agreements (as the case may be) by an Authorized Officer.

(b) The Board authorizes all University officers and staff to take such other actions as may be necessary or desirable in connection with entering into and maintaining the Commercial Paper Program, including the Lines of Credit. The Board authorizes the Authorized Officers to enter into extensions of and amendments to the Lines of Credit and new Lines of Credit with other financial institutions from time to time (including to increase the aggregate principal amount thereof, subject to the limits set forth in this Resolution or a future resolution of the Board), if such extensions and amendments and

new Lines of Credit are not inconsistent with the intent of this Resolution. Each Authorized Officer is authorized to enter into extensions of and amendments to the Dealer Agreements with other broker-dealers from time to time, if such extensions and amendments and new Dealer Agreements are not inconsistent with the intent of this Resolution.

4. Other Acts. All officers of the University are authorized and directed to take all such further actions, including without limitation the designation of paying agents, and trustees for the Commercial Paper Program, and to execute all such instruments, agreements, documents, and certificates as they shall deem necessary or desirable to carry out the terms of the financing plans presented to this meeting, including without limitation any swap or other interest rate management agreements associated with the Commercial Paper Program. All acts of all officers of the University which are in conformity with the purposes and intent of this resolution and in carrying out the financing plans presented to this meeting are ratified, approved and affirmed.

5. Tax Matters. Pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder, the University designates each Authorized Officer as a public hearing officer who individually is authorized to hold any public hearings required to ensure the tax-exempt status of any portion of the Commercial Paper Program. To preserve the ability to finance and refinance the projects selected for financing on a tax-exempt basis in the future, the Board hereby designates each Authorized Officer as a person authorized under Treasury Regulation Section 1.150-2(d) and (e) to declare the "official intent" of the University to reimburse any expenditures made in connection with a capital project with the proceeds of long-term tax-exempt debt to be issued by or on behalf of the University. After making each such declaration, such individual will file a copy of the declaration with the Board before the next meeting of the Board. Such declarations will be kept with the other public records of the University and noted in the Board's records. The appropriate officers of the University are hereby authorized and directed to execute and deliver simultaneously with the issuance of any series of the Commercial Paper Notes, the interest on which is intended to be excludable from gross income for federal income tax purposes, a Non-Arbitrage Certificate and Tax Compliance Agreement or similar document (the "Tax Certificate") setting forth the expected use and investment of the proceeds of the Commercial Paper Notes and containing such covenants as may be necessary in order to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"), including the provisions of Section 148 of the Tax Code and applicable regulations relating to "arbitrage bonds." The University hereby agrees that the proceeds from the issuance and sale of any such series of the Commercial Paper Notes will be invested and expended as set forth in the Tax Certificate and that the University will comply with the other covenants and representations contained in it. The Authorized Officers are each authorized to take such actions, on more than one occasion, to preserve the tax-exempt status of any Commercial Paper Note (that was originally issued on a tax-exempt basis), including actions to establish a new program if the Commercial Paper Notes are treated as a "commercial paper program" for purposes of the Tax Code and the applicable regulations. Except as may be provided in the Tax Certificate, no further action shall be required to be

taken by the Board to establish a new program. The establishment of a new program, in and of itself, shall not require the consent of the holders of any Commercial Paper Notes or the Board.

6. Not a Debt of the Commonwealth. The Commercial Paper Program, including the Lines of Credit shall not be in any way a debt of the Commonwealth and shall not create or constitute any indebtedness or obligation of the Commonwealth, either legal, moral, or otherwise.

7. Effective Date. This Resolution shall take effect immediately upon adoption.

RECOMMENDATION:

That the resolution authorizing the university's commercial paper sale; identifying the authorized officers; and authorizing the authorized officers to negotiate, execute, and deliver all necessary documents, be approved.

August 31, 2021