

## Approval of 9(c) and 9(d) Financing Resolutions

### FINANCE AND RESOURCE MANAGEMENT COMMITTEE

**August 5, 2022**

The university seeks approval by the Board of Visitors (BOV) to issue two types of long-term debt to complete the financing plans for eight capital projects under construction and previously authorized by the BOV. Debt financing plans for these projects were included in the University Debt Ratio and Debt Capacity report accepted by the Finance and Resource Management Committee on November 8, 2021.

#### **9(c) Debt Financing**

Debt issued under Section 9(c) of Article X of the Constitution of Virginia is issued by the Treasury Board on behalf of the university and is a general obligation revenue bond backed by the full faith and credit of the commonwealth. 9(c) financing is generally approved for auxiliary revenue-producing projects such as parking facilities, residence halls, and dining facilities. Three projects have been authorized by the state to be financed through the 9(c) pooled bond program as listed below with the total authorized amount of \$101.877 million.

	<u>(in millions)</u>
• Hitt Hall (Dining facility)	\$41.741
• Innovation Campus Academic Bldg. (Parking)	\$27.136
• New Upper Quad Residence Hall	\$33.000

#### **9(d) Debt Financing**

Debt issued under section 9(d) of Article X of the Constitution of Virginia can be issued by the university or a conduit issuer like the Virginia College Building Authority (VCBA) and is backed by a pledge of general revenues. Five projects have been authorized by the state to be financed through VCBA's 9(d) pooled bond program as listed below with the total authorized amount of \$207.304 million.

	<u>(in millions)</u>
• Corps Leadership and Military Service	\$31.350
• Data and Decision Science Building	\$10.000
• Hitt Hall	\$12.000
• Innovation Campus Academic Building	\$107.000
• Student Wellness Services	\$46.954

#### **RECOMMENDATION:**

1. That the attached resolutions authorizing the issuance of 9(c) bonds totaling \$101.877 million for the Hitt Hall (dining facility), Innovation Campus Academic Building (parking facility), and Upper Quad Residence Hall projects be approved; and
2. That the attached resolutions authorizing the issuance of 9(d) bonds through the VCBA totaling \$207.304 million for the Corps Leadership and Military Science, Data and Decision Science Building, Hitt Hall, Innovation Campus Academic Building, and Student Wellness Services projects be approved.

August 23, 2022

## **Approval of Hitt Hall 9(c) Debt Financing**

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

The Hitt Hall project (Capital Outlay Project Number 18605) has been authorized by the state to be financed pursuant to Article X, Section 9(c) of the Constitution of Virginia for up to \$45.629 million plus amounts needed to fund issuance costs, reserve funds, and other financing expenses. However, further financial analysis identified alternative funding sources such that the university will only issue \$41.741 million of 9(d) debt.

The project provides an expansion of Myers-Lawson School of Construction, a new dining center, and other academic spaces. The approximately 100,900 gross square foot building will be located on the north side of campus. The total \$83.6 million project cost for Hitt Hall includes \$4.859 million cash from dining programs, \$25 million of private gifts, \$41.741 million of 9(c) debt, and \$12 million of 9(d) debt. Debt service will be paid from gift receipts, dining service revenue, and an internal lease for academic program space utilized by E&G programs. The university may use commercial paper as short-term financing and plans to reimburse itself from the 9(c) bond proceeds.

The proposed resolution requests the issuance of 9(c) bonds through the Treasury Board of the Commonwealth of Virginia on behalf of the university and pledges dining services system fees to pay the debt service. The resolution identifies (1) the Vice President for Finance, (2) the University Treasurer, and (3) the Assistant Vice President for Finance and Associate Treasurer in consultation with the Chief Business Officer, as being authorized 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 sale and issuance of the bonds.

**RESOLUTION ON HITT HALL 9(c) FINANCING**  
**FINANCE AND RESOURCE MANAGEMENT COMMITTEE**

**WHEREAS**, there have been passed by the General Assembly of Virginia and signed by the Governor various acts entitled Commonwealth of Virginia Higher Educational Institutions Bond Acts of 2007 through 2022 (collectively, the “Acts”); and

**WHEREAS**, pursuant to the Acts, the Treasury Board of the Commonwealth of Virginia (the “Treasury Board”) is authorized, by and with the consent of the Governor, to sell and issue bonds or bond anticipation notes of the Commonwealth of Virginia (the “Commonwealth”) for the purpose of providing funds, together with other available funds, for financing and refinancing certain revenue-producing capital projects at certain institutions of higher learning of the Commonwealth and for paying issuance costs, reserve funds, construction period interest and other financing expenses (the “Financing Expenses”), all in accordance with the provisions of Section 9(c) of Article X of the Constitution of Virginia; and

**WHEREAS**, for Virginia Polytechnic Institute and State University (the “Institution”), such revenue-producing capital projects include the Hitt Hall Project (Capital Outlay Project Number 18605) (each individually, a “Project” and, collectively, the “Projects”); and

**WHEREAS**, the Treasury Board is proposing to sell and issue bonds or bond anticipation notes pursuant to the Acts for such revenue-producing capital projects, in one or more series.

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

**Section 1.** The Board of Visitors of the Institution (the “Board”) requests the Treasury Board to sell and issue bonds or bond anticipation notes (the “Bonds”) in an aggregate principal amount not to exceed \$41.741 million to finance all or a portion of the costs of each Project plus Financing Expenses (for each individual Project, the “Individual Project Borrowing” and for all Projects collectively, the “Project Borrowings”). The Individual Project Borrowings will be identified by amount by the State Treasurer upon issuance of any Bonds.

**Section 2.** With respect to each Project, the Board (a) covenants to fix, revise, charge and collect dining services system fees and other rates, fees and charges, for or in connection with the use, occupation and services of such Project, and (b) pledges such rates, fees and charges remaining after payment of (i) the expenses of operating such Project and (ii) the expenses related to all other activities funded by the dining services system fees (“Individual Project Net Revenues”) to the payment of the principal of, premium, if any, and interest on the Individual Project Borrowing relating thereto. The Board further covenants that it will fix, revise, charge and collect such rates, fees and charges in such amounts so that Individual Project Net Revenues will at all times be sufficient to pay, when due, the principal of, premium, if any, and interest on the related Individual Project Borrowing and on any other

obligations secured by such Individual Project Net Revenues (such payments collectively the "Required Payments"). Each Individual Project Borrowing shall be secured on a parity with other obligations secured by the Individual Project Net Revenues relating to such Individual Project Borrowing (other than any obligations secured by a prior right in Individual Project Net Revenues). Any Individual Project Net Revenues pledged herein in excess of the Required Payments for an Individual Project Borrowing may be used by the Institution for any other lawful purpose.

**Section 3.** It is hereby found, determined and declared that, based upon responsible engineering and economic estimates and advice of appropriate officials of the Institution, as shown on the Financial Feasibility Study provided to the Department of the Treasury, with respect to each Project, the anticipated Individual Project Net Revenues pledged herein will be sufficient to pay the Required Payments for such Project so long as the aggregate amount of net debt service on the Individual Project Borrowing for such Project actually payable in any bond year does not exceed the amounts assumed in the Financial Feasibility Study relating thereto.

**Section 4.** The Board covenants that the Institution will furnish the Treasury Board its general purpose financial statements, within 30 days of their issuance and receipt, audited by a firm of certified public accountants or the Auditor of Public Accounts which shall include a schedule of revenues and expenditures for auxiliary enterprise systems. If Individual Project Net Revenues for any Project are insufficient to pay Required Payments for such Project during such period, the Institution shall provide evidence of a plan to generate Individual Project Net Revenues for such Project sufficient to make such Required Payments in the future.

**Section 5.** The Board covenants that so long as any of the Project Borrowings are outstanding, the Institution will pay to the State Treasurer, not less than 30 days before each interest or principal payment date, the amount certified by the State Treasurer to be due and payable on such date as principal of, premium, if any, and interest on the Project Borrowings.

**Section 6.** The Board covenants that the Institution will pay from time to time its proportionate share of all expenses incurred in connection with the sale and issuance of any series of Bonds that includes Project Borrowings, including without limitation any expenses incurred by the Virginia Department of Treasury in preparation for such financings, and all expenses thereafter incurred in connection with the Bonds, including without limitation the expense of calculating any rebate to the United States of the earnings derived from the investment of gross proceeds of the Bonds, all as certified by the State Treasurer to the Institution.

**Section 7.** The Board covenants that the Institution will not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the Bonds to be includable in the gross income of the owners thereof for federal income tax purposes under existing laws. Without limiting the generality of the foregoing, the Institution will pay

from time to time its proportional share of any rebate to the United States of the earnings derived from the investment of the gross proceeds of the Bonds.

**Section 8.** The Board covenants that the Institution will proceed with due diligence to undertake and complete the Projects and that the Institution will spend all of the available proceeds derived from the Project Borrowings for costs associated with the Projects and appropriated for the Projects by the General Assembly.

**Section 9.** The Board covenants that the Institution will not permit the proceeds of each Individual Project Borrowing to be used in any manner that would result in (a) 5% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds being used with respect to any output facility within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code. The Institution need not comply with such covenants if the Institution obtains the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income of the owners thereof for federal income tax purposes.

**Section 10.** The Board covenants that for so long as any of the Bonds are outstanding the Institution will not enter into any operating lease, management contract or similar agreement with any person or entity, other than a state or local governmental unit, for all or any portion of any of the Projects without first obtaining the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that entering into such agreement will not cause the interest on the Bonds to be included in the gross income of the owners thereof for federal income tax purposes.

**Section 11.** The Board covenants that for so long as any of the Bonds are outstanding, the Institution will not sell or dispose of all or any part of any of the Projects without first obtaining the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that such sale or disposition will not cause interest on the Bonds to be included in the gross income of the owners thereof for federal income tax purposes.

**Section 12.** The Treasury Board is authorized, by and with the consent of the Governor, pursuant to Section 2.2-2419 of the Code of Virginia of 1950, as amended, and the Commonwealth of Virginia Article X, Section 9(c) Refunding Bond Act of 1992 (Chapters 265 and 408, Acts of Assembly of 1992) (collectively, the “Refunding Bond Acts”), to issue and sell refunding bonds of the Commonwealth to refund any and all of the Commonwealth’s outstanding bonds issued pursuant to Article X, Section 9(c) of the Constitution. In accordance with applicable law, including but not limited to the Refunding Bond Acts, the Board acknowledges that the covenants made in this resolution will continue with respect to any refunding or restructuring bonds issued by the Treasury Board without the need for any further action by the Board or the Institution.

**Section 13.** The officers of the Institution, defined as the Vice President for Finance, the University Treasurer, and the Assistant Vice President for Finance and Associate Treasurer in consultation with the Chief Business Officer, are authorized and directed 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 sale and issuance of the Bonds.

**Section 14.** The Board acknowledges that the Treasury Board will rely on the representations and covenants set forth herein in issuing the Bonds, that such covenants are critical to the security for the Bonds and the exclusion of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, that the Board will not repeal, revoke, rescind or amend any of such covenants without first obtaining the written approval of the Treasury Board, and that such covenants will be binding upon the Board so long as any of the Bonds are outstanding.

**Section 15.** This resolution shall take effect immediately upon its adoption.

**RECOMMENDATION:**

That the above resolution authorizing the issuance of 9(c) bonds for the Hitt Hall Capital Outlay Project Number 18605 be approved.

August 23, 2022

## **Approval of Innovation Campus – Academic Building 9(c) Debt Financing**

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

The Innovation Campus – Academic Building project (Capital Outlay Project Number 18412) has been authorized by the state to be financed pursuant to Article X, Section 9(c) of the Constitution of Virginia for up to \$27.136 million, plus amounts needed to fund issuance costs, reserve funds, and other financing expenses.

The project will construct a 300,000 gross square foot building located in Alexandria, Virginia. The Innovation Campus-Academic Building will support graduate-degree programs and research opportunities in computational sciences and engineering; data science and analytics; and technology and policy. The project includes construction of a two-level below grade parking structure that contains 178 spaces and a surface lot that contains 104 spaces for the Innovation Campus. The total \$302.136 million project will be funded with \$107 million of 9(d) bond proceeds, \$27.136 million of 9(c) bond proceeds, and \$168 million of 21st Century VCBA bond proceeds. Debt service for the 9(c) parking component of this project will be paid with revenue from parking permit sales. The university may use commercial paper as short-term financing and would reimburse itself from the 9(c) bond proceeds. The university may use commercial paper as short-term financing and plans to reimburse itself from the 9(d) bond proceeds.

The proposed resolution requests the issuance of 9(c) bonds through the Treasury Board of the Commonwealth of Virginia on behalf of the university and pledges parking system fees to pay the debt service. The resolution identifies (1) the Vice President for Finance, (2) the University Treasurer, and (3) the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, as being authorized 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 sale and issuance of the bonds.

**RESOLUTION ON INNOVATION CAMPUS ACADEMIC BUILDING 9(c) FINANCING  
FINANCE AND RESOURCE MANAGEMENT COMMITTEE**

**WHEREAS**, there have been passed by the General Assembly of Virginia and signed by the Governor various acts entitled Commonwealth of Virginia Higher Educational Institutions Bond Acts of 2007 through 2022 (collectively, the “Acts”); and

**WHEREAS**, pursuant to the Acts, the Treasury Board of the Commonwealth of Virginia (the “Treasury Board”) is authorized, by and with the consent of the Governor, to sell and issue bonds or bond anticipation notes of the Commonwealth of Virginia (the “Commonwealth”) for the purpose of providing funds, together with other available funds, for financing and refinancing certain revenue-producing capital projects at certain institutions of higher learning of the Commonwealth and for paying issuance costs, reserve funds, construction period interest and other financing expenses (the “Financing Expenses”), all in accordance with the provisions of Section 9(c) of Article X of the Constitution of Virginia; and

**WHEREAS**, for Virginia Polytechnic Institute and State University (the “Institution”), such revenue-producing capital projects include the Innovation Campus – Academic Building Project (Capital Outlay Project Number 18412) (each individually, a “Project” and, collectively, the “Projects”); and

**WHEREAS**, the Treasury Board is proposing to sell and issue bonds or bond anticipation notes pursuant to the Acts for such revenue-producing capital projects, in one or more series.

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

**Section 1.** The Board of Visitors of the Institution (the “Board”) requests the Treasury Board to sell and issue bonds or bond anticipation notes (the “Bonds”) in an aggregate principal amount not to exceed \$27.136 million to finance all or a portion of the costs of each Project plus Financing Expenses (for each individual Project, the “Individual Project Borrowing” and for all Projects collectively, the “Project Borrowings”). The Individual Project Borrowings will be identified by amount by the State Treasurer upon issuance of any Bonds.

**Section 2.** With respect to each Project, the Board (a) covenants to fix, revise, charge and collect parking system fees and other rates, fees and charges, for or in connection with the use, occupation and services of such Project, and (b) pledges such rates, fees and charges remaining after payment of (i) the expenses of operating such Project and (ii) the expenses related to all other activities funded by the parking system fees (“Individual Project Net Revenues”) to the payment of the principal of, premium, if any, and interest on the Individual Project Borrowing relating thereto. The Board further covenants that it will fix, revise, charge and collect such rates, fees and charges in such amounts so that Individual Project Net Revenues will at all times be sufficient to pay, when due, the principal of, premium, if any,



and interest on the related Individual Project Borrowing and on any other obligations secured by such Individual Project Net Revenues (such payments collectively the “Required Payments”). Each Individual Project Borrowing shall be secured on a parity with other obligations secured by the Individual Project Net Revenues relating to such Individual Project Borrowing (other than any obligations secured by a prior right in Individual Project Net Revenues). Any Individual Project Net Revenues pledged herein in excess of the Required Payments for an Individual Project Borrowing may be used by the Institution for any other lawful purpose.

**Section 3.** It is hereby found, determined and declared that, based upon responsible engineering and economic estimates and advice of appropriate officials of the Institution, as shown on the Financial Feasibility Study provided to the Department of the Treasury, with respect to each Project, the anticipated Individual Project Net Revenues pledged herein will be sufficient to pay the Required Payments for such Project so long as the aggregate amount of net debt service on the Individual Project Borrowing for such Project actually payable in any bond year does not exceed the amounts assumed in the Financial Feasibility Study relating thereto.

**Section 4.** The Board covenants that the Institution will furnish the Treasury Board its general purpose financial statements, within 30 days of their issuance and receipt, audited by a firm of certified public accountants or the Auditor of Public Accounts which shall include a schedule of revenues and expenditures for auxiliary enterprise systems. If Individual Project Net Revenues for any Project are insufficient to pay Required Payments for such Project during such period, the Institution shall provide evidence of a plan to generate Individual Project Net Revenues for such Project sufficient to make such Required Payments in the future.

**Section 5.** The Board covenants that so long as any of the Project Borrowings are outstanding, the Institution will pay to the State Treasurer, not less than 30 days before each interest or principal payment date, the amount certified by the State Treasurer to be due and payable on such date as principal of, premium, if any, and interest on the Project Borrowings.

**Section 6.** The Board covenants that the Institution will pay from time to time its proportionate share of all expenses incurred in connection with the sale and issuance of any series of Bonds that includes Project Borrowings, including without limitation any expenses incurred by the Virginia Department of Treasury in preparation for such financings, and all expenses thereafter incurred in connection with the Bonds, including without limitation the expense of calculating any rebate to the United States of the earnings derived from the investment of gross proceeds of the Bonds, all as certified by the State Treasurer to the Institution.

**Section 7.** The Board covenants that the Institution will not take or omit to take any action the taking or omission of which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the “Code”), or otherwise cause interest on the Bonds to be includable in the gross income of the owners thereof for federal income tax purposes

under existing laws. Without limiting the generality of the foregoing, the Institution will pay from time to time its proportional share of any rebate to the United States of the earnings derived from the investment of the gross proceeds of the Bonds.

**Section 8.** The Board covenants that the Institution will proceed with due diligence to undertake and complete the Projects and that the Institution will spend all of the available proceeds derived from the Project Borrowings for costs associated with the Projects and appropriated for the Projects by the General Assembly.

**Section 9.** The Board covenants that the Institution will not permit the proceeds of each Individual Project Borrowing to be used in any manner that would result in (a) 5% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds being used with respect to any output facility within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code. The Institution need not comply with such covenants if the Institution obtains the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income of the owners thereof for federal income tax purposes.

**Section 10.** The Board covenants that for so long as any of the Bonds are outstanding the Institution will not enter into any operating lease, management contract or similar agreement with any person or entity, other than a state or local governmental unit, for all or any portion of any of the Projects without first obtaining the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that entering into such agreement will not cause the interest on the Bonds to be included in the gross income of the owners thereof for federal income tax purposes.

**Section 11.** The Board covenants that for so long as any of the Bonds are outstanding, the Institution will not sell or dispose of all or any part of any of the Projects without first obtaining the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that such sale or disposition will not cause interest on the Bonds to be included in the gross income of the owners thereof for federal income tax purposes.

**Section 12.** The Treasury Board is authorized, by and with the consent of the Governor, pursuant to Section 2.2-2419 of the Code of Virginia of 1950, as amended, and the Commonwealth of Virginia Article X, Section 9(c) Refunding Bond Act of 1992 (Chapters 265 and 408, Acts of Assembly of 1992) (collectively, the "Refunding Bond Acts"), to issue and sell refunding bonds of the Commonwealth to refund any and all of the Commonwealth's outstanding bonds issued pursuant to Article X, Section 9(c) of the Constitution. In accordance with applicable law, including but not limited to the Refunding Bond Acts, the Board acknowledges that the covenants made in this resolution will continue with respect to any refunding or restructuring bonds issued by the Treasury Board without the need

for any further action by the Board or the Institution.

**Section 13.** The officers of the Institution, defined as the Vice President for Finance, the University Treasurer, and the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, are authorized and directed 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 sale and issuance of the Bonds.

**Section 14.** The Board acknowledges that the Treasury Board will rely on the representations and covenants set forth herein in issuing the Bonds, that such covenants are critical to the security for the Bonds and the exclusion of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, that the Board will not repeal, revoke, rescind or amend any of such covenants without first obtaining the written approval of the Treasury Board, and that such covenants will be binding upon the Board so long as any of the Bonds are outstanding.

**Section 15.** This resolution shall take effect immediately upon its adoption.

**RECOMMENDATION:**

That the above resolution authorizing the issuance of 9(c) bonds for the Innovation Campus – Academic Building Capital Outlay Project Number 18412 be approved.

August 23, 2022

**Approval of New Upper Quad Residence Hall 9(c) Debt Financing**  
**FINANCE AND RESOURCE MANAGEMENT COMMITTEE**

The New Upper Quad Residence Hall (Capital Outlay Project Number 18459) has been authorized by the state to be financed pursuant to Article X, Section 9(c) of the Constitution of Virginia for up to \$40 million plus amounts needed to fund issuance costs, reserve funds, and other financing expenses. However, further financial analysis identified alternative funding sources such that the university will only issue \$33 million of 9(c) debt.

The project will construct an approximately 68,000 gross square foot residence hall in the Upper Quad area of campus, which is the heart of the Corps of Cadets program. The residence hall will provide the Corps of Cadets with an additional 300 beds while simultaneously replacing Femoyer Hall, an underutilized and deteriorating asset. The total \$42 million project will be funded by \$33 million of 9(c) debt and \$9 million of auxiliary revenue from Residential Programs. Debt service will be paid from Residential Programs auxiliary revenue. The university has used commercial paper as short-term financing to date and plans to reimburse itself from the 9(c) bond proceeds.

The proposed resolution requests the issuance of 9(c) bonds through the Treasury Board of the Commonwealth of Virginia on behalf of the university and pledges residential system fees to pay the debt service. The resolution identifies (1) the Vice President for Finance, (2) the University Treasurer, and (3) the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, as being authorized 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 sale and issuance of the bonds.

**RESOLUTION ON NEW UPPER QUAD RESIDENCE HALL 9(c) FINANCING**  
**FINANCE AND RESOURCE MANAGEMENT COMMITTEE**

**WHEREAS**, there have been passed by the General Assembly of Virginia and signed by the Governor various acts entitled Commonwealth of Virginia Higher Educational Institutions Bond Acts of 2007 through 2022 (collectively, the “Acts”); and

**WHEREAS**, pursuant to the Acts, the Treasury Board of the Commonwealth of Virginia (the “Treasury Board”) is authorized, by and with the consent of the Governor, to sell and issue bonds or bond anticipation notes of the Commonwealth of Virginia (the “Commonwealth”) for the purpose of providing funds, together with other available funds, for financing and refinancing certain revenue-producing capital projects at certain institutions of higher learning of the Commonwealth and for paying issuance costs, reserve funds, construction period interest and other financing expenses (the “Financing Expenses”), all in accordance with the provisions of Section 9(c) of Article X of the Constitution of Virginia; and

**WHEREAS**, for Virginia Polytechnic Institute and State University (the “Institution”), such revenue-producing capital projects include the New Upper Quad Residence Hall Project (Capital Outlay Project Number 18459) (each individually, a “Project” and, collectively, the “Projects”); and

**WHEREAS**, the Treasury Board is proposing to sell and issue bonds or bond anticipation notes pursuant to the Acts for such revenue-producing capital projects, in one or more series.

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

**Section 1.** The Board of Visitors of the Institution (the “Board”) requests the Treasury Board to sell and issue bonds or bond anticipation notes (the “Bonds”) in an aggregate principal amount not to exceed \$33 million to finance all or a portion of the costs of each Project plus Financing Expenses (for each individual Project, the “Individual Project Borrowing” and for all Projects collectively, the “Project Borrowings”). The Individual Project Borrowings will be identified by amount by the State Treasurer upon issuance of any Bonds.

**Section 2.** With respect to each Project, the Board (a) covenants to fix, revise, charge and collect residential system fees and other rates, fees and charges, for or in connection with the use, occupation and services of such Project, and (b) pledges such rates, fees and charges remaining after payment of (i) the expenses of operating such Project and (ii) the expenses related to all other activities funded by the residential fees (“Individual Project Net Revenues”) to the payment of the principal of, premium, if any, and interest on the Individual Project Borrowing relating thereto. The Board further covenants that it will fix, revise, charge and collect such rates, fees and charges in such amounts so that Individual Project Net Revenues will at all times be sufficient to pay, when due, the principal of, premium, if any,

and interest on the related Individual Project Borrowing and on any other obligations secured by such Individual Project Net Revenues (such payments collectively the "Required Payments"). Each Individual Project Borrowing shall be secured on a parity with other obligations secured by the Individual Project Net Revenues relating to such Individual Project Borrowing (other than any obligations secured by a prior right in Individual Project Net Revenues). Any Individual Project Net Revenues pledged herein in excess of the Required Payments for an Individual Project Borrowing may be used by the Institution for any other lawful purpose.

**Section 3.** It is hereby found, determined and declared that, based upon responsible engineering and economic estimates and advice of appropriate officials of the Institution, as shown on the Financial Feasibility Study provided to the Department of the Treasury, with respect to each Project, the anticipated Individual Project Net Revenues pledged herein will be sufficient to pay the Required Payments for such Project so long as the aggregate amount of net debt service on the Individual Project Borrowing for such Project actually payable in any bond year does not exceed the amounts assumed in the Financial Feasibility Study relating thereto.

**Section 4.** The Board covenants that the Institution will furnish the Treasury Board its general purpose financial statements, within 30 days of their issuance and receipt, audited by a firm of certified public accountants or the Auditor of Public Accounts which shall include a schedule of revenues and expenditures for auxiliary enterprise systems. If Individual Project Net Revenues for any Project are insufficient to pay Required Payments for such Project during such period, the Institution shall provide evidence of a plan to generate Individual Project Net Revenues for such Project sufficient to make such Required Payments in the future.

**Section 5.** The Board covenants that so long as any of the Project Borrowings are outstanding, the Institution will pay to the State Treasurer, not less than 30 days before each interest or principal payment date, the amount certified by the State Treasurer to be due and payable on such date as principal of, premium, if any, and interest on the Project Borrowings.

**Section 6.** The Board covenants that the Institution will pay from time to time its proportionate share of all expenses incurred in connection with the sale and issuance of any series of Bonds that includes Project Borrowings, including without limitation any expenses incurred by the Virginia Department of Treasury in preparation for such financings, and all expenses thereafter incurred in connection with the Bonds, including without limitation the expense of calculating any rebate to the United States of the earnings derived from the investment of gross proceeds of the Bonds, all as certified by the State Treasurer to the Institution.

**Section 7.** The Board covenants that the Institution will not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the Bonds to be includable in the gross income of the owners thereof for federal income tax purposes

under existing laws. Without limiting the generality of the foregoing, the Institution will pay from time to time its proportional share of any rebate to the United States of the earnings derived from the investment of the gross proceeds of the Bonds.

**Section 8.** The Board covenants that the Institution will proceed with due diligence to undertake and complete the Projects and that the Institution will spend all of the available proceeds derived from the Project Borrowings for costs associated with the Projects and appropriated for the Projects by the General Assembly.

**Section 9.** The Board covenants that the Institution will not permit the proceeds of each Individual Project Borrowing to be used in any manner that would result in (a) 5% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds being used with respect to any output facility within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code. The Institution need not comply with such covenants if the Institution obtains the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income of the owners thereof for federal income tax purposes.

**Section 10.** The Board covenants that for so long as any of the Bonds are outstanding the Institution will not enter into any operating lease, management contract or similar agreement with any person or entity, other than a state or local governmental unit, for all or any portion of any of the Projects without first obtaining the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that entering into such agreement will not cause the interest on the Bonds to be included in the gross income of the owners thereof for federal income tax purposes.

**Section 11.** The Board covenants that for so long as any of the Bonds are outstanding, the Institution will not sell or dispose of all or any part of any of the Projects without first obtaining the written approval of the State Treasurer and an opinion of nationally recognized bond counsel acceptable to the Treasury Board that such sale or disposition will not cause interest on the Bonds to be included in the gross income of the owners thereof for federal income tax purposes.

**Section 12.** The Treasury Board is authorized, by and with the consent of the Governor, pursuant to Section 2.2-2419 of the Code of Virginia of 1950, as amended, and the Commonwealth of Virginia Article X, Section 9(c) Refunding Bond Act of 1992 (Chapters 265 and 408, Acts of Assembly of 1992) (collectively, the "Refunding Bond Acts"), to issue and sell refunding bonds of the Commonwealth to refund any and all of the Commonwealth's outstanding bonds issued pursuant to Article X, Section 9(c) of the Constitution. In accordance with applicable law, including but not limited to the Refunding Bond Acts, the Board acknowledges that the covenants made in this resolution will continue with respect to any refunding or restructuring bonds issued by the Treasury Board without the need

for any further action by the Board or the Institution.

**Section 13.** The officers of the Institution, defined as the Vice President for Finance, the University Treasurer, and the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, are authorized and directed 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 sale and issuance of the Bonds.

**Section 14.** The Board acknowledges that the Treasury Board will rely on the representations and covenants set forth herein in issuing the Bonds, that such covenants are critical to the security for the Bonds and the exclusion of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, that the Board will not repeal, revoke, rescind or amend any of such covenants without first obtaining the written approval of the Treasury Board, and that such covenants will be binding upon the Board so long as any of the Bonds are outstanding.

**Section 15.** This resolution shall take effect immediately upon its adoption.

**RECOMMENDATION:**

That the above resolution authorizing the issuance of 9(c) bonds for the New Upper Quad Residence Hall Capital Outlay Project Number 18459 be approved.

August 23, 2022



## **Approval of Corps Leadership and Military Science 9(d) Debt Financing**

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

The Corps Leadership and Military Science project (Capital Outlay Project #18460) has been authorized by the state to be financed pursuant to Article X, Section 9(d) of the Constitution of Virginia for up to \$31.35 million plus amounts needed to fund issuance costs, reserve funds, and other financing expenses.

The project will construct an approximately 75,500 gross square foot building on the existing site of the Art and Design Learning Center which will be demolished as part of the project. The existing central boiler plant equipment underneath the Art and Design Learning Center will remain in service. The project will consolidate the Corps of Cadets and ROTC programs in the northern portion of the Upper Quad. The facility will include modern classroom, administrative, program, and academic office space including academic classroom space required for the cyber security initiative. The total \$52 million project will be funded by \$31.35 million of 9(d) debt, \$17 million of private gifts, and \$3.65 million of auxiliary revenue. Debt service for the project will be paid from a combination of private gift receipts and a cadet facility fee. The university has used commercial paper as short-term financing to date and will reimburse itself from the 9(d) bond proceeds.

The bonds will be issued through the Virginia College Building Authority (the "Authority"), and the university will enter into a loan agreement and promissory note with the Authority. The loan agreement and note are subject to the following parameters: (a) the principal amount shall not be greater than the amount authorized by the General Assembly of Virginia; (b) the aggregate principal amount shall not exceed \$31.35 million plus amounts needed to fund issuance costs and other financing expenses; (c) the interest rate payable shall not exceed a true interest cost more than 50 basis points higher than the interest rate for "AA" rated securities with comparable maturities; (d) the weighted average maturity of the principal payments shall not be in excess of 20 years; (e) the last principal payment date shall not extend beyond the expected economic life of the project; and (f) the actual amount, interest rates, principal maturities, and date of the note shall be approved by an Authorized Officer.

The resolution identifies (1) the Vice President for Finance, (2) the University Treasurer, and (3) the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, as being authorized 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 sale and issuance of the bonds.

**RESOLUTION ON CORPS LEADERSHIP AND MILITARY SCIENCE  
9(d) FINANCING**

**WHEREAS**, pursuant to and in furtherance of Chapter 12, Title 23.1 of the Code of Virginia of 1950, as amended (the “Act”), the Virginia College Building Authority (the “Authority”) developed a program (the “Program”) to purchase debt instruments issued by public institutions of higher education in the Commonwealth of Virginia (“Participating Institutions” and each a “Participating Institution”) to finance or refinance projects of capital improvement (“Capital Projects” and each a “Capital Project”) included in a bill passed by a majority of each house of the General Assembly of Virginia (the “General Assembly”);

**WHEREAS**, under the Program, the Authority from time to time issues its Educational Facilities Revenue Bonds (Public Higher Education Financing Program) (“Pooled Bonds”) to finance the purchase or refunding of debt instruments issued by Participating Institutions to finance or refinance Capital Projects;

**WHEREAS**, if a Participating Institution desires to finance or refinance a Capital Project through the Program, it must enter into a loan agreement with the Authority, under which: (i) the Participating Institution will issue its promissory note pursuant to the Act to evidence a loan to it by the Authority; (ii) the Authority will agree to issue Pooled Bonds and use proceeds thereof to purchase the promissory note; (iii) the Participating Institution will agree to use proceeds of Pooled Bonds, loaned to it and received in exchange for its promissory note, to finance or refinance the Capital Project and to not take actions that may jeopardize any federal tax-exempt status of interest on Pooled Bonds allocable to financing or refinancing the Capital Project; and (iv) the Participating Institution will agree to make payments under the promissory note in sums sufficient to pay, together with certain administrative and arbitrage rebate payments, the principal of, premium, if any, and interest due on such Pooled Bonds;

**WHEREAS**, the Board of Visitors (the “Board”) of Virginia Polytechnic Institute and State University (the “Institution”) from time to time desires to finance or refinance Capital Projects for the Institution as a Participating Institution under the Program, and now proposes that the Institution issue its promissory note or notes (collectively, the “Note”) to be sold to the Authority in accordance with a loan agreement or loan agreements between the Institution and the Authority (collectively, the “Loan Agreement”), under which proceeds of Pooled Bonds will be loaned to and received by the Institution in exchange for the Note, to finance or refinance costs of the following Capital Project authorized for bond financing by the General Assembly: Corps Leadership and Military Science – Capital Outlay Project Number 18460 (the “Project”); and

**WHEREAS**, the Board desires to designate certain Institution officers: (i) delegated the authority to approve the forms of and to execute and deliver the Loan Agreement, the Note, and any amendments thereto, and any other documents necessary or desirable in connection with financing or refinancing costs of the Project through and participation in the Program; and (ii) responsible for monitoring post-issuance compliance with covenants

of the Institution related to maintaining any federal tax-exempt status of interest on Pooled Bonds.

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

**Section 1.** The Project is hereby designated to be undertaken and financed or refinanced by the Authority and, accordingly, the Vice President for Finance, the University Treasurer, and the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer (the “Authorized Officers”) are each hereby delegated and invested with full power and authority to approve the forms of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), and any pledge to the payment of the Note and any amendment thereto of total gross university sponsored overhead, unrestricted endowment income, tuition and fees, indirect cost recoveries, auxiliary enterprise revenues, general and nongeneral fund appropriations, and other revenues not required by law or previous binding contract to be devoted to some other purpose, restricted by a gift instrument for another purpose or excluded from such pledge as provided in the Loan Agreement, subject to the provisions of Section 3 hereof.

**Section 2.** Subject to the provisions of Section 3 hereof, the Authorized Officers are each hereby delegated and invested with full power and authority to execute, deliver, and issue, on behalf of the Institution, (a) the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), with approval of such documents in accordance with Section 1 hereof evidenced conclusively by the execution and delivery of the respective document, and (b) any other documents, instruments, or certificates as may be deemed necessary or desirable to finance or refinance costs of the Project through and participate in the Program, and to further carry out the purposes and intent of this resolution. The Authorized Officers are authorized and directed to take such steps and deliver such certificates in connection with delivery of the Note, and any amendment thereto, as may be required under any existing obligations, including bond resolutions relating to any outstanding general revenue pledge bonds, and to notify Virginia Department of Treasury representatives serving as Authority staff at least 60 days in advance of a pledge of any amounts pledged to the payment of the Note in accordance with Section 1 hereof to, or as security for, the payment of any other Institution obligations issued or entered into after the date hereof for so long as the Note and any amendments thereto remain outstanding.

**Section 3.** The authorizations given above as to the approval, execution, delivery, and issuance of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise) are subject to the following parameters: (a) the principal amount to be paid under the Note allocable to any component of the Project, together with the principal amount of any other indebtedness with respect to such component, shall not be greater than the amount authorized for such component by the General Assembly plus amounts needed to fund issuance costs, original issue discount, other financing (including, without limitation, refunding) expenses, and any other increase permitted by law; (b) the aggregate principal amount of the Note shall in no event exceed \$31.35 million as the same may be so increased; (c) the aggregate interest rate payable under the Note shall not exceed a “true”

or “Canadian” interest cost more than 50 basis points higher than the interest rate for “AA” rated securities with comparable maturities, as reported by Thomson Municipal Market Data (MMD) or another comparable service or index, as of the date that the interest rates on the Authority’s Pooled Bonds are determined, taking into account any original issue discount or premium; (d) the weighted average maturity of the principal payments due under the Note shall not exceed 20 years after the original issue date of the Note; (e) the last principal payment date under the Note shall not extend beyond the reasonably expected economic life of the Project; and (f) subject to the foregoing, the actual amount, interest rates, principal maturities, and date of the Note shall be approved by an Authorized Officer, as evidenced by the execution thereof.

**Section 4.** The Board acknowledges that if there is a failure to make, as and when due, any payment of the principal of, premium, if any, and interest on any promissory note issued by the Institution as a Participating Institution to the Authority under the Program, including without limitation the Note and any amendments thereto, the State Comptroller is authorized under the Program and Section 23.1-1211 of the Code of Virginia of 1950, as amended, to charge against appropriations available to the Institution all future payments of principal of, premium, if any, and interest on such promissory note when due and payable and to make such payments to the Authority or its designee, so as to ensure that no future default will occur on such promissory note.

**Section 5.** The Board agrees that if the Authority determines the Institution as a Participating Institution shall be subject to continuing disclosure obligations under Rule 15c2-12 of the federal Securities and Exchange Commission with respect to any Pooled Bonds, (a) an Authorized Officer shall, and is hereby authorized and directed to, enter into a continuing disclosure undertaking in form and substance reasonably satisfactory to the Authority, and (b) the Institution will comply with the provisions and disclosure obligations contained therein.

**Section 6.** The Board designates the University Treasurer and the Assistant Vice President and Associate Treasurer to be responsible for implementing procedures to monitor post-issuance compliance with covenants in any loan agreement between the Institution as a Participating Institution and the Authority, including the Loan Agreement and any amendments thereto, related to maintaining tax-exempt status for federal income tax purposes of interest on any Pooled Bonds, including, without limitation, monitoring the use of any portion of all Capital Projects for the Institution financed or refinanced with such Pooled Bonds and compliance with any applicable federal income tax remedial action requirements in connection with certain changes in such use. Such officer shall review such post-issuance compliance at least annually for so long as such Pooled Bonds remain outstanding.

#### **RECOMMENDATION:**

That the above resolution authorizing the issuance of 9(d) bonds for the Corps Leadership and Military Science Capital Outlay Project Number 18460 be approved.

August 23, 2022

## **Approval of Data and Decision Science Building 9(d) Debt Financing**

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

The Data and Decision Science Building (Capital Outlay Project #18427) has been authorized by the state to be financed pursuant to Article X, Section 9(d) of the Constitution of Virginia for up to \$10 million plus amounts needed to fund issuance costs, reserve funds, and other financing expenses.

The project will construct a 120,000 gross square foot building located in the northwest corner of campus. The building brings together academic programs in engineering, computer science, statistics, mathematics, and international affairs to prepare students for careers focused on technology-based industries and cyber security. The total \$79 million project will be funded with \$10 million of 9(d) debt and \$69 million of 21st Century VCBA bond proceeds. Debt service for this project will be paid from self-generated revenues generated from the research program. The university may use commercial paper as short-term financing and would reimburse itself from the 9(d) bond proceeds.

The bonds will be issued through the Virginia College Building Authority (the "Authority"), and the university will enter into a loan agreement and promissory note with the Authority. The loan agreement and note are subject to the following parameters: (a) the principal amount shall not be greater than the amount authorized by the General Assembly of Virginia; (b) the aggregate principal amount shall not exceed \$10 million plus amounts needed to fund issuance costs and other financing expenses; (c) the interest rate payable shall not exceed a true interest cost more than 50 basis points higher than the interest rate for "AA" rated securities with comparable maturities; (d) the weighted average maturity of the principal payments shall not be in excess of 20 years; (e) the last principal payment date shall not extend beyond the expected economic life of the project; and (f) the actual amount, interest rates, principal maturities, and date of the note shall be approved by an Authorized Officer.

The resolution identifies (1) the Vice President for Finance, (2) the University Treasurer, and (3) the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, as being authorized 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 sale and issuance of the bonds.

**RESOLUTION ON DATA AND DECISION SCIENCE BUILDING  
9(d) FINANCING**

**WHEREAS**, pursuant to and in furtherance of Chapter 12, Title 23.1 of the Code of Virginia of 1950, as amended (the “Act”), the Virginia College Building Authority (the “Authority”) developed a program (the “Program”) to purchase debt instruments issued by public institutions of higher education in the Commonwealth of Virginia (“Participating Institutions” and each a “Participating Institution”) to finance or refinance projects of capital improvement (“Capital Projects” and each a “Capital Project”) included in a bill passed by a majority of each house of the General Assembly of Virginia (the “General Assembly”);

**WHEREAS**, under the Program, the Authority from time to time issues its Educational Facilities Revenue Bonds (Public Higher Education Financing Program) (“Pooled Bonds”) to finance the purchase or refunding of debt instruments issued by Participating Institutions to finance or refinance Capital Projects;

**WHEREAS**, if a Participating Institution desires to finance or refinance a Capital Project through the Program, it must enter into a loan agreement with the Authority, under which: (i) the Participating Institution will issue its promissory note pursuant to the Act to evidence a loan to it by the Authority; (ii) the Authority will agree to issue Pooled Bonds and use proceeds thereof to purchase the promissory note; (iii) the Participating Institution will agree to use proceeds of Pooled Bonds, loaned to it and received in exchange for its promissory note, to finance or refinance the Capital Project and to not take actions that may jeopardize any federal tax-exempt status of interest on Pooled Bonds allocable to financing or refinancing the Capital Project; and (iv) the Participating Institution will agree to make payments under the promissory note in sums sufficient to pay, together with certain administrative and arbitrage rebate payments, the principal of, premium, if any, and interest due on such Pooled Bonds;

**WHEREAS**, the Board of Visitors (the “Board”) of Virginia Polytechnic Institute and State University (the “Institution”) from time to time desires to finance or refinance Capital Projects for the Institution as a Participating Institution under the Program, and now proposes that the Institution issue its promissory note or notes (collectively, the “Note”) to be sold to the Authority in accordance with a loan agreement or loan agreements between the Institution and the Authority (collectively, the “Loan Agreement”), under which proceeds of Pooled Bonds will be loaned to and received by the Institution in exchange for the Note, to finance or refinance costs of the following Capital Project authorized for bond financing by the General Assembly: Data and Decision Science Building – Capital Outlay Project Number 18427 (the “Project”); and

**WHEREAS**, the Board desires to designate certain Institution officers: (i) delegated the authority to approve the forms of and to execute and deliver the Loan Agreement, the Note, and any amendments thereto, and any other documents necessary or desirable in

connection with financing or refinancing costs of the Project through and participation in the Program; and (ii) responsible for monitoring post-issuance compliance with covenants of the Institution related to maintaining any federal tax-exempt status of interest on Pooled Bonds.

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

**Section 1.** The Project is hereby designated to be undertaken and financed or refinanced by the Authority and, accordingly, the Vice President for Finance, the University Treasurer, and the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer (the “Authorized Officers”) are each hereby delegated and invested with full power and authority to approve the forms of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), and any pledge to the payment of the Note and any amendment thereto of total gross university sponsored overhead, unrestricted endowment income, tuition and fees, indirect cost recoveries, auxiliary enterprise revenues, general and nongeneral fund appropriations, and other revenues not required by law or previous binding contract to be devoted to some other purpose, restricted by a gift instrument for another purpose or excluded from such pledge as provided in the Loan Agreement, subject to the provisions of Section 3 hereof.

**Section 2.** Subject to the provisions of Section 3 hereof, the Authorized Officers are each hereby delegated and invested with full power and authority to execute, deliver, and issue, on behalf of the Institution, (a) the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), with approval of such documents in accordance with Section 1 hereof evidenced conclusively by the execution and delivery of the respective document, and (b) any other documents, instruments, or certificates as may be deemed necessary or desirable to finance or refinance costs of the Project through and participate in the Program, and to further carry out the purposes and intent of this resolution. The Authorized Officers are authorized and directed to take such steps and deliver such certificates in connection with delivery of the Note, and any amendment thereto, as may be required under any existing obligations, including bond resolutions relating to any outstanding general revenue pledge bonds, and to notify Virginia Department of Treasury representatives serving as Authority staff at least 60 days in advance of a pledge of any amounts pledged to the payment of the Note in accordance with Section 1 hereof to, or as security for, the payment of any other Institution obligations issued or entered into after the date hereof for so long as the Note and any amendments thereto remain outstanding.

**Section 3.** The authorizations given above as to the approval, execution, delivery, and issuance of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise) are subject to the following parameters: (a) the principal amount to be paid under the Note allocable to any component of the Project, together with the principal amount of any other indebtedness with respect to such component, shall not be greater than the amount authorized for such component by the General Assembly plus amounts needed to fund issuance costs, original issue discount, other financing (including, without limitation, refunding) expenses, and any other increase permitted by law; (b) the aggregate principal

amount of the Note shall in no event exceed \$10 million as the same may be so increased; (c) the aggregate interest rate payable under the Note shall not exceed a “true”

or “Canadian” interest cost more than 50 basis points higher than the interest rate for “AA” rated securities with comparable maturities, as reported by Thomson Municipal Market Data (MMD) or another comparable service or index, as of the date that the interest rates on the Authority’s Pooled Bonds are determined, taking into account any original issue discount or premium; (d) the weighted average maturity of the principal payments due under the Note shall not exceed 20 years after the original issue date of the Note; (e) the last principal payment date under the Note shall not extend beyond the reasonably expected economic life of the Project; and (f) subject to the foregoing, the actual amount, interest rates, principal maturities, and date of the Note shall be approved by an Authorized Officer, as evidenced by the execution thereof.

**Section 4.** The Board acknowledges that if there is a failure to make, as and when due, any payment of the principal of, premium, if any, and interest on any promissory note issued by the Institution as a Participating Institution to the Authority under the Program, including without limitation the Note and any amendments thereto, the State Comptroller is authorized under the Program and Section 23.1-1211 of the Code of Virginia of 1950, as amended, to charge against appropriations available to the Institution all future payments of principal of, premium, if any, and interest on such promissory note when due and payable and to make such payments to the Authority or its designee, so as to ensure that no future default will occur on such promissory note.

**Section 5.** The Board agrees that if the Authority determines the Institution as a Participating Institution shall be subject to continuing disclosure obligations under Rule 15c2-12 of the federal Securities and Exchange Commission with respect to any Pooled Bonds, (a) an Authorized Officer shall, and is hereby authorized and directed to, enter into a continuing disclosure undertaking in form and substance reasonably satisfactory to the Authority, and (b) the Institution will comply with the provisions and disclosure obligations contained therein.

**Section 6.** The Board designates the University Treasurer and the Assistant Vice President and Associate Treasurer to be responsible for implementing procedures to monitor post-issuance compliance with covenants in any loan agreement between the Institution as a Participating Institution and the Authority, including the Loan Agreement and any amendments thereto, related to maintaining tax-exempt status for federal income tax purposes of interest on any Pooled Bonds, including, without limitation, monitoring the use of any portion of all Capital Projects for the Institution financed or refinanced with such Pooled Bonds and compliance with any applicable federal income tax remedial action requirements in connection with certain changes in such use. Such officer shall review such post-issuance compliance at least annually for so long as such Pooled Bonds remain outstanding.

#### **RECOMMENDATION:**

That the above resolution authorizing the issuance of 9(d) bonds for the Data and



Decision Science Capital Outlay Project Number 18427 be approved.

August 23, 2022

## **Approval of Hitt Hall 9(d) Debt Financing**

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

The Hitt Hall project (Capital Outlay Project #18605) has been authorized by the state to be financed pursuant to Article X, Section 9(d) of the Constitution of Virginia for up to \$25.887 million plus amounts needed to fund issuance costs, reserve funds, and other financing expenses. However, further financial analysis identified alternative funding sources such that the university will only issue \$12 million of 9(d) debt.

The project provides an expansion of Myers-Lawson School of Construction, a new dining center, and other academic spaces. The approximately 100,900 gross square foot building will be located on the north side of campus. The total \$83.6 million project cost for Hitt Hall includes \$4.859 million cash from dining programs, \$25 million of private gifts, \$41.741 million of 9(c) debt, and \$12 million of 9(d) debt. Debt service will be paid from gift receipts, auxiliary revenue, and an internal lease for academic program space utilized by E&G programs. The university may use commercial paper as short-term financing and would reimburse itself from the 9(d) bond proceeds.

The bonds will be issued through the Virginia College Building Authority (the “Authority”), and the university will enter into a loan agreement and promissory note with the Authority. The loan agreement and note are subject to the following parameters: (a) the principal amount shall not be greater than the amount authorized by the General Assembly of Virginia; (b) the aggregate principal amount shall not exceed \$12 million plus amounts needed to fund issuance costs and other financing expenses; (c) the interest rate payable shall not exceed a true interest cost more than 50 basis points higher than the interest rate for “AA” rated securities with comparable maturities; (d) the weighted average maturity of the principal payments shall not be in excess of 20 years; (e) the last principal payment date shall not extend beyond the expected economic life of the project; and (f) the actual amount, interest rates, principal maturities, and date of the note shall be approved by an Authorized Officer.

The resolution identifies (1) the Vice President for Finance, (2) the University Treasurer, and (3) the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, as being authorized 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 sale and issuance of the bonds.

**RESOLUTION ON HITT HALL  
9(d) FINANCING**

**WHEREAS**, pursuant to and in furtherance of Chapter 12, Title 23.1 of the Code of Virginia of 1950, as amended (the “Act”), the Virginia College Building Authority (the “Authority”) developed a program (the “Program”) to purchase debt instruments issued by public institutions of higher education in the Commonwealth of Virginia (“Participating Institutions” and each a “Participating Institution”) to finance or refinance projects of capital improvement (“Capital Projects” and each a “Capital Project”) included in a bill passed by a majority of each house of the General Assembly of Virginia (the “General Assembly”);

**WHEREAS**, under the Program, the Authority from time to time issues its Educational Facilities Revenue Bonds (Public Higher Education Financing Program) (“Pooled Bonds”) to finance the purchase or refunding of debt instruments issued by Participating Institutions to finance or refinance Capital Projects;

**WHEREAS**, if a Participating Institution desires to finance or refinance a Capital Project through the Program, it must enter into a loan agreement with the Authority, under which: (i) the Participating Institution will issue its promissory note pursuant to the Act to evidence a loan to it by the Authority; (ii) the Authority will agree to issue Pooled Bonds and use proceeds thereof to purchase the promissory note; (iii) the Participating Institution will agree to use proceeds of Pooled Bonds, loaned to it and received in exchange for its promissory note, to finance or refinance the Capital Project and to not take actions that may jeopardize any federal tax-exempt status of interest on Pooled Bonds allocable to financing or refinancing the Capital Project; and (iv) the Participating Institution will agree to make payments under the promissory note in sums sufficient to pay, together with certain administrative and arbitrage rebate payments, the principal of, premium, if any, and interest due on such Pooled Bonds;

**WHEREAS**, the Board of Visitors (the “Board”) of Virginia Polytechnic Institute and State University (the “Institution”) from time to time desires to finance or refinance Capital Projects for the Institution as a Participating Institution under the Program, and now proposes that the Institution issue its promissory note or notes (collectively, the “Note”) to be sold to the Authority in accordance with a loan agreement or loan agreements between the Institution and the Authority (collectively, the “Loan Agreement”), under which proceeds of Pooled Bonds will be loaned to and received by the Institution in exchange for the Note, to finance or refinance costs of the following Capital Project authorized for bond financing by the General Assembly: Hitt Hall – Capital Outlay Project Number 18605 (the “Project”); and

**WHEREAS**, the Board desires to designate certain Institution officers: (i) delegated the authority to approve the forms of and to execute and deliver the Loan Agreement, the Note, and any amendments thereto, and any other documents necessary or desirable in connection with financing or refinancing costs of the Project through and participation in the Program; and (ii) responsible for monitoring post-issuance compliance with covenants of the Institution related to maintaining any federal tax-exempt status of interest on Pooled Bonds.

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

**Section 1.** The Project is hereby designated to be undertaken and financed or refinanced by the Authority and, accordingly, the Vice President for Finance, the University Treasurer, and the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer (the “Authorized Officers”) are each hereby delegated and invested with full power and authority to approve the forms of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), and any pledge to the payment of the Note and any amendment thereto of total gross university sponsored overhead, unrestricted endowment income, tuition and fees, indirect cost recoveries, auxiliary enterprise revenues, general and nongeneral fund appropriations, and other revenues not required by law or previous binding contract to be devoted to some other purpose, restricted by a gift instrument for another purpose or excluded from such pledge as provided in the Loan Agreement, subject to the provisions of Section 3 hereof.

**Section 2.** Subject to the provisions of Section 3 hereof, the Authorized Officers are each hereby delegated and invested with full power and authority to execute, deliver, and issue, on behalf of the Institution, (a) the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), with approval of such documents in accordance with Section 1 hereof evidenced conclusively by the execution and delivery of the respective document, and (b) any other documents, instruments, or certificates as may be deemed necessary or desirable to finance or refinance costs of the Project through and participate in the Program, and to further carry out the purposes and intent of this resolution. The Authorized Officers are authorized and directed to take such steps and deliver such certificates in connection with delivery of the Note, and any amendment thereto, as may be required under any existing obligations, including bond resolutions relating to any outstanding general revenue pledge bonds, and to notify Virginia Department of Treasury representatives serving as Authority staff at least 60 days in advance of a pledge of any amounts pledged to the payment of the Note in accordance with Section 1 hereof to, or as security for, the payment of any other Institution obligations issued or entered into after the date hereof for so long as the Note and any amendments thereto remain outstanding.

**Section 3.** The authorizations given above as to the approval, execution, delivery, and issuance of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise) are subject to the following parameters: (a) the principal amount to be paid under the Note allocable to any component of the Project, together with the principal amount of any other indebtedness with respect to such component, shall not be greater than the amount authorized for such component by the General Assembly plus amounts needed to fund issuance costs, original issue discount, other financing (including, without limitation, refunding) expenses, and any other increase permitted by law; (b) the aggregate principal amount of the Note shall in no event exceed \$12 million as the same may be so increased; (c) the aggregate interest rate payable under the Note shall not exceed a “true”

or “Canadian” interest cost more than 50 basis points higher than the interest rate for “AA” rated securities with comparable maturities, as reported by Thomson Municipal Market Data (MMD) or another comparable service or index, as of the date that the interest rates on the Authority’s Pooled Bonds are determined, taking into account any original issue discount or premium; (d) the weighted average maturity of the principal payments due under the Note shall not exceed 20 years after the original issue date of the Note; (e) the last principal payment date under the Note shall not extend beyond the reasonably expected economic life of the Project; and (f) subject to the foregoing, the actual amount, interest rates, principal maturities, and date of the Note shall be approved by an Authorized Officer, as evidenced by the execution thereof.

**Section 4.** The Board acknowledges that if there is a failure to make, as and when due, any payment of the principal of, premium, if any, and interest on any promissory note issued by the Institution as a Participating Institution to the Authority under the Program, including without limitation the Note and any amendments thereto, the State Comptroller is authorized under the Program and Section 23.1-1211 of the Code of Virginia of 1950, as amended, to charge against appropriations available to the Institution all future payments of principal of, premium, if any, and interest on such promissory note when due and payable and to make such payments to the Authority or its designee, so as to ensure that no future default will occur on such promissory note.

**Section 5.** The Board agrees that if the Authority determines the Institution as a Participating Institution shall be subject to continuing disclosure obligations under Rule 15c2-12 of the federal Securities and Exchange Commission with respect to any Pooled Bonds, (a) an Authorized Officer shall, and is hereby authorized and directed to, enter into a continuing disclosure undertaking in form and substance reasonably satisfactory to the Authority, and (b) the Institution will comply with the provisions and disclosure obligations contained therein.

**Section 6.** The Board designates the University Treasurer and the Assistant Vice President and Associate Treasurer to be responsible for implementing procedures to monitor post-issuance compliance with covenants in any loan agreement between the Institution as a Participating Institution and the Authority, including the Loan Agreement and any amendments thereto, related to maintaining tax-exempt status for federal income tax purposes of interest on any Pooled Bonds, including, without limitation, monitoring the use of any portion of all Capital Projects for the Institution financed or refinanced with such Pooled Bonds and compliance with any applicable federal income tax remedial action requirements in connection with certain changes in such use. Such officer shall review such post-issuance compliance at least annually for so long as such Pooled Bonds remain outstanding.

### **RECOMMENDATION:**

That the above resolution authorizing the issuance of 9(d) bonds for the Hitt Hall Capital Outlay Project Number 18605 be approved.

August 23, 2022

## **Approval of Innovation Campus - Academic Building 9(d) Debt Financing**

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

The Innovation Campus - Academic Building project (Capital Outlay Project #18412) has been authorized by the state to be financed pursuant to Article X, Section 9(d) of the Constitution of Virginia for up to \$107 million plus amounts needed to fund issuance costs, reserve funds, and other financing expenses.

The project will construct a 300,000 gross square foot building located in Alexandria Virginia. The Innovation Campus-Academic Building will support graduate-degree programs and research opportunities in computational sciences and engineering; data science and analytics; and technology and policy. The project includes construction of a two-level below grade parking structure that contains 178 spaces and a surface lot that contains 104 spaces for the Innovation Campus. The total \$302.136 million project will be funded with \$107 million of 9(d) bond proceeds, \$27.136 million of 9(c) bond proceeds, and \$168 million of 21st Century VCBA bond proceeds. Debt service for the 9(d) building component of this project will be paid from private gift and other receipts. The university may use commercial paper as short-term financing and plans to reimburse itself from the 9(d) bond proceeds.

The bonds will be issued through the Virginia College Building Authority (the "Authority"), and the university will enter into a loan agreement and promissory note with the Authority. The loan agreement and note are subject to the following parameters: (a) the principal amount shall not be greater than the amount authorized by the General Assembly of Virginia; (b) the aggregate principal amount shall not exceed \$107 million plus amounts needed to fund issuance costs and other financing expenses; (c) the interest rate payable shall not exceed a true interest cost more than 50 basis points higher than the interest rate for "AA" rated securities with comparable maturities; (d) the weighted average maturity of the principal payments shall not be in excess of 30 years; (e) the last principal payment date shall not extend beyond the expected economic life of the project; and (f) the actual amount, interest rates, principal maturities, and date of the note shall be approved by an Authorized Officer.

The resolution identifies (1) the Vice President for Finance, (2) the University Treasurer, and (3) the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, as being authorized 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 sale and issuance of the bonds.

**RESOLUTION ON INNOVATION CAMPUS – ACADEMIC BUILDING  
9(d) FINANCING**

**WHEREAS**, pursuant to and in furtherance of Chapter 12, Title 23.1 of the Code of Virginia of 1950, as amended (the “Act”), the Virginia College Building Authority (the “Authority”) developed a program (the “Program”) to purchase debt instruments issued by public institutions of higher education in the Commonwealth of Virginia (“Participating Institutions” and each a “Participating Institution”) to finance or refinance projects of capital improvement (“Capital Projects” and each a “Capital Project”) included in a bill passed by a majority of each house of the General Assembly of Virginia (the “General Assembly”);

**WHEREAS**, under the Program, the Authority from time to time issues its Educational Facilities Revenue Bonds (Public Higher Education Financing Program) (“Pooled Bonds”) to finance the purchase or refunding of debt instruments issued by Participating Institutions to finance or refinance Capital Projects;

**WHEREAS**, if a Participating Institution desires to finance or refinance a Capital Project through the Program, it must enter into a loan agreement with the Authority, under which: (i) the Participating Institution will issue its promissory note pursuant to the Act to evidence a loan to it by the Authority; (ii) the Authority will agree to issue Pooled Bonds and use proceeds thereof to purchase the promissory note; (iii) the Participating Institution will agree to use proceeds of Pooled Bonds, loaned to it and received in exchange for its promissory note, to finance or refinance the Capital Project and to not take actions that may jeopardize any federal tax-exempt status of interest on Pooled Bonds allocable to financing or refinancing the Capital Project; and (iv) the Participating Institution will agree to make payments under the promissory note in sums sufficient to pay, together with certain administrative and arbitrage rebate payments, the principal of, premium, if any, and interest due on such Pooled Bonds;

**WHEREAS**, the Board of Visitors (the “Board”) of Virginia Polytechnic Institute and State University (the “Institution”) from time to time desires to finance or refinance Capital Projects for the Institution as a Participating Institution under the Program, and now proposes that the Institution issue its promissory note or notes (collectively, the “Note”) to be sold to the Authority in accordance with a loan agreement or loan agreements between the Institution and the Authority (collectively, the “Loan Agreement”), under which proceeds of Pooled Bonds will be loaned to and received by the Institution in exchange for the Note, to finance or refinance costs of the following Capital Project authorized for bond financing by the General Assembly: Innovation Campus - Academic Building – Capital Outlay Project Number 18412 (the “Project”); and

**WHEREAS**, the Board desires to designate certain Institution officers: (i) delegated the authority to approve the forms of and to execute and deliver the Loan Agreement, the Note, and any amendments thereto, and any other documents necessary or desirable in connection with financing or refinancing costs of the Project through and participation in the Program; and (ii) responsible for monitoring post-issuance compliance with covenants of the Institution related to maintaining any federal tax-exempt status of interest on Pooled Bonds.

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

**Section 1.** The Project is hereby designated to be undertaken and financed or refinanced by the Authority and, accordingly, the Vice President for Finance, the University Treasurer, and the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer (the “Authorized Officers”) are each hereby delegated and invested with full power and authority to approve the forms of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), and any pledge to the payment of the Note and any amendment thereto of total gross university sponsored overhead, unrestricted endowment income, tuition and fees, indirect cost recoveries, auxiliary enterprise revenues, general and nongeneral fund appropriations, and other revenues not required by law or previous binding contract to be devoted to some other purpose, restricted by a gift instrument for another purpose or excluded from such pledge as provided in the Loan Agreement, subject to the provisions of Section 3 hereof.

**Section 2.** Subject to the provisions of Section 3 hereof, the Authorized Officers are each hereby delegated and invested with full power and authority to execute, deliver, and issue, on behalf of the Institution, (a) the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), with approval of such documents in accordance with Section 1 hereof evidenced conclusively by the execution and delivery of the respective document, and (b) any other documents, instruments, or certificates as may be deemed necessary or desirable to finance or refinance costs of the Project through and participate in the Program, and to further carry out the purposes and intent of this resolution. The Authorized Officers are authorized and directed to take such steps and deliver such certificates in connection with delivery of the Note, and any amendment thereto, as may be required under any existing obligations, including bond resolutions relating to any outstanding general revenue pledge bonds, and to notify Virginia Department of Treasury representatives serving as Authority staff at least 60 days in advance of a pledge of any amounts pledged to the payment of the Note in accordance with Section 1 hereof to, or as security for, the payment of any other Institution obligations issued or entered into after the date hereof for so long as the Note and any amendments thereto remain outstanding.

**Section 3.** The authorizations given above as to the approval, execution, delivery, and issuance of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise) are subject to the following parameters: (a) the principal amount to be paid under the Note allocable to any component of the Project, together with the principal amount of any other indebtedness with respect to such component, shall not be greater than the amount authorized for such component by the General Assembly plus amounts needed to fund issuance costs, original issue discount, other financing (including, without limitation, refunding) expenses, and any other increase permitted by law; (b) the aggregate principal amount of the Note shall in no event exceed \$107 million as the same may be so increased; (c) the aggregate interest rate payable under the Note shall not exceed a “true”



or “Canadian” interest cost more than 50 basis points higher than the interest rate for “AA” rated securities with comparable maturities, as reported by Thomson Municipal Market Data (MMD) or another comparable service or index, as of the date that the interest rates on the Authority’s Pooled Bonds are determined, taking into account any original issue discount or premium; (d) the weighted average maturity of the principal payments due under the Note shall not exceed 30 years after the original issue date of the Note; (e) the last principal payment date under the Note shall not extend beyond the reasonably expected economic life of the Project; and (f) subject to the foregoing, the actual amount, interest rates, principal maturities, and date of the Note shall be approved by an Authorized Officer, as evidenced by the execution thereof.

**Section 4.** The Board acknowledges that if there is a failure to make, as and when due, any payment of the principal of, premium, if any, and interest on any promissory note issued by the Institution as a Participating Institution to the Authority under the Program, including without limitation the Note and any amendments thereto, the State Comptroller is authorized under the Program and Section 23.1-1211 of the Code of Virginia of 1950, as amended, to charge against appropriations available to the Institution all future payments of principal of, premium, if any, and interest on such promissory note when due and payable and to make such payments to the Authority or its designee, so as to ensure that no future default will occur on such promissory note.

**Section 5.** The Board agrees that if the Authority determines the Institution as a Participating Institution shall be subject to continuing disclosure obligations under Rule 15c2-12 of the federal Securities and Exchange Commission with respect to any Pooled Bonds, (a) an Authorized Officer shall, and is hereby authorized and directed to, enter into a continuing disclosure undertaking in form and substance reasonably satisfactory to the Authority, and (b) the Institution will comply with the provisions and disclosure obligations contained therein.

**Section 6.** The Board designates the University Treasurer and the Assistant Vice President and Associate Treasurer to be responsible for implementing procedures to monitor post-issuance compliance with covenants in any loan agreement between the Institution as a Participating Institution and the Authority, including the Loan Agreement and any amendments thereto, related to maintaining tax-exempt status for federal income tax purposes of interest on any Pooled Bonds, including, without limitation, monitoring the use of any portion of all Capital Projects for the Institution financed or refinanced with such Pooled Bonds and compliance with any applicable federal income tax remedial action requirements in connection with certain changes in such use. Such officer shall review such post-issuance compliance at least annually for so long as such Pooled Bonds remain outstanding.

### **RECOMMENDATION:**

That the above resolution authorizing the issuance of 9(d) bonds for the Innovation Campus - Academic Building Capital Outlay Project Number 18412 be approved.

August 23, 2022

## **Approval of Student Wellness Improvements 9(d) Debt Financing**

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

The Student Wellness Services project (Capital Outlay Project #18357) has been authorized by the state to be financed pursuant to Article X, Section 9(d) of the Constitution of Virginia for up to \$59.190 million plus amounts needed to fund issuance costs, reserve funds, and other financing expenses. However, further financial analysis identified alternative funding sources such that the university will only issue \$46.954 million of 9(d) debt.

The project will renovate approximately 197,000 gross square feet of War Memorial Hall. The improvements will provide space for Hokie Wellness, Recreational Sports, Human Nutrition, Foods, and Exercise, and the School of Education. The project will address deferred maintenance, code requirements, and install air conditioning to the building. The total \$70 million project cost will be funded with approximately \$46.954 million of 9(d) debt and \$23.046 million of cash from Student Health and Recreational Sports. Debt service for this project will be paid from self-generated funds derived from Student Health and Recreational Sports auxiliary revenues. The E&G program cost share for the School of Education will to be covered by an internal lease. The university may use commercial paper as short-term financing and would reimburse itself from the 9(d) bond proceeds.

The bonds will be issued through the Virginia College Building Authority (the "Authority"), and the university will enter into a loan agreement and promissory note with the Authority. The loan agreement and note are subject to the following parameters: (a) the principal amount shall not be greater than the amount authorized by the General Assembly of Virginia; (b) the aggregate principal amount shall not exceed \$46,954,000 plus amounts needed to fund issuance costs and other financing expenses; (c) the interest rate payable shall not exceed a true interest cost more than 50 basis points higher than the interest rate for "AA" rated securities with comparable maturities; (d) the weighted average maturity of the principal payments shall not be in excess of 30 years; (e) the last principal payment date shall not extend beyond the expected economic life of the project; and (f) the actual amount, interest rates, principal maturities, and date of the note shall be approved by an Authorized Officer.

The resolution identifies (1) the Vice President for Finance, (2) the University Treasurer, and (3) the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer, as being authorized 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 sale and issuance of the bonds.

**RESOLUTION ON STUDENT WELLNESS IMPROVEMENTS**  
**9(d) FINANCING**

**WHEREAS**, pursuant to and in furtherance of Chapter 12, Title 23.1 of the Code of Virginia of 1950, as amended (the “Act”), the Virginia College Building Authority (the “Authority”) developed a program (the “Program”) to purchase debt instruments issued by public institutions of higher education in the Commonwealth of Virginia (“Participating Institutions” and each a “Participating Institution”) to finance or refinance projects of capital improvement (“Capital Projects” and each a “Capital Project”) included in a bill passed by a majority of each house of the General Assembly of Virginia (the “General Assembly”);

**WHEREAS**, under the Program, the Authority from time to time issues its Educational Facilities Revenue Bonds (Public Higher Education Financing Program) (“Pooled Bonds”) to finance the purchase or refunding of debt instruments issued by Participating Institutions to finance or refinance Capital Projects;

**WHEREAS**, if a Participating Institution desires to finance or refinance a Capital Project through the Program, it must enter into a loan agreement with the Authority, under which: (i) the Participating Institution will issue its promissory note pursuant to the Act to evidence a loan to it by the Authority; (ii) the Authority will agree to issue Pooled Bonds and use proceeds thereof to purchase the promissory note; (iii) the Participating Institution will agree to use proceeds of Pooled Bonds, loaned to it and received in exchange for its promissory note, to finance or refinance the Capital Project and to not take actions that may jeopardize any federal tax-exempt status of interest on Pooled Bonds allocable to financing or refinancing the Capital Project; and (iv) the Participating Institution will agree to make payments under the promissory note in sums sufficient to pay, together with certain administrative and arbitrage rebate payments, the principal of, premium, if any, and interest due on such Pooled Bonds;

**WHEREAS**, the Board of Visitors (the “Board”) of Virginia Polytechnic Institute and State University (the “Institution”) from time to time desires to finance or refinance Capital Projects for the Institution as a Participating Institution under the Program, and now proposes that the Institution issue its promissory note or notes (collectively, the “Note”) to be sold to the Authority in accordance with a loan agreement or loan agreements between the Institution and the Authority (collectively, the “Loan Agreement”), under which proceeds of Pooled Bonds will be loaned to and received by the Institution in exchange for the Note, to finance or refinance costs of the following Capital Project authorized for bond financing by the General Assembly: Student Wellness Improvements – Capital Outlay Project Number 18357 (the “Project”); and

**WHEREAS**, the Board desires to designate certain Institution officers: (i) delegated the authority to approve the forms of and to execute and deliver the Loan Agreement, the Note, and any amendments thereto, and any other documents necessary or desirable in connection with financing or refinancing costs of the Project through and participation in the Program; and (ii) responsible for monitoring post-issuance compliance with covenants of the Institution related to maintaining any federal tax-exempt status of interest on Pooled Bonds.

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

**Section 1.** The Project is hereby designated to be undertaken and financed or refinanced by the Authority and, accordingly, the Vice President for Finance, the University Treasurer, and the Assistant Vice President and Associate Treasurer in consultation with the Chief Business Officer (the “Authorized Officers”) are each hereby delegated and invested with full power and authority to approve the forms of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), and any pledge to the payment of the Note and any amendment thereto of total gross university sponsored overhead, unrestricted endowment income, tuition and fees, indirect cost recoveries, auxiliary enterprise revenues, general and nongeneral fund appropriations, and other revenues not required by law or previous binding contract to be devoted to some other purpose, restricted by a gift instrument for another purpose or excluded from such pledge as provided in the Loan Agreement, subject to the provisions of Section 3 hereof.

**Section 2.** Subject to the provisions of Section 3 hereof, the Authorized Officers are each hereby delegated and invested with full power and authority to execute, deliver, and issue, on behalf of the Institution, (a) the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise), with approval of such documents in accordance with Section 1 hereof evidenced conclusively by the execution and delivery of the respective document, and (b) any other documents, instruments, or certificates as may be deemed necessary or desirable to finance or refinance costs of the Project through and participate in the Program, and to further carry out the purposes and intent of this resolution. The Authorized Officers are authorized and directed to take such steps and deliver such certificates in connection with delivery of the Note, and any amendment thereto, as may be required under any existing obligations, including bond resolutions relating to any outstanding general revenue pledge bonds, and to notify Virginia Department of Treasury representatives serving as Authority staff at least 60 days in advance of a pledge of any amounts pledged to the payment of the Note in accordance with Section 1 hereof to, or as security for, the payment of any other Institution obligations issued or entered into after the date hereof for so long as the Note and any amendments thereto remain outstanding.

**Section 3.** The authorizations given above as to the approval, execution, delivery, and issuance of the Loan Agreement, the Note, and any amendments thereto (in connection with any refunding of Pooled Bonds financing or refinancing the Project or otherwise) are subject to the following parameters: (a) the principal amount to be paid under the Note allocable to any component of the Project, together with the principal amount of any other indebtedness with respect to such component, shall not be greater than the amount authorized for such component by the General Assembly plus amounts needed to fund issuance costs, original issue discount, other financing (including, without limitation, refunding) expenses, and any other increase permitted by law; (b) the aggregate principal amount of the Note shall in no event exceed \$46.954 million as the same may be so increased; (c) the aggregate interest rate payable under the Note shall not exceed a “true”

or “Canadian” interest cost more than 50 basis points higher than the interest rate for “AA” rated securities with comparable maturities, as reported by Thomson Municipal Market Data (MMD) or another comparable service or index, as of the date that the interest rates on the Authority’s Pooled Bonds are determined, taking into account any original issue discount or premium; (d) the weighted average maturity of the principal payments due under the Note shall not exceed 30 years after the original issue date of the Note; (e) the last principal payment date under the Note shall not extend beyond the reasonably expected economic life of the Project; and (f) subject to the foregoing, the actual amount, interest rates, principal maturities, and date of the Note shall be approved by an Authorized Officer, as evidenced by the execution thereof.

**Section 4.** The Board acknowledges that if there is a failure to make, as and when due, any payment of the principal of, premium, if any, and interest on any promissory note issued by the Institution as a Participating Institution to the Authority under the Program, including without limitation the Note and any amendments thereto, the State Comptroller is authorized under the Program and Section 23.1-1211 of the Code of Virginia of 1950, as amended, to charge against appropriations available to the Institution all future payments of principal of, premium, if any, and interest on such promissory note when due and payable and to make such payments to the Authority or its designee, so as to ensure that no future default will occur on such promissory note.

**Section 5.** The Board agrees that if the Authority determines the Institution as a Participating Institution shall be subject to continuing disclosure obligations under Rule 15c2-12 of the federal Securities and Exchange Commission with respect to any Pooled Bonds, (a) an Authorized Officer shall, and is hereby authorized and directed to, enter into a continuing disclosure undertaking in form and substance reasonably satisfactory to the Authority, and (b) the Institution will comply with the provisions and disclosure obligations contained therein.

**Section 6.** The Board designates the University Treasurer and the Assistant Vice President and Associate Treasurer to be responsible for implementing procedures to monitor post-issuance compliance with covenants in any loan agreement between the Institution as a Participating Institution and the Authority, including the Loan Agreement and any amendments thereto, related to maintaining tax-exempt status for federal income tax purposes of interest on any Pooled Bonds, including, without limitation, monitoring the use of any portion of all Capital Projects for the Institution financed or refinanced with such Pooled Bonds and compliance with any applicable federal income tax remedial action requirements in connection with certain changes in such use. Such officer shall review such post-issuance compliance at least annually for so long as such Pooled Bonds remain outstanding.

### **RECOMMENDATION:**

That the above resolution authorizing the issuance of 9(d) bonds for the Student Wellness Improvements Capital Outlay Project Number 18357 be approved.

August 23, 2023