University of South Carolina

BOARD OF TRUSTEES

Executive Committee

October 27, 2005

The Executive Committee of the University of South Carolina Board of Trustees met on Thursday, October 27, 2005, at 11:20 a.m. in the Capstone House Campus Room.

Members present were: Mr. Herbert C. Adams, Chairman; Mr. James Bradley; Dr. C. Edward Floyd; Mr. Miles Loadholt; Mr. Michael J. Mungo; and Mr. Mack I. Whittle, Jr. Other Trustees present were: Mr. Arthur S. Bahnmuller; Mr. Mark W. Buyck, Jr.; Mr. William C. Hubbard; Mr. William W. Jones, Jr.; Mr. Toney J. Lister; Ms. Rita M. McKinney; Ms. Darla D. Moore; Mr. John C. von Lehe, Jr. Mr. Eugene P. Warr, Jr.; and Mr. Othniel H. Wienges, Jr.

Others present were: President Andrew A. Sorensen; Secretary Thomas L. Stepp; Executive Vice President for Academic Affairs and Provost Mark P. Becker; Vice President and Chief Financial Officer Richard W. Kelly; Vice President for Research and Health Sciences Harris Pastides; Vice President for Information Technology and Chief Information Officer William F. Hogue; Vice President for Advancement T.W. Hudson Akin; Vice President for Student Affairs Dennis A. Pruitt; General Counsel Walter (Terry) H. Parham; Vice Provost and Executive Dean for Regional Campuses and Continuing Education Chris P. Plyler; Chancellor of USC Aiken Thomas L. Hallman; Chancellor of USC Upstate John C. Stockwell; Dean of USC Lancaster John Catalano; Associate Provost Susan D. Hanna; Vice Chancellor for Business Affairs, USC Upstate, Robert Connelly; Director of Business Affairs, Division of Business and Finance, Helen Zeigler; Director of Athletics Eric C. Hyman; Director of the Department of Internal Audit Alton McCoy; Director of Student Development and University Housing, Division of Student Affairs, Gene Luna; Associate Professor in the Department of English and Associate Director of the Institute for Southern Studies, College of Arts and Sciences, H. Thorne Compton; Budget Director, Office of Business and Finance Leslie Brunelli; Assistant to the Vice President, Division of Business and Finance, Ken Corbett; Chief Financial Officer, Office of Foundations, Russell H. Meekins; University Legislative Liaison John D. Gregory; Director of University Communications, Division of University Advancement, Russ McKinney, Jr.; and a member of the media.

Chairman Adams called the meeting to order and invited Board members to introduce themselves. Mr. McKinney introduced a member of the media who was in attendance.

Chairman Adams stated that notice of the meeting had been posted and the press notified as required by the Freedom of Information Act; the agenda and supporting materials had been circulated to members of the Committee; and a quorum was present to conduct business.

There were personnel matters which were appropriate for discussion in Executive Session. Chairman Adams called for a motion to enter Executive Session. Mr. Mungo so moved and Mr. Bradley seconded the motion. The vote was taken, and the motion carried.

All individuals except Secretary Stepp were invited to leave the room.

Return to Open Session

I. Contracts Valued In Excess of $250,000:

A. Indefinite Delivery Contracts:

1. Boykin Contracting, Inc.
2. Monteray Construction Co., Inc.
3. MSI Construction Co., Inc.
4. Penn Contracting, LLC
5. Preferred Construction
6. Priority Construction Co., Inc.
7. Select Construction & Management, LLC
8. Smith Constructors & Engineers, Inc.
9. Southeast Construction Co., Inc.
10. Weber Construction Co., Inc.

Chairman Adams called on Mr. Parham who explained that before the Executive Committee for consideration were ten indefinite delivery contracts for general construction services. These contracts were used to address small construction needs on campus; companies were "on call" and were selected based on the percentage discount they offered from the standard construction services costs as listed in the applicable manual which the University used.

Mr. Bradley moved approval of the ten indefinite delivery contracts as described in the materials distributed for the meeting. Mr. Loadholt seconded the motion. The vote was taken, and the motion carried.

B. Bookstore Management Contract: Chairman Adams called on Mr. Kelly who initially reminded Committee members that the current five year bookstore management contract with Barnes and Noble College Bookstore, Inc. will expire May 2006. Under the current structure, the University's rate of commission was 11 percent for the first $6 million and 13.5 percent above that amount in gross commissionable sales. In addition, Barnes and Noble had agreed to expend $100,000 in capital investments. When it was determined that a total of $500,000 was needed, the company agreed to match the University's contribution of $200,000. Mr. Kelly also displayed photographs of the various improvements which had been rendered to the University bookstore.

A contract was solicited through the RFP process; potential vendors were asked to provide figures based on 10 and 15 year contracts; minimum commission rates of 13.5 percent for 15 years and 13 percent for 10 years were established. Mr. Kelly indicated that Barnes and Noble had submitted a proposed 15 year contract with a 13.6 percent commission rate . Also included was a $100,000 signing bonus provision and various guarantees including a minimum annual revenue to the

University of $750,000 which will generate approximately an additional $200,000-$250,000 of scholarship money. Also negotiated in the contract was the biannual replacement of the bookstore carpeting by the vendor; a $25,000 per year investment in maintenance of that space; additional improvement of storefront displays and signage; and a $1.3 million Barnes and Noble investment in a state of the art, Class A Starbucks coffee shop. Mr. Kelly noted that most of the Barnes and Noble stores throughout the country had these coffee shops as their mainstay inside; it was believed that the 13.6 commission rate would also cover the sale of coffee and other Starbucks products. Mr. Kelly displayed and explained several visual renderings of the coffee shop within the University bookstore space. He particularly pointed out that the shop could be accessed when the bookstore was closed.

In summary, Mr. Kelly believed that this proposed contract would be of tremendous value to the University particularly in the area of scholarship dollars generated; also anticipated was the use of the Starbucks coffee shop as a recruiting tool. On behalf of the University, Mr. Kelly was requesting Executive Committee approval to enter into a 15 year contract with Barnes and Noble College Bookstore, Inc.

Mr. Whittle moved approval of the Barnes and Noble College Bookstore, Inc. contract as described in the materials distributed for the meeting. Mr. Bradley seconded the motion.

Mr. Bradley asked whether a 10 year contract with a 13 percent commission rate would realize a higher yield for the University because another contract would be negotiated at the end of that term with a possible 2-3 percent rate increase. Mr. Kelly responded that a possible additional annual revenue amount of $68,000 would be generated; however, the University's cancellation provision stipulated that if Carolina terminated the agreement at the end of 5 years, 10 years, or any year after that point, the unamortized coffee shop debt must be paid; a straight line depreciation of 15 years had been included in the contract. At the end of this time period, the coffee shop will belong to the University. After careful consideration, it was in the best interests of the University to enter into a 15 year bookstore management contract with Barnes and Noble.

Responding to Mr. Whittle's inquiry about whether the $1.3 million would cover the cost of exterior refurbishment, Mr. Kelly noted that the projected amount included all renovations. Responding to his inquiry about whether Starbucks could be moved to another site if a new student union building was erected elsewhere on campus, Mr. Kelly explained that under the proposed agreement, the coffee shop could not be moved, but rather the contract would have to be terminated; again, the

University would be responsible for paying the unamortized debt. He also commented that construction of the coffee shop will begin shortly after January 1 and will be completed before the beginning of the new contract in May 2006.

Mr. Mungo asked that fully executed signed copies of contracts which the Executive Committee had approved be distributed to Committee members.

Dr. Floyd asked if the proposed commission rate compared favorably with other institutions. Mr. Kelly indicated that it paralleled the Clemson rate where the market was considerably less competitive and equaled the rate at other schools with substantially larger sales volumes.

Since Barnes and Noble had been awarded the contract to manage the University bookstore, the increase in sales and commissions had grown more than 50 percent (nearly 57 percent during the past 3 years). In the proposed contract, it was believed that Barnes and Noble had offered the highest commission rate to the University. Also included in the contract was a provision requiring Barnes and Noble to designate the University as its primary reference in any proposals for future business in the collegiate area. It was believed that this requirement would ensure their maintaining a “satisfied customer” relationship with the University.

Mr. Whittle asked whether this company was considering the possibility of contracting with the other campuses. Their individual volume of sales was not considered a viable option for large chain operations. All of the campuses maintained in-house bookstore management systems. Mr. Kelly advised that USC Lancaster had been included in this process as a voluntary submission and Barnes and Noble had offered that campus a commission rate of 6 percent.

Mr. Bradley moved approval of the bookstore management contract with Barnes and Noble as described in the materials distributed for the meeting. Mr. Loadholt seconded the motion. The vote was taken, and the motion carried.

Mr. Kelly recognized Ms. Helen Zeigler as the principal individual who had negotiated this contract. “She is personally responsible for the success that we have seen at that bookstore both in its appearance and in its sales volume.”

C. Global Spectrum: Chairman Adams recognized Mr. Parham who, on behalf of the Athletics Department, was presenting a contract with Global Spectrum, LP to manage the operation of the Colonial Center.

This particular contract was competitively bid, solicited in accordance with the South Carolina procurement code and would terminate on June 30, 2007. As the exclusive operator of the Colonial Center, Global Spectrum will manage all aspects of the facility (i.e., purchasing, payroll, security, routine repairs, event janitorial services, box office, and booking commitments). Mr. Parham noted that every aspect of the operation was subject to Athletics Department approval including the submission of a yearly proposed budget which was carefully reviewed prior to implementation.

This contract also granted Global Spectrum the right to be the exclusive promoter or co-promoter with the University of events which were scheduled in Williams-Brice Stadium other than intercollegiate and high school football games, NCAA sponsored events, and state and community non-profit events).

All rights awarded to Global Spectrum were subject to the Athletics Department's existing contracts with Volume Services, Inc. for food and beverage services, and Action Sports Media, Inc. regarding advertising and signage in the facility.

Global Spectrum will receive a fixed management fee equal to $12,500 per month for the first year of the contract, increasing in each succeeding year by the percentage increase in the Consumer Price Index for the local area as published by the United States Department of Labor, Bureau of Labor Statistics or similar index, not to exceed 3 percent per year.

Global Spectrum will also receive an incentive fee in the amount of 25 percent of all revenues in excess of benchmark amounts (Year 1 - $1,185,995; Year 2 - $1,258,289). Mr. Parham commented that the company had reached the revenue benchmark in each of the first 2 years; the first year incentive fee had totaled slightly more than $109,000 and the second year incentive fee had totaled $147,000.

And, finally, in the event Global Spectrum promoted or co-promoted an event at Williams-Brice Stadium, the company will receive 25 percent of the operating surplus associated with the specific event.

Responding to Mr. Mungo's inquiry about events held at the Williams-Brice Stadium, Secretary Stepp advised that it had been several years since concerts had been scheduled at that location, all of which preceded this particular contract. Profit generated from those events had been divided between the Athletics Department and the Koger Center Program Endowment.

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

D. Gamecock Sports Properties: Chairman Adams called on Mr. Parham who stated that this contract between the University Athletics Department and International Sports Properties, Inc. and Learfield Communications, Inc. (collectively "Gamecock Sports Properties, LLC") was procured in accordance with the consolidated procurement code in South Carolina and competitively bid; the

Athletics Department had selected this particular company to be awarded the contract.

The five year contract would terminate June 30, 2008. Mr. Parham reviewed the various broadcast and media rights components which specifically addressed football, men's basketball, women's basketball and baseball. This contract also granted to the Athletics Department the right to negotiate for other athletics events as long as Gamecock Sports Properties was initially contacted.

Components included:

Head coaches' television shows: the right to broadcast head coaches' television shows of which there must be 13 football, 14 men's basketball, 6 women's basketball, and 6 baseball shows per year; the Athletics Department will maintain control of the format and content.

Head coaches' radio shows (call-in shows and pre-recorded daytime shows): format and content will be controlled by the Athletics Department.

Live radio play-by-play broadcast rights: with respect to baseball, Gamecock Sports Properties was obligated to broadcast live play-by-play of all games against SEC institutions, Clemson University, and other baseball games as may be mutually agreed upon by the parties.

Pay-per-view broadcasts: Gamecock Sports Properties was granted the first right to negotiate for pay-per-view broadcasts.

In addition, Gamecock Sports Properties must produce game highlight videos each year for men's and women's basketball and football and will handle all game programs.

The contract also granted Gamecock Sports Properties the right to sell advertising in connection with each of the properties previously reviewed (i.e., radio broadcasts) as well as advertising signage as indicated below:

Williams-Brice Stadium: 15 exterior ramp signs on the northwest and southwest ramps.

Colonial Center: 4 removable courtside static signs, and 5 signs on the courtside rotational sign board.

Sarge Frye Field and Beckham Field: outfield fence signage as mutually agreed upon.

Mr. Parham indicated that Gamecock Sports Properties will pay to the Athletics Department annual guaranteed rights fees as listed in the summary handout (i.e., a 2005-2006 guaranteed rights payment of $1,900,000 to the Athletics Department). This yearly fee paid to the Athletics Department will be reduced by the amount of the payments made by Gamecock Sports Properties to the head coaches for their television and radio rights.

In addition, the contract included a revenue sharing provision. Gamecock Sports Properties will pay the Athletics Department 50 percent of the adjusted gross revenues that exceed yearly levels as established in the contract.

Gamecock Sports Properties will be required to lease an executive suite in Williams-Brice Stadium.

And, finally, the Athletics Department will provide Gamecock Sports Properties game tickets and parking passes for football, basketball and baseball games as listed in the contract.

Discussion ensued regarding signage rights in the different venues; the University was obligated to fulfill these signage arrangements until the current contract terminated in 2007.

Mr. Mungo asked that the cumulative value of parking passes and game tickets be included in the Executive Summary to facilitate Committee review of the contract; Mr. Parham will provide that information. In addition, he asked if the Athletics Department was satisfied with the operation of this company during the past two years. Mr. Parham replied that Dr. McGee, the former Athletics Director who had negotiated the contract, had been pleased with International Sports Properties, Inc. and Learfield Communications, Inc.; the current Athletics Director, Eric Hyman, stated that the two companies had been “wonderful partners” since his arrival on campus four months ago. Already surpassed for this year was the guaranteed rights fee from the company “so we will be able to profit on top of the guarantees we have had in the past two years.”

Mr. Mungo moved approval of the Gamecock Sports Properties, LLC contract as described in the materials distributed for the meeting. Mr. Bradley seconded the motion.

Discussion ensued regarding radio coverage throughout the state; criticism had been expressed that there were “pockets” which did not receive the broadcasts. Chairman Adams believed that the University owed the fans statewide coverage of all of the events. Further comments were made regarding the “pay per view” option which had experienced technical problems in various parts of the state. Mr. Hyman explained that ESPN television network governed “pay per view,” not ISPN, Learfield or the Athletics Department. If televised games were not available for viewing in certain areas, it was suggested that the local cable company dictated the programming based on local demand. Mr. Hyman further indicated that broadcast times for the games were determined by the SEC and its television partners; the University had no “say-so” in the process.

The vote was taken, and the motion carried.

E. Onewood Farm: Chairman Adams called on Mr. Parham who stated that he was presenting for Executive Committee consideration a contract between the Athletics Department and Onewood Farms, Inc. (OWF). Onewood Farms, an equestrian facility located in Blythewood, South Carolina, would become the home site for the University's equestrian team.

Under the contract, Onewood Farms will stable the horses used by the team and provide access to related equipment and facilities at that location. In addition, Onewood Farms will provide "priority practice times" for the equestrian team and will make the facility available for both practice and home events hosted by the Athletics Department in accordance with a mutually agreed upon schedule of usage.

The three year contract will terminate June 30, 2008. In consideration of the various services provided by OWF, the Athletics Department will pay $74,400 annually to be divided into 12 equal monthly installments of $6,200 beginning July 1, 2005.

Additional services to be provided will include: employment of individual(s) to care for the horses utilized by the equestrian team (i.e., farrier); administrative and payroll services in connection with such individuals; veterinarian/dental services; hay and bedding, supplies, and other services as may be necessary for the stabling and care of the horses. The Athletics Department will pay OWF the actual cost of the additional services within 30 days after the receipt of an invoice but was under no obligation to utilize such services.

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

II. School of Law Need-Based Scholarship Program: Chairman Adams called on Mr. Kelly who stated that at the request of President Sorensen and Provost Becker, the Division of Business and Finance will provide the School of Law "seed" money to establish a Need-Based Law Scholarship program. A total of $600,000 had been identified from the Trademarks and Licensing account during the next 5 years based on the following schedule: FY06 - FY08 $150,000 each year; FY09 - $100,000; and FY10 - $50,000 leaving a balance of slightly less than $200,000. An account will be established in the Office of Student Financial Aid and Scholarships based on approved policies and procedures for the administration of financial aid and scholarships.

Mr. Bradley moved approval of the School of Law Need-Based Scholarship Program as described in the materials distributed for the meeting. Mr. Loadholt seconded the motion.

Dr. Floyd asked whether applicants will be required to meet specific academic criteria. Provost Becker responded that the individuals must be competitive students to qualify for admission into the Law School; the Admissions Committee will determine the scholarship recipients. He noted that this fund will provide another mechanism to enhance the recruitment of high ability students. At Dr. Floyd's request, the Law School will document in writing an explicit set of criteria for this particular program.

Without objection, the original motion was amended to include that the Law School will document in writing scholarship requirements. The vote was taken, and the motion carried.

III. Development Foundation Board Appointment: Chairman Adams recognized Secretary Stepp who explained that as discussed in Executive Session Chairman Adams had advised him that Mr. Buyck was available to succeed Mr. Wayne Staton as the Board of Trustees representative on the USC Development Foundation.

Mr. Bradley moved approval of the appointment of Mr. Mark Buyck as the Board of Trustees representative on the USC Development Foundation. Mr. Mungo seconded the motion. The vote was taken, and the motion carried.

IV. Other Matters: Presidential Compensation: Chairman Adams called for a motion to direct Secretary Stepp to implement the necessary actions with the appropriate Foundations to adjust President Sorensen's salary as discussed.

Following the Executive Session discussion earlier today, Mr. Whittle had asked Secretary Stepp to inform the Executive Committee that he had instructed him to process the necessary paperwork to secure the $60,000 annual bonus from the Educational Foundation and a new $40,000 salary supplement from other sources; he had not able to attend this portion of the meeting. Mr. Bradley moved approval of the motion as stated above. Mr. Loadholt seconded the motion. The vote was taken, and the motion carried.

Since there were no other matters to come before the Committee, Chairman Adams declared the meeting adjourned at 12:45 p.m.

Respectfully submitted,

Thomas L. Stepp
Secretary