

## Approval of 9(d) Debt Restructuring and Refunding Resolutions

### FINANCE AND RESOURCE MANAGEMENT COMMITTEE

October 16, 2020

Virginia Tech, as well as all higher education institutions in the commonwealth, have been severely impacted by COVID-19, and there is significant uncertainty regarding the future impacts that COVID-19 will have on the university and its finances. As a result, the university is seeking approval to pursue the following restructuring and refunding initiatives.

#### Background:

The university has issued two categories of bonds pursuant to section 9 of Article X of the Constitution of Virginia. Section 9(d) bonds are revenue bonds payable from pledged general revenues, which are not legal or moral obligations of the Commonwealth of Virginia. While the university occasionally issues such debt directly on its own, it usually issues the debt by participating in the pooled bond program of the Virginia College Building Authority (VCBA). This method is much more convenient and has economies of scale as the issuance costs are spread amongst a larger group of institutions. When the pooled bond program is used the university enters into a note payable with the VCBA.

The second type of debt issued are section 9(c) bonds. These are general obligation bonds issued by the commonwealth on behalf of the university and are secured by the net revenues of the completed project as well as the full faith and credit of the commonwealth. These bonds are a direct obligation of the university and would only be paid by the commonwealth if the university were to default on its payments.

A summary of the outstanding bonds and notes payable at June 30, 2020 is as follows:

#### Debt Outstanding at June 30, 2020

(in millions)

	Principal	Premium	Total
9 (c) bonds payable	\$ 96.0	\$ 9.6	\$ 105.6
9(d) revenue bonds payable	\$ 49.5	\$ 2.7	\$ 52.2
9(d) VCBA Athletics notes payable	\$ 34.4	\$ 4.0	\$ 38.4
9(d) -VCBA all other notes payable	\$ 169.2	\$ 11.6	\$ 180.8
Total 9(d) bonds & notes payable	\$ 253.1	\$ 18.3	\$ 271.4
Grand total bonds & notes payable	\$ 349.1	\$ 27.9	\$ 377.0

Total principal payments scheduled for the current and future two years are as follows (before any restructuring or refinancing):

## Total Principal Payments Due for Fiscal Years 2021 - 2023

(in millions)

	FY 2021	FY 2022	FY 2023
9 (c) bonds payable	\$ 8.4	\$ 8.8	\$ 9.2
9(d) revenue bonds payable	\$ 2.4	\$ 2.6	\$ 2.7
9(d) -VCBA notes payable	\$ 16.5	\$ 17.1	\$ 17.1
Total 9(d) bonds & notes payable	\$ 18.9	\$ 19.7	\$ 19.8
Grand total bonds & notes payable	\$ 27.3	\$ 28.5	\$ 29.0

The commonwealth will restructure VCBA 9(d) debt in fiscal year 2021 and, after approval is obtained, hopefully also restructure 9(c) debt in fiscal year 2021. Since principal is paid annually in September for the VCBA bonds, the proposed commonwealth restructuring will have limited impact on fiscal year 2021 debt service payments. However, since principal is paid in June for the 9(c) debt, if approvals go as planned, the fiscal year 2021 payments could be restructured. Although the restructured bonds will help improve cash flow for the current and next two fiscal years, they will actually cost more in interest expense over the revised term of the debt.

The university received permission to make modifications to the commonwealth's VCBA program and still participate in the transaction as follows:

- Exclude the Athletics Department debt to allow further flexibility in restructuring their debt

Therefore, the university is requesting authorization to participate in the commonwealth's initiative to restructure ~\$21.0 million of the university's VCBA 9(d) pooled bonds (except for the Athletic Department).

Further, the university is requesting authorization to initiate a university program to restructure all ~\$30.9 million of the Athletic Department's outstanding 9(d) debt, as well as to review all university 9(d), VCBA 9(d), and 9(c) outstanding bonds for additional restructuring and refunding opportunities.

## **1. Virginia College Building Authority (VCBA) 9(d) Debt Restructuring Resolution**

Under the commonwealth's initiative, the VCBA will restructure approximately \$21.0 million of the university's pooled VCBA bonds for debt service relief. The restructuring will result in having no principal payments in fiscal years 2022 and 2023. The deferred principal payments of approximately \$10.6 million from fiscal year 2022 and \$10.4 million from fiscal year 2023 will then be added to the end of the existing amortization schedules, thereby extending the final maturities by two years.

The proposed VCBA resolution authorizes the university to participate in the restructuring program (Program) and to pledge the general revenues of the university to secure the debt. The resolution authorizes the Vice President for Finance and University Treasurer, in consultation with the Senior Vice President and Chief Business Officer, to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the Program.

## **2. Virginia Tech 9(d) Debt Restructuring and Refunding Resolution**

Under the university's initiative, approximately \$30.9 million of athletic VCBA bonds will be restructured, and other VCBA, 9(c) general obligation, and university Series 2015 bonds will be reviewed for additional restructuring and refunding opportunities. Under the athletic restructuring, four project-related issues will be restructured to defer \$0.6 million of interest payments in fiscal year 2021, \$4.8 million of both principal and interest payments in fiscal year 2022, and \$4.6 million of both principal and interest payments in fiscal year 2023. The combined deferred payments of approximately \$10 million, along with ~\$11.3 million of debt service being deferred from fiscal year 2024 through fiscal year 2029, will then be added throughout the term of the extended amortization schedules to achieve level debt service payments. The 9(d) bonds will be issued directly by the university.

The proposed resolution authorizes the issuance of the university's 9(d) bonds and pledges the general revenues of the university to secure the debt. The resolution authorizes the Vice President for Finance and University Treasurer, in consultation with the Senior Vice President and Chief Business Officer, to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the program provided that (1) the final maturity of the bonds shall not exceed 35 years from their date of issuance; (2) the maximum principal amount of the bonds shall not exceed \$350,000,000; (3) the bonds shall have a true interest cost that does not exceed five percent (5%) per annum; and (4) the bonds shall be issued on or before June 30, 2022.

## **VCBA 9(d) Debt Restructuring Resolution**

### **FINANCE AND RESOURCE MANAGEMENT COMMITTEE**

**WHEREAS**, Virginia Polytechnic Institute and State University (the “Institution”), in furtherance of its educational purposes, has borrowed funds from the Virginia College Building Authority (the “Authority”) through the Authority’s Public Higher Education Financing Program; and

**WHEREAS**, the Governor of the Commonwealth of Virginia (the “Commonwealth”) has recognized that the COVID-19 pandemic has had, and continues to have, a tremendous adverse impact on higher education, including the fiscal health of the Commonwealth’s colleges and universities, and in response to financial conditions created by the pandemic, the Governor has proposed a debt restructuring plan for debt-funded capital projects of higher educational institutions which will defer debt service payments on certain indebtedness obtained through or with the assistance of the Commonwealth, including debt obtained through the Authority (the “Debt Restructuring Program”); and

**WHEREAS**, the Board of Visitors (the “Board”) of the Institution desires to participate in the Debt Restructuring Program to restructure all, or a portion, of its indebtedness to the Authority (the “Authority Debt”) and desires to delegate the authority (i) to select the Authority Debt to be restructured and to establish and agree to the terms of such restructuring; (ii) to approve the forms of, and execute and deliver, any and all documents, instruments, and agreements required by the Authority in connection therewith, including any modifications or amendments of loans or other documentation evidencing the Authority Debt (the “Restructuring Documents”); and (iii) to take any and all other action required to affect and implement such debt restructuring, including any post-issuance or post-closing monitoring or compliance requirements, to certain officers of the Institution.

**NOW THEREFORE BE IT RESOLVED**, that the Institution is authorized to participate in the Debt Restructuring Program and, accordingly, the Vice President for Finance and the University Treasurer, collectively known as the Authorized Officers, in consultation with the Senior Vice President and Chief Business Officer, are each hereby delegated and invested with full power and authority, subject to the provisions of Section 2 hereof (i) to select the Authority Debt to be restructured and to establish and agree to the terms of such restructuring, including extending the term of payment and the modification of other terms thereof; (ii) to pledge, as required by the Authority, the general revenues of the Institution as security to the extent not prohibited by law or otherwise restricted; (iii) to approve the forms of the Restructuring Documents required by the Authority and any subsequent amendments thereto; (iv) to execute and deliver, on behalf of the Institution, such Restructuring Documents, with approval of the terms thereof being evidenced conclusively by the execution and delivery thereof; (v) to do and perform such other acts, and execute and deliver such other documents and agreements as may be necessary or appropriate to carry out the intent of this resolution; and

**BE IT FURTHER RESOLVED**, that in connection with the authorization herein provided, the Authorized Officers may, in connection with any debt restructuring obligation, provide for (i) the funding of reserves if required, and (ii) the funding of issuance costs and other financing expenses related to such restructuring; provided (a) the principal amount of any such restructuring obligation shall not exceed the amount required to cover the principal of and interest on the indebtedness to be restructured plus amounts permitted by clauses (i) and (ii) above, (b) the interest rate on any such obligation shall be as determined by the Authority, and (c) the restructuring terms, including the rate of interest on any such obligation or method of determining such rate, shall be approved by the Treasury Board of the Commonwealth; and

**BE IT FUTHER RESOLVED**, that if it is determined by the Authority in connection with any Authority Debt restructuring that the Institution is subject to continuing disclosure obligations under Rule 15c2-12 of the Federal Securities and Exchange Commission, an Authorized Officer is hereby authorized and directed to enter into a continuing disclosure, undertaking in form and substance reasonably satisfactory to the Authority, and the Institution will comply with the provisions and disclosure obligations contained therein; and

**BE IT FURTHER RESOLVED**, that the Board designates the University Treasurer to be responsible for implementing procedures to monitor post-issuance compliance with covenants in any Restructuring Document and any amendments thereto, if required in connection with federal tax law or federal securities law requirements; and

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon its adoption.

**RECOMMENDATION:**

That the Board of Visitors of Virginia Polytechnic Institute and State University approve the resolution authorizing participation in the Virginia College Building Authority's Debt Restructuring Program; identifying the authorized officers; and authorizing the authorized officers to negotiate, execute, and deliver all necessary documents.

November 16, 2020

## Virginia Tech 9(d) Restructuring and Refunding Resolution

### 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 institution of higher education under the name and style of Virginia Polytechnic Institution and State University (the "University") which is governed by a Board of Visitors (the "Board");

**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 (the "Commonwealth") which was enacted as Chapters 933 and 943 of the 2006 Virginia Acts of Assembly, pursuant to which the University is empowered with the authority to issue bonds for any purposes that is consistent with its institutional mission; and

**WHEREAS**, the Act further authorizes the University to provide for the payment of the principal of and the interest on any bonds from, among other things, its general revenues or from the income and revenues derived from the operation, sale, or lease of a particular project or projects; and

**WHEREAS**, the University has previously issued general revenue pledge notes to the Virginia College Building Authority (the "VCBA") in connection with the financing and refinancing of the following projects that benefit the athletics department: South End Zone, Stadium West-Side Expansion, and Basketball Practice Facility (the "Athletics VCBA Notes"); and

**WHEREAS**, the University has previously issued its (1) Dormitory and Dining Hall System and General Revenue Pledge Bonds, Series 2015A, (2) Athletic Facilities System and General Revenue Pledge Bond, Series 2015B, (3) University Services System and General Revenue Pledge Bond, Series 2015C, and (4) Utility System and General Revenue Pledge Bond, Series 2015D (the "Series 2015 System Bonds"), which are secured by the pledge of system specific revenues and a general revenue pledge of the University; and

**WHEREAS**, the University has previously issued other obligations, including its General Revenue Pledge Refunding Bonds, Series 2015E, other general revenue pledge notes to the VCBA, and obligations in favor of the Commonwealth in connection with the Commonwealth's issuance of general obligation bonds under Section 9(c) of the Virginia Constitution (collectively, the "Other Prior Obligations" and together with the Athletics VCBA Notes and the Series 2015 System Bonds, the "Prior Obligations"); and

**WHEREAS**, the Board desires to authorize the issuance of general revenue pledge bonds, in one or more series and on more than one occasion (collectively, the "Bonds") for the purposes of (1) refinancing and/or restructuring the Prior Obligations, and (2)

financing, if and as needed, capitalized interest, working capital, and the issuance costs, all subject to the limitations and parameters set forth in this resolution; and

**WHEREAS**, the amount of Bonds (net of issuance and other costs) that would be issued to refinance and/or restructure athletics projects (including the Athletics VCBA Notes or the applicable Series 2015 System Bonds) is estimated not to exceed \$35.1 million (provided that the maximum amount of all Bonds issued under this Resolution shall not exceed the amount authorized below); and

**WHEREAS**, the issuance of the Bonds will 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; and

**WHEREAS**, each series of Bonds will be issued under a bond resolution (each a "Bond Resolution"), the form of which will be determined in accordance with this Resolution.

**NOW THEREFORE BE IT RESOLVED**, that the Board hereby authorizes the issuance of the Bonds, in one or more series and on more than one occasion for the purposes set forth above; and

**BE IT FURTHER RESOLVED**, that the Bonds shall be secured by a pledge of the University's general revenues, and that any Bonds issued to refund any Series 2015 System Bonds may also be secured by a pledge of the revenues of the particular system; and

**BE IT FURTHER RESOLVED**, that the Vice President for Finance of the University and the University Treasurer (any of whom may act) (each an "Authorized Officer"), in consultation with the Senior Vice President and Chief Business Officer, are authorized and directed to determine the final form of each Bond Resolution, including whether it contains a pledge of a particular system's revenues, all subject to the parameters set forth below; and

**BE IT FURTHER RESOLVED**, that each Authorized Officer (any of whom may act) is authorized and directed to approve the final terms of each series of the Bonds, including, without limitation, their original principal amounts; their maturity dates and amounts; redemption provisions, prices, interest rates, and tax status of interest on each series of the Bonds; the specific obligations to be restructured or refinanced; and whether the Bonds are also secured by a pledge of specific revenues, provided that (1) the final maturity of any Bonds shall not exceed 35 years from their date of issuance; (2) the maximum principal amount of Bonds shall not exceed \$350,000,000; (3) the Bonds shall have a true interest cost that does not exceed five percent (5%) per annum; and (4) the Bonds shall be issued on or before June 30, 2022; and

**BE IT FURTHER RESOLVED**, that each Authorized Officer (any of whom may act) is authorized to negotiate, execute and deliver all documents related to the Bond Resolutions and the Bonds; and

**BE IT FURTHER RESOLVED**, that all officers of the University are authorized and directed to take all such further actions, including, without limitation, the designation of underwriters, paying agents, remarketing agents, trustees, and liquidity providers for the Bonds, 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 liquidity facilities, swap or other interest rate management agreements associated with the Bonds; and

**BE IT FURTHER RESOLVED**, that 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; and

**BE IT FURTHER RESOLVED**, that, upon approval, this action shall take effect immediately.

**RECOMMENDATION:**

That the Board of Visitors of Virginia Polytechnic Institute and State University approve the resolution authorizing the university 9(d) bond sale(s) for Athletics restructuring and other refinancing opportunities; identifying the authorized officers; and authorizing the authorized officers to negotiate, execute and deliver all necessary documents.

November 16, 2020