



WEATHERFORD  
**COLLEGE**

# ***BOARD OF TRUSTEES***

***Regular Board Meeting***

***Thursday, April 14, 2022***

***2:00 p.m.***

***Community Room  
Of the  
Emerging Technologies and Workforce Building***

**WEATHERFORD COLLEGE**

**BOARD OF TRUSTEES**

**April 14, 2022**

**2 p.m.**

**AGENDA**

A meeting of the Board of Trustees of Weatherford College will be held on Thursday, April 14, 2022, beginning at 2 p.m. in the Community Room of the Emerging Technologies and Workforce Building located at 225 College Park Drive, Weatherford, Texas, to consider and act on the posted agenda:

1. Call to Order, Invocation and Pledge of Allegiance
2. Public Comment for Individuals Not on the Agenda
3. President's Report:
  - a. Recognitions
  - b. Employee Notices
4. Consent Agenda and Financial Reports:
  - a. Approval of Minutes from the March 10, 2022 Board Meeting
  - b. Financial Reports Ending March 31, 2022
  - c. Secretary/Clerk Certificate Authorizing Administration to enter into Master Lease Agreement with Dell Marketing, L.P. and Dell Financial Services, L.L.C.
  - d. Correction to 2022-23 Dormitory Room Rate
  - e. Transfer from Unrestricted Reserves for the Purchase and Start-Up Costs for the Radio Station
5. Consideration and Possible Action: Competitive Sealed Proposals on Construction Manager-At-Risk for Student Housing #RFP-10-22
6. Consideration and Possible Action: Elect New Vice-Chair Officer
7. Consideration and Possible Action: Proposed Weatherford College Board of Trustee Appointment Process; Propose Policy Concerning the Appointment to Unexpired Term of Board Members Leaving Office Mid-Term
8. Reports:
  - a. Academics and Student Services Update
  - b. Emerging Technologies and Workforce Building Update
9. Future Agenda Items or Meetings:
  - a. Preliminary 2022-23 Budget Report
10. Announcements
11. Closed Session:
  - a. Consult with College Attorney, in Accordance with Government Code 551.071
  - b. Deliberate Real Property in Accordance with Government Code 551.072
  - c. Deliberate the Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, or Dismissal of a Public Officer or Employee, in Accordance with Government Code 551.074

12. Consideration and Possible Action: Real Property
13. Consideration and Possible Action: Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, or Dismissal of a Public Officer or Employee
14. Adjourn



# Public Comment for Individuals Not on Agenda



## **President's Report**

- Recognitions
- Employee Notices



## Weatherford College Board of Trustees Consent Agenda

**DATE:** April 14, 2022

**AGENDA ITEM #4.a.**

**SUBJECT:** Minutes from the March 10, 2022 regular meeting.

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**INFORMATION AND DISCUSSION:** None.

**RECOMMENDATION:** That the Board of Trustees reviews and approves the March 10, 2022 minutes as presented.

**ATTACHMENTS:** Minutes from the March 10, 2022 board meeting.

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**SUBMITTED BY:** Theresa Hutchison, Executive Assistant to the President

**WEATHERFORD COLLEGE  
BOARD OF TRUSTEES  
MINUTES OF REGULAR MEETING  
March 10, 2022**

The Weatherford College Board of Trustees met in regular session at 2:00 p.m., Thursday, March 10, 2022, in the Community Room of the Emerging Technologies and Workforce Building. Board Chair Mr. Smith called the meeting to order. Other trustees present were Dan Carney, Sue Coody, Dr. Trev Dixon, Doug Dowd, Dr. Robert Marlett, Judy McAnally and Secretary Lela Morris. None were absent. Brent Baker, vice president of institutional advancement, gave the invocation and the Pledge of Allegiance was recited.

Call to Order,  
Invocation and  
Pledge of Allegiance

No one spoke for Public Comment.

Public Comment

President Tod Allen Farmer submitted the following recognitions and employee notices:

President's Report

a. Recognitions –

- Weatherford College recently honored 40 exemplary teachers from across our five-county service area and beyond during the 26th annual Jack Harvey Academy of Exemplary Teachers celebration. The Nashville School of the Arts 2017 teacher of the year, Ryan Murphey, provided an exceptional speech followed by a musical performance by he and his father Michael Martin Murphey. Many of our area school superintendents positively commented on the exceptional event.
- Weatherford College has recently signed graduate level articulation agreements with Texas A&M Commerce and Tarleton State University. WC students graduating with bachelor's degrees will now be able to seamlessly transfer into a choice of multiple master's degree programs.
- The grand opening ceremony for the new Emerging Technologies and Workforce Building will be Wednesday, March 30th at 3:30 p.m. Several officials will be joining for the event. This new facility will provide generations of students to come with affordable access to a high-quality education.

b. Employment Notices –

DMAC (Local) requires the college president to provide the names of contract employees that have resigned or retired since the last board meeting. In accordance with this policy, President Farmer reported the following:

- Karen Holmes, Accounts Payable Assistant, Business Office, resignation effective 2/25/2022.

### Consent Agenda

A recommendation was made that the Board of Trustees approve the February 10, 2022 *Minutes submitted by Theresa Hutchison, executive assistant to the president.*

Minutes

The cash balance as of February 28, 2022 is \$72,823,537.16. This is an increase of \$23,045,613.52 from last year at February 28, 2021. The operating statement at February 28, 2022 indicates that total revenues collected are \$62,928,025 or 82.97% of budget. Total expenditures are \$40,063,613 or 53.37% of budget. The recommendation was for approval of the financial reports ending February 28, 2022 as presented. *Cash Balance Reports and Operating Statements at February 28, 2022 presented by Dr. Andra Cantrell, executive vice president for financial & administrative services are attached.*

Financial Reports

As required by Government Code 2256.005, the investment officer shall prepare and submit to the Board a written report of investment transactions for all funds covered by the Public Funds Investment Act. This report is submitted to the Board on a quarterly basis, within a reasonable time after the end of the period. Attached you will find a Report of Investments for the period ending February 28, 2022. The recommendation made was for approval of the Report of Investments at February 28, 2022 as submitted. *The Report of Investments at February 28, 2022 submitted by Dr. Andra R. Cantrell, executive vice president for financial & administrative services is attached.*

Quarterly Investment Report

At the June 10, 2021 Board meeting, the Board approved the Facility Maintenance Services with CBRE Managed Services, Inc. for a three-year period beginning September 1, 2021 and ending August 31, 2024 with two additional twelve months as optional extension periods for a Year 1 cost of \$2,270,059 subject to an adjustment based on the completion of the new Workforce & Emerging Technologies Building. The attached First Amendment to Facilities Management Services Agreement covers the facilities management services of the new building for an increase of \$79,733 bringing the revised Year 1 price to \$2,349,792. The recommendation submitted is for approval of the First Amendment to Facilities Management Services Agreement with CBRE Managed Services, Inc. with a revised Year 1 price of \$2,349,792. *The First Amendment to Facilities Management Services Agreement submitted by Dr. Andra R. Cantrell, executive vice president for financial & administrative services is attached.*

Amendment to CBRE Facilities Management Services Agreement

Dr. Marlett made the motion to approve the Consent Agenda as presented. Ms. Morris seconded and the motion carried unanimously.

Consent Agenda  
792-1  
Approved

Dr. Cantrell presented the 2022-23 Tuition and fees based upon the recommendation of the Tuition and Fees Advisory Committee. The administration is recommending an increase in tuition as well as increases in a number of fees. The administration, along with the assistance of the Tuition and Fees Advisory Committee, have researched and analyzed the current rates of Weatherford College and the other community colleges in the state of Texas. The recommendation made was that the Board of Trustees approve the 2022-23 tuition and fees as presented. Ms. Coody made the motion to approve the Adoption of 2022-23 Tuition and Fees as presented. Dr. Dixon seconded and the motion carried unanimously. *Attached are the Schedule of Proposed Tuition and Miscellaneous Charges & Course Fee Changes for Fiscal Year 2022-2023 submitted by Dr. Andra R. Cantrell, executive vice president for financial & administrative services.*

Adoption of 2022-23  
Tuition and Fees  
792-2  
Approved

Julie MacMillan with RBC Capital Markets, LLC presented a financing plan for the Student Housing Facilities, which included a current market update as well as a description of the revenue bond offering and the maintenance tax note refunding. The recommendation made was for approval of the financing plan presented for the Student Housing Facilities. The trustees agreed to discuss this item when more details are available at a meeting to be held in April. *The Preliminary Plan of Finance submitted by Dr. Andra R. Cantrell, Executive Vice President for Financial & Administrative Services is attached.*

Review Plan for  
Finance of Student  
Housing Facilities  
792-3  
Tabled

Julie MacMillan with RBC Capital Markets, LLC presented the financing of the Student Housing Facilities project to be constructed during this coming year. Since a final Guaranteed Maximum Price (GMP) will not be available until further work has been finalized, it is recommended that a Resolution authorizing reimbursement for costs relating to the Student Housing Facilities be passed by the Board of Trustees. The passage of this resolution will allow such payments for consultant fees, architect fees, construction managers at risk (CMAR) fees, equipment, and any other payments associated with the construction of the facility to be reimbursed at such times that the Revenue Bond obligations to finance the project is issued. The recommendation made was for approval of the Resolution Authorizing Reimbursement for Costs Relating to Student Housing Facilities and of the Certificate for Resolution. Ms. Morris made the motion to approve the plan as presented. Mr. Carney seconded and the motion carried unanimously with a roll call vote. *Attachments: (1) Resolution Authorizing Reimbursement for Costs Relating to the Student Housing Facilities; and (2) Certificate for Resolutions submitted by*

Resolutions Authorizing  
Reimbursements for  
Costs Relating to  
Student Housing  
Facilities  
792-4  
Approved

*Dr. Andra R. Cantrell, executive vice president for financial & administrative services.*

As required by the Texas Government Code 2269.056 (a), the governing body of a governmental entity that considers a construction project using a method authorized by this chapter other than competitive bidding must, before advertising, determine which other method provides the best value for the governmental entity, which includes the following: Competitive Sealed Proposals, Construction Manager-Agent, Construction Manager-at-Risk, Design-Build and Job Order Contracting. Texas Government Code 2269.053(a) provides that the governing body of a governmental entity may delegate its authority under this chapter regarding an action authorized or required by this chapter to a designated representative, committee, or other person and (b) the governmental entity shall provide notice of the delegation, the limits of the delegation and the name or title of each person designated under Subsection (a) by rule or in the request for bids, proposals or qualifications or in an addendum to the request, for the construction of the new Student Housing Facilities project. The Administration of Weatherford College is recommending Construction Manager-at-Risk per Section 2269.251, Subchapter F, for the method of procurement and delegation of authority and selection of committee per Section 2269.053, Subchapter A, to Dr. Tod Allen Farmer, President of Weatherford College, for the new Student Housing Facilities project. Ms. Coody made the motion to approve the resolutions as presented. Mr. Dowd seconded and the motion carried unanimously. *Resolution No. 1 Construction Procurement Method and Resolution No. 2 Delegation of Authority on Student Housing Facilities Project submitted by Dr. Andra R. Cantrell, executive vice-president of financial & administrative affairs are attached.*

The following reports were submitted to the Board:

- a. Academic and Student Services Update submitted by Michael Endy, Vice President of Instruction and Student services
- b. Hanover Research Demand Study submitted by Dan Curlee, General Counsel and presented by Dr. John Jones, Executive Director of Institutional Research

Reports

Vice President Brent Baker made the following announcements:

- Feb. 10, WC Jazz Orchestra Sextet, Alkek Theatre @ 7:30 p.m.
- Feb. 10, Home tennis match, 9th Grade Center @ 2 p.m.
- Feb. 12, Home softball game @ 2:30 p.m.
- Feb. 12, Home basketball games @ 2 p.m. and 4 p.m.
- Feb. 16, Home softball games @1 p.m.
- Feb. 19, Home baseball games @ 12 p.m. and 3 p.m.
- Feb. 19, Home basketball games @ 2 p.m. and 4 p.m.

Announcements

Resolutions Authorizing  
Method of Procurement  
on Construction,  
Delegation of Authority  
and Delegee's Selection  
of Committee on  
Student Housing  
Facilities Project  
792-5  
Approved

- Feb. 26, Home basketball games @ 2 p.m. and 4 p.m.
- Feb. 28, Home baseball game @ 2 p.m.
- March 2, Home softball games @ 5 p.m. and 7 p.m.
- March 3, Songwriter Showcase, Alkek Theatre @ 7:30 p.m
- March 4, Violin Piano Duo Recital, Alkek Theatre @ 7:30 p.m.
- March 5, Home baseball game @ 1 p.m.
- March 9, Home softball game @ 3 p.m.
- March 14-18, Spring Break, campus closed

The Board of Trustees entered into Closed Session at 2:49 p.m. to consult with the college attorney in accordance with Government Code 551.072, to deliberate real property in accordance with Government Code 551.072, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee in accordance with Government Code 551.074, and to deliberate the Board of Trustees Self-Assessment in Accordance with Government Code 551.074.

Closed Session

The Board reconvened in Open Session at 4:10 p.m.

Open Session

No action was taken regarding Real Estate.

Real Estate  
791-3  
No action

No action was taken regarding Personnel Matters.

Personnel Matters  
791-4  
No Action

No action was taken regarding the Board of Trustees Self-Assessment; however, General Counsel Dan Curlee stated that it was completed as required by TASB policy and procedure and in congruence with SACS requirements.

Board of Trustees  
Self-Assessment  
Completed  
No Action  
791-5

Mr. Carney made the motion to approve the annual evaluation and to extend President Tod Allen Farmer's current contract for an additional year with a salary increase of 10%. Ms. Morris seconded and the motion carried unanimously with a roll call vote. Several trustees gave positive comments on behalf of President Farmer's performance as college president.

Annual Evaluation and  
Employment contract of  
the College President  
791-6

At 4:26 p.m., Dr. Marlett made the motion to adjourn the meeting. Ms. Coody seconded and the motion carried unanimously.

Motion to Adjourn  
791-7  
Approved

*March 10, 2022*

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**Mac Smith**  
Chair, Board of Trustees

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**Lela Morris**  
Secretary, Board of Trustee



## Weatherford College Board of Trustees Consent Agenda

**DATE:** April 14, 2022

**AGENDA ITEM #4.b.**

**SUBJECT:** Financial Report Ending March 31, 2022

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**INFORMATION AND DISCUSSION:** The cash balance as of March 31, 2022 is \$71,186,687.58. This is a decrease of \$6,339,282.41 from last year at March 31, 2021. The operating statement at March 31, 2022 indicates that total revenues collected are \$64,879,811 or 85.54% of budget. Total expenditures are \$43,803,477 or 58.36% of budget.

**RECOMMENDATION:** That the Board approves the financial reports ending March 31, 2022 as presented.

**ATTACHMENTS:** Cash Balance Reports and Operating Statements at March 31, 2022.

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**SUBMITTED BY:** Dr. Andra R. Cantrell, Executive Vice President for Financial & Administrative Services

**WEATHERFORD COLLEGE**  
**CASH BALANCE REPORT**  
**March 31, 2022**

<u>Unrestricted Funds</u>	Checking	Investments	Payroll & Petty Cash	Total
Beginning Balance	23,704,921.61	35,498,197.43	4,045.00	59,207,164.04
Deposits	4,261,623.49	10,009,164.61	(225.00)	14,270,563.10
Disbursements	(15,432,128.35)	-	(75.00)	(15,432,203.35)
Ending Balance	<u>12,534,416.75</u>	<u>45,507,362.04</u>	<u>3,745.00</u>	<u>58,045,523.79</u>

	Checking Acct	Investments	Acct Balance
Unrestricted Funds:			
Maintenance and Carter	12,534,416.75	45,507,362.04	58,041,778.79
Payroll	-	-	
Petty cash	3,745.00	-	3,745.00
Sub-total	<u>12,538,161.75</u>	<u>45,507,362.04</u>	<u>58,045,523.79</u>
Restricted Funds:			
Scholarships & Loans	\$295,756.10	\$2,819,945.93	\$3,115,702.03
Schropshire Cap. Impr.	\$321,617.89	\$0.00	\$321,617.89
Construction	\$21.99	\$0.00	\$21.99
Debt Service	\$7,082,742.82	\$1,951,519.46	\$9,034,262.28
Interest & Sinking	\$44,559.60	\$0.00	\$44,559.60
Contingency Reserves	625,000.00	\$0.00	\$625,000.00
Sub-total	8,369,698.40	4,771,465.39	13,141,163.79
<b>Grand Total</b>	<b>20,907,860.15</b>	<b>50,278,827.43</b>	<b>71,186,687.58</b>

## **Recap of Investments**

<b>Investments</b>	<b>Current Value 3/31/2022</b>	<b>Rate</b>
<u>Prosperity Bank</u> Money Market Account	50,278,827.43	1.40%
Total Investments	<u><u>50,278,827.43</u></u>	

**WEATHERFORD COLLEGE**  
**STATEMENT OF REVENUES**  
**March 31, 2022**

	2020-2021			2021-2022			
	Amended Budget	Received 3/31/2021	% of Budget	Amended Budget	Received 3/31/2022	Balance	% of Budget
<b>Operating Revenues</b>							
Tuition							
In-District Resident	\$ 4,439,035	\$ 3,923,555	88.39%	\$ 4,779,591	\$ 4,414,014	\$ 365,577	92.35%
Out-of District Resident	\$ 5,699,818	\$ 5,121,935	89.86%	\$ 6,254,122	\$ 5,914,872	\$ 339,250	94.58%
Out-of District Resident - EC Granbury	\$ 277,437	\$ 242,964	87.57%	\$ 302,405	\$ 172,341	\$ 130,064	56.99%
Out-of District Resident - Wise County	\$ 1,790,949	\$ 1,525,854	85.20%	\$ 1,855,016	\$ 1,705,632	\$ 149,384	91.95%
Non-Resident	\$ 668,503	\$ 616,000	92.15%	\$ 741,315	\$ 886,997	\$ (145,682)	119.65%
Differential Tuition	\$ 864,240	\$ 732,684	84.78%	\$ 867,840	\$ 890,926	\$ 840,224	102.66%
State Funded Continuing Education	\$ 779,800	\$ 458,354	58.78%	\$ 555,000	\$ 567,487	\$ (12,487)	102.25%
Non-State Funded Continuing Education	\$ 27,800	\$ 23,568	84.78%	\$ 21,200	\$ 39,575	\$ (18,375)	186.67%
Total Tuition	<u>\$ 14,547,582</u>	<u>\$ 12,644,915</u>	86.92%	<u>\$ 15,376,489</u>	<u>\$ 14,591,844</u>	<u>\$ 1,647,955</u>	94.90%
Fees							
General Fee	\$ 1,982,011	\$ 1,752,675	88.43%	\$ 1,957,606	\$ 2,341,489	\$ (383,883)	119.61%
Laboratory Fee	\$ 326,104	\$ 292,096	89.57%	\$ 349,723	\$ 309,364	\$ 40,359	88.46%
Total Fees	<u>\$ 2,308,115</u>	<u>\$ 2,044,771</u>	88.59%	<u>\$ 2,307,329</u>	<u>\$ 2,650,852</u>	<u>\$ (343,523)</u>	114.89%
Allowances and Discounts							
Bad Debt Allowance	\$ (55,000)	\$ -	0.00%	\$ (52,500)	\$ -	\$ (52,500)	0.00%
Remissions and Exemptions	\$ (1,663,999)	\$ (1,435,140)	86.25%	\$ (1,555,000)	\$ (1,496,345)	\$ (58,655)	96.23%
Total Allowances and Discounts	<u>\$ (1,718,999)</u>	<u>\$ (1,435,140)</u>	83.49%	<u>\$ (1,607,500)</u>	<u>\$ (1,496,345)</u>	<u>\$ (111,155)</u>	93.09%
Additional Operating Revenues							
Federal Grants and Contracts (Operating)	\$ 6,686,445	\$ 753,990	11.28%	\$ 10,224,175	\$ 4,986,089	\$ 5,238,086	48.77%
State Grants and Contracts	\$ 5,524	\$ -	0.00%	\$ 111,245	\$ 93,766	\$ 17,479	84.29%
Non-Governmental Grants	\$ -	\$ -		\$ -	\$ -	\$ -	
Local Grants & Contracts	\$ 3,518,100	\$ 3,398,069	96.59%	\$ 3,541,279	\$ 3,390,516	\$ 150,763	95.74%
Sales & Services of Educational Activities	\$ 105,000	\$ 21,878	20.84%	\$ 50,500	\$ 23,099	\$ 27,401	45.74%
Investment income - Program Restricted	\$ 48,750	\$ 15,687	32.18%	\$ 54,750	\$ 22,810	\$ 31,940	41.66%
Other Operating Revenues	\$ 315,000	\$ 189,585	60.19%	\$ 394,000	\$ 234,874	\$ 159,126	59.61%
Total Additional Operating Revenues	<u>\$ 10,678,819</u>	<u>\$ 4,379,210</u>	41.01%	<u>\$ 14,375,949</u>	<u>\$ 8,751,153</u>	<u>\$ 5,624,796</u>	60.87%
Auxiliary Income							
Bookstore	\$ 158,733	\$ 53,330	33.60%	\$ 140,864	\$ 46,640	\$ 94,224	33.11%
Cafeteria	\$ 781,500	\$ 595,708	76.23%	\$ 650,000	\$ 739,115	\$ (89,115)	113.71%
Dormitory	\$ 1,113,340	\$ 1,014,752	91.14%	\$ 1,036,440	\$ 1,128,223	\$ (91,783)	108.86%
Intercollegiate Athletics	\$ -	\$ -		\$ -	\$ -	\$ -	#DIV/0!
Student Services	\$ 250,000	\$ 184,038	73.62%	\$ 227,988	\$ 181,677	\$ 46,311	79.69%
Carter Agricultural Center	\$ 42,500	\$ 18,962	44.62%	\$ 27,000	\$ 15,016	\$ 11,984	55.62%
Total Auxiliary Enterprises	<u>\$ 2,346,073</u>	<u>\$ 1,866,789</u>	79.57%	<u>\$ 2,082,292</u>	<u>\$ 2,110,672</u>	<u>\$ (28,380)</u>	101.36%
Total Operating Revenues	<u>\$ 28,161,590</u>	<u>\$ 19,500,545</u>	69.25%	<u>\$ 32,534,559</u>	<u>\$ 26,608,176</u>	<u>\$ 6,789,693</u>	81.78%
<b>Non-Operating Revenues</b>							
State Appropriations							
Education and General State Support	\$ 9,059,678	\$ 4,756,337	52.50%	\$ 8,925,333	\$ 4,685,799	\$ 4,239,534	52.50%
State Group Insurance	\$ -	\$ 1,008,830		\$ -	\$ 1,018,331	\$ (1,018,331)	
State Retirement Matching	\$ -	\$ 345,001		\$ -	\$ 337,886	\$ (337,886)	
State Appropriations-Other	\$ -	\$ -		\$ -	\$ -	\$ -	
Professional Nursing Shortage Reduction	\$ 155,452	\$ 75,479	48.55%	\$ 155,452	\$ 87,933	\$ 67,519	56.57%
Total State Appropriations	<u>\$ 9,215,130</u>	<u>\$ 6,185,646</u>	67.12%	<u>\$ 9,080,785</u>	<u>\$ 6,129,948</u>	<u>\$ 2,950,837</u>	67.50%
Maintenance Ad Valorem Taxes-Parker County	\$ 17,549,994	\$ 17,401,331	99.15%	\$ 19,864,125	\$ 19,363,745	\$ 500,380	97.48%
Debt Service Ad Valorem Taxes	\$ 594,200	\$ 660,806	111.21%	\$ 597,400	\$ 562,438	\$ 34,962	94.15%
Federal Grants and Contracts (Non-Operating)	\$ 8,294,090	\$ 6,187,916	74.61%	\$ 11,987,997	\$ 10,372,761	\$ 1,615,236	86.53%
Lost Revenue Reimbursement	\$ -	\$ -	#DIV/0!	\$ -	\$ 1,125,776	\$ (1,125,776)	#DIV/0!
Gifts	\$ 404,501	\$ 1,127,375	278.71%	\$ 591,504	\$ 655,975	\$ (64,471)	110.90%
Investment Income	\$ 225,000	\$ 61,974	27.54%	\$ 125,000	\$ 60,991	\$ 64,009	48.79%
Contributions in Aid of Construction	\$ -	\$ -		\$ -	\$ -	\$ -	#DIV/0!
Total Non-Operating Revenue	<u>\$ 36,282,915</u>	<u>\$ 31,625,049</u>	87.16%	<u>\$ 42,246,811</u>	<u>\$ 38,271,635</u>	<u>\$ 3,975,176</u>	90.59%
Budgeted Transfers	<u>\$ 1,235,229</u>	<u>\$ -</u>		<u>\$ 1,064,934</u>	<u>\$ -</u>	<u>\$ 1,064,934</u>	
<b>TOTAL</b>	<b><u>\$ 65,679,734</u></b>	<b><u>\$ 51,125,593</u></b>	77.84%	<b><u>\$ 75,846,304</u></b>	<b><u>\$ 64,879,811</u></b>	<b><u>\$ 11,829,803</u></b>	85.54%

**WEATHERFORD COLLEGE**  
**STATEMENT OF EXPENDITURES**  
**March 31, 2022**

	2020-2021			2021-2022			
	Amended Budget	Expended 3/31/2021	% of Budget	Amended Budget	Expended 3/31/2022	Balance	% of Budget
<b>Operating Expenses</b>							
Unrestricted							
Instruction	\$ 15,872,504	\$ 9,590,406	60.42%	\$ 15,583,493	\$ 9,433,170	\$ 6,150,323	60.53%
Public Service	\$ 14,860	\$ 8,916	60.00%	\$ 740,869	\$ 7,808	\$ 733,061	1.05%
Academic Support	\$ 4,130,798	\$ 2,395,541	57.99%	\$ 4,152,384	\$ 2,403,178	\$ 1,749,206	57.87%
Student Services	\$ 2,493,826	\$ 1,390,486	55.76%	\$ 2,587,205	\$ 1,135,817	\$ 1,451,388	43.90%
Institutional Support	\$ 9,736,444	\$ 5,023,205	51.59%	\$ 10,119,938	\$ 5,007,750	\$ 5,112,188	49.48%
Operation & Maint. of Plant	\$ 9,806,466	\$ 3,828,235	39.04%	\$ 7,946,845	\$ 2,820,186	\$ 5,126,659	35.49%
Scholarships and Fellowships	\$ -	\$ -	-	\$ -	\$ -	\$ -	-
Staff Benefits	\$ 675,000	\$ 373,236	55.29%	\$ 725,000	\$ 418,242	\$ 306,758	57.69%
Total Unrestricted Educational Activities	\$ 42,729,898	\$ 22,610,027	52.91%	\$ 41,855,734	\$ 21,226,150	\$ 20,629,584	50.71%
Restricted							
Instruction	\$ 245,333	\$ 95,365	38.87%	\$ 424,729	\$ 178,707	\$ 246,022	42.08%
Public Service	\$ -	\$ 2,556	-	\$ 3,000	\$ 5,835	\$ (2,835)	-
Academic Support	\$ -	\$ -	-	\$ 15,529	\$ 2,226	\$ 13,303	-
Student Services	\$ 4,945,662	\$ 612,370	12.38%	\$ 8,744,163	\$ 4,557,048	\$ 4,187,115	52.12%
Institutional Support	\$ 5,524	\$ -	0.00%	\$ 6,245	\$ 420	\$ 5,826	6.72%
Operation & Maint. of Plant	\$ -	\$ -	-	\$ -	\$ -	\$ -	-
Scholarships and Fellowships	\$ 10,452,008	\$ 7,860,031	75.20%	\$ 14,540,466	\$ 12,509,937	\$ 2,030,529	86.04%
Staff Benefits	\$ -	\$ 1,353,831	-	\$ -	\$ 1,356,217	\$ (1,356,217)	-
Total Restricted Educational Activities	\$ 15,648,527	\$ 9,924,152	63.42%	\$ 23,734,132	\$ 18,610,389	\$ 5,123,743	78.41%
Total Educational Activities	\$ 58,378,425	\$ 32,534,179	55.73%	\$ 65,589,866	\$ 39,836,539	\$ 25,753,327	60.74%
Auxiliary Enterprises	\$ 3,201,039	\$ 1,527,657	47.72%	\$ 3,407,989	\$ 1,735,476	\$ 1,672,513	50.92%
Depreciation Expense - Buildings and Land Improvements	\$ -	\$ 680,755	-	\$ 1,166,578	\$ 702,289	\$ 464,289	-
Depreciation Expense - Furniture, Machinery, Vehicles, and Other Equipment	\$ -	\$ 385,399	-	\$ 660,689	\$ 393,953	\$ 266,736	-
<b>Total Operating Expenses</b>	<b>\$ 61,579,464</b>	<b>\$ 35,127,990</b>	<b>57.04%</b>	<b>\$ 70,825,122</b>	<b>\$ 42,668,257</b>	<b>\$ 28,156,865</b>	<b>60.24%</b>
<b>Non-Operating Expenses</b>							
Expenses on Capital Related Debt	\$ 380,364	\$ 745,335	195.95%	\$ 1,686,108	\$ 1,019,793	\$ 666,315	60.48%
Gain/Loss on Disposal of Fixed Assets	\$ (10,000)	\$ (12,670)	-	\$ (15,000)	\$ (848,926)	\$ 833,926	-
Other non-operating expense	\$ -	\$ -	-	\$ -	\$ -	\$ -	-
<b>Other Uses of Cash</b>							
Principal on Capital Related Debt	\$ 1,349,349	\$ 246,220	18.25%	\$ 1,499,565	\$ 259,564	\$ 1,240,001	17.31%
Capital Outlay (Non-Construction)	\$ 2,285,690	\$ 264,612	11.58%	\$ 1,066,108	\$ 704,789	\$ 361,319	66.11%
<b>TOTAL</b>	<b>\$ 65,584,867</b>	<b>\$ 36,371,487</b>	<b>55.46%</b>	<b>\$ 75,061,903</b>	<b>\$ 43,803,477</b>	<b>\$ 31,258,426</b>	<b>58.36%</b>



## Weatherford College Board of Trustees Consent Agenda

**DATE:** April 14, 2022

**AGENDA ITEM #4.c.**

**SUBJECT:** Secretary/Clerk Certificate Authorizing Administration to enter into DIR Master Lease Agreement with Dell Marketing, L.P. and Dell Financial Services, L.L.C.

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**INFORMATION AND DISCUSSION:** As part of the budgeting process this year, it was recommended that a DIR Master Lease Agreement be used for the leasing of employee computers for 48 months, which totals \$94,054.23 consisting of four annual payments of \$24,147.48. The 2021-2022 budget includes \$24,147.48 for the employee computers. It has been recommended by the Information Technology Executive Director, Priscilla Parsons, that Dell Marketing, L.P. and Dell Financial Services, L.L.C. provide the best value for Weatherford College.

Dell Marketing, L.P. and Dell Financial Services, L.L.C. are both currently on the Texas Department of Information Resources (DIR) schedule of contracts #DIR-TSO-3763 for the equipment required, and therefore it is not necessary to formally solicit bids. However, it is necessary for the Board of Trustees to formally certify and sign the Secretary/Clerk Certificate authorizing the administration to enter into a DIR Master Lease Agreement and any related lease schedules between the College and Dell Financial Services L.L.C. A copy of this certificate is attached.

**RECOMMENDATION:** That the Board of Trustees approve new lease for employee computers under DIR Master Lease Agreement totaling \$94,054.23 and the Secretary/Clerk Certificate authorizing administration to enter into the DIR Master Lease Agreement and any related lease schedules with Dell Financial Services L.L.C.

**ATTACHMENTS:** DIR Master Lease Agreement, Quote from Dell Financial Services L.L.C. and Secretary/Clerk Certificate and #DIR-TSO-3763

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**SUBMITTED BY:** Dr. Andra R. Cantrell, Executive Vice President for Financial & Administrative Services

## Appendix F

### MASTER LEASE AGREEMENT

#### **1. Scope.**

Dell Financial Services, L.L.C. (hereinafter "Lessor") hereby leases to Lessee, and Lessee hereby leases from Lessor the Equipment described on each Supplementary Schedule ("Schedule"), which is a separate agreement executed from time to time by Lessor and Lessee and makes specific reference to this Master Lease Agreement ("MLA"). The terms and conditions contained herein shall apply to each Schedule that is properly executed in conjunction with this MLA and made subject to such terms and conditions as if a separate MLA were executed for each Schedule by the Lessee. Each Lessee has made an independent legal and management determination to enter into each Schedule. DIR has not offered or given any legal or management advice to the Lessor or to any Lessee under any Schedule. Lessee may negotiate additional terms or more advantageous terms with the Lessor to satisfy individual procurements, such terms shall be developed by the Lessor and Lessee and stated within a Rider to the MLA or the Schedule. To the extent that any of the provisions of the MLA conflict with any of the terms contained in any Schedule, the terms of the Schedule shall control. It is expressly understood that the term "Equipment" shall refer to the Products and any related Services as allowed within said Contract number DIR-TSO-3763, as described on a Schedule and any associated items therewith, including but not limited to all parts, replacements, additions, repairs, and attachments incorporated therein and/or affixed thereto, all documentation (technical and/or user manuals), operating system and application software as needed.

If more than one Lessee is named in a Schedule, the liability of each named Lessee shall be joint and several. However, unless DIR leases Equipment for its own use, DIR is not a party to any Schedule executed under this MLA and is not responsible for Rents, payments or any other obligations under such Lessee's Schedule. The invalidation, fulfillment, waiver, termination, or other disposition of any rights or obligations of either a Lessee or the Lessor or both of them arising from the use of this MLA in conjunction with any one Schedule shall not affect the status of the rights or obligations of either or both of those parties arising from the use of this MLA in conjunction with any other Schedule, except in the Event of Default as provided in Section 23 of this MLA.

Any reference to "MLA" shall mean this Agreement, including the Opinion of Counsel, and any riders, amendments and addenda thereto, and any other documents as may from time to time be made a part hereof upon mutual agreement by DIR and Lessor.

As to conditions precedent to Lessor's obligation to purchase any Equipment, (i) Lessee shall accept the MLA terms and conditions as set forth herein and execute all applicable documents such as the Schedule, the Acceptance Certificate, Opinion of Counsel, and any other documentation as may be required by the Lessor that is not in conflict with this MLA, and (ii) there shall be no material adverse change in Lessee's financial condition except as provided for within Section 7 of this MLA.

#### **2. Term of MLA.**

The term of this MLA shall commence on the last date of approval by DIR and Lessor and shall continue until (i) the obligations of Lessee under every Schedule are fully discharged, (ii) the full and final expiration

date of the Contract, or (iii) either party exercises their termination rights as stated within Appendix A, Section 11.B of the Contract. In regards to either the Contract expiration date or Contract termination date or the termination of this MLA, before all obligations of Lessee under every Schedule are fully discharged, such Schedules and such other provisions of the Contract and this MLA as may be necessary to preserve the rights of the Lessor or Lessee hereunder shall survive said termination or expiration.

### **3. Term of Schedule.**

The term for each Schedule, executed in conjunction to this MLA, shall commence on the date of execution of an Acceptance Certificate by the Lessee or twenty (20) days after the delivery of the last piece of Equipment to the Lessee (“Commencement Date”), and unless earlier terminated as provided for in the MLA, shall continue for the number of whole months or other payment periods as set forth in the applicable Schedule Term, commencing on the first day of the month following the Commencement Date (or commencing on the Commencement Date if such date is the first day of the month). The Schedule Term may be earlier terminated upon: (i) the Non-appropriation of Funds pursuant to Section 7 of this MLA, (ii) an Event of Loss pursuant to Section 18 of this MLA, or (iii) an Event of Default by Lessee and Lessor’s election to cancel the Schedule pursuant to Section 24 of this MLA.

### **4. Administration of MLA.**

- (a) For requests involving the leasing of Equipment, each potential Lessee will submit its request directly to the Lessor. Lessor shall apply the then current Equipment pricing discounts as stated within Section 4 of the Contract or the price as agreed upon by Lessee and Lessor, whichever is lower. Lessor shall submit the lease proposal and all other applicable documents directly to the potential Lessee and negotiate the Schedule terms directly with the potential Lessee.
- (b) All leasing activities in conjunction to this MLA shall be treated as a “purchase sale” in regards to the requirements of the Lessor to report the sale and make payment of the DIR administrative fee as defined within Section 5 of the Contract.
- (c) Upon agreement by Lessor and Lessee on pricing, availability and the like, Lessee may issue a purchase order in the amount indicated on the Schedule to Lessor for the Equipment and reference said Contract number DIR-TSO-3763 on the purchase order. Any pre-printed terms and conditions on the purchase order submitted by the Lessee shall not be effective with respect to the lease of Equipment hereunder. Rather, the terms and conditions of this MLA and applicable Schedule terms and conditions shall control in all respects.
- (d) Nothing herein shall require the Lessor to use this MLA exclusively with Lessees. Further, this MLA shall not constitute a requirements Agreement and Lessor shall not be obligated to enter into any Schedule for the lease of Equipment with any Lessee.

### **5. Rent Payments.**

During the Schedule Term and any renewal terms, Lessee agrees to pay Lessor Rent Payments. Rent Payments shall be the amount equal to the Rent Payment amount specified in the Schedule multiplied by the amount of the total number of Rent Payments specified therein. Lessee shall pay Rent Payments in the

amount and on the due dates specified by Lessor until all Rent Payments and all other amounts due under the Schedule have been paid in full. If the Schedule Commencement Date is other than the first day of a month, Lessee shall make an initial payment on the Schedule Commencement Date in an amount equal to one-thirtieth of the Rent Payment specified in the Schedule for each day from the Schedule Commencement Date (including the Schedule Commencement Date) through the last day of such month (including that day). For example, if a scheduled payment amount is \$3,000 and the Scheduled Commencement date is the 15<sup>th</sup> of the month, a payment of \$1,500 will be made.

Any amounts received by Lessor from the Lessee in excess of Rent Payments and any other sums required to be paid by the Lessee shall be held as non-interest bearing security for Lessee's faithful performance under the conditions of this MLA and any Schedule. All Rent Payments shall be paid to the Lessor at the address stated on the Schedule or any other such place as the Lessor or its assigns may hereafter direct to the Lessee. Lessee shall abide by Appendix A, Section 8.C of the Contract in making payments to the Lessor. Any sum received by the Lessor later than ten (10) business days after its due date will bear interest from such due date at the rate of one-percent (1%) per month (or the maximum rate allowable by law, if less) until paid. Late charges, attorney's fees and other costs or expenses necessary to recover Rent Payments and any other amounts owed by Lessee hereunder are considered an integral part of this MLA.

Each Schedule is a net lease and except as specifically provided herein, Lessee shall be responsible for all costs and expenses arising in connection with the Schedule or Equipment. Lessee acknowledges and agrees, except as specifically provided for in Section 7 of this MLA, that its obligation to pay Rent and other sums payable hereunder, and the rights of Lessor and Lessor's assignees, shall be absolute and unconditional in all events, and shall not be abated, reduced or subject to offset or diminished as a result of any event, including without limitation damage, destruction, defect, malfunction, loss of use, or obsolescence of the Equipment, or any other event, defense, counterclaim or recoupment due or alleged to be due by reason of any past, present or future claims Lessee may have against Lessor, Lessor's assigns, the manufacturer, vendor, or maintainer of the Equipment, or any person for any reason whatsoever.

"Price" shall mean the actual purchase price of the Equipment. Rent Payments shall be adjusted proportionately downward if the actual price of the Equipment is less than the estimate (original proposal), and the Lessee herein authorizes Lessor to adjust the Rent Payments downward in the event of the decrease in the actual Equipment price. However, in the event that the Equipment price is more than the estimate (original proposal), the Lessor may not adjust the Rent Payment without prior written approval of the Lessee.

## **6. Liens and Taxes.**

Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances, except those in favor of Lessor or its assigns, and shall give Lessor immediate notice of any attachment or other judicial process affecting any item of Equipment. Unless Lessee first provides proof of exemption therefrom, Lessee shall promptly reimburse Lessor, upon receipt of an accurate invoice, as an additional sum payable under this MLA, or shall pay directly if so requested by Lessor, all license and registration fees, sales, use, personal property taxes and all other taxes and charges imposed by any federal, state, or local governmental or taxing authority, from which the Lessee is not exempt, whether assessed against Lessee or Lessor, relating to the purchase, ownership, leasing, or use of the Equipment or the Rent Payments, excluding all taxes computed upon the net income of Lessor. Any tax statement received by the Lessor, for taxes payable by the Lessee, shall be promptly forwarded by the Lessor to the Lessee for payment.

## **7. Appropriation of Funds.**

- (a) This paragraph applies only to Lessees designated as state agencies defined in Section 2054.003, Texas Government Code, including institutions of higher education as defined in Texas Education Code, Section 61.003 and those state agencies utilizing a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code.

Lessee intends to continue each Schedule to which it is a party for the Schedule Term and to pay the Rent and other amounts due thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to pay all Rent during the Schedule Term can be obtained. Lessee further intends to act in good faith to do those things reasonably and lawfully within its power to obtain and maintain funds from which the Rent may be paid. Notwithstanding the foregoing, in the event sufficient funds are not appropriated to continue the Schedule Term for any Fiscal Period (as set forth on the Schedule) of Lessee beyond the Fiscal Period first in effect at the Commencement of the Schedule Term, Lessee may terminate the Schedule with regard to not less than all of the Equipment on the Schedule so affected. Lessee shall endeavor to provide Lessor written notice sixty (60) days prior to the end of its current Fiscal Period confirming the Schedule will be so terminated. All obligations of Lessee to pay Rent due after the end of the Fiscal Period for which such termination applies will cease, all interests of Lessee in the Equipment will terminate and Lessee shall surrender the Equipment in accordance with Section 13 of this MLA. Notwithstanding the foregoing, Lessee agrees, without creating a pledge, lien or encumbrance upon funds available to Lessee in other than its current Fiscal Period, that it will use reasonable efforts to obtain appropriation of funds to avoid termination of the Schedule by taking reasonable and appropriate action including the inclusion in Lessee's budget request for each Fiscal Period during the Schedule Term hereof a request for adequate funds to meet its obligations and to continue the Schedule in force. Lessee represents and warrants it has adequate funds to meet its obligations during the first Fiscal Period of the Schedule Term. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rent hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general revenues, funds or monies of Lessee or the State of Texas beyond the Fiscal Period for which sufficient funds have been appropriated to pay Rent hereunder.

- (b) This paragraph applies only to Lessees designated as local government entities.

Lessee intends to continue each Schedule to which it is a party for the Schedule Term and to pay the Rent and other amounts due thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to pay all Rent during the Schedule Term can be obtained. Lessee further intends to act in good faith to do those things reasonably and lawfully within its power to obtain and maintain funds from which the Rent may be paid. Notwithstanding the foregoing, in the event sufficient funds are not appropriated for Lessee to continue the Schedule Term for any Fiscal Period (as set forth on the Schedule) of the Lessee beyond the Fiscal Period first in effect at the commencement of the Schedule Term, the Lessee may terminate the Schedule with regard to not less than all of the Equipment on the Schedule so affected. Lessee shall endeavor to provide Lessor written notice sixty (60) days prior to the end of its current Fiscal Period confirming the Schedule will be terminated. All obligations of Lessee to pay Rent due after the end of the Fiscal Period first in effect at the commencement of the

Schedule Term will cease, all interests of Lessee in the Asset(s) will terminate and Lessee shall surrender the Equipment in accordance with Section 13 of this MLA. Notwithstanding the foregoing, Lessee agrees, without creating a pledge, lien or encumbrance upon funds available to Lessee in other than its current Fiscal Period, that it will use reasonable efforts to obtain appropriation of funds to avoid termination of the Schedule by taking reasonable and appropriate action including the inclusion in Lessee's budget request for each Fiscal Period during the Schedule Term hereof a request for adequate funds to meet its obligations and to continue the Schedule in force. Lessee represents and warrants it has adequate funds to meet its obligations during the first Fiscal Period of the Schedule Term.

## **8. Selection of Equipment.**

The Equipment is the size, design, capacity and manufacture selected by Lessee in its sole judgment and not in reliance on the advice or representations of Lessor. No representation by the manufacturer or a vendor shall in any way affect Lessee's duty to pay Rent and perform its other obligations hereunder. Each Schedule is intended to be a "finance lease" as defined in Article 2A of the Uniform Commercial Code. Lessor has acquired or will acquire the Equipment in connection with this MLA. Lessor shall not be liable for damages for any reason, for any act or omission of the supplying manufacturer. Lessor agrees, to the extent they are assignable, to assign the Lessee, without recourse to Lessor, any warranties provided to Lessor with respect to the Equipment during the Term of the applicable Schedule. Lessee acknowledges that neither its dissatisfaction with any unit of Equipment, nor the failure of any of the Equipment to remain in useful condition for the Schedule Term, nor the loss of possession or the right of possession of the Equipment or any part thereof by the Lessee, shall relieve Lessee from the obligations under this MLA or Schedule Term. Lessee shall have no right, title or interest in or to the Equipment except the right to use the same upon the terms and conditions herein contained. The Equipment shall remain the sole and exclusive personal property of the Lessor and not be deemed a fixture whether or not it becomes attached to any real property of the Lessee. Any labels supplied by Lessor to Lessee, describing the ownership of the Equipment, shall be affixed by Lessee upon a prominent place on each item of Equipment.

## **9. Inspection and Acceptance.**

Promptly upon delivery of the Equipment, Lessee will inspect and test the Equipment, and not later than ten (10) business days following the Commencement Date, Lessee will execute and deliver either (i) an Acceptance Certificate, or (ii) written notification of any defects in the Equipment. If Lessee has not given notice within such time period, the Equipment shall be conclusively deemed accepted by the Lessee as of the tenth (10<sup>th</sup>) business day. Lessor, its assigns or their agents, shall be permitted free access at reasonable times authorized by the Lessee, the right to inspect the Equipment.

## **10. Installation and Delivery; Use of Equipment; Repair and Maintenance.**

- (a) All transportation, delivery, and installation costs associated with the Equipment shall be borne by the Lessee. Lessor is not and shall not be liable for damages if for any reason the manufacturer of the Equipment delays the delivery or fails to fulfill the order by the Lessee's desired timeframe. Any delay in delivery by the manufacturer shall not affect the validity of any Schedule. Lessee shall provide a place of installation for the Equipment, which conforms to the requirements of the manufacturer and Lessor.

- (b) Subject to the terms hereof, Lessee shall be entitled to use the Equipment in compliance with all laws, rules, and regulations of the jurisdiction wherein the Equipment is located and will pay all cost, claims, damages, fees and charges arising out of its possession, use or maintenance. Lessee agrees to solely use the Equipment in the conduct of Lessee's business. Lessee agrees, at its expense, to obtain all applicable permits and licenses necessary for the operation of the Equipment, and keep the Equipment in good working order, repair, appearance and condition (reasonable wear and tear is acceptable). Lessee shall not use or permit the use of the Equipment for any purpose, which according to the specification of the manufacturer, the Equipment is not designed or reasonably suited. Lessee shall use the Equipment in a careful and proper manner and shall comply with all of the manufacturer's instructions, governmental rules, regulations, requirements, and laws, and all insurance requirements, if any, with regard to the use, operation or maintenance of the Equipment.
- (c) Lessee, at its expense, shall take good and proper care of the Equipment and make all repairs and replacements necessary to maintain and preserve the Equipment and keep it in good order and condition. Unless Lessor shall otherwise consent in writing, Lessee shall, at its own expense, enter into and maintain in force a maintenance agreement covering each unit of Equipment. Lessee shall furnish Lessor with a copy of such agreement, upon request. Lessee shall pay all costs to install and dismantle the Equipment. Lessee shall not make any alterations, additions, or improvements, or add attachments to the Equipment without the prior written consent of Lessor, except for additions or attachments to the Equipment purchased by Lessee from the original supplier of the Equipment or any other person approved by Lessor. If Lessee desires to lease any such additions or attachments, Lessee hereby grants to Lessor the right of first refusal to provide such lease financing to Lessee for such items. Subject to the provisions of Section 13B of this MLA, Lessee agrees to restore the Equipment to Return Condition prior to its return to the Lessor.

## **11. Relocation of Equipment.**

Lessee shall at all times keep the Equipment within its exclusive possession and control. Upon Lessor's prior written consent, which shall not be unreasonably withheld, Lessee may move the Equipment to another location of Lessee within the continental United States, provided (i) Lessee is not in default on any Schedule, (ii) Lessee executes and causes to be filed at its expense such instruments as are necessary to preserve and protect the interests of Lessor and its assigns in the Equipment, (iii) Lessee pays all costs of, and provides adequate insurance during such movement, and (iv) Lessee pays all costs otherwise associated with such relocation. Notwithstanding the foregoing, Lessee may move the Equipment to another location within Texas without notification to, or the consent of, Lessor. Provided, however, that not later than December 31 of each calendar year, Lessee shall provide Lessor a written report detailing the total amount of Equipment at each location of Lessee as of that date, and the complete address for each location. Lessor shall make all filings and returns for property taxes due with respect to the Equipment, and Lessee agrees that it shall not make or file any property tax returns, including information returns, with respect to the Equipment.

## **12. Ownership.**

The Equipment shall at all times be and remain the sole and exclusive property of Lessor, subject to the parties rights under any applicable software license agreement. Lessee shall have no right, title or interest

in the Equipment except a leasehold interest as provided for herein. Lessee agrees that the Equipment shall be and remain personal property and shall not be so affixed to realty as to become a fixture or otherwise to lose its identity as the separate property of the Lessor. Upon request, Lessee will enter into any and all agreements necessary to ensure that the Equipment remain the personal property of Lessor.

### **13. Purchase and Renewal Options; Location and Surrender of Equipment.**

- (a) Not less than ninety (90) days prior to the expiration of the initial Schedule Term Lessor shall notify Lessee of options for continued use of Equipment. Lessee shall have the option to: (i) renew the Schedule as to all but not less than all of the Equipment, or (ii) purchase all but not less than all of the Equipment for cash or by the Lessor's acceptance of a purchase order from Lessee upon the last business day on or prior to the expiration of the Schedule Term thereof for a price equal to the amount set forth in the Schedule. If the Fair Market Value (FMV) Purchase Option was selected on the Schedule, the FMV shall be determined on the basis of and shall be equal in amount to, the value which would be obtained in an arms-length transaction between an informed and willing buyer-user (other than a used equipment dealer), who would be retaining the Equipment as part of its current operations, in continuing and consistent use, and an informed and willing seller under no compulsion to sell, and in such determination, costs of removal from the location of current use shall not be a deduction from such value. If Lessee desires to exercise either option, it shall give Lessor irrevocable written notice of its intention to exercise such option at least sixty (60) days (and not more than 180 days) before the expiration of such Schedule Term. In the event that Lessee exercises the purchase option described herein, upon payment by Lessee to Lessor of the purchase price for the Equipment, together will all Rent Payments and any other amounts owing to Lessor hereunder, Lessor shall transfer to Lessee without any representation or warranty of any kind, express or implied, title to such Equipment. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IF LESSEE FAILS TO NOTIFY LESSOR OF ITS INTENT WITH RESPECT TO THE EXERCISE OF THE OPTIONS DESCRIBED IN THIS SECTION 13 WITHIN THE TIME FRAMES CONTEMPLATED HEREIN, THE INITIAL SCHEDULE TERM SHALL BE TERMINATED ON THE DATE AS STATED IN THE SCHEDULE.
- (b) The Equipment shall be delivered to and thereafter kept at the location specified in the Schedule and shall not be removed therefrom without Lessor's prior written consent and in accordance with Section 11 of this MLA. Upon the expiration, early termination as provided herein, or upon final termination of the Schedule, upon at least ninety (90) days prior written notice to Lessor, Lessee at its cost and expense, shall immediately disconnect, properly package for transportation and return all (not part) of the Equipment (including, without limitation, all service records and user manuals), freight prepaid, to Lessor in good repair, working order, with unblemished physical appearance and with no defects which affect the operation or performance of the Equipment ("Return Condition"), reasonable wear and tear excepted. Lessee shall, at Lessor's request, affix to the Equipment, tags, decals or plates furnished by Lessor indicating Lessor's ownership and Lessee shall not permit their removal or concealment. Lessee shall return the Equipment to Lessor at a location specified by Lessor, provided, however, such location shall be within the United States no farther than 500 miles from the original Lessee delivery location, unless otherwise agreed to on the applicable Schedule. If the Equipment is not in Return Condition, Lessee shall remain liable for all reasonable costs required to restore the Equipment to Return Condition. Lessee shall arrange and pay for the de-installation and packing of the Equipment and the de-installation shall be performed by manufacturer-certified technicians, approved by Lessor and the Lessor shall have

the right to supervise and direct the preparation of the Equipment for return. IF, UPON TERMINATION OR EXPIRATION OF THE SCHEDULE FOR ANY REASON, LESSEE FAILS OR REFUSES FORTHWITH TO RETURN AND DELIVER THE EQUIPMENT TO LESSOR, LESSEE SHALL REMAIN LIABLE FOR ANY RENT PAYMENTS ACCRUED AND UNPAID WITH RESPECT TO ALL OF THE EQUIPMENT ON THE SCHEDULE AND SHALL PAY RENT UP TO THE DATE THAT THE EQUIPMENT IS RETURNED TO THE ADDRESS SPECIFIED BY LESSOR. Notwithstanding the foregoing, Lessor shall have the right, without notice or demand, to enter Lessee's premises or any other premises where the Equipment may be found and to take possession of and to remove the Equipment, at Lessee's sole cost and expense, without legal process. Lessee understands that it may have a right under law to notice and a hearing prior to repossession of the Equipment. As an inducement to Lessor to enter into a transaction, but only to the extent that Lessee, if a state agency, has statutory authority to do so, Lessee hereby expressly waives all rights conferred by existing law to notice and a hearing prior to such repossession by Lessor or any officer authorized by law to effect repossession and hereby releases Lessor from all liability in connection with such repossession. Without waiving the doctrines of sovereign immunity and immunity from suit and to the extent authorized by the constitution and laws of the State of Texas, Lessee's obligation to return Equipment may, at Lessor's option, be specifically enforced by Lessor.

#### **14. Quiet Enjoyment.**

During the Schedule Term, Lessor shall not interfere with Lessee's quiet enjoyment and use of the Equipment provided that an Event of Default (as hereinafter defined in Section 23 of the MLA) has not occurred.

#### **15. Warranties.**

Lessor and Lessee acknowledge that manufacturer Equipment warranties, if any, inure to the benefit of the Lessee. Lessee agrees to pursue any warranty claim directly against such manufacturer of the Equipment and shall not pursue any such claim against Lessor. Lessee shall continue to pay Lessor all amounts payable under any Schedule under any and all circumstances.

#### **16. No Warranties.**

LESSEE ACKNOWLEDGES THAT LESSOR IS NOT THE MANUFACTURER OR LICENSOR OF THE EQUIPMENT. LESSEE AGREES THAT LESSOR HAS NOT MADE AND MAKES NO REPRESENTATIONS OR WARRANTIES OF WHATSOEVER NATURE, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION, OR QUALITY OF THE EQUIPMENT OR ANY UNIT THEREOF. LESSEE SPECIFICALLY WAIVES ALL RIGHT TO MAKE CLAIM AGAINST LESSOR FOR BREACH OF ANY EQUIPMENT WARRANTY OF ANY KIND WHATSOEVER; AND WITH RESPECT TO LESSOR, LESSEE LEASES EQUIPMENT "AS IS". LESSOR SHALL NOT BE LIABLE TO LESSEE FOR ANY LOSS, DAMAGE, OR EXPENSE OF ANY KIND OR NATURE CAUSED DIRECTLY OR INDIRECTLY BY ANY EQUIPMENT LEASED HEREUNDER, OR BY THE USE OR MAINTENANCE THEREOF, OR BY THE REPAIRS, SERVICE OR ADJUSTMENT THERETO OR ANY DELAY OR FAILURE TO PROVIDE ANY THEREOF, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF, OR FOR ANY LOSS OF BUSINESS OR DAMAGE

WHATESOEVER AND HOWSOEVER CAUSED WITHOUT IN ANY WAY IMPLYING THAT ANY SUCH WARRANTY EXISTS AND WITHOUT INCREASING ITS LIABILITY HEREUNDER, TO ASSIGN TO LESSEE UPON LESSEE'S REQUEST THEREFOR ANY WARRANTY OF A MANUFACTURER OR LICENSOR OR SELLER RELATING TO THE EQUIPMENT THAT MAY HAVE BEEN GIVEN TO LESSOR.

## **17. Indemnification.**

- (a) Without waiving the doctrines of sovereign immunity and immunity from suit, and to the extent permitted by the laws and Constitution of the State of Texas, Lessee shall indemnify, protect, save and hold harmless Lessor, its agents, servants and successors from and against all losses, damages, injuries, claims, demands and expenses, including legal expenses and attorney's fees, of whatsoever nature, arising out of the use, misuse, condition, repair, storage, return or operation (including, but not limited to, latent and other defects, whether or not discoverable by it) of any unit of Equipment, regardless of where, how and by whom operated, and arising out of negligence (excluding the gross negligence or willful misconduct of Lessor). Lessee is liable for the expenses of the defense or the settlement of any suit or suits or other legal proceedings brought to enforce any such losses, damages, injuries, claims, demands, and expenses and shall pay all judgments entered in any such suit or suits or other legal proceedings. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the termination of the MLA or a Schedule whether by expiration of time, by operation of law or otherwise. With respect to Lessor, Lessee is an independent contractor, and nothing contained herein authorizes Lessee or any other person to operate the Equipment so as to impose or incur any liability or obligation for or on behalf of Lessor.
- (b) Without waiving the doctrines of sovereign immunity and immunity from suit, and to the extent permitted by the laws and Constitution of the State of Texas, Lessee and DIR individually and collectively assume all risks and liabilities with respect to any claim made by any third party that the lease arrangements herein are not authorized by law. Without waiving the doctrines of sovereign immunity and immunity from suit, and to the extent permitted by the laws and Constitution of the State of Texas, Lessee and DIR agree to indemnify, save and hold harmless Lessor from any and all such claims and all expenses incurred in connection with such claims or to defend against such claims, including without limitation any judgments by a court of competent jurisdiction or settlement or compromise with such claimant.
- (c) Lessor is the owner of the Equipment and has title to the Equipment. If any other person attempts to claim ownership of the Equipment by asserting that claim against Lessee or through Lessee, Lessee agrees, at its expense, to protect and defend Lessor's title to the Equipment. Lessee further agrees that it will at all times keep the Equipment free from any legal process, encumbrance or lien whatsoever, and Lessee shall give Lessor immediate notice if any legal process, encumbrance or lien is asserted or made against the Equipment.

## **18. Risk of Loss.**

Commencing upon delivery and continuing throughout the Schedule Term, Lessee shall bear the entire risk of loss or damage in respect to any Equipment, whether partial or complete, from any cause whatsoever. In the event of loss, theft, destruction or damage of any kind to any item of Equipment, or if any Equipment is

lost stolen, or taken by governmental action for a stated period extending beyond the Term of any Schedule (an "Event of Loss"), Lessee shall promptly notify Lessor. Lessee shall, at its option: (a) immediately place the affected Equipment in good condition and working order, (b) replace the affected Equipment with identical equipment of at least equal value, in good condition and repair, and transfer clear title thereto to Lessor, or (c) to the extent permitted by law, pay to Lessor, within thirty (30) days of the Event of Loss, an amount equal to the Stipulated Loss Value ("SLV" as hereafter defined) for such affected Equipment, plus any other unpaid amounts then due under the Schedule. If an Event of Loss occurs as to part of the Equipment for which the SLV is paid, a prorated amount of each Rent Payment shall abate from the date the SLV payment is received by Lessor. The SLV shall be an amount equal to the sum of all future Rent Payments from the last Rent Payment date to the end of the Schedule Term with such Rent Payments discounted to present value at the like-term Treasury Bill rate for the remaining Schedule Term in effect on the date of such Event of Loss, or if such rate is not permitted by law, then at the lowest permitted rate.

In the event of a governmental taking of Equipment for an indefinite period or for a stated period, which does not extend beyond the Schedule Term, all obligations of the Lessee with respect to such Equipment (including payment of Rent) shall continue. So long as Lessee is not in default hereunder, Lessor shall pay to Lessee all sums received by Lessor from the government by reason of such taking.

## **19. Insurance.**

At its expense, Lessee shall keep the Equipment insured against all risks of loss and damage with companies acceptable to Lessor for an amount equal to the original cost of the Equipment, with Lessor or its assign(s) named as a loss payee. Lessee shall also maintain comprehensive general liability insurance, with Lessor or its assign(s) named as an additional insured. Lessee shall be liable for any loss not covered by insurance. All said insurance shall be in form and amount satisfactory to Lessor. Lessee shall pay the premiums therefor and deliver to Lessor or its assign(s) the certificates of insurance or duplicates thereof or other evidence satisfactory to Lessor or its assign(s) of such insurance coverage. Evidence of such insurance coverage shall be furnished no later than the Schedule Commencement Date of each Schedule and from time to time as Lessor or its assign(s) may request. Each insurer shall agree by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor that it will give Lessor or its assign(s) thirty (30) days prior written notice of the effective date of any alteration or cancellation of such policy. Lessee hereby irrevocably appoints Lessor as Lessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks or drafts received in payment for loss or damage under any said insurance policy. Lessee may self-insure with respect to the required coverage.

Further, Lessees that are defined as state agencies in accordance with Section 2054.003, Texas Government Code (including institutions of higher education as defined in Texas Education Code, Section 61.003) and those purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code, may self-insure their obligations in this section.

## **20. Representations and Warranties of Lessee.**

Lessee represents and warrants for the benefit of Lessor and its assigns, and Lessee will provide an opinion of counsel to the effect that, as of the time of execution of the MLA and each Schedule between Lessor and Lessee:

- (a) Lessee is either a Texas state agency or Texas local government, as defined in Section 2054.003, Texas Government Code (including institutions of higher education as defined in Texas Education Code, Section 61.003) or a state agency purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code. Lessee has made an independent legal and management determination to enter into this transaction;
- (b) Each Schedule executed by Lessee has been duly authorized, executed and delivered by Lessee and constitutes a valid, legal and binding agreement of Lessee, enforceable in accordance with its terms;
- (c) No approval, consent or withholding of objection is required from any federal or other governmental authority or instrumentality with respect to the entering into or performance by Lessee of any Schedule between Lessor and Lessee;
- (d) The entering into and performance of any Schedule between Lessor and Lessee, the MLA or any Schedule will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon assets of the Lessee or on the Equipment leased under any Schedule between Lessor and Lessee pursuant to any instrument to which the Lessee is a party or by which it or its assets may be bound;
- (e) To the best of Lessee's knowledge and belief, there are no suits or proceedings pending or threatened against or affecting Lessee, which if determined adversely to Lessee will have a material adverse effect on the ability of Lessee to fulfill its obligations under the MLA or any Schedule between Lessor and Lessee;
- (f) The use of the Equipment is essential to Lessee's proper, efficient and economic operation, and Lessee will sign and provide to Lessor upon execution of each Schedule between Lessor and Lessee hereto written certification to that effect; and
- (g) Lessee represents and warrants that (i) It has authority to enter into any Schedule under this MLA, (ii) the persons executing a Schedule have been duly authorized to execute the Schedule on Lessee's behalf, (iii) all information supplied to Lessor is true and correct, including all credit and financial information and (iv) it is able to meet all its financial obligations, including the Rent Payments hereunder.

## **21. Representation and Warranties of DIR.**

DIR represents and warrants for the benefit of Lessor and its assigns, and DIR will provide an opinion of counsel to the effect that, as of the time of execution of the MLA:

- (a) DIR is a State agency as defined in Section 2251.001, Texas Government Code. DIR has not provided the Lessee or the Lessor with any legal or management advice regarding the MLA or any Schedule executed pursuant thereto;
- (b) This MLA has been duly authorized, executed and delivered by DIR and constitutes a valid, legal and binding Agreement of DIR, enforceable in accordance with its terms;

- (c) No approval, consent or withholding of objection is required from any federal or other governmental authority or governmental authority or instrumentality with respect to the entering into or performance by DIR of this MLA;
- (d) The entering into and performance of the MLA does not violate any judgment, order, law or regulation applicable to DIR or result in any breach of, constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon assets of DIR or on the Equipment pursuant to any instrument to which DIR is a party or by which it or its assets may be bound;
- (e) To the best of DIR's knowledge and belief, there are no suits or proceedings pending or threatened against or affecting DIR, which if determined adversely to DIR will have a material adverse effect on the ability of DIR to fulfill its obligations under the MLA;
- (f) DIR is authorized to charge and collect the administrative fee as set forth within Section 5 of the Contract;
- (g) Lessor's payment of the administrative fee to DIR shall not constitute an illegal gratuity or otherwise violate Texas law; and
- (h) DIR is a government agency subject to the Texas Public Information Act. Lessor acknowledges that DIR will comply with the Public Information Act, and with all opinions of the Texas Attorney Generals' office concerning this Act.

## **22. Representations and Warranties of Lessor.**

- (a) Lessor is an entity authorized and validly existing under the laws of its state of organization, is authorized to do business in Texas, and is not in default as to taxes owed to the State of Texas and any of its political subdivisions;
- (b) The MLA and each Schedule executed in conjunction to this MLA have been duly authorized, executed and delivered by Lessor and constitute valid, legal and binding agreements of Lessor, enforceable with respect to the obligations of Lessor herein in accordance with their terms;
- (c) No approval, consent or withholding of objection is required from any federal or other governmental authority or instrumentality with respect to the entering into or performance by Lessor of this MLA or any Schedule;
- (d) The entering into and performance of the MLA or any Schedule will not violate any judgment, order, law or regulation applicable to Lessor or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon the assets of the Lessor, including Equipment leased under the MLA and Schedules thereto, pursuant to any instrument to which the Lessor is a party or by which it or its assets may be bound; and

- (e) To the best of Lessor's knowledge and belief, there are no suits or proceedings pending or threatened against or affecting Lessor, which if determined adversely to Lessor will have a material adverse effect on the ability of Lessor to fulfill its obligations under the MLA or any Schedule.

## **23. Default.**

Lessee shall be in default under a Schedule upon the occurrence of any one or more of the following events (each an "Event of Default"): (a) nonpayment or incomplete payment by Lessee of Rent or any other sum payable; (b) nonpayment or incomplete payment by Lessee of Rent or any other sum payable on its due date; (c) failure by Lessee to perform or observe any other term, covenant or condition of this MLA, any Schedule, or any applicable software license agreement, which is not cured within ten (10) days after notice thereof from Lessor; (d) insolvency by Lessee; (e) Lessee's filing of any proceedings commencing bankruptcy or the filing of any involuntary petition against Lessee or the appointment of any receiver not dismissed within sixty (60) days from the date of said filing or appointment; (f) subjection of a substantial part of Lessee's property or any part of the Equipment to any levy, seizure, assignment or sale for or by any creditor or governmental agency; or (g) any representation or warranty made by Lessee in this MLA, any Schedule or in any document furnished by Lessee to Lessor in connection therewith or with the acquisition or use of the Equipment being or becoming untrue in any material respect.

## **24. Remedies.**

- (a) Upon the occurrence of an "Event of Default" and at any time thereafter Lessor may, in its sole discretion, do any one or more of the following: (i) After giving fifteen (15) days prior written notice to Lessee of default, during which time Lessee shall have the opportunity to cure such default, terminate any or all Schedules executed by Lessor and the defaulting Lessee; (ii) without Lessee and DIR waiving the doctrines of sovereign immunity and immunity from suit, and to the extent allowed by the laws and Constitution of the State of Texas, Lessor may proceed by appropriate court action to enforce the performance of the terms of the Schedule and/or recover damages, including all of Lessor's economic loss for the breach thereof; (iii) whether or not the Schedule is terminated, upon notice to Lessee, take possession of the Equipment wherever located, without demand, liability, court order or other process of law, and for such purposes Lessee, to the extent authorized by Texas law, hereby authorizes Lessor, its assigns or the agents of either to enter upon the premises where such Equipment is located or cause Lessee, and Lessee hereby agrees, to return such Equipment to Lessor in accordance with the requirements of Section 13 of the MLA; (iv) by notice to Lessee, and to the extent permitted by law, declare immediately due and payable and recover from Lessee, as liquidated damages and not as a penalty, the sum of (a) the present value of the Rent owed from the earlier of the date of payment by Lessee or the date Lessor obtains a judgment against Lessee until the end of the Schedule Term plus, if the Equipment is not returned to or repossessed by Lessor, the present value of the estimated in-place fair market value of the Equipment at the end of the Schedule Term as determined by Lessor, each discounted at a rate equal to the rate used by Lessor for business opportunity analysis; (b) all Rent and other amounts due and payable on or before the earlier of the date of payment by Lessee or the date Lessor obtains a judgment against Lessee; and (c) without Lessee and DIR waiving the doctrines of sovereign immunity and immunity from suit, and to the extent allowed by the laws and Constitution of the State of Texas, costs, fees (including all attorneys' fees and court costs) and expenses associated with collecting said sums; and (d) interest on (a) and (b)

from the date of default at 1 ½% per month or portion thereof (or the highest rate allowable by law, if less) and, on (c) from the date Lessor incurs such fees, costs or expenses.

- (b) Upon return or repossession of the Equipment, Lessor may, if it so decides in its sole discretion, upon notice to Lessee, use reasonable efforts to sell, re-lease or otherwise dispose of such Equipment, in such manner and upon such terms as Lessor may determine in its sole discretion, so long as such manner and terms are commercially reasonable. Upon disposition of the Equipment, Lessor shall credit the Net Proceeds (as defined below) to the damages paid or payable by Lessee. Proceeds upon sale of the Equipment shall be the sale price paid to Lessor less the Stipulated Loss Value in effect as of the date of default. Proceeds upon a re-lease of the Equipment shall be all rents to be received for a term not to exceed the remaining Schedule Term, discounted to present value as of the commencement date of the re-lease at the Lessor's current applicable debt rate. Without Lessee and DIR waiving the doctrines of sovereign immunity and immunity from suit, and to the extent allowed by the laws and Constitution of the State of Texas, "Net Proceeds" shall be the Proceeds of sale or re-lease as determined above, less all costs and expenses incurred by Lessor in the recovery, storage and repair of the Equipment, in the remarketing or disposition thereof, or otherwise as a result of Lessee's default, including any court costs and attorney's fees and interest on the foregoing at eighteen percent (18%) per annum or the highest rate allowable by law, if less, calculated from the dates such costs and expenses were incurred until received by Lessor. Lessee shall remain liable for the amount by which all sums, including liquidated damages, due from Lessee exceeds the Net Proceeds. Net Proceeds in excess thereof are the property of and shall be retained by Lessor.
- (c) No termination, repossession or other act by Lessor in the exercise of its rights and remedies upon an Event or Default shall relieve Lessee from any of its obligations hereunder. No remedy referred to in this Section is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity.
- (d) Neither DIR nor non-defaulting Lessees shall be deemed in default under the MLA or Schedules because of the default of a particular Lessee. Lessor's remedies under this Section 24 shall not extend to DIR and those non-defaulting Lessees.

## **25. Notices and Waivers.**

All notices relating to this MLA shall be delivered to DIR or the Lessor as specified within Section 6 of the Contract, or to another representative and address subsequently specified in writing by the appropriate parties hereto. All notices relating to a Schedule shall be delivered in person to an officer of the Lessor or Lessee or shall be mailed certified or registered to Lessor or Lessee at its respective address shown on the Schedule or to another address subsequently specified in writing by the appropriate parties thereof. DIR, Lessee, and Lessor intend and agree that a photocopy or facsimile of this MLA or a Schedule and all related documents, including but not limited to the Acceptance Certificate, with their signatures thereon shall be treated as originals, and shall be deemed to be as binding, valid, genuine, and authentic as an original signature document for all purposes. This MLA and those Schedules in conjunction hereof are a "Finance Lease" as defined in Article 2A of the Uniform Commercial Code ("UCC"). A waiver of a specific Default shall not be a waiver of any other or subsequent Default. No waiver of any provision of this MLA or a provision of a Schedule shall be a waiver of any other provision or matter, and all such waivers shall be in

writing and executed by an officer of the Lessor. No failure on the part of Lessor to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof.

## **26. Assignment by Lessor; Assignment or Sublease by Lessee.**

- (a) Lessor may (i) assign all or a portion of Lessor's right, title and interest in this MLA and/or any Schedule; (ii) grant a security interest in the right, title and interest of Lessor in the MLA, any Schedule and/or any Equipment; and/or (iii) sell or transfer its title and interest as owner of the Equipment and/or as Lessor under any Schedule; and DIR and each Lessee leasing Equipment under the MLA understand and agree that Lessor's assigns may each do the same (hereunder collectively "Assignment"). All such Assignments shall be subject to each Lessee's rights under the Schedule(s) executed between it and Lessor and to DIR's rights under the MLA. Each Lessee leasing Equipment through Schedules under this MLA and DIR hereby consent to such Assignments and agree to execute and deliver promptly such acknowledgements, Opinions of Counsel and other instruments reasonably requested to effect such Assignment. Each Lessee leasing Equipment through Schedules under this MLA and DIR acknowledge that the assigns do not assume Lessor's obligations hereunder and agree to make all payments owed to the assigns without abatement and not to assert against the assigns any claim, defense, setoff or counterclaim which DIR or the Lessee(s) may possess against the Lessor or any other party for any other reason. Lessor shall remain liable for performance under the MLA and any Schedule(s) executed hereunder to the extent Lessor's assigns do not perform Lessor's obligations under the MLA and Schedule(s) executed hereunder. Upon any such Assignment, all references to Lessor shall also include all such assigns, whether specific reference thereto is otherwise made herein.
- (b) **LESSEE WILL NOT SELL, ASSIGN, SUBLET, PLEDGE OR OTHERWISE ENCUMBER, OR PERMIT A LIEN TO EXIST ON OR AGAINST ANY INTEREST IN THIS LEASE, OR THE EQUIPMENT, OR REMOVE THE EQUIPMENT FROM ITS LOCATION REFERRED TO ON THE SCHEDULE, WITHOUT LESSOR'S PRIOR WRITTEN CONSENT EXCEPT AS PROVIDED IN SECTION 11 OF THIS MLA. LESSOR MAY ASSIGN ITS INTEREST IN THIS LEASE AND SELL OR GRANT A SECURITY INTEREST IN ALL OR ANY PART OF THE EQUIPMENT WITHOUT LESSEE'S CONSENT. LESSEES THAT ARE STATE AGENCIES, WITHOUT WAIVING THE DOCTRINE OF SOVEREIGN IMMUNITY AND IMMUNITY FROM SUIT, AND ONLY AS MAY BE AUTHORIZED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, AGREE THAT IN ANY ACTION BROUGHT BY AN ASSIGNEE AGAINST LESSEE TO ENFORCE LESSOR'S RIGHTS HEREUNDER, LESSEE WILL NOT ASSERT AGAINST SUCH ASSIGNEE AND EXPRESSLY WAIVES AS AGAINST ANY ASSIGNEE, ANY BREACH OR DEFAULT ON THE PART OF LESSOR HEREUNDER OR ANY OTHER DEFENSE, CLAIM OR SET-OFF WHICH LESSEE MAY HAVE AGAINST LESSOR EITHER HEREUNDER OR OTHERWISE. NO SUCH ASSIGNEE SHALL BE OBLIGATED TO PERFORM ANY OBLIGATION, TERM OR CONDITION REQUIRED TO BE PERFORMED BY LESSOR HEREUNDER.** Without the prior written consent of Lessor, DIR shall not assign, sublease, transfer, pledge or hypothecate the Master Lease Agreement; provided, however, that no such prior written consent from Lessor is necessary in the event of a legislative mandate to transfer the contract to another state agency.

## **27. Delivery of Related Documents.**

For each Schedule, Lessee will provide the following documents and information satisfactory to Lessor: (a) Certificate of Acceptance; (b) Opinion of Counsel; (c) proof of self-insurance acceptable to Lessor; (d) Financial Statements; (e) Incumbency Certificate; and (f) Other documents as reasonably required by Lessor.

## **28. Lessee's Waivers.**

To the extent permitted by applicable law, Lessee hereby waives the following rights and remedies conferred upon Lessee by the Uniform Commercial Code: to (i) cancel any Schedule under the MLA; (ii) repudiate any Schedule; (iii) reject the Equipment; (iv) revoke acceptance of the Equipment; (v) recover damages from Lessor for any breach of warranty by the manufacturer; (vi) claim a security interest in the Equipment in Lessee's possession or control for any reason; (vii) deduct all or any part of any claimed damages resulting from Lessor's default, if any, under any Schedule; (viii) accept partial delivery of the Equipment; (ix) "cover" by making any purchase or lease of or contract to purchase or lease equipment in substitution for the Equipment due from Lessor; (x) recover any special, punitive, incidental or consequential damages, for any reason whatsoever. Lessee agrees that any delay or failure to enforce Lessor's rights under this MLA or a Schedule does not prevent Lessor from enforcing any rights at a later time.

## **29. Security Interest and UCC Filings.**

To secure payments hereunder, Lessor reserves and Lessee hereby grants to Lessor a continuing security interest in the Equipment and any and all additions, replacements, substitutions, and repairs thereof. When all of the Lessee's obligations under this MLA and respective Schedules have been fully paid and satisfied, Lessor's security interest shall terminate. Nothing contained herein shall in any way diminish Lessor's right, title, or interest in or to the Equipment. Lessor and Lessee agree that a reproduction of this MLA and/or any associated Schedule may be filed as a financing statement and shall be sufficient as a financing statement under the Uniform Commercial Code ("UCC"). Lessee hereby appoints Lessor, its agents, successors or assigns its true and lawful attorney-in-fact for the limited purpose of executing and filing on behalf of Lessee any and all UCC Financing Statements which in Lessor's sole discretion are necessary or proper to secure Lessor's interest in the Equipment in all applicable jurisdictions. Lessee shall execute or obtain and deliver to Lessor, upon Lessor's request, such instruments, financing statements and assurances, as Lessor deems necessary or advisable for the protection or perfection of this Lease and Lessor's rights hereunder and will pay all costs incident thereto.

## **30. Miscellaneous.**

- (a) Jurisdiction. The MLA and each Schedule SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. In the event of a dispute between the parties, suit may be brought in the federal or state courts where Lessee has its principal office or where the Equipment is located.
- (b) Counterpart. Only original counterpart No. 1 of each Schedule shall be deemed to be an "Original" for chattel paper purposes under the Uniform Commercial Code. Any and all other counterparts shall

be deemed to be a "Copy". NO SECURITY INTEREST IN THIS MLA, IN ANY SCHEDULE, OR IN ANY OF THE EQUIPMENT MAY BE CREATED, TRANSFERRED, ASSIGNED OR PERFECTED BY THE TRANSFER AND POSSESSION OF THIS MLA ALONE OR OF ANY "COPY" OF THE SCHEDULE, BUT RATHER SOLELY BY THE TRANSFER AND POSSESSION OF THE "ORIGINAL" COUNTERPART OF THE SCHEDULE INCORPORATING THIS MLA BY REFERENCE.

- (c) Suspension of Obligations of Lessor. Prior to delivery of any Equipment, the obligations of Lessor hereunder shall be suspended to the extent that it is hindered or prevented from performing because of causes beyond its control.
- (d) Severability. In the event of any provision of this MLA or any Schedule shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the parties hereto agree that such provision shall be ineffective without invalidating the remaining provisions thereof.
- (e) Entire Agreement. Lessor and Lessee acknowledge that there are no agreements or understanding, written or oral, between them with respect to the Equipment, other than as set forth in this MLA and in each Schedule to which Lessee is a signatory party. Lessor and Lessee further acknowledge that this MLA and each Schedule to which Lessee is a party contain the entire agreement between Lessor and Lessee and supersedes all previous discussions and terms and conditions of any purchase orders issued by Lessee. DIR and Lessor acknowledge that there are no agreements or understandings, written or oral, between them other than as set forth in this MLA and Contract Number DIR-TSO-3763 and that both contain the entire agreement between them. Neither this MLA nor any Schedule may be altered, modified, terminated, or discharged except by a writing signed by the party against whom enforcement of such action is sought.
- (f) Headers. The descriptive headings hereof do not constitute a part of any Schedule and no inferences shall be drawn therefrom.
- (g) Language context. Whenever the context of this MLA requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural, and whenever the word Lessor is used herein, it shall include all assignees of Lessor.
- (h) Lessor Certifications. Lessor certifies that:
  - (i) it has not given, offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this MLA and/or any Schedules executed hereunder;
  - (ii) it is not currently delinquent in the payment of any franchise tax owed the State of Texas and is not ineligible to receive payment under Section 231.006, Texas Family Code and acknowledges this MLA may be terminated and payment withheld if this certification is inaccurate;
  - (iii) neither it, nor anyone acting for it, has violated the antitrust laws of the United States or the State of Texas, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage;

- (iv) it has not received payment from DIR, Lessee or any of their employees for participating in the preparation of this MLA and the Schedule(s) hereunder;
- (v) during the term of this MLA, it will not discriminate unlawfully against any employee or applicant and that, upon request it will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as specific information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision making authority,
- (vi) under Section 2155.004, Texas Government Code, the Lessor certifies that the individual or business entity named in this MLA is not ineligible to receive the specified MLA and acknowledges that this MLA may be terminated and payment withheld if this certification is inaccurate;
- (vii) to the best of their knowledge and belief, there are no suits or proceedings pending or threatened against or affecting them, which if determined adversely to them will have a material adverse effect on the ability to fulfill their obligations under the MLA;
- (viii) are not suspended or debarred from doing business with the federal government as listed in the *Excluded Parties List System (EPLS)* maintained by the General Services Administration;
- (ix) as of the effective date of the MLA, are not listed in the prohibited vendors list authorized by Executive Order #13224, *"Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"*, published by the United States Department of the Treasury, Office of Foreign Assets Control;
- (x) to the extent applicable to this scope of this MLA, Lessor hereby certifies that it is in compliance with Subchapter Y, Chapter 361, Health and Safety Code related to the Computer Equipment Recycling Program and its rules, 30 TAC Chapter 328;
- (xi) Lessor agrees that any payments due under this MLA will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas;
- (xii) Vendor certifies that they are in compliance Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency;
- (xiii) Vendor certifies for itself and its subcontractors that it has identified all current or former, within the last five years, employees of the State of Texas assigned to work on the DIR Contract 20% or more of their time and has disclosed them to DIR and has disclosed or does not employ any relative of a current or former state employee within two degrees of consanguinity, and, if these facts change during the course of the Contract, Vendor certifies it shall disclose for itself and on behalf of subcontractors the name and other pertinent information about the employment of current and former employees and their relatives within two degrees of consanguinity;

- (xiv) Lessor represents and warrants that the provision of goods and services or other performance under the MLA will not constitute an actual or potential conflict of interest and certifies that it will not reasonably create the appearance of impropriety, and, if these facts change during the course of the MLA, Lessor certifies it shall disclose for itself and on behalf of subcontractors the actual or potential conflict of interest and any circumstances which create the appearance of impropriety;
- (xv) Lessor represents and warrants that the Lessee's payment to Lessor and Lessor's receipt of appropriated or other funds under this Agreement are not prohibited by Sections 556.005 or Section 556.008, Texas Government Code;
- (xvi) under Section 2155.006, Government Code, Lessor certifies that the individual or business entity in this MLA is not ineligible to receive the specified MLA and acknowledges that this MLA may be terminated and payment withheld if this certification is inaccurate. In addition, Lessor acknowledges the applicability of §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of the MLA; and (xviii) Lessor certifies that it has complied with the Section 556.0055, Texas Government Code, restriction on lobbying expenditures. In addition, Vendor acknowledges the applicability of §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of the Contract.

During the term of the MLA, Lessor shall, for itself and on behalf of its subcontractors, promptly disclose to DIR all changes that occur to the foregoing certifications, representations and warranties. Lessor covenants to fully cooperate in the development and execution of resulting documentation necessary to maintain an accurate record of the certifications, representations and warranties

- (i) Dispute Resolution. The following paragraph applies only to Lessees designated as a State agency as defined in Section 2054.003, Texas Government Code, including a university system or institution of higher education, and those purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code.

To the extent that Chapter 2260 of the Texas Government Code, as it may be amended from time to time ("Chapter 2260"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260, and rules promulgated there under shall be used by the Lessee and Lessor to attempt to resolve any claim for breach of agreement made by Lessor.

- (j) Sovereign Immunity. Nothing herein shall be construed to waive the State's sovereign immunity.

### **31. Amendments.**

The terms and conditions of this MLA may be amended only by written instrument executed by the Lessor and DIR.



February 18, 2022

Prepared For:

WEATHERFORD COLLEGE

Thank you for giving Dell Financial Services L.L.C. ("DFS") the opportunity to provide a technology financing solution. Enclosed is a financing proposal for your new technology needs. We look forward to discussing this opportunity in further detail with you. If you have any questions, please contact me at the phone number or email address below.

DIR-TSO-3763	
Dell Quote Number	Summary Product Description
3000112117294.1	OptiPlex 7090 Tower & Monitor
3000112116298.1	Dell Latitude 5520 & Dock
	TOTALS

Term	49	DellFlex Tax Exempt Lease Purchase		
Option		Payments	%	Final DellFlex Payment
Payments:		Annual		
Consolidation:		Monthly		
Payments Due:		Advance		
Interim Rent:		None		
		4 Payments	%	Final DellFlex Payment

Proposal Expiration Date:

March 20, 2022

Leasing and financing provided by Dell Financial Services L.L.C. or its affiliate or designee ("DFS") to qualified customers. Offers may not be available or may vary in certain countries. Where available, offers may be changed without notice and are subject to product availability, credit approval, execution of documentation provided by and acceptable to DFS, and may be subject to minimum transaction size. Offers not available for personal, family or household use. Dell and the Dell logo are trademarks of Dell Inc. Proposal is property of DFS, contains confidential information and shall not be duplicated or disclosed in whole or part. Proposal is not a firm offer of financing. Pricing and rates based upon the final amount, configuration and specification of the supplied equipment, software, services or fees. Prorata payment may be due in the first payment cycle. Proposal excludes additional costs to customer such as shipping, maintenance, filing fees, applicable taxes, insurance and similar items. Proposal valid through the expiration date shown above, or if none is specified, for 30 calendar days from date of presentation.

**End of Term Options:****DellFlex Tax Exempt Lease Purchase:****\*TECHNOLOGY REFRESH OPTION\***

The DellFlex technology refresh structure is similar to our tax exempt lease purchase but provides the Lessee with an opportunity to "refresh" the equipment on the first day of the last month of the primary term (the 25th, 37th or 49th month, or the "Tech Refresh Date"). If Lessee wishes to exercise this option, Lessee must notify Lessor in writing at least 120 days prior to the end of the Primary Term, return all (but not less than all) of the equipment on the lease, and enter into a new lease for new, upgraded equipment with a minimum 24 month term (ask your DFS sales representative for details). When Lessee completes the DellFlex requirements and any other payment or performance requirements under their lease terms, the original lease will end. If the terms and conditions of the DellFlex option are not fulfilled in their entirety before the Tech Refresh Date, the DellFlex refresh option is null and void and Lessee shall pay the final Rent payment due on the Tech Refresh Date, after which the Lessee obtains free and clear title to the equipment.

**Additional Information:**

**LEASE QUOTE:** The Lease Quote is exclusive of shipping costs, maintenance fees, filing fees, licensing fees, property or use taxes, insurance premiums and similar items which shall be for Lessee's account. Lessee will pay payments and all other amounts without set-off, abatement or reduction for any reason whatsoever. Additionally, Lessee shall declare and pay all sales, use and personal property taxes to the appropriate taxing authorities. If you are sales tax exempt, please provide a copy of your Exemption Certificate with the Lease Contract. If Lessee provides the appropriate tax exemption certificates to DFS, sales and use taxes will not be collected by DFS. However, if your taxing authority assesses a **personal property tax** on leased equipment, and if DFS pays that tax under your lease structure, Lessee must reimburse DFS for that tax expense in connection with the Lessee's lease.

**PURCHASE ORDER:** The Purchase Order must be made out to Dell Financial Services L.L.C., One Dell Way, RR8-23, Round Rock, TX 78682. The Purchase Order will need to include the quote number, quantity and description of the equipment. Please indicate that the PO is for a lease order and shows the type of lease, the term length, and payment frequency. The date of the lease quote referenced should be included. Please be sure to include any applicable shipping costs as a line item and include your address as the SHIP TO destination.

**INSURANCE:** The risk of loss on the equipment is borne solely by the Lessee. Lessee shall be required to purchase and maintain during the Term (i) comprehensive public liability insurance naming Lessor as additional insured; and (ii) "all-risk" physical damage insurance in a minimum amount of the Purchase Price, naming DFS as first loss payee.

**APPROPRIATION COVENANT:** The Lease will contain an appropriation of funds clause. The Lessee will covenant that it shall do all things legally within its power to obtain and maintain funds from which the payments may be paid.

**DOCUMENTATION:** In addition to a duly executed Agreement, other documents as reasonably requested by DFS may be required, such as but not limited to opinions of counsel, IRS tax exemption forms (if applicable), and audited financials.

**PROPOSAL VALIDITY / APPROVALS:** This is a proposal based upon market conditions and is valid for 30 days, is subject to final credit approval, review of the economics of the transaction, and execution of mutually acceptable documentation.

**Caren Wright**

FSR

Dell | Financial Services

512-728-6628

[caren\\_wright@dell.com](mailto:caren_wright@dell.com)



## SECRETARY/CLERK CERTIFICATE

I, Mac Smith do hereby certify that:

(i) I, am the duly elected, qualified, and acting Board of Trustees Chairman (Clerk, Secretary, etc.) of the **Weatherford College** a **TX** public entity (the "Public Entity").

(ii) Each of the persons whose name, title and signature appear below is a duly authorized representative of the Public Entity and holds on the date of this Certificate the formal title set forth opposite his/her name and the signature appearing opposite each such person's name is his/her genuine signature:

NAME OF AUTHORIZED SIGNATORY	TITLE OF AUTHORIZED SIGNATORY	SIGNATURE OF AUTHORIZED SIGNATORY
------------------------------	-------------------------------	-----------------------------------

<u>Andra R. Cantrell</u>	<u>Exec. VP of Finance &amp; Adm</u>	<hr/>
<u>Jeanie Hobbs</u>	<u>Director of Purchasing</u>	<hr/>
<u>Aileen Hedgecocke</u>	<u>Purchasing Specialist</u>	<hr/>

(iii) Each such representative is duly authorized for and on behalf of the Public Entity to execute and deliver that certain Master Lease Agreement No.570845-16311 (the "Agreement") and any related Lease Schedules from time to time thereunder (the "Schedules") between the Public Entity and Dell Financial Services L.L.C., a Delaware limited partnership or its assignee (collectively, "Lessor"), and all agreements, documents, and instruments in connection therewith, including without limitation, schedules, riders and certificates of acceptance.

(iv) The execution and delivery of any such Agreement and all agreements, documents, and instruments in connection therewith for and on behalf of the Public Entity are not prohibited by or in any manner restricted by the terms of the Charter or other document pursuant to which it is organized or of any loan agreement, indenture or contract to which the Public Entity is a party or by which it or any of its property is bound.

(v) [**STRIKE IF NOT APPLICABLE**] The Public Entity did, at a duly called regular (regular or special) meeting of the governing body of the Public Entity attended throughout by the requisite majority of the members thereof held on the 14<sup>th</sup> day of April, 2022, by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of the Agreement, the related Schedule(s) and all agreements, documents, and instruments in connection therewith on its behalf by the authorized representative(s) of the Public Entity named in paragraph (ii) above. Such action approving the Agreement, the related Schedule(s) and all agreements, documents, and instruments in connection therewith and authorizing the execution thereof has not been altered or rescinded by the Public Entity.

(vi) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

(vii) All insurance required in accordance with the Agreement is currently maintained by the Public Entity.

(viii) The Public Entity has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Rent payments scheduled to come due during the first Fiscal Period and to meet its other obligations for the first Fiscal Period (as such terms are defined in the Agreement) and such funds have not been expended for other purposes.

(ix) The Fiscal Period of the Public Entity is from 9/01/2021 to 8/31/22.

(x) The foregoing authority and information shall remain true and in full force and effect, and Lessor shall be entitled to rely upon same, until written notice of the modification, rescission, or revocation of same, in whole or in part, has been delivered to Lessor, but in any event, shall be effective with respect to any documents executed or actions taken in reliance upon the foregoing authority prior to the delivery to Lessor of said written notice of said modification, rescission or revocation.

IN WITNESS WHEREOF, I have hereunto set my hand this 14<sup>th</sup> day of April 2022.

By: \_\_\_\_\_

Name: Mac Smith \_\_\_\_\_

Title: Board of Trustees President \_\_\_\_\_

Date: April 14, 2022 \_\_\_\_\_

Subscribed to and sworn before me this \_\_\_\_\_, 2022.

Notary Public

My commission expires \_\_\_\_\_

(seal)



## Weatherford College Board of Trustees Consent Agenda

**DATE:** April 14, 2022

**AGENDA ITEM #4.d.**

**SUBJECT:** Correction to 2022-23 Dormitory Room Rate

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**INFORMATION AND DISCUSSION:** At the March 10, 2022 Board meeting, the 2022-23 Tuition and Fees were approved by the Board. After the meeting, it was brought to our attention that the 4 bedroom room charge was inadvertently shown as \$3,810.00 per semester. The correct amount of the 4 bedroom room charge should be \$2,260.00.

**RECOMMENDATION:** That the Board approves the correction to the 2022-23 dormitory room rate as presented.

**ATTACHMENTS:** Revised Tuition & Fees, Miscellaneous Charges & Course Fee Changes for Fiscal Year 2022-2023.

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**SUBMITTED BY:** Dr. Andra R. Cantrell, Executive Vice President for Financial & Administrative Services

**Weatherford College**  
**Revised Tuition & Fees, Miscellaneous Charges & Course Fee Changes**  
**Fiscal Year 2022-2023**  
**(Changes in Red)**

		2022-2023	2021-2022	Difference	% Change
<b>Tuition &amp; Fees</b>					
In District	per credit hour	\$109.00	\$102.00	\$7.00	7%
Out of District	per credit hour	\$185.00	\$170.00	\$15.00	9%
Out of District -Wise	per credit hour	\$139.00	\$129.00	\$10.00	8%
Out of District - ECG	per credit hour	\$171.00	\$157.00	\$14.00	9%
Out of State	per credit hour	\$262.00	\$240.00	\$22.00	9%
Dual Credit Pilot Program	per credit hour	\$50.00	\$50.00	\$0.00	0%
Institutional Enrichment Fee	per credit hour	\$25.00	\$20.00	\$5.00	25%
<b>Tuition Differential</b>					
Associate Degree Nursing	per credit hour	\$100.00	\$100.00	\$0.00	0%
RN-to-BSN	per credit hour	\$100.00	\$100.00	\$0.00	0%
Occupational Therapy Assistant	per credit hour	\$60.00	\$60.00	\$0.00	0%
Physical Therapist Assistant	per credit hour	\$60.00	\$60.00	\$0.00	0%
Radiologic Technology	per credit hour	\$60.00	\$60.00	\$0.00	0%
Respiratory Care	per credit hour	\$40.00	\$40.00	\$0.00	0%
Diagnostic Medical Sonography	per credit hour	\$60.00	\$60.00	\$0.00	0%
Vocational Nursing	per credit hour	\$40.00	\$40.00	\$0.00	0%
Phlebotomy Technology	per credit hour	\$20.00	\$20.00	\$0.00	0%
Cosmetology	per credit hour	\$20.00	\$0.00	\$20.00	100%
Welding Technology	per credit hour	\$20.00	\$0.00	\$20.00	100%
<b>Workforce Continuing Education</b>					
Contract Training Tuition	per hour	\$0 - \$750.00	\$0 - \$750.00	\$0.00	0%
Per Course Tuition	per hour	\$0 - \$100.00	\$0 - \$100.00	\$0.00	0%
<b>Miscellaneous Charges</b>					
Inclusive Access Textbook Charge (Day One Access) <i>(to begin with the May 2022 mini semester)</i>		Varies by course and publisher <i>(see attached prices for pilot programs)</i>			
<b>Testing Center</b>					
Accuplacer Test (formerly Compass Test)		\$25.00	\$25.00	\$0.00	0%
ADN-A&P and Microbiology Test		\$30.00	\$30.00	\$0.00	0%
CLEP Test		\$15.00	\$15.00	\$0.00	0%
Community Service Proctor Fee		\$25.00	\$25.00	\$0.00	0%
HESI A2 Testing Fee		\$55.00	\$55.00	\$0.00	0%
TCFP Test (formerly State Fire Certification Test)		\$25.00	\$25.00	\$0.00	0%
TCOLE Test (formerly TCLEOSE Test)		\$25.00	\$25.00	\$0.00	0%
TEAS Test		\$85.00	\$80.00	\$5.00	6%
TSI Assessment Test		\$25.00	\$25.00	\$0.00	0%
<b>Other Miscellaneous Non-Instructional and Incidental Fees</b>					
Return Payment Service Charge		\$25.00	\$25.00	\$0.00	0%
TouchNet Payment Plan Charge		\$25.00	\$25.00	\$0.00	0%
Student Print/Copier charge					
B&W per page		\$0.10	\$0.10	\$0.00	0%
Color per page		\$0.15	\$0.15	\$0.00	0%
Fax Charges (per fax, unlimited pages)		\$2.00	\$2.00	\$0.00	0%
Three-Peat Fee (per semester hour)		\$50.00	\$50.00	\$0.00	0%
Coyote Card Replacement (per replacement)		\$10.00	\$10.00	\$0.00	0%

		2022-2023	2021-2022	Difference	% Change
<b>Student Affairs</b>					
International Processing Fee		\$50.00	\$50.00	\$0.00	0%
<b>Learning Resource Center</b>					
Library - Overdue Item	per day	\$0.25	\$0.25	\$0.00	0%
Maximum		\$15.00	\$15.00	\$0.00	0%
Library - Lost Item Processing Fee		\$20.00	\$20.00	\$0.00	0%
Library - Lost Item Replacement Fee	Current market price	\$0.00	Varies	Varies	
<b>Campus Police</b>					
Parking Permits (Weatherford, Mineral Wells and Wise County campuses)					
Fall		\$30.00	\$30.00	\$0.00	0%
Spring		\$30.00	\$30.00	\$0.00	0%
Summer		\$30.00	\$30.00	\$0.00	0%
Parking Fines (per offense)					
Failure to display registration permit		\$15.00	\$15.00	\$0.00	0%
Parking in a no park zone		\$15.00	\$15.00	\$0.00	0%
Parking in a faculty/staff only		\$25.00	\$25.00	\$0.00	0%
Parking in a handicap space		\$50.00	\$50.00	\$0.00	0%
Parking in a crosswalk/fire lane		\$25.00	\$25.00	\$0.00	0%
Parking in a 15-minute zone		\$15.00	\$15.00	\$0.00	0%
Not parking wholly within lines		\$15.00	\$15.00	\$0.00	0%
Other		\$15.00	\$15.00	\$0.00	0%
<b>Room and Board Charges</b>					
Per Semester Charges:					
1&2 Bedroom (per room)		\$2,485.00	\$2,510.00	-\$25.00	-1.00%
4 bedroom (per room)		\$2,260.00	\$2,285.00	-\$25.00	-1.09%
10 meal plan (including sales tax)		\$1,360.00	\$1,335.00	\$25.00	1.87%
19 meal plan (including sales tax)		\$1,575.00	\$1,550.00	\$25.00	1.61%
Non Semester Charges:					
Nightly Rate for Residential Students Staying During Winter Break, May Mini, Summer I or II		\$25.00	\$25.00	\$0.00	0%
Nightly Rate for Summer Guests and Groups		\$25.00	\$25.00	\$0.00	0%
Housing - Lost Slide Key		\$50.00	\$50.00	\$0.00	0%
Housing - Lost Bedroom Key		\$100.00	\$100.00	\$0.00	0%
Lease Termination Fee		\$1,000.00	\$1,000.00	\$0.00	0%
Dorm Deposit		\$250.00	\$250.00	\$0.00	0%

<b>Course Fee Changes</b>				
<b>Course ID</b>	<b>Lab Fee</b>	<b>Assessment Fee</b>	<b>Incidental Fee</b>	<b>Explanation</b>
CSME 1401			\$500.00	Increase Kit Fee from \$400 to \$500 for increase in supply costs
CSME 2501			\$500.00	Increase Kit Fee from \$400 to \$500 for increase in supply costs
ITCC 1344	\$24.00			Lab Fee for new course
ITDF 1300	\$24.00			Lab Fee for new course
ITSC 1316	\$24.00			Existing course needs Lab Fee
ITSE 1345	\$24.00			Lab Fee for new course
ITSE 2310	\$24.00			Lab Fee for new course
ITSE 2354	\$24.00			Lab Fee for new course
ITSY 1342	\$24.00			Lab Fee for new course
ITSY 2300	\$24.00			Lab Fee for new course
ITSY 2301	\$24.00			Lab Fee for new course
ITSY 2330	\$24.00			Lab Fee for new course
ITSC 2325	\$24.00			Lab Fee for new course
ITSY 2341	\$24.00			Lab Fee for new course
ITSY 2342	\$24.00			Lab Fee for new course
ITSY 2343	\$24.00			Lab Fee for new course
WLDG 1200	\$24.00		\$300.00	Lab & Supply Fee for welding supplies provided for students
WLDG 1202	\$24.00		\$300.00	Lab & Supply Fee for welding supplies provided for students
WLDG 1204	\$24.00		\$300.00	Lab & Supply Fee for welding supplies provided for students
WLDG 1206	\$24.00		\$300.00	Lab & Supply Fee for welding supplies provided for students
WLDG 1307	\$24.00		\$300.00	Lab & Supply Fee for welding supplies provided for students
WLDG 1313	\$24.00		\$300.00	Lab & Supply Fee for welding supplies provided for students
WLDG 1317	\$24.00		\$300.00	Lab & Supply Fee for welding supplies provided for students
WLDG 1327	\$24.00		\$300.00	Lab & Supply Fee for welding supplies provided for students
VNSG 1400		\$334.00		Assessment fee increase from \$296 to \$334 due to increased cost from vendor
VNSG 1509		\$334.00		Assessment fee increase from \$259 to \$334 due to increased cost from vendor
VNSG 2510		\$334.00		Assessment fee increase from \$185 to \$334 due to increased cost from vendor



## Weatherford College Board of Trustees Consent Agenda

**DATE:** April 14, 2022

**AGENDA ITEM #4.e.**

**SUBJECT:** Consideration and Possible Action: Transfer from Unrestricted Reserves for the Purchase and Start-Up Costs for the Radio Station

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**INFORMATION AND DISCUSSION:** At the September 9, 2021 Board meeting, the Board ratified the signing of the Asset Purchase Agreement with CSSI Non-Profit Educational Broadcasting Corporation (CSSI) and the two lease agreements for the use of the broadcasting equipment and transmission towers. The assignment of the license from CSSI to Weatherford College was officially approved by the Federal Communications Commission on March 24, 2022. A wire transfer in the amount of \$490,000 to finalize the purchase was sent on April 5, 2022. In addition, a start-up budget for the remainder of this fiscal year was requested by Dan Curlee in the amount of \$145,938. Additional funds for salaries and benefits were added to that budget to bring the total of the start-up costs to \$192,434. At this time, the administration is recommending a transfer of \$682,434 from Unrestricted Reserves to cover the purchase and start-up costs associated with the radio station.

**RECOMMENDATION:** That the Board approves the transfer from Unrestricted Reserves in the amount of \$682,434 for the purchase and start-up costs associated with the radio station.

**ATTACHMENTS:** None.

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**SUBMITTED BY:** Dr. Andra R. Cantrell, Executive Vice President for Financial & Administrative Services



## Weatherford College Board of Trustees

**DATE:** April 14, 2022

**AGENDA ITEM #5**

**SUBJECT:** Consideration and Possible Action: Competitive Sealed Proposals on Construction Manager-At-Risk for Student Housing Facilities #RFP-10-22

**INFORMATION AND DISCUSSION:** Six proposals were received from general contractors for CMAR Services for the new Student Housing Facilities from Core Construction Services of Texas Inc., Hill & Wilkinson Construction Group Ltd., Imperial Construction Inc., Joe R. Jones Construction Inc., Reeder General Contractors Inc., and Steele & Freeman Inc. These proposals will be reviewed and ranked on April 6-8, 2022 by the Construction Committee. A consensus will be met by the committee on the most qualified contractor to choose the top ranked company.

After negotiations, the construction committee will recommend a general contractor to serve as Construction Manager-At-Risk (CMAR). All contractors have agreed in their proposal to the terms and conditions of the draft contract included in the RFP. Negotiations relative to incidental cost and scope elements of the final agreement will be recommended next week, which will include Fixed Fee for Pre-construction Services, Fixed Cost per Month for Fixed General Conditions as defined in sample AIA Document A133-2019 Standard Form of Agreement Between Owner and Construction Manager and Percentage of Construction Cost Fee for Construction Phase of Project. Negotiations will also be entered into for the guaranteed maximum price.

**RECOMMENDATION:** Will be made by Construction Committee to the Board of Trustees before meeting on April 14, 2022.

**ATTACHMENTS:** None.

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**SUBMITTED BY:** Dr. Andra R. Cantrell, Executive Vice President for Financial & Administrative Services



## Weatherford College Board of Trustees

**DATE:** April 14, 2022

**AGENDA ITEM #5 (REVISED)**

**SUBJECT:** Consideration and Possible Action: Competitive Sealed Proposals on Construction Manager-At-Risk for Student Housing Facilities #RFP-10-22

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**INFORMATION AND DISCUSSION:** Six proposals were received from general contractors for CMAR Services for the new Student Housing Facilities from Core Construction Services of Texas Inc., Hill & Wilkinson Construction Group Ltd., Imperial Construction Inc., Joe R. Jones Construction Inc., Reeder General Contractors Inc., and Steele & Freeman Inc. These proposals were reviewed and ranked on April 12, 2022 by the Construction Committee. A consensus was met by the committee on the most qualified contractor and Imperial Construction was chosen as the top ranked company.

The construction committee is recommending Imperial Construction to serve as Construction Manager-At-Risk (CMAR). Imperial has agreed in their proposal to the terms and conditions of the draft contract included in the RFP. The pre-construction services phase of the new Student Housing Facilities Project will be at a fixed fee of \$14,000. A fixed cost per month for Fixed General Conditions as defined in sample AIA Document A133-2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor shall be \$32,900.00. Percentage of Construction Cost fee for Construction Phase of Project shall be 2.5%. Negotiations will be entered into for the guaranteed maximum price.

**RECOMMENDATION:** That the Board of Trustees approve the recommendation from the Construction Committee on award of CMAR Services for the New Student Housing Facilities to Imperial Construction, Inc. and authorize Dr. Tod Allen Farmer to execute the final agreement upon recommendation from General Counsel.

**ATTACHMENTS:** None.

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**SUBMITTED BY:** Dr. Andra R. Cantrell, Executive Vice President for Financial & Administrative Services



## Weatherford College Board of Trustees

**DATE:** April 14, 2022

**AGENDA ITEM #6**

**SUBJECT:** Elect New Vice-Chair Officer

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**INFORMATION AND DISCUSSION:** According to Policy BCA Legal, the Board will elect officers as necessary for the Chairman, Vice Chairman, and Secretary, and other officers as the Board deems necessary or advisable. With the resignation of Vice-Chair Sue Coody, Place 6, at the April 5, 2022 called board meeting, it is recommended that the Board elect a new Vice-Chair to fill the vacancy.

**RECOMMENDATION:** That the Board of Trustees elect a new Vice-Chair officer to serve until the next Board of Trustees election of officers in 2023.

**ATTACHMENTS:** None

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**SUBMITTED BY:** Dan Curlee, General Council



## Weatherford College Board of Trustees

**DATE:** April 14, 2022

**AGENDA ITEM #7**

**SUBJECT:** Consideration and Possible Action: Proposed Weatherford College Board of Trustee Appointment Process; Propose Policy Concerning the Appointment to Unexpired Term of Board Members Leaving Office Mid-Term

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**INFORMATION AND DISCUSSION:** Pursuant to Board Policy BBB Legal and Local Government Code, Chapter 180.005(c) - Currently there is no policy regarding the appointment process in filling a trustee vacancy mid-term. It is recommended that the attached process be deliberated for approval.

**RECOMMENDATION:** That the Board deliberate and/or adopt the Weatherford College Board Trustee Appointment Process as presented.

**ATTACHMENTS:** Weatherford College Board Trustee Appointment Process

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**SUBMITTED BY:** Dan Curlee, General Council

## **Weatherford College Board Trustee Appointment Process**

Pursuant to Board Policy BBB Legal and Local Government Code, Chapter 180.005(c)

- Board must adopt process for filling trustee vacancy:
  - Determine where applications should be sent/person directed to;
  - Determine who will screen applications (subcommittee or board members);
  - Determine the screening process and how long it will take, determine timeline (one month for review – present 3-5 applicants to Board for interviews);
  - Determine what will happen if no eligible applicants are found (extend application period/timeline);
  - Determine when/where interviews will take place and outline for interview process (list of questions, time limit) and discussion thereof (executive session/public);
  - Determine where/when advertisement will be placed:
    - Clarify determining factors for appointment and criteria;
    - Reference to election code 141(A), eligibility for public office, will be referenced in the publication.
- Applications will require:
  - A letter of interest to serve the remainder of the term;
  - A resume or CV; and
  - Three letters of recommendations addressing personal and/or professional qualifications.

## **Proposed Weatherford College Board Trustee Appointment Process - April 14, 2022**

Pursuant to Board Policy BBC Legal and Local Government Code, Chapter 180.005(c) Board must adopt process for filling trustee vacancy:

- Applications should be sent to Weatherford College General Counsel;
- Board Trustees will screen applications;
- Timeline
  - April 14, 2022** – Board of Trustees adopts appointment process
  - May 12, 2022** – 5:00 pm Application Deadline
  - May 13, 2022** – Application review process begins
  - May 27, 2022** – Each Board member will select one applicant and inform full Board and General Counsel via electronic mail
  - June 9, 2022** – Board interviews, deliberations of candidates (in closed session) motion to appoint and vote on new Trustee (possible swearing in)
  - June 23, 2022** – Called meeting to swear in new Trustee (if needed)
- If no eligible applicants are found the Board will default to the appointment process;
- Advertisement will be placed on Weatherford College website and social media as well as forwarded to news outlets by Public Relations:
  - Determining factors for appointment and criteria:
    - U.S. Citizen
    - Resident of Texas for one year
    - Resident of the Weatherford College Taxing District for six months
    - Registered voter within the Weatherford College District
    - Eligible for public office (see [Eligibility Requirements](#))
- Applications will require:
  - A letter of interest to serve the remainder of the term;
  - A resume or CV; and
  - A minimum of three letters of recommendations addressing personal and/or professional qualifications.

Determine outline for interview process (list of questions, time limit)



## Weatherford College Board of Trustees Report

**DATE:** April 14, 2022

**AGENDA ITEM#** 8.a.

**SUBJECT:** Academic and Student Services Update

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### **INFORMATION AND DISCUSSION:**

#### **Pathways Update:**

Weatherford College and DeVry University signed an articulation agreement for several AAS to Baccalaureate Degree programs. The institutions are finishing an agreement for the Baccalaureate in Applied Arts and Sciences in Organizational Leadership to advance into a Master's Degree program.

Weatherford College and Tarleton State University representatives met to articulate Accounting, Business, and Computer Science AAS curriculum into Baccalaureate Degree programs with TSU.

Weatherford College Interdisciplinary Academic Conference – April 7 & 8, 2022 in the Academic Building.

#### **Instructional Support Services Update:**

The Vice President of Academics and Student Services, Associate Dean of Dual Credit and eLearning, and Switchboard relocated to the Student Services Building. This cleared the way for the relocation of the Coyote Clinic to the LART. The Center for Research and Writing will move to the Student Services Building after the end of the spring term.

#### **Numbers with Heart:**

Phi Theta Kappa Honor Society – Sponsors Ms. Sharon Johnson and Ms. Lauren Tidwell; 535 Current members; 84 new members in the fall; 98 new members this Spring.

The National Society of Leadership and Success (New at WC this year) – Sponsors Dr. Laura McBride and Dr. Bishnu Twanabas; 451 Current members; 187 new members in the fall; 264 new members joined in the Spring.

The College Honors Program (The first full year of operations) – Sponsor Ms. Michelle Burt; 6 courses in the Fall and Spring; 27 students participated this fall; 33 students participated this Spring.



## Weatherford College Board of Trustees Report

**DATE:** April 14, 2022

**AGENDA ITEM#** 8.b.

**SUBJECT:** Emerging Technologies and Workforce Building Update

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**INFORMATION AND DISCUSSION:** Mrs. Kruse will update the Board of Trustees on the successful opening of the Emerging Technologies and Workforce Building and share program development news, including existing program updates, grant procurement, and innovative plans to provide additional industry-relevant training and credentials.

**ATTACHMENTS:** None at this time.

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**SUBMITTED BY:** Janetta Kruse, Dean of Workforce and Technical Education



## Future Agenda Items or Meetings:

- Preliminary 2022-23 Budget Report



## Upcoming Events

- |          |   |
|----------|---|
| April 15 | Softball doubleheader vs. Vernon<br>Noon, Stuart Field                |
| April 20 | Baseball doubleheader vs. NCTC<br>Noon, Williams Ballpark             |
| April 21 | "It's Not Opera...It's Sondheim"<br>7:30 p.m., Alkek Center           |
| April 22 | Student Art Exhibition<br>5:30 to 7:30 p.m., Texas Hall, Alkek Center |
| April 22 | "It's All About the Music"<br>7:30 p.m., Alkek Center                 |
| April 23 | Softball doubleheader vs. NCTC<br>Noon, Stuart Field                  |
| April 26 | Residence Hall Groundbreaking<br>4:00 p.m.                            |
| April 27 | Softball doubleheader vs. Temple<br>1:00 p.m., Stuart Field           |
| April 27 | Theatre Production: "Pool (No Water)"<br>7:30 p.m., Alkek Center      |
| April 30 | Baseball doubleheader vs. Temple<br>Noon, Williams Ballpark           |



- May 3              Vet Tech Pinning Ceremony  
                      6:00 p.m., Strain Community Room
- May 5-8             Region V-North Softball Tournament  
                      Stuart Field
- May 7              Baseball doubleheader vs. Cisco  
                      Noon, Williams Ballpark
- May 12             Taste of Parker County  
                      5 to 8 p.m., Heritage Park



**Weatherford College Board of Trustees  
Closed Session**

**DATE:** April 14, 2022

**AGENDA ITEM #11.a.**

**SUBJECT:** Closed Session to Consult with College Attorney, in Accordance with Government Code 551.071

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**INFORMATION AND DISCUSSION:** The Board of Trustees will enter into closed session to consult with the College attorney.

**ATTACHMENTS:** None.

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**SUBMITTED BY:** Mac Smith, Chairman of the Board of Trustees



**Weatherford College Board of Trustees  
Closed Session**

**DATE:** April 14, 2022

**AGENDA ITEM #11.b.**

**SUBJECT:** Deliberation of Real Property in Accordance with Government Code 551.072.

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**INFORMATION AND DISCUSSION:** The Board may deliberate items regarding real property in accordance with Government Code 551.072.

**RECOMMENDATION:** None.

**ATTACHMENT:** None.

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**SUBMITTED BY:** Mac Smith, Chairman of the Board of Trustees



## Weatherford College Board of Trustees Closed Session

**DATE:** April 14, 2022

**AGENDA ITEM #11.c.**

**SUBJECT:** Personnel - Deliberation of Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, or Dismissal of a Public Officer or Employee in accordance with Government Code 551.074.

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**INFORMATION AND DISCUSSION:** The Board may deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee.

**RECOMMENDATION:** None.

**ATTACHMENT:** None.

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**SUBMITTED BY:** Mac Smith, Chairman of the Board of Trustees



## Weatherford College Board of Trustees

**DATE:** April 14, 2022

**AGENDA ITEM #12**

**SUBJECT:** Consideration and Possible Action: Deliberation of Real Property in Accordance with Government Code 551.072.

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**INFORMATION AND DISCUSSION:** The Board may decide to act on items that include real property.

**RECOMMENDATION:** None.

**ATTACHMENT:** None.

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**SUBMITTED BY:** Mac Smith, Chairman of the Board of Trustees



## Weatherford College Board of Trustees

**DATE:** April 14, 2022

**AGENDA ITEM #13**

**SUBJECT:** Consideration and Possible Action: Personnel - Deliberation of Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, or Dismissal of a Public Officer or Employee in accordance with Government Code 551.074.

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**INFORMATION AND DISCUSSION:** The Board may decide to act on the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee as discussed in closed session.

**RECOMMENDATION:** None at this time.

**ATTACHMENT:** None.

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**SUBMITTED BY:** Mac Smith, Chairman of the Board of Trustees