

**SPECIAL MEETING OF THE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**Presidents' Conference Room*
Boulevard Tower
1018 Kanawha Boulevard East
Charleston, West Virginia**

**March 1, 2012
1:30 P.M.**

AGENDA

- I. Call to Order
- II. Approval of Refunding Bond Resolution for Fairmont State University
- III. Approval of Stutzman-Slonaker Hall Renovations at Shepherd University
- IV. Approval of Robert C. Byrd Health Sciences Center Animal Facility Annex Construction Project and Financing Resolution at West Virginia University
- V. Adjournment

**To join the meeting by conference call, dial the following numbers: 1-866-453-5550, participant code: 5245480#.*

**West Virginia Higher Education Policy Commission
Meeting of March 1, 2012**

ITEM: Approval of Refunding Bond Resolution

INSTITUTION: Fairmont State University

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia Higher Education Policy Commission approves the resolution drafted by bond counsel authorizing the refunding of certain revenue bonds issued by the Fairmont State University Board of Governors in 2002 and 2003 in an aggregate principal amount not to exceed \$58 million.

STAFF MEMBER: Richard Donovan

BACKGROUND:

The Fairmont State University Board of Governors issued revenue bonds in 2002 and 2003 for various capital improvements as follows:

- \$18,170,000 of College Facilities Revenue Bonds, Series 2002 A, issued on August 29, 2002, with a current outstanding principal balance of \$15,180,000, to finance acquisition of student housing facilities consisting of an existing 113 unit apartment complex adjacent to the campus and for the construction of a new 1,000 space parking garage;
- \$9,310,000 of Infrastructure Revenue Bonds, Series 2002 B, issued on August 29, 2002, with a current outstanding principal balance of \$7,645,000, for improvements to campus infrastructure;
- \$13,320,000 of College Facilities Revenue Bonds, Series 2003 B, issued on March 26, 2003, with a current outstanding principal balance of \$11,530,000, for a new dormitory facility; and
- \$22,925,000 of Student Activity Revenue Bonds, Series 2003 B, issued on March 26, 2003, with a current outstanding principal balance of \$19,835,000, for the construction and equipping of a new student activity center and demolition of a dining facility.

Over the past several months, interest rates in the municipal bond market have fallen to the point that it is advantageous to refinance these bonds. Based on a bond pricing analysis prepared January 17, 2012, the University expects to realize a net present value savings of approximately \$4.99 million by the time the final debt service payment is made June 1, 2032. The revenue streams pledged to retire these bonds are

Educational and General (E&G) Capital Fees and Auxiliary and Auxiliary Capital Fees paid by students of both Fairmont State University and Pierpont Community and Technical College.

The Resolution authorizing the Refunding Bonds was prepared by Fairmont State University's bond counsel, Jackson Kelly PLLC, and is presented on the following pages.

**STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION**

RESOLUTION APPROVING THE REFUNDING OF FAIRMONT STATE UNIVERSITY'S COLLEGE FACILITIES REVENUE BONDS, SERIES 2002 A, INFRASTRUCTURE REVENUE BONDS, SERIES 2002 B, COLLEGE FACILITIES REVENUE BONDS, SERIES 2003 A, AND STUDENT ACTIVITY REVENUE BONDS, SERIES 2003 B; AUTHORIZING THE FINANCING OF THE COSTS OF SUCH REFUNDINGS AND RELATED EXPENSES THROUGH THE ISSUANCE BY THE FAIRMONT STATE UNIVERSITY BOARD OF GOVERNORS ON BEHALF OF FAIRMONT STATE UNIVERSITY AND PIERPONT COMMUNITY AND TECHNICAL COLLEGE OF REFUNDING REVENUE BONDS IN ONE OR MORE SERIES, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$58,000,000

WHEREAS, the Fairmont State University (formerly, Fairmont State College) Board of Governors (the "University Board") has issued and there are currently outstanding the following issues of revenue bonds:

(a) \$18,170,000 in principal amount of College Facilities Revenue Bonds, Series 2002 A, issued on August 29, 2002 pursuant to a Bond Trust Indenture and Security Agreement dated as of August 1, 2002 (the "Series 2002A Indenture") and currently outstanding in the aggregate principal amount of \$15,180,000 (the "Series 2002A Bonds");

(b) \$9,310,000 in principal amount of Infrastructure Revenue Bonds, Series 2002 B, issued on August 29, 2002 pursuant to a Bond Trust Indenture and Security Agreement dated as of August 1, 2002 (the "Series 2002B Indenture") and currently outstanding in the aggregate principal amount of \$7,645,000 (the "Series 2002B Bonds");

(c) \$13,320,000 in principal amount of College Facilities Revenue Bonds, Series 2003 B, issued on March 26, 2003 pursuant to a Bond Trust Indenture and Security Agreement supplementing and amending the Series 2002A Indenture and dated as of March 1, 2003 (the "Series 2003A Indenture" and, together with the Series 2002A Indenture, the "Series A Indenture") and currently outstanding in the aggregate principal amount of \$11,530,000 (the "Series 2003A Bonds"); and

(d) \$22,925,000 in principal amount of Student Activity Revenue Bonds, Series 2003 B, issued on March 26, 2003 pursuant to a Bond Trust Indenture and Security Agreement dated as of March 1, 2003 (the "Series 2003B Indenture"; the Series A Indenture,

the Series 2002B Indenture and the Series 2003B Indenture are hereinafter referred to together as the “Indentures” and individually as an “Indenture”) and currently outstanding in the aggregate principal amount of \$19,835,000 (the “Series 2003B Bonds”; the Series 2002A Bonds, the Series 2002B Bonds, the Series 2003A Bonds and the Series 2003B Bonds are hereinafter referred to together as the “Outstanding Bonds”);

WHEREAS, the Outstanding Bonds were issued prior to the separation of Fairmont State University (the “University”) and Pierpont Community and Technical College (the “College”) and were issued on behalf of and benefit the students of both the University and the College;

WHEREAS, pursuant to Article 2A, Section 7a and other applicable provisions of Chapter 18B of the Code of West Virginia, 1931, as amended and the Separation of Assets and Liabilities Agreement executed and delivered by the University and the College in December 2009 (the “Separation Documents”), both the University and the College are obligated for all the terms and provisions of the Indentures, including the requirement to pay their respective proportionate shares of debt service on the Outstanding Bonds;

WHEREAS, refunding one or more series of the Outstanding Bonds, or portions thereof, may result in debt service savings and benefit to both the University and the College;

WHEREAS, accordingly, it is in the best interests of both the University and the College to refund those Outstanding Bonds, the refunding of which would result in net present value savings in amounts satisfactory to the President of the University or the Chairman or Vice Chairman of the University Board and the President of the College or the Chairman or Vice Chairman of the Pierpont Community and Technical College Board of Governors (the “College Board”), as evidenced by their execution and delivery of one or more bond purchase agreements for the Refunding Bonds (the “Bonds To Be Refunded”);

WHEREAS, pursuant to the authority contained in Chapter 18B, Articles 10 and 19 of the Code of West Virginia, 1931, as amended (together, the “Bond Act”), and Article 2G, Chapter 13 of the Code of West Virginia 1931, as amended (the “Refunding Act”, and together with the “Bond Act”, the “Act”) the University Board is authorized to issue additional revenue refunding bonds for the purpose of refunding the Series 2002A Bonds, the Series 2002B Bonds, the Series 2003A Bonds and the Series 2003B Bonds;

WHEREAS, it is in the best interests of the University and the College for the University Board to issue on behalf of both the University and the College not to exceed \$58,000,000 in aggregate principal amount of one or more series of refunding revenue bonds (the “Refunding Bonds”) for the purposes, together with other available funds, of (i) refunding and redeeming the Bonds To Be Refunded; (ii) funding debt service reserve funds for the Refunding Bonds, if required; and (iii) paying the costs of issuance of the Refunding Bonds and related costs (the issuance of the Refunding Bonds and the use of the proceeds for refunding and redeeming the Bonds To Be Refunded are hereinafter referred to together as the “Refunding”);

WHEREAS, under the laws of the State of West Virginia (the “State”), including but not limited to the Act, refunding bonds that provide for payment of the outstanding bonds and do not increase the aggregate debt service for the issuer are considered as substitute indebtedness for the bonds being refunded and not as new indebtedness of the issuer;

WHEREAS, accordingly, other than a reduction in the debt service requirements, the Refunding will not result in any change to the obligations of the University or the College for payment of debt service in connection with the indebtedness evidenced by the Bonds To Be Refunded or the relationship between the Bonds To Be Refunded or the Refunding Bonds and any other bonds issued on behalf of the University or the College, including by the Commission or the West Virginia Council for Community and Technical College Education (the “Council”), as the case may be;

WHEREAS, capitalized terms used and not otherwise defined in this Resolution have the respective meanings given them in the Indentures;

WHEREAS, this Commission and the University Board have the power and authority to execute and deliver the documents required and to carry out the financings described above; and

WHEREAS, this Commission deems it desirable, in keeping with its purposes and in the best interests of the University and the College, to approve the Refunding and the financing of the costs thereof through the issuance of the Refunding Bonds by the University Board.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION, AS FOLLOWS:

Section 1. Approval of the Refunding Bonds. The financing of the Refunding and of related expenses, including but not limited to costs of issuance of the Refunding Bonds, through the issuance by the University Board of the Refunding Bonds in one or more series, in an aggregate principal amount not to exceed \$58,000,000 is hereby approved. The Refunding Bonds are authorized to be issued for the purposes, together with other available funds, of (i) refunding and redeeming the Bonds To Be Refunded, (ii) funding debt service reserve funds for the Refunding Bonds, if required, and (iii) paying the costs of issuance of the Refunding Bonds and related costs. The current refunding and redemption on the earliest practicable date of the Series 2002A Bonds To Be Refunded and the Series 2002B Bonds To Be Refunded and the advance refunding and redemption on June 1, 2013 of the Series 2003A Bonds To Be Refunded and the Series 2003B Bonds To Be Refunded are hereby approved. This Commission hereby finds and determines that an aggregate principal amount not exceeding \$58,000,000 can be paid as to both principal and interest and, as applicable and necessary, reasonable margins for a reserve therefor from the institutional capital fees, auxiliary fees and auxiliary capital fees (collectively, the “Fees”) and all rents, fees, charges and other income received by or accrued to the University from the operation and use of auxiliary facilities (exclusive of Fees and as otherwise required by statute) (together, the “Trust Estate”). The payment of principal of and premium, if any, and interest on the

Refunding Bonds from the Trust Estate is hereby approved. Although the Refunding is anticipated to be substantially as presented to this Commission this day, this Commission recognizes that market conditions, the use of credit enhancement and other factors may affect the amount and terms of such financing.

Without limiting the generality of the foregoing, this Commission hereby finds that it has made the evaluations required by Chapter 18B, Article 19, Subsection 6(c) of the Code of West Virginia, 1931, as amended, and further finds as follows:

A. The University, including the Fees charged by the College, has sufficient debt capacity and the ability to meet the debt service payments for the full term of the Refunding Bonds;

B. The University, including the Fees charged by the College, has the ability to fund ongoing operations and maintenance; and

C. The Refunding Bonds will not materially impact the University's or College's students, who will benefit from the Refunding financed with the proceeds of the Refunding Bonds due to debt service savings realized as a result of the Refunding.

Section 2. Special Obligations. This Commission recognizes and agrees that all covenants, stipulations, obligations and agreements of the University Board or the University entered in connection with the Refunding and the Refunding Bonds shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the University Board and the University to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon this Commission, the University Board and the University, and their respective successors, and upon the College to the extent provided by the Documents. No covenant, stipulation, obligation or agreement entered in connection with the Refunding or the Refunding Bonds shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of this Commission, the University Board, the University, the College Board or the College in his or her individual capacity. The Refunding Bonds are special obligations of the University Board and the State, payable solely from and secured by the Trust Estate. Each series of the Refunding Bonds, together with the interest thereon, is a special obligation of the State and shall not constitute a debt of the State, and the credit or taxing power of the State shall not be pledged therefor, but the Refunding Bonds shall be payable only from the Trust Estate pledged for their payment. No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Refunding Bonds or for any claim based thereon, on this Resolution or on any of the documents executed in connection therewith against any official, member, officer or employee of this Commission, the University Board, the University, the College Board, the College or the State or any person executing the Refunding Bonds, and neither members of this Commission, the University Board, the Council or the College nor any person executing the Refunding Bonds shall be liable personally on the Refunding Bonds by reason of the issuance thereof.

Section 3. Incidental Action. The Chancellor, the Chairperson, Vice-Chairperson, Secretary and other appropriate members and officers of this Commission are hereby authorized and directed to execute and deliver any documents, certificates, agreements and instruments and take such other actions as may be required or desirable by the University Board or the University to carry out the purposes of this Resolution.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

ADOPTED this 1st day of March, 2012.

**WEST VIRGINIA HIGHER
EDUCATION POLICY COMMISSION**

By: _____
Its: Chair _____

**West Virginia Higher Education Policy Commission
Meeting of March 1, 2012**

ITEM: Approval of Stutzman-Slonaker Hall Renovations

INSTITUTION: Shepherd University

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia Higher Education Policy Commission approves the prospectus and project budget for the 2012 Building Systems Renovations at Stutzman-Slonaker Hall and authorizes the University to proceed with the project.

STAFF MEMBER: Richard Donovan

BACKGROUND:

Stutzman-Slonaker Hall is home to areas of the School of Natural Sciences and Mathematics, the nursery school, biology faculty and labs, psychology faculty offices, and Family and Consumer Sciences classrooms. The building was built in 1975 and retains the original mechanical systems, with the exception of the chiller, which was replaced with a used chiller approximately six years ago. This chiller uses R22 refrigerant, which is being phased out by an Environmental Protection Agency directive. Existing mechanical systems are incapable of meeting current indoor air quality (IAQ) design standards for temperature, fresh air minimums or humidity control. The University's Crossroads Strategic Plan has identified the need to improve the campus instructional spaces to support modern indoor air quality standards and improve operational efficiencies.

The scope of work includes installing new heating, ventilation and air conditioning systems. The existing chiller, hot water boiler system and connected components are well past their typical life expectancy of 15 to 20 years. Their age results in excessive maintenance costs and unreliable operations. Replacing individual components such as boilers, chillers and fan coil units will not allow the building to perform to the required current environmental standards, nor would it allow for cost efficient operations. The existing systems will be replaced with new energy efficient rooftop mounted Variable Refrigerant Volume (VRV) systems supporting local air handlers, with air distribution through new ductwork. This system will minimize the need for large and extensive air ductwork chases and will result in preserving existing floor space and minimizing the amount of demolition required throughout the project. Energy savings over existing systems are projected in excess of 20 percent. These savings should offset the additional energy costs necessary to meet fresh air requirements under institutional IAQ objectives. All systems will be connected to the existing campus Energy Management System (EMS), allowing for monitoring and controlling capabilities not possible with the existing system.

Demolition will include the removal of the existing floor-mounted cabinet units. This will increase floor space incrementally and eliminate a significant amount of ambient noise now experienced in each classroom. Existing ceiling tile and track will be removed, as well as existing pipe and pipe insulation throughout the building. New ceiling track and two-by-two foot tiles will be installed throughout, in keeping with University standards. This will remove previously water damaged material and possible mold conditions. The existing electrical service infrastructure will be reused and reconfigured to support the new equipment.

Shepherd University has received funding from a Commission bond project intended to support energy efficiency upgrades. Approximately \$200,000 is allocated for upgrading the windows in Stutzman-Slonaker Hall. This involves a total replacement of the existing windows with thermally efficient units to match the style that was installed in White Hall last year and to be installed in Ikenberry Hall this summer. The design of the HVAC system assumes that the new windows are in place and are a part of the overall envelope of the structure. Doing one project without the other would not be prudent. The window grant expires December 2012, and grant monies will not be available after that date nor can they be used for purposes other than those designated.

Both projects have been designed and engineered by Bushey Feight Morin Architects of Hagerstown, Maryland. The work described above will be bid as two separate projects in order to maintain separate accounting for the two funding sources, but will be awarded to a single general contractor to assure timely coordination of both.

The projects would begin in early May, immediately following graduation, and are expected to be completed in time for the scheduled start of classes in August. The length of the workday or additional shifts may be necessary to meet the completion date.

The HVAC project will be paid for with student capital fees, with a budget as follows:

Architectural and Engineering:	\$90,000
General Contract for HVAC and Renovation Work:	\$1,150,000
Contingency:	<u>\$60,000</u>
Total:	\$1,300,000

The Window project will be paid for with funds received from the Commission as follows:

Architectural and Engineering:	\$27,000
Window Replacement:	\$145,000
Asbestos Containing Materials Abatement	\$15,000
Contingency	<u>\$13,000</u>
Total:	\$200,000

**West Virginia Higher Education Policy Commission
Meeting of March 1, 2012**

ITEM: Approval of Robert C. Byrd Health Sciences Center Animal Facility Annex Construction Project and Financing Resolution

INSTITUTION: West Virginia University

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia Higher Education Policy Commission approves the Robert C. Byrd Health Sciences Center Animal Facility Annex Construction Project and Financing Resolution.

STAFF MEMBER: Richard Donovan

BACKGROUND:

West Virginia University's Robert C. Byrd Health Sciences Center is expanding its biomedical research activity and infrastructure by constructing an annex adjacent to the existing vivarium. The present vivarium occupies approximately 27,000 square feet of the Robert C. Byrd Health Sciences Center North building, which was completed in 1957.

The construction of the Animal Facility Annex (AFA) will resolve three major issues confronting the biomedical research programs at West Virginia University. First, the present facility at the Robert C. Byrd Health Sciences Center is over 50 years old and virtually all of the original construction is intact. This present facility no longer meets the demanding husbandry and sanitation requirements of a modern lab animal vivarium. Secondly, there is rapid expansion in research areas that depend heavily on the use of animals. The new AFA has been designed to provide the modern environment and superior performance specifications to adequately house the research animal population for an extended period of time. Third, the new center will help alleviate a shortage of animal housing needs within the Eberly College of Arts and Sciences' Department of Biology and increase scientific interactions on campus.

Scope of Work:

The AFA will be strategically located and constructed in an existing courtyard contiguous to and connected with the existing vivarium. The new facility will be a single story building of approximately 28,000 square feet with a mechanical penthouse. The building will provide animal holding rooms, procedures rooms, a transgenic barrier facility and a Biosafety Laboratory Level 3 core. The facility will also incorporate necessary support spaces, including personnel locker rooms, janitorial and storage spaces, and a break room for employees. The existing facility will be renovated depending on programmatic needs in the future.

Initially this project was not submitted to the Commission for approval because the design estimate for the total project cost was below the \$15 million approval threshold for capital projects. Construction bids have been received and the inclusion of the design service fees, furniture and equipment and contingency, brings the project's revised total costs to \$22 million.

The project cost increase is due to many circumstances. The original budget and grant application was established three years ago. Many of the assumptions used in creating the budget such as the size and shape of the building and the addition of the Biosafety Level 3 lab space to support emerging programs changed subsequent to submission of the grant application. The process of competing for the award and receiving design approval was very time consuming. During that time the prevailing wage rate increased twice which resulted in increased construction labor costs and the costs of construction materials such as steel and concrete also increased significantly during that three-year period.

Project Schedule:

Substantial Completion: Winter 2013

Project Budget:

Project Total: \$22,000,000

Project Funding Source:

The project is funded by a \$14,500,000 award from the National Institutes of Health supported by the American Recovery and Reinvestment Act (ARRA) and \$7,500,000 of external financing over a thirty-year period. The sources of payment for this new debt service are program reimbursements and strategic funds.

Commission staff recommends approval of the project. During the meeting, a representative from West Virginia University's Robert C. Byrd Health Sciences Center will be available to provide additional information as requested during the February 17, 2012 Commission meeting and will address any questions.

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

RESOLUTION APPROVING AND AUTHORIZING THE ISSUANCE
BY THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS
OF REVENUE BONDS IN THE AGGREGATE PRINCIPAL AMOUNT
OF NOT MORE THAN \$7,000,000 TO FINANCE A PORTION OF THE
COST OF CONSTRUCTION OF AN ANIMAL FACILITY ANNEX AT
THE HEALTH SCIENCES CENTER AND RELATED COSTS,
INCLUDING COSTS OF ISSUANCE OF SUCH BONDS

WHEREAS, in order to support expanding biomedical research by providing modern animal housing that meets federal requirements, West Virginia University (the “University”) has determined to construct an animal facility annex connected to the existing animal facility located at the Robert C. Byrd Health Sciences Center (the “Project”);

WHEREAS, the cost of the Project, estimated after receiving bids to be approximately \$22,000,000, is being funded in part with the proceeds of a grant of approximately \$14,500,000 received from the National Institutes of Health under the American Recovery and Reinvestment Act of 2009 (the “ARRA Grant”);

WHEREAS, the University proposes to finance the remaining costs of the Project and related costs, including the costs of issuance of the Bonds (defined below), through the issuance by the West Virginia University Board of Governors (the “Board of Governors”) of revenue bonds in one or more series, as either federally taxable or tax-exempt obligations, or both, in an aggregate principal amount of not to exceed \$7,000,000 (the “Bonds”);

WHEREAS, the Bonds will be issued pursuant to the authority contained in Chapter 18B, Article 19 and the applicable provisions of Chapter 18B, Article 10 of the Code of West Virginia, 1931, as amended, and the Bond Trust Indenture dated as of November 1, 2004, as supplemented and amended (the “Bond Indenture”), between the Board of Governors and United Bank, Inc., as trustee, as further supplemented by a supplemental indenture relating to the Bonds (the “Supplemental Indenture”);

WHEREAS, Chapter 18B, Article 10, Section 8 of the Code of West Virginia, 1931, as amended, requires that the Bonds be approved by this Commission; and

WHEREAS, this Commission deems it desirable and in the best interests of the University to approve and authorize the issuance of the Bonds by the Board of Governors to finance a portion of the cost of the Project and related costs, including the costs of issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE HIGHER EDUCATION POLICY COMMISSION, AS FOLLOWS:

Section 1. Approval of the Bonds. The financing of that portion of the Project not funded by the ARRA Grant and of related costs, including but not limited to costs of issuance of the Bonds, through the issuance by the Board of Governors of the Bonds in one or more series, as either federally taxable or tax-exempt obligations, or both, in an aggregate principal amount not to exceed \$7,000,000 is hereby approved. The Bonds shall be dated, mature, bear interest and have such other terms and provisions as are determined by the Board of Governors and set forth in the Supplemental Indenture. This Commission hereby finds and determines that an aggregate principal amount not exceeding \$7,000,000 can be paid as to both principal and interest and, as applicable and necessary, reasonable margins for a reserve therefor from the Institutional Capital Fees, Auxiliary Fees and Auxiliary Capital Fees (as defined in the Bond Indenture, collectively, the “Fees”) and other sources of revenue pledged thereto by the Board of Governors pursuant to the Bond Indenture. The source of and security for payment of the Bonds from the Fees and other sources of revenue are on parity with that of the Series 2004 Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2011C Bonds previously issued pursuant to the Bond Indenture. The payment of principal and premium, if any, and interest on the Bonds from the Fees and other sources of revenue is hereby approved. The Bonds may be sold by private sale after requests for proposals or such other manner as the Board of Governors determines is in the best interests of the University.

Section 2. Special Obligations. This Commission recognizes and agrees that all covenants, stipulations, obligations and agreements of the Board of Governors or the University entered in connection with the Project and the Bonds shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the Board of Governors and the University to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon this Commission, the Board of Governors and the University, and their respective successors. No covenant, stipulation, obligation or agreement entered in connection with the Project or the Bonds shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of this Commission, the Board of Governors or the University in his or her individual capacity, and no member, officer, agent or employee of this Commission, the Board of Governors or the University shall be liable personally thereunder or be subject to any personal liability or accountability by reason thereof.

Section 3. Incidental Action. The Chancellor, the Chairperson, Vice-Chairperson, Secretary and other appropriate members and officers of this Commission are hereby authorized and directed to execute and deliver any documents, certificates, agreements and instruments and take such other actions as may be required or desirable by the Board of Governors or the University to carry out the purposes of this Resolution. Each of such authorized officers is hereby authorized and directed to execute and deliver any documents, certificates, agreements and instruments and take such other actions as may be required or desirable by this Commission, the Board of Governors or the University to accomplish the Bond financing. Although the Bond financing is anticipated to be substantially as presented to this Commission, this Commission recognizes that market conditions and other factors may affect the amount and terms of such financing. Without limiting the generality of the foregoing, this Commission hereby authorizes the Chancellor to approve an alternate structure for the financing, including but not limited to a lease-purchase agreement or a revenue bond issue under other authority; provided, that no such alternate structure shall cause the financing to be a general obligation of the State of West Virginia or an obligation or liability of any member, officer, agent or employee of this Commission, the Board of Governors or the University in his or her individual capacity. The Chancellor's written approval shall constitute approval by this Commission of the financing.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

ADOPTED this ____ day of March 2012.

WEST VIRGINIA HIGHER EDUCATION
POLICY COMMISSION

By: _____
Its: _____