

**ALABAMA COMMUNITY COLLEGE SYSTEM BOARD OF TRUSTEES  
MINUTES OF THE MEETING HELD ON  
WEDNESDAY, FEBRUARY 14, 2018, 10:08 A.M.**

The Alabama Community College System Board of Trustees (also referred to herein as the Board) held a meeting at 10:08 a.m. on Wednesday, February 14, 2018, in the Board Room of the Alabama Community College System building in Montgomery, Alabama. The meeting was called in accordance with Act No. 2015-125.

**PRESIDING: MR. AL THOMPSON  
CHAIRMAN**

The meeting was called to order by Mr. Thompson.

The invocation was delivered by Mr. Matt Rodgers, President of Enterprise State Community College and followed by the Pledge of Allegiance.

On roll call, the following Board members were present:

Mr. Al Thompson  
Mrs. Susan Foy  
Ms. Crystal Brown  
Mr. Ron Fantroy  
Mr. Milton Davis  
Mr. Chuck Smith  
Mr. Jeffrey Newman  
Mr. Blake McAnally  
Mr. Matthew Woods

Also present was Mr. Jimmy H. Baker, Chancellor of the Alabama Community College System. Absent was Governor Kay Ivey.

Prior to the meeting being called to order, Alabama Supreme Court Justice, the Honorable William Sellers administered the oath of office to Mr. Matthew Woods of Jasper, Alabama, as a new member of the Alabama Community College System Board of Trustees.

Mr. Woods stated that he is truly humble and honored to have the opportunity to serve his State. He acknowledged former Board member, Frank Caldwell who served on the board admirably. He stated that he will do his very best to serve in the same manner. He stated that he is excited about the future of the Alabama Community College System. There is a great opportunity and responsibility to meet the higher education needs of Alabamians. He stated that the Alabama Community College System is a conduit for the advancement of workforce and industry by creating a path to a better quality of life for the many students it serves. He looks forward to working with the Chancellor and the Board to make the Alabama Community College System the best in the nation.

Mr. Woods expressed to the Colleges in the System his partnership in helping the Colleges meet and exceed expectations. He recognized his family members in attendance.

Chairman Thompson thanked Mr. Woods for his inspiring words.

Chairman Thompson recognized Mr. Nick Moore, Education Advisor to Governor Kay Ivey.

### **APPROVAL OF AGENDA**

Chairman Thompson requested an amendment to the meeting agenda to include the action items from page two that were omitted due to a technical error on the website. The following action items were added:

VIII.A.2. ALABAMA COMMUNITY COLLEGE SYSTEM  
Professional Liability Insurance

VIII.A.3. WALLACE STATE COMMUNITY COLLEGE – HANCEVILLE  
Conferment of Title of Emeritus to Dr. Tomesa Smith

VIII.A.4. GADSDEN STATE COMMUNITY COLLEGE  
Authorizing Resolution

VIII.A.5. ALABAMA COMMUNITY COLLEGE SYSTEM  
Self- Evaluation Resolution

### **IX. Personnel**

### **X. Chancellor's Report**

### **XI. Date and Location of Next Meeting**

Work Session for February Meeting  
February 14, 2018, 10:45 a.m.  
Board Room, ACCS Building  
Montgomery, Alabama

Board of Trustees Meeting  
March 14, 2018, 10:00 a.m.  
Board Room, ACCS Building  
Montgomery, Alabama

### **XII. Adjournment**

On motion by Mr. Davis, second by Ms. Brown, the amended agenda was approved unanimously without discussion as presented.

### **APPROVAL OF MINUTES**

On a motion by Ms. Brown, second by Mr. Smith, the Board voted unanimously to adopt the Minutes of the January 10, 2018 meeting as presented without discussion.

### **SECTION VI** **PUBLIC COMMENT**

There were no individuals registered to speak during the Public Comment portion of the meeting.

Chairman Thompson introduced the Leadership Academy from Jefferson State Community College.

### **SECTION VII**

#### **(ACADEMIC AND STUDENT AFFAIRS, ADULT EDUCATION, FACILITIES, FISCAL, INFORMATION TECHNOLOGY, AND WORKFORCE DEVELOPMENT)**

### **ADOPTED**

#### **ALABAMA COMMUNITY COLLEGE SYTEM** **ALLOCATION OF 2017-2018 INDUSTRY CERTIFICATION INITIATIVE FUNDS**

On motion by Mr. Smith, second by Ms. Foy, the Board unanimously authorized Chancellor to provide scholarships for 2017 and 2018 SkillsUSA – Alabama competition winners who are entering or have entered postsecondary education.

Fiscal Consideration: \$20,000 – 2017-2018 Industry Certification Initiative Funds.

## **SECTION VIII**

### **(EXECUTIVE, LEGAL AND PUBLIC INFORMATION) ADOPTED**

#### **GADSDEN STATE COMMUNITY COLLEGE SALE OF FCC LICENSE AND TOWER PROPERTY**

On motion by Mr. Fantroy, second by Mr. McAnally, the Board unanimously authorized Gadsden State Community College to sell a 6300 watt FCC radio license held by the College and to sell 2 lots comprising approximately .83 acres which serves as the site for the radio tower subject to an existing lease.

#### **ALABAMA COMMUNITY COLLEGE SYSTEM PROFESSIONAL LEGAL LIABILITY INSURANCE**

On motion by Mr. Davis, second by Ms. Brown, the Board unanimously authorized and directed each college and the Alabama Technology Network to purchase Professional Legal Liability Insurance under the policy recommended by the Chancellor for the coverage period beginning March 1, 2018, through March 1, 2019.

Fiscal Consideration: \$365,000 – Current Unrestricted Funds

#### **WALLACE STATE COMMUNITY COLLEGE - HANCEVILLE CONFERMENT OF TITLE OF EMERITUS TO DR. TOMESA SMITH, EXECUTIVE VICE PRESIDENT**

On motion by Mr. Smith, second by Mr. Davis, the Board unanimously adopted a resolution conferring the title Executive Vice President Emeritus to Dr. Tomesa Smith, effective February 14, 2018. Fiscal Consideration: None

#### **GADSDEN STATE COMMUNITY COLLEGE AUTHORIZING RESOLUTION – BOND SERIES 2018**

On motion by Ms. Brown, second by Mr. Davis, the Board unanimously approved the Authorizing Resolution which sets forth details regarding the previously approved issuance of approximately \$25,000,000 limited obligation Alabama Community College System revenue bonds, Series 2018, for the benefit of Gadsden State Community College.

Fiscal Consideration: \$22,035,000 – Revenue Bonds

**ALABAMA COMMUNITY COLLEGE SYSTEM**  
**SELF-EVALUATION RESOLUTION**

On motion by Mr. Smith, second by Mr. Fantroy, the Board unanimously adopted a resolution evidencing its undertaking to define and self-evaluate the Board's responsibilities and expectations in compliance with SACSCOC principle 4.2(g). Fiscal Consideration: None

**SECTION IX**  
**(PERSONNEL)**

None.

**SECTION X**  
**(CHANCELLOR'S REPORT)**

Chancellor Baker asked Jeff Lynn to discuss the Skills Training Program. He described the needs of Mercedes and its Tier I suppliers. Chancellor Baker stated that this is a significant step forward for the Alabama Community College System in meeting the needs for the Skills Training Program.

Mr. Lynn spoke about his meeting with the President of the Mercedes Manufacturing Corporation. He stated that there are currently four Colleges in the training proposal that include Shelton State, Lawson State, Beville State and Jefferson State Community College. He stated that Mercedes is seeking to hire 4,000 employees within the next eight months. The plans are to work with the colleges, veteran affairs, adult populations, pardons and paroles and traditional students to fill this pipeline. He stated he wants to use the results of this model for Toyota-Mazda, which is another massive need up in that area. Toyota-Mazda need skilled individuals for 12,000 plus jobs. Mr. Lynn stated the first roll out will be in the Tuscaloosa – Birmingham area to start immediately.

Chancellor Baker asked Mr. Lynn to speak about the new digital media training at Enterprise State Community College. Jeff Lynn presented three videos showcasing dual enrollment student's success stories.

Chancellor Baker asked Mr. Ed Whatley to speak on facilities. Chancellor Baker stated how he is undertaking to put in place a sophisticated process in tracking facility programs across the State.

Mr. Whatley spoke about his role as Facilities Director and what he will be doing in the future. He stated it will be his job to manage the process that will deliver the facilities that the Alabama Community College System needs to execute the programs for the State. He stated that his task is to implement, develop and manage a quality control system which is an absolute necessity. He

discussed his responsibilities and roles related to facilities, construction and renovations. He stated that he will serve as a liaison between the System office and the various institutions and organizations within the Alabama Community College System. He will also serve as the liaison between the System office and the Alabama Building Commission.

Mr. Whatley is employed by Hoar Program Management which specializes in various construction projects. His role at the System office is to assist and support the Colleges as they implement every phase of each project. He discussed that projects will be managed at the local level. He explained that project data is significant and hope to make improvements in this area. He discussed better ways to execute cost savings to the Colleges in regards to budgeting for projects.

Mr. Blake McAnally stated that he was pleased with the layout Mr. Whatley had set forth for the process. Specifically, he commented on Mr. Whatley's suggestion in selecting design firms who have a proven history in meeting schedules and budgets.

Chancellor Baker stated that the activities that we are undertaking are allowing us to become more analytical in decision-making.

Chancellor Baker asked Mr. Boone Kinard to give an update on the budget.

Mr. Kinard stated that the education budget was passed by the House. He stated that there was an increase in the budget this year for the Alabama Community College System around 16 million dollars. He stated that was a 2.5% pay raise for all community college employees. He stated that he will continue to update everyone as the process goes forward.

Chairman Thompson welcomed Mr. Matthew Wood as the new board member and recognized Jefferson State Community College Leadership Academy for their attendance.

He thanked everyone in attendance for their interest in what the Board is doing.

## **SECTION XII**

### **(DATE AND LOCATION OF NEXT MEETING)**

The next Board meeting will be held in Montgomery at 10:00 a.m. on Wednesday, March 14, 2018 in the Board Room of the Alabama Community College System building in Montgomery, Alabama. A work session will follow at 10:45 a.m. and will also be held in the Board Room.

## **ADJOURNMENT**

On a motion by Mr. Davis, second by Ms. Brown the Board meeting was adjourned at 10:53 a.m.

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Chairman

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Chancellor

**EXCERPTS FROM THE MINUTES OF A MEETING  
OF THE BOARD OF TRUSTEES OF  
THE ALABAMA COMMUNITY COLLEGE SYSTEM**

The Board of Trustees of the Alabama Community College System (the "Board") met in an official session beginning at 10:00 a.m. on February 14, 2018, in the Board Room of the Alabama Community College System, Montgomery, Alabama, in accordance with Act 2015-125 of the Alabama Legislature. On roll call, the following members of the Board answered present:

Mr. Al Thompson  
Mr. Ron Fantroy  
Mrs. Susan Foy  
Mr. Matthew Woods  
Mrs. Crystal Brown  
Mr. Milton Davis  
Mr. Chuck Smith  
Mr. Blake McAnally  
Mr. Jeffery Newman

Absent: Governor Kay Ivey

Also present: Jimmy H. Baker, Chancellor, and Bryan Helms, Vice Chancellor for Administrative and Financial Services.

The Chairman, Al Thompson, stated that a quorum was present and the meeting opened for the transaction of business.

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The following resolution was considered and adopted on motion of Mrs. Brown and seconded by Mr. Davis and upon vote of the Board, as follows:

For  
Mr. Al Thompson  
Mr. Ron Fantroy  
Mrs. Susan Foy  
Mr. Matthew Woods  
Mrs. Crystal Brown  
Mr. Milton Davis  
Mr. Chuck Smith  
Mr. Blake McAnally  
Mr. Jeffery Newman

Against  
None



**A RESOLUTION PROVIDING (1) FOR THE CONSTRUCTION, RENOVATION AND EQUIPPING OF EXISTING AND NEW CAPITAL IMPROVEMENTS ON THE CAMPUS OF GADSDEN STATE COMMUNITY COLLEGE, (2) FOR THE FINANCING THEREOF BY THE ISSUANCE OF REVENUE BONDS IN THE PRINCIPAL AMOUNT OF \$22,035,000, (3) FOR SECURING THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH BONDS, AND (4) FOR PAYMENT OF COSTS OF ISSUING THE BONDS.**

BE IT RESOLVED by the Board of Trustees of the Alabama Community College System (herein called the "**Board**"), as follows:

## ARTICLE I

### FINDING OF FACT, AND USE OF WORDS AND PHRASES

Section 1.1. Findings of Fact. The Board has, upon evidence duly submitted to and considered by it, ascertained and found and does hereby declare and represent that:

(a) The Board has previously approved for Gadsden State Community College (the "**College**") to (i) construct a new science building on the East Broad Campus comprising approximately 57,000 square feet and providing new classrooms, academic offices and labs, (ii) renovate Allen Hall on the Wallace Drive Campus located in Gadsden, Alabama of which will comprise approximately 45,700 square feet and (iii) finance an addition to the Cheaha Building located on the Ayers Campus in Anniston, Alabama of approximately 21,300 square feet providing classrooms, tornado shelter, lecture hall and offices in order to furnish necessary and appropriate facilities for the students and faculty at the College and in order for the College to render efficient service to its students (the "**Improvements**"). The Improvements are expected to have a cost of not less than \$24,900,000.

(b) The useful life of the Improvements is hereby estimated to be not less than 30 years.

(c) It will be impossible to accomplish the Improvements with the funds on hand or available to the Board for such purposes, without the issuance of bonds in anticipation of the revenues to be derived from tuition and fees.

(d) The State Board of Education of the State of Alabama (the "**SBE**") has heretofore issued pursuant to (1) a Resolution of the SBE adopted on June 23, 2011 (the "**Series 2011 Resolution**"), its Gadsden State Community College Refunding Revenue Bonds, Series 2011, originally issued in the aggregate principal amount of \$1,920,000 (the "**Series 2011 Bonds**") and (2) a Resolution of the SBE adopted October 8, 2014 (the "**Series 2014 Resolution**"), its Gadsden State Community College Refunding Revenue Bond, Series 2014, originally issued in the principal amount of \$8,764,000 (the "**Series 2014 Bond**").

(e) The Series 2011 Bonds and the Series 2014 Bond were issued as "Additional Bonds" under a Resolution of the SBE adopted on April 25, 2002 (the "**2002 Resolution**") and are secured by pledge of all fees and charges now or hereafter levied against students enrolled at the College, including without limitation general tuition and course fees, registration fees, laboratory fees, but excluding technology fees, facility renewal fees and the ACS System Reserve Fee (the "**2002 Pledged Revenues**"). The Board has not issued prior to the date hereof any bonds which remain outstanding and which were issued under authority of the 2002 Resolution and secured by the 2002 Pledged Revenues except for the Series 2011 Bonds and the Series 2014 Bond. The Series 2002 Bonds have matured and been fully paid.

(f) The 2002 Resolution permits resolutions supplemental thereto for the purposes of, inter alia, subjecting additional property to the lien of the 2002 Resolution.

(g) Effective Fall semester 2017, the Board levied a "special building fee" at the rate of \$12.00 per credit hour (the "**Building Fee**"). Pursuant to Section 3.1 of this Resolution the Board amends the 2002 Resolution to add revenues of the Building Fee to the lien of the 2002 Resolution on Pledged Revenues securing the Series 2011 Bonds, the Series 2014 Bonds and any Additional Bonds issued pursuant thereto.

(h) There is presently outstanding \$960,000 in aggregate principal amount of the Series 2011 Bonds and \$1,920,000 in principal amount of the Series 2014 Bond.

(i) On May 12, 2015, the governance of the Alabama Community College System was transferred from the SBE to the Board. Pursuant to Act 2015-125 of the Alabama Legislature (the "**Act**"), the Board has assumed all obligations of the SBE with respect to bonds issued by the SBE for the benefit of any community or technical college prior to the effective date of the Act. As provided by the Act, an Agreement Concerning Outstanding Bonds, dated September 10, 2015, between the Board and SBE was executed which provides for the rights and obligations of the SBE and the Board with respect to such obligations, including without limitation compliance by the Board with the authorizing resolutions adopted by the SBE with respect to the bonds, compliance by the Board with all covenants and agreements of the SBE with respect to the bonds, reimbursement of any payments required to be made by the SBE in connection with any such bonds, and the issuance of obligations by the Board on parity of pledge of revenues securing the bonds issued by the SBE.

(j) The Board is not in default in the payment of the principal of and interest on the Series 2011 Bonds or the Series 2014 Bond or in the performance of any covenant or provision set forth in the Series 2011 Resolution or the Series 2014 Resolution.

(k) After consideration of alternatives, the Board has determined that in order to furnish the Improvements it is most advantageous to the Board to issue its Gadsden State Community College Revenue Bonds, Series 2018 (the "**Bonds**") to provide a portion of the funds to make the aforementioned needed Improvements and to pay costs of issuance and sale of the Bonds.

(l) The Bonds herein authorized shall be "Additional Bonds" under the 2002 Resolution and shall be payable solely from and secured by a pledge of the Pledged Fee Revenues.

(m) In order to secure the Bonds and to achieve interest cost savings over the term of the bonds, it is in the best interest of the Board to purchase a municipal bond insurance policy from Build America Mutual Assurance Company (the "*Insurer*").

Section 1.2. Use of Words and Phrases. The following provisions shall be applied wherever appropriate herein:

Whenever used herein, any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

"Hereby", "herein", "hereinafter", "hereof", "hereunder" and other equivalent words refer to this Ordinance as a whole and not solely to any particular portion thereof in which any such word is used.

## ARTICLE II

### THE BONDS

Section 2.1. Description of Bonds. In order to provide financing for the costs of the Improvements and payment of the costs of issuance for the Bonds herein authorized, and pursuant to the authority contained in the Act, there is hereby authorized to be issued revenue bonds (herein called the "*Bonds*") of the Board. The Bonds shall be designated "Gadsden State Community College Revenue Bonds, Series 2018." The Bonds shall be dated the date of their initial issuance and delivery, shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof, shall be numbered from R-1 upwards in the order of their issuance and delivery consecutively in such manner as shall be determined by the Paying Agent hereinafter described, shall mature on June 1 in the years and amounts set forth below, and shall bear interest from their dates (or, in the case of a Bond registered in the name of a holder on or after June 1, 2018, from the Interest Payment Date next preceding the date of such registration, or if the date of such registration is an Interest Payment Date, from the date of registration) at the per annum rates, as set forth as follows (computed on the basis of a 360-day year of twelve (12) consecutive thirty (30) day months), such interest being payable on June 1 and December 1 in each year, commencing June 1, 2018 (each an "*Interest Payment Date*");

<u>Year of Maturity</u>	<u>Amount Maturing</u>	<u>Interest Rate</u>
2019	\$ 705,000	3.000%
2020	725,000	3.000%
2021	745,000	3.000%
2022	770,000	5.000%
2023	805,000	5.000%
2024	850,000	5.000%
2025	890,000	5.000%
2026	935,000	5.000%
2027	980,000	5.000%
2028	1,030,000	5.000%
2029	1,080,000	5.000%
2030	1,135,000	5.000%
2031	1,190,000	5.000%
2032	1,250,000	5.000%
2033	1,315,000	5.000%
2034	1,380,000	5.000%
2035	1,450,000	5.000%
2036	1,520,000	5.000%
2037	1,600,000	5.000%
2038	1,680,000	5.000%

Interest on the Bonds shall be paid by the Paying Agent solely by check or draft mailed by the Paying Agent to the Holders of the Bonds at the addresses shown on the registry books of the Paying Agent with respect to the Bonds fifteen (15) calendar days preceding each June 1 or December 1, or in the case of a Holder with \$500,000 or more in Bonds, by wire transfer as the Holder may direct in writing to the Paying Agent at least 45 days in advance of an Interest Payment Date to which such direction shall apply.

**Section 2.2. Redemption of Bonds Prior to Maturity.**

(a) **Optional Redemption.** Those of the Bonds with stated maturities on June 1, 2028 and thereafter shall be subject to redemption, in whole or in \$5,000 multiples, prior to their stated maturities at the option of the Board on any date on or after December 1, 2027 at a redemption price equal to 100% of the principal amount for each Bond (or principal portion thereof) redeemed, plus accrued interest to the date fixed for redemption.

(b) **Procedure for Redemption.** Not more than sixty (60) or less than thirty (30) days prior to the date fixed for redemption of any Bonds, the Board (or the Paying Agent on behalf of the Board) shall give, or cause to be given, written notice of such redemption and prepayment by United States Mail, registered or certified, to the holders of each of the Bonds to be redeemed, in whole or in part, at the address of such registered holder as such address appears on the registry books of the Paying Agent, stating that the Bonds (or principal portions thereof) have been called for redemption and will become due and payable at the stated redemption price, on a specified redemption date and that all interest thereon will cease to accrue after such redemption date.

Such notice shall also identify the Series of the Bonds and contain the Bond numbers and any identification numbers of the Bonds or portions thereof to be redeemed and the place where such Bonds are to be surrendered for payment. The holders of any of the Bonds to be redeemed may waive the requirements for notice with respect to the bonds held by them without affecting the validity of the call for redemption of any other Bonds. The Board shall cause to be paid and made available at the office of the Paying Agent, on or prior to the date fixed for redemption, the total redemption price of the Bonds (or portions thereof) so called for redemption on such date. Out of the money so deposited with it, the Paying Agent shall make provision for payment of the Bonds (or principal portions thereof) so called for redemption at the stated redemption price and on the stated redemption date.

In addition to the foregoing notice, further notice shall be given by the Board to all registered securities depositories and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds. No defect in the further notice required in this paragraph, and no failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as described in the first paragraph of this Section 2.2(c). Any optional redemption or prepayment of the Bonds or any portion thereof shall be effected upon a call by the Board, as evidenced by a resolution of the Board, for redemption and prepayment of the Bonds to be so redeemed, which resolution shall state (i) that the Board is not in default with payment of the principal of or interest on any of the Bonds of the Series to be redeemed or (ii) that all of the Bonds of such Series then outstanding are to be retired on the date fixed for redemption.

(c) **Result of Redemption of Bonds.** Upon compliance with the requirements set forth in this Section 2.2, and if the Board is not on the date of redemption in default in the payment of the principal of or interest on the Bonds, the Bonds (or principal portions thereof) called for redemption shall become due and payable at the price and on the date specified in the notice provided for above, and the holders thereof shall then and there surrender them for redemption; provided, however, that in the event that less than all of the outstanding principal of any Bond is to be redeemed, the registered holder thereof shall surrender the Bond that is to be prepaid in part to the Paying Agent in exchange, without expense to the holder, for a new Bond of like tenor except in a principal amount equal to the unredeemed portion of the Bond. All future interest on the Bonds (or principal portions thereof) so called for redemption shall cease to accrue after the date fixed for redemption.

**Section 2.3. Medium of Payment.** The Bonds shall be payable at par and without discount, deduction or charge therefor, by check or draft mailed to the registered Holder thereof, in lawful money of the United States of America.

**Section 2.4. Execution of Bonds.** The Bonds shall be executed on behalf of the Board by the Chairman or Vice Chairman of the Board, shall be attested with the signature of the Secretary of the Board, and shall have impressed thereon the official seal of the Board. Each of the Bonds shall have endorsed thereon a registration certificate substantially in the form provided as part of Exhibit A attached hereto, and a condition to the validity of each Bond shall be the manual execution of such certificate on behalf of the Paying Agent, as Bond Registrar.

**Section 2.5. Registration of the Bonds.** Each of the Bonds shall be fully registered as to both principal and interest in the name of the owner on registration books to be maintained for that purpose by the Board at the principal office of the Paying Agent, as Bond Registrar. Upon presentation at said office, any of the Bonds may be registered in the name of a new owner, and such registration shall be evidenced by notation to that effect by the Bond Registrar in the certificate of registration attached thereto. No transfer of any Bond shall be valid unless made at the written request of the registered owner or his legal representative, noted on said registration books and similarly endorsed thereon. No charge shall be made to any Bondholder for the privilege of registration and transfer hereinabove granted, but any Bondholder requesting any such registration or transfer shall pay any tax or other governmental charge required to be paid with respect thereto. The Board shall comply with all requirements necessary to maintain the Bonds in registered form in accordance with the provisions of the Internal Revenue Code of 1986, as amended. The Bond Registrar shall not be required to transfer or exchange a Bond during the fifteen (15) calendar days next preceding any Interest Payment Date and, if the Bonds have been duly called for redemption shall not be required to transfer or exchange a Bond during the period of sixty (60) calendar days next preceding the date for the redemption or prepayment of said Bond.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or interest of any such Bond shall be made only to or upon the order of the registered owner thereof, or his legal representative, and neither the Board, the Paying Agent nor any agent of the Board shall be affected by any notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid. All Bonds presented for transfer shall be accompanied by a written instrument or instruments of transfer in form satisfactory to the Board and the Paying Agent duly executed by the registered holder or his attorney duly authorized in writing.

**Section 2.6. Book Entry System.** The Board may from time to time enter into, and discontinue, an agreement with a "clearing agency" (securities depository) registered under Section 17A of the Securities Exchange Act of 1934, as amended (a "Securities Depository"), which is the owner of the Bonds, to establish procedures with respect to such Bonds, not inconsistent with the provisions of this Resolution; provided, however, that any such agreement may provide:

- (a) that such Securities Depository is not required to present a Bond to the Paying Agent in order to receive a partial payment of principal;
- (b) that a legend shall appear on each Bond so long as the Bonds are subject to such agreement; and
- (c) that different provisions for notice to such Securities Depository may be set forth therein.

So long as an agreement with a Securities Depository is in effect, the Board, the Paying Agent and any paying agent or bond registrar shall not have any responsibility or liability with respect to the payment of principal, purchase price, premium, if any, or interest on the Bonds to the Bondholders or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests or any payments made to such Bondholders.

**Section 2.7. Exchange of Bonds; Mutilated, Destroyed, Lost or Stolen Bonds.**

(a) Upon request of the holder of any Bond, the Board shall execute, and the Paying Agent shall register and deliver, upon surrender to the Paying Agent of the Bond or Bonds, in exchange therefor, a Bond or Bonds in different authorized principal amounts (of \$5,000 or integral multiples thereof), together aggregating the same principal amount as the then unpaid principal of the Bond or Bonds so surrendered, all as may be requested by the persons surrendering such Bond or Bonds. No charge shall be made to any Bondholder for the privilege of such exchange, but any Bondholder requesting such a change shall pay any tax or other governmental charge required to be paid with respect thereto.

(b) In case any Bond shall become mutilated or be destroyed, lost or stolen, the Board, in its discretion, may execute and deliver a substitute Bond of like tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and substitution for the Bond so destroyed, lost or stolen. If any Bond shall have matured or shall have been called for redemption or shall be about to mature or be called for redemption, instead of issuing a substitute Bond, the Board may pay the same without surrender thereof. In every case the applicant for a substitute Bond or for such payment shall furnish to the Board such security or indemnity as may be required by it to save it harmless, and in every case of destruction, loss or theft, the applicant shall also furnish to the Board evidence satisfactory to it of the destruction, loss or theft of such Bond, and of the ownership thereof by such applicant. Upon the issue of any substitute Bond, the Board may require the payment of a sum sufficient to cover any expenses connected therewith.

**Section 2.8. Interest After Payment Due Date.** The Bonds, any premiums thereon and to the extent legally enforceable, overdue installments of interest thereon, shall bear interest after the maturity dates thereof until paid or until money sufficient for the payment thereof shall have been deposited for that purpose with the Paying Agent, at the respective rates borne thereby.

Any provision hereof to the contrary notwithstanding, overdue interest shall not be payable to any holder of the Bonds solely by reason of such holder having been the holder on the Interest Payment Date on which such interest became due and payable, but shall be payable by the Paying Agent as follows:

(a) Not less than ten (10) days following receipt by the Paying Agent of immediately available funds in an amount sufficient to enable the Paying Agent to pay all overdue interest, the Paying Agent shall fix an overdue interest payment date for payment of such overdue interest.

(b) Such overdue interest payment date fixed by the Paying Agent shall be a date not more than twenty (20) days following the expiration of the period described in the foregoing subparagraph (a).

(c) Overdue interest shall be paid by check or draft mailed by the Paying Agent to the persons in whose names the Bonds were registered on the overdue interest payment date.

Payment of overdue interest in the manner prescribed in this section to the persons in whose names the Bonds were registered on the overdue interest payment date shall fully discharge and satisfy all liability for the same.

**Section 2.9. Payments Due on a Day Other Than a Business Day.** If any payment on the Bonds is due on a Saturday, Sunday or day on which banking institutions are required or authorized to close in the City of Birmingham, Alabama, such payment shall be made on the first succeeding date which is a business day with the same effect as if made on the day such payment was due.

**Section 2.10. Form of Bonds.** The Bonds and the certificate of registration shall be in substantially the forms, respectively, as shown as Exhibit A hereto, with appropriate insertions, omissions and variations therein as required or permitted by the provisions hereof. Any portion of such form may be printed on the reverse side of a printed certificate, with appropriate reference thereto.

**Section 2.11. Provisions with Respect to Paying Agent.** (a) **Appointment of Paying Agent and Acceptance of Duties.** Regions Bank, Birmingham, Alabama (the "*Paying Agent*"), is herein designated and appointed and shall act as registrar, transfer agent and payment agent with respect to the Bonds. By its acceptance of such duties hereunder, the Paying Agent shall accept and agree to perform the duties required by this Resolution, subject, however, to the following conditions:

(i) The Paying Agent shall undertake to perform such duties and only such duties as are specifically set forth in this Resolution, and no implied covenants or obligations shall be read into this Resolution against the Paying Agent.

(ii) In the absence of bad faith or gross negligence on its part, the Paying Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Paying Agent and conforming to the requirements of this Resolution; provided, however, that in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Paying Agent, the Paying Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Resolution.

(iii) The Paying Agent shall perform the duties imposed by this Resolution and exercise the rights and powers vested in it by this Resolution.



(iv) No provision of this Resolution shall be construed to relieve the Paying Agent from liability for its own gross negligence or willful misconduct, except that no provision of this Resolution shall require the Paying Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(v) The Paying Agent may consult counsel on any matters connected herewith and shall not be answerable for any action taken or failure to take any action in good faith on the advice of counsel, provided that its action or inaction is not contrary to any express provision hereof.

(vi) The Paying Agent need not recognize a holder of a Bond as such without the satisfactory establishment of his title to such Bond.

(vii) Any action taken by the Paying Agent at the request of and with the consent of the holder of a Bond will bind all subsequent holders of the same bond and any Bond issued hereunder in lieu thereof.

(viii) The Paying Agent shall not be liable for the proper application of any monies other than those that may be paid to or deposited with it.

(ix) The Paying Agent shall not be liable to pay or allow interest on any monies to be held by it under this Resolution or otherwise to invest any such monies, except as specifically required by this Resolution or as may be required by law or other written agreement between the Board and the Paying Agent. The Paying Agent shall invest any amounts held by it upon the written instructions of an authorized representative of the College, as agent for the Board.

(x) The Paying Agent may make any investments permitted or required hereby through its own investment department, or its affiliate and any investments issued or held by it hereunder shall be deemed investments and not deposits.

(xi) The Paying Agent shall, upon reasonable request, inform the Board of the amount at the time on deposit in any of the special funds or accounts created hereunder.

(xii) The recitals of fact herein and in the Bonds are statements by the Board and not by the Paying Agent, and the Paying Agent is in no way responsible for the validity or security of the Bonds or the validity of the security afforded hereby.

(b) Resignation by Paying Agent. The Paying Agent and any successor Paying Agent may resign and be discharged from the duties under this Resolution by providing written notice postage prepaid, to the Board and to every holder of a Bond, effective upon appointment and acceptance of a successor interim Paying Agent.

(c) **Removal of Paying Agent.** The Paying Agent may be removed at any time, upon not less than thirty (30) days' notice, by an instrument or concurrent instruments in writing delivered to the Paying Agent and to the Board and signed by the holders of a majority in aggregate principal amount of the Bonds then outstanding, effective upon appointment and acceptance of a successor or interim Paying Agent.

(d) **Appointment of Successor Paying Agent; Interim Paying Agent.** In case the Paying Agent shall resign, be removed, be dissolved, be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, a successor may be appointed by holders of a majority in aggregate principal amount of Bonds then outstanding through an instrument or concurrent instruments in writing signed by such holders. In case of any such resignation or event which causes the Paying Agent to be incapable of acting, the Board, by an instrument signed by its President or Chairman, shall appoint an interim Paying Agent to serve until a successor Paying Agent shall be appointed by the holders of a majority in aggregate principal amount of the Bonds then outstanding, as provided above. Whenever necessary to avoid or fill a vacancy in the office of Paying Agent, the Board will appoint an interim Paying Agent in order that there shall at all times be a Paying Agent hereunder. Any interim Paying Agent so appointed by the Board shall immediately and without further act be superseded by the Paying Agent appointed by the holders of the Bonds.

The Board shall cause notice of the appointment of an interim Paying Agent, in the event that such an appointment is made, to be forwarded by United States registered or certified mail, postage prepaid, to every holder of a Bond. When the appointment of a successor Paying Agent, as selected by the holders of a majority in principal amount of the Bonds then outstanding, becomes effective, the Board shall also cause notice of that fact to be given in the manner provided above for the notice required to be given upon the appointment of an interim Paying Agent. Every interim or successor Paying Agent appointed pursuant to this Section shall be a trust company or bank which is qualified to perform all duties of the Paying Agent under this Resolution and which has, at the time of its acceptance of such appointment, capital, surplus and undivided profits of not less than \$25,000,000, if there be such an institution willing, qualified and able to accept appointment as Paying Agent upon reasonable or customary terms.

(e) **Concerning any Successor Paying Agent.** Every successor Paying Agent shall execute, acknowledge and deliver to its predecessor and also to the Board an instrument in writing accepting its appointment as Paying Agent hereunder, and thereupon such successor Paying Agent, without any further act, deed or conveyance, shall become fully vested with all the rights, powers and duties of its predecessor. Such predecessor shall nevertheless, on the written request of the Board or such successor Paying Agent, execute and deliver an instrument transferring to such successor Paying Agent all rights, powers and interests of such predecessor hereunder; and every predecessor Paying Agent shall deliver all securities and monies held by it as Paying Agent hereunder to its successor.

(f) **Merger or Consolidation of Paying Agent.** Any corporation into which the Paying Agent may be merged or with which it may be consolidated, or any corporation resulting

from any merger or consolidation to which the Paying Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Paying Agent, shall be the successor of the Paying Agent hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case the registration certificates with respect to any Bonds shall have been executed by the Paying Agent then in office, any successor by merger or consolidation to such Paying Agent may adopt the registration of such Bonds and deliver such Bonds with the same effect as if such successor Paying Agent had itself registered such Bonds.

(g) **Compensation of Paying Agent.** Subject to the provisions of any separate agreement with the Paying Agent, the Board shall pay to the Paying Agent from time to time reasonable compensation for all services rendered by it under this Resolution, including its services as registrar and paying agent for the Bonds, and also all its reasonable expenses, charges, counsel fees and other disbursements and those of its attorneys, agents and employees, incurred in and about the performance of its duties hereunder. If the Paying Agent is required by a governmental agency or court proceeding initiated by a third party to undertake efforts beyond that which is set forth herein but related thereto (other than due to the Paying Agent's negligence or willful misconduct), the Paying Agent shall notify the Board of the same in writing and the Board shall promptly pay the Paying Agent for such extraordinary fees, costs and expenses reasonably and necessarily incurred in connection therewith.

### ARTICLE III

#### SOURCE OF PAYMENT; SECURITY AND PROVISION FOR PAYMENT

Section 3.1. **Amendment of 2002 Resolution.** The 2002 Resolution is hereby amended and supplemented to include revenues from the Building Fee as part of the "Fee Revenues" thereunder securing the Series 2011 Bonds, the Series 2014 Bond, the Bonds and any Additional Bonds.

Section 3.2. **Source of Payment of the Bonds.** The principal of and interest on the Bonds shall be payable solely from Pledged Fee Revenues, as defined in Section 1.1(e). Neither the principal of nor the interest on the Bonds shall constitute an obligation or debt of the State of Alabama within the meaning of any constitutional or statutory provision, and said principal and interest shall not in any event be payable out of any money appropriated to the College or the Board by the State of Alabama.

Section 3.3. **Pledge; Assumption of Obligations.** As security for payment of the principal of and the interest on the Bonds, the Board hereby irrevocably pledges for payment of such principal and interest so much of the Pledged Fee Revenues as may be necessary for such purposes. The pledge hereby made of the Pledged Fee Revenues is for the benefit of the Bonds, the Series 2011 Bonds, the Series 2014 Bond and any Additional Bonds hereafter issued, pro rata and without preference of one over another. The aforesaid pledge of Pledged Fee Revenues is subject to the right reserved by the Board in the 2002 Resolution to make parity pledges of the Pledged Fee Revenues for the benefit of other Additional Bonds; provided that while no default exists in payment of the principal of or the interest on the Bonds, the Series 2011 Bonds, the

Series 2014 Bond or any other Additional Bonds then outstanding, the Pledged Fee Revenues shall be used for the maintenance of the account known as the Bond Fund created in the 2002 Resolution, in order to provide for payment of the principal of and the interest on the Bond, the Series 2011 Bonds, the Series 2014 Bond and any other Additional Bonds, and any balance remaining while all payments required to be made into said special fund are current and no delinquency or deficit exists with respect thereto may be used for any lawful purpose.

The Board hereby assumes the obligations under and agrees to be bound by the Series 2002 Resolution, the Series 2011 Bonds, the Series 2011 Resolution, the Series 2014 Bond and the Series 2014 Resolution and agrees that it will pay the principal of and interest on the Series 2011 Bonds and the Series 2014 Bond on behalf of the SBE as though it were the obligor thereon.

The Board hereby warrants and represents that except for the Series 2011 Bonds and the Series 2014 Bond, it has no outstanding securities or contracts, other than the Bonds, payable out of or secured by a special pledge of any part of the Pledged Fee Revenues; and that, upon the issuance of the Bonds, said pledge of the Pledged Fee Revenues for the benefit of the Bonds will be prior and superior to any pledge and agreement respecting the Pledged Fee Revenues that may be hereafter made for the benefit of or with respect to any securities which may be hereafter issued by the Board, other than the Series 2011 Bonds, the Series 2014 Bond and any Additional Bonds issued as provided herein, or any contract which may be hereafter made by the Board.

Section 3.4. Additional Bonds. (a) In the 2002 Resolution, the Board reserved the right to issue, at any time and from time to time, additional bonds, without express limit as to principal amount, and to pledge for the benefit thereof the Pledged Fee Revenues, on a parity of lien and pledge, as regards the Pledged Fee Revenues, with the Series 2011 Bonds and the Series 2014 Bond and the Bonds (any such additional bonds hereafter issued being herein called the "***Additional Bonds***"), all upon the terms and conditions specified in the 2002 Resolution. The Board hereby finds and declares that the amount of Pledged Fee Revenues received during the fiscal year ended September 30, 2017 was not less than one hundred fifty percent (150%) of the maximum amount of principal and interest coming due on the Series 2011 Bonds, the Series 2014 Bond and the Bonds in the current or any subsequent fiscal year of the Board. All conditions of the 2002 Resolution precedent to the issuance of the Bonds as Additional Bonds have been satisfied, and the Bond shall therefore constitute Additional Bonds pursuant to the 2002 Resolution and shall be entitled to parity of lien thereunder.

(b) Upon any merger or consolidation of the College with one or more other community or technical colleges supervised and operated under the auspices of the Board, any outstanding obligations of the SBE or the Board secured by a pledge of the revenues and fees assessed against students of any such community or technical college (the "***Assumed Obligations***") may, under the conditions hereinbelow set forth, be declared by the Board to be Additional Bonds under the 2002 Resolution, secured by a pledge of the Pledged Fee Revenues on parity of lien and pledge, as regards the Pledged Fee Revenues, with the Series 2011 Bonds, the Series 2014 Bond, the Bonds and any other Additional Bonds issued hereunder. Prior to any such declaration, the Board shall determine and find: (1) that the holders of the Series 2011 Bonds and the Series 2014 Bond, if they then remain outstanding, shall have consented to such

parity pledge of the Pledged Fee Revenues; (2) that the Pledged Fee Revenues collected by the Board during the fiscal year next preceding such declaration are not less than one hundred fifty percent (150%) of the maximum amount of principal and interest coming due on the Series 2011 Bonds and the Series 2014 Bond, the Bonds, any other Additional Bonds then outstanding and the Assumed Obligations in the current or any subsequent fiscal year of the Board. In addition, to the extent that the Pledged Fee Revenues securing the Assumed Obligations are permitted, in accordance with the terms of the Assumed Obligations or as otherwise permitted by the holders thereof, to be pledged to secure obligations issued under the 2002 Resolution, such Pledged Fee Revenues may be pledged by the Board to secure the Series 2011 Bonds and the Series 2014 Bond, the Bonds, the Assumed Obligations and any other Additional Bonds then outstanding, whereupon such Pledged Fee Revenues shall for all purposes constitute Pledged Fee Revenues hereunder and under the 2002 Resolution.

**Section 3.5. Pro Rata Security.** The Bonds and any Additional Bonds from time to time outstanding shall not be entitled to priority one over the other in the application of the Pledged Fee Revenues, it being the intention of the Board that there shall be no such priority, regardless of the fact that such bonds may actually be issued and delivered at different times.

**Section 3.6. Maintenance of Tuition and Fees.** The Board covenants and agrees that, so long as the Bonds remain outstanding, it will charge and make all reasonable efforts to collect the Pledged Fee Revenues from or for each and every student at the College in such amount as will produce Pledged Fee Revenues sufficient in the aggregate in each fiscal year to meet in all respects the requirements of this resolution, including, without limitation, payment of the principal of and interest on the Bonds, the Series 2011 Bonds, the Series 2014 Bond and all Additional Bonds.

**Section 3.7. Additional Sources of Payment.** The Board hereby covenants and agrees as follows:

- (i) If on the 25<sup>th</sup> day of any May or November (or if such date is not a day on which the Paying Agent is open for business, on the next preceding business day), the Paying Agent has not received sufficient monies to pay all principal and interest on the Bonds due on the next succeeding bond payment date, then the Paying Agent shall immediately notify the Chancellor on the next Business Day by telephone or email, confirmed in writing by registered or certified mail, of the amount of the deficiency.
- (ii) If and to the extent there are insufficient monies in the Bond Fund as of the 25<sup>th</sup> day of any May or November to pay all principal of and interest on the Bonds due on the next succeeding bond payment date, then the Board hereby covenants for the benefit of the Insurer that it shall cause the Chancellor to deposit the amount of any such deficiency into the Bond Fund by the opening of business on such bond payment date out of any monies legally available, including without limitation, revenues derived from the payment of tuition and certain fees to all colleges under the supervision of the Board; provided, however, that this section shall not be construed to obligate the Board to make any payments in respect of the Bonds out of monies appropriated by the State of Alabama to the Board or any institution thereof.

**Section 3.8. Provision for Payment.** If the principal of and interest on the Bonds are paid in accordance with the terms thereof and this Resolution, then all covenants, agreements and other obligations of the Board to the holder of the Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. In the event the Bonds are so paid and all amounts owed to the Insurer are paid in full, the Paying Agent shall pay to the Board any surplus remaining in the Bond Fund.

**Section 3.9. Defeasance of the Bonds or any Additional Bonds.** As provided in the 2002 Resolution, the Bonds or any series of Additional Bonds shall be considered as fully paid if the Board and the paying agent (or, if there is no Paying Agent, the holder or holders of the Bonds and Additional Bonds) shall be provided with each of the following:

(a) a trust agreement between the Board and the Paying Agent or other corporate escrow trustee making provision for the retirement of such Bonds or any series of Additional Bonds by creating for that purpose an irrevocable trust fund sufficient to provide for payment and retirement of such Bonds or any series of Additional Bonds (including payment of the interest that will accrue thereon until and on the dates they are retired, as such interest becomes due and payable), either by redemption prior to their respective maturities, by payment at their respective maturities or by payment of part thereof at their respective maturities, which said trust fund shall consist of (1) Federal Securities (as hereinafter defined) or Treasury Receipts (as hereinafter defined) (or a combination thereof) which are not subject to redemption prior to their respective maturities at the option of the issuer and which, if the principal thereof and the interest thereon are paid at their respective maturities, will produce funds sufficient so to provide for payment and retirement of all the Bonds or any series of Additional Bonds or (2) both cash and such Federal Securities or Treasury Receipts (or a combination thereof) which together will produce funds sufficient for such purpose, provided, however, that said trust agreement shall require all cash held on deposit in such trust fund to be kept continuously secured by holding on deposit as collateral security therefor Federal Securities having a market value at least equal at all times to the amount to be secured thereby;

(b) a certified copy of a duly adopted resolution of the Board calling for redemption those of such Bonds or series of Additional Bonds that, according to said trust agreement, are to be redeemed prior to their respective maturities;

(c) to the extent investments from any part of the trust fund provided for in the preceding subparagraph (a), a certificate of a firm of certified public accountants stating that, if the principal of and the interest on the such investments are paid on the respective due dates of such principal and interest, said trust fund will produce funds sufficient to provide for the full payment and retirement of such Bonds or series of Additional Bonds; and

(d) an opinion of Bond Counsel to the effect that the execution and effectuation of the trust agreement referred to in the preceding subparagraph (a) will not result in subjecting the interest income on such Bonds or series of Additional Bonds to inclusion in the gross income of the owners thereof for federal income tax purposes.

**"Federal Securities"** means, for purposes of this Resolution, securities that are direct general obligations of the United States of America or securities with respect to which payment of the principal and interest is unconditionally guaranteed by the United States of America.

**"Treasury Receipts"** means, for purposes of this Resolution, custodial receipts or other instruments evidencing ownership in future principal or interest payments, or both, with respect to United States Treasury obligations that have been deposited with a custodian or trustee pursuant to a custody or trust agreement which provides for the United States Treasury obligations underlying such custodial receipts or other instruments to be held in a separate account and for all payments of principal and interest received by such custodian or trustee with respect to such underlying obligations to be paid to the holders of such custodial receipts or other instruments in accordance with their respective ownership interests in such underlying obligations.

Section 3.10. Retention of Monies for Payment of Bonds. The amounts held by the Paying Agent for the payment of the principal of and interest on any Bonds due on any date shall, pending such payment, be held in trust by the Paying Agent for the holders of the Bonds entitled thereto, and for the purposes of this Resolution the principal of and interest on such Bonds shall no longer be considered to be unpaid. To the extent that the Board has placed funds into the Bond Fund, all liability of the Board to the holders of such Bonds and all rights of such holders against the Board under the Bonds or under this Resolution shall thereupon cease and terminate, and the sole right of such Holders shall thereafter be against such funds. If any Bond shall not be presented for payment within a period of five (5) years following the date when such Bond becomes due, whether by maturity, redemption or otherwise, or if the check or draft providing for any payment of interest on any Bond shall not have been negotiated within such period, the Paying Agent shall return to the Board any monies theretofore held by it for payment of such Bond or such interest, subject to applicable State of Alabama laws of escheat.

#### ARTICLE IV.

##### EXECUTION AND DELIVERY OF BONDS AND CLOSING PAPERS; AND USE OF PROCEEDS.

Section 4.1. Authority to Execute and Deliver Bonds and Closing Papers. Upon approval of this Resolution, the President or Chairman of the Board or Secretary of the Board or all of them are hereby authorized and directed to deliver or cause the Bonds to be delivered to, the purchaser thereof, upon payment to the Board by such purchaser, on the date of delivery, of the purchase price thereof and to execute and deliver to the attorneys approving the legality of the Bonds (in addition to the certificates and agreements elsewhere provided herein) such papers containing such representations as shall be necessary or desirable to demonstrate the validity of the Bonds and the Pledged Fee Revenues, that the Bonds have been duly executed, and that no litigation is pending or threatened affecting the validity of the Bonds or the Pledged Fee Revenues. The President, Chairman or Secretary of the Board or the Dean of Financial and Administrative Services of the College, as agent for the Board in the premises, shall give a receipt for the purchase price of the Bonds, which receipt shall be full acquittal to the purchaser

therefor.

Section 4.2. Use of Proceeds. The proceeds from the sale of the Bonds shall be applied as follows:

(a) the sum of \$82,811.36 shall be paid to Build America Mutual Assurance Company for the municipal bond insurance policy premium; and

(b) the remainder of the proceeds of the Bonds shall be paid into the 2018 Construction Fund and applied by the College to payment of the expenses of issuing the Bonds and the costs of the construction, renovation and equipping of the Improvements.

Section 4.3. Construction Fund. A portion of the proceeds of the Bonds shall be deposited with Branch Banking and Trust Company, as depository, and, together with any interest and investment earnings thereon, designated the "Gadsden State Community College 2018 Construction Fund" (the "*2018 Construction Fund*"). The 2018 Construction Fund may be held as part of, but shall be accounted for independently from, another account of the College. The monies on deposit in the 2018 Construction Fund shall be used only for the purpose of paying costs of issuance of the Bonds and costs of the Improvements and other lawful costs under the Act, and shall be payable by check or draft drawn upon such account and signed by an authorized officer of the College, or by electronic means at the written instruction of an authorized officer of the College. In the event that Branch Banking and Trust Company (or any successor depository for such account that may be hereafter designated as herein provided) should at any time decline to act as such depository, or should resign as such depository, or should cease to be a member of the Federal Deposit Insurance Corporation (or any agency of the United States of America that may succeed to its functions), or should cease to be duly qualified and doing business within the State of Alabama, then the College may designate a successor to such depository; provided that any successor depository so designated shall be and remain a member of the Federal Deposit Insurance Corporation (or any agency of the United States of America that may succeed to its functions) and shall be and remain duly qualified and doing business in the State of Alabama.

At the written direction of an authorized officer of the College on behalf of the Board, monies on deposit in the 2018 Construction Fund may be invested from time to time in (a) direct general obligations of the United States or any securities on which the principal and interest are unconditionally guaranteed by the United States ("Government Obligations"), (b) an interest in any trust or fund, including those managed by the depository for the 2018 Construction Fund or any affiliate, that invests solely in Government Obligations or repurchase agreements with respect to Government Obligations, (c) a certificate of deposit issued by, or other interest bearing deposit with, any bank organized under the laws of the United States or any state thereof, including the depository for the 2018 Construction Fund, that are secured by pledging Government Obligations having a market value of at least 105% of the amount of the deposit, and (d) any other investments permitted for funds held by or for the account of the Board. All interest and investment earnings on amounts in the 2018 Construction Fund shall remain a part of the 2018 Construction Fund; provided, that upon completion of the Improvements any sums remaining therein shall be transferred to the Bond Fund and applied to the payment of interest on



the Bond coming due within three years after the date of issuance or to redemption of the Bond on the earliest date permitted.

Section 4.4 Supplementing or Amending Description of Improvements. The Board may at any time, by duly adopted resolution, supplement or amend the description of the Improvements to be financed with proceeds of the Bond; provided, that such substitute or additional items to be financed shall constitute capital improvements to the campus of the College and that no such additional items shall cause the Board to violate the covenants contained in Section 5.2 hereof or adversely affect the excludability of interest from income for purposes of federal income taxation.

## ARTICLE V.

### BOND FUND

Section 5.1. Bond Fund. There is hereby created a separate account known as the Bond Principal and Interest Payment Fund, 2018, (the "Bond Fund") which the Board shall maintain with the Paying Agent so long as the Bonds are outstanding. At the time of the issuance of the Bonds, there shall be set aside by the Board and deposited in the Bond Fund all accrued interest received from the sale of the Bonds. Not less than ten (10) days prior to each Interest Payment Date, the Board shall pay or cause to be paid into the Bond Fund an amount which, when added to the moneys then on deposit therein (if any) will be sufficient to pay the installment of interest due on such Interest Payment Date and the principal (if any) that will mature or is required to be redeemed on such Interest Payment Date. The moneys in the Bond Fund are hereby irrevocably pledged to and shall be used from time to time, to the extent required, for the payment of the principal of and interest on the Bonds, if any, as and when such principal and interest shall become due and payable. The Paying Agent shall be and remain the depository, custodian and disbursing agent for the Bond Fund.

(b) Investment of Monies in the Bond Fund. The moneys on deposit in the Bond Fund shall constitute public funds impressed with a trust for the benefit of the Board and the holders of the Bonds. The Paying Agent shall at all times keep all moneys on deposit in the Bond Fund secured by pledging securities that are Federal Securities having a market value at least equal to the amount of deposit therein, said pledge to be accomplished either

(i) by a deposit of such Federal Securities, in trust for the benefit of the Board and the holders of the Bonds, with another bank or trust company, or

(ii) by the deposit of such Federal Securities, in trust for the benefit of the Board and the holders of the Bonds, with its own trust department, wholly separate and apart from other assets.

At the written direction of the College, the Paying Agent shall, to the extent practicable, cause all moneys on deposit in the Bond Fund to be kept continuously invested in Federal Securities or in money market funds invested solely in Federal Securities that have stated maturities, or are subject to redemption at the option of the holder thereof, not later than the last maturity on the Bonds. Such securities, together with all income therefrom, shall become a part

of the Bond Fund, to the same extent as if they were moneys on deposit therein. The Registrar may at any time and from time to time cause any such securities to be sold or otherwise converted into cash and to the extent that such sale or conversion is necessary to obtain moneys to prevent a default in payment of the principal of or the interest on the Bonds. The net proceeds from the sale or other conversion into cash of any securities forming a part of the Bond Fund shall be paid into and shall become part of such Bond Fund. In any determination of the amount at any time forming a part of the Bond Fund, all such securities in which any portion of such moneys is so invested shall be included at their market value as of the date of such determination.

The Paying Agent shall be fully protected in making any investment, sale or conversion in accordance with the provisions of this section, and in the event any moneys in the Bond Fund shall be invested as authorized with this section, it shall not be necessary for the Paying Agent to secure any such investment (unless otherwise required by law) so long as such moneys remain invested. In making any investment of moneys forming a part of any of the funds of which it has custody, the Paying Agent shall follow such written instructions as may be given by the College, but if and only to the extent such instructions are not inconsistent with any applicable provisions of this resolution. The Paying Agent and the Board shall be fully protected in making any investment, sale or conversion in accordance with the provisions of this section.

#### **Section 5.2. Covenant With Respect to Federal Tax Exemption for Interest.**

The Board recognizes that the Bonds are being issued on the basis that the interest payable on the Bonds is excludable from gross income of the owners thereof for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. The Board covenants and agrees for the benefit of the owner of the Bonds that:

(a) the proceeds of the Bonds will be used solely for the governmental purposes for which they are issued;

(b) the proceeds of the Bonds shall not be used or applied by the Board, and the revenues and fees of the Board shall not be accumulated in the Bond Fund nor shall any investment of any thereof be made, nor shall any other action be taken or omitted which would cause any Bond to be or become an "arbitrage bond" as that term is defined in Section 148 of the Code (Internal Revenue Code, as amended);

(c) no part of the proceeds of the Bonds shall be used (directly or indirectly) (i) in a trade or business carried on by any person other than a governmental unit or (ii) to make or finance loans to any person, or of any other nature, the result of which would be that the interest on the Bonds would be or become includable in gross income of the owners thereof for federal income taxation;

(d) the Board will make full and timely payment of all rebate payments to the United States of America and the Board will maintain all records with respect thereto that may be required by Section 148(f) of the Code (Internal Revenue Code, as amended); and any applicable regulations thereunder;

(e) neither the Bonds nor any proceeds thereof shall ever be "federally guaranteed" as that term is defined in Section 149(b) of the Internal Revenue Code, except as expressly permitted in said Section 149(b) of the Internal Revenue Code;

(f) the Board will not take any action, or omit to take any action, with respect to the Bonds that would cause the interest on the Bonds to be or become includable in gross income of the registered owners thereof for federal income taxation under Section 103 of the Internal Revenue Code; and

(g) the Board will comply with each of the warranties and covenants on its part contained in its Non-Arbitrage and General Tax Certificate delivered at closing.

The provisions of this Section 5.2 and the obligations of the Board hereunder shall survive the payment in full of the Bonds.

## ARTICLE VI.

### COVENANTS WITH RESPECT TO THE IMPROVEMENTS.

#### Section 6.1 Insurance.

(a) The Board shall procure and maintain, so long as any of the Bonds are outstanding, fire and extended coverage insurance on the facilities with respect to which the Improvements relate, all in amounts consistent with its coverages for other, similar facilities.

(b) In the event of any loss or damage to or destruction of such facilities, the Board will forthwith repair or reconstruct the damaged or destroyed portion thereof and will apply the proceeds of the insurance policies covering such loss solely for that purpose.

(c) The Board is not obligated to pay any insurance premium hereinabove provided for except from Pledged Fee Revenues or from such other funds as are legally available for such purpose and as do not constitute the Bonds or the Additional Bonds a debt or indebtedness of the State within the meaning of any constitutional limitation or statutory restriction.

Section 6.2. Maintenance of Improvements. So long as any of the Bonds are outstanding, the Board covenants and agrees to maintain the facilities with respect to which the Improvements relate in good repair and operating condition and in a neat and orderly manner, to operate the same as facilities for students at the College, and to pay the expenses of maintenance and operation thereof.

Section 6.3. Performance of Duties with Respect to Improvements. The Board agrees that it will faithfully and punctually perform all duties with reference to the facilities with respect to which the Improvements relate required by this resolution and by the constitution and laws of the State.

**Section 6.4. Limitation on Alienation of Improvements.** The Board covenants and agrees not to sell, lease, mortgage or in any manner dispose of all or any substantial portion of the Improvements until the Bonds shall have been paid in full as to both principal and interest or unless the Board shall obtain an opinion of nationally recognized bond counsel to the effect that such disposition will not adversely affect the excludability of interest on the Bonds from income for purposes of federal income taxation.

## **ARTICLE VII.**

### **APPROVAL OF OFFICIAL STATEMENT; APPROVAL OF BOND PURCHASE AGREEMENT; AND APPROVAL OF CONTINUING DISCLOSURE AGREEMENT.**

**Section 7.1. Approval of Official Statement.** The Board hereby approves the Preliminary Official Statement in substantially the form presented to the Board at the meeting at which this resolution is adopted and authorizes the Chancellor of the Alabama Community College System to supplement, revise and complete the Preliminary Official Statement for distribution, and ratifies action taken to "deem final" the Preliminary Official Statement as contemplated by Rule 15c2-12 of the United States Securities and Exchange Commission. The Board further authorizes the use and distribution of said Official Statement by the underwriter in connection with the reoffering of the Bonds. In evidence of the approval by the Board of the Official Statement, the Chairman or Vice Chairman of the Board is hereby authorized and directed to sign manually and deliver the said Official Statement on behalf of the Board, with such changes and additions as such officer shall deem necessary or desirable to consummate the sale and issuance of the Bonds, the determination of the definitive form of said Official Statement by such officer to be conclusively established by execution (which may be by facsimile signature) of such document.

**Section 7.2. Approval of Bond Purchase Agreement.** The Board does hereby (i) authorize and approve the sale of the Bonds to Stifel Nicolaus & Company (the "Underwriter") at a purchase price of \$25,177,207.60 (which price reflects net original issue discount premium of \$3,236,958.10 and underwriter's discount of \$94,750.50) and (ii) ratify and approve the execution and delivery of the Bond Purchase Agreement dated January 25, 2018 between the Board and the Underwriter.

**Section 7.3. Approval of Continuing Disclosure Agreement.** The Board does hereby approve and authorize the form of the Continuing Disclosure Agreement in substantially the form presented to and considered by the Board. Upon issuance and delivery of the Bonds, the Chairman or Vice Chairman of the Board is hereby authorized and directed to execute and deliver the Continuing Disclosure Agreement in the name and on behalf of the Board in the form presented to this Board at this meeting, with such changes or additions thereto or deletions therefrom as the executing officer shall approve, which approval shall be conclusively evidenced by his or her execution of such document. Notwithstanding any other provision of this Resolution, failure of the Board to comply with the Continuing Disclosure Agreement shall not be considered a default with respect to the Bonds or otherwise under this Resolution or the 2002

Resolution; however, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Board to comply with its obligations under this Section 7.3. For purposes of this Section, Beneficial Owner means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

Section 7.4. Bond Insurance. The Board hereby approves the Commitment to Issue a Municipal Bond Insurance Policy (the "*Commitment*") between the Board and the Insurer, dated January 19, 2018; and the Board further ratifies and approves the execution of the Commitment by the Chancellor and authorizes the payment of the premium therefor. Subject to the terms and conditions of the Commitment, the Insurer has agreed to issue on the date of delivery of the Bonds, a municipal bond insurance policy for the Bonds insuring the payment of principal of and interest on the Bonds. So long as such Insurance Policy remains in force and effect and the Insurer has performed its obligations thereunder, the following provisions shall govern, notwithstanding anything to the contrary set forth in this Resolution:

A. Notice and Other Information to be given to the Insurer. The Board will provide the Insurer with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Agreement and (ii) to the holders of Bonds or the Paying Agent under this Resolution.

The notice address of the Insurer is: Build America Mutual Assurance Company, 200 Liberty Street, 27<sup>th</sup> Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No. 2018B0038, Telephone: (212)235-2500, Telecopier: (212)235-1542, Email: [notices@buildamerica.com](mailto:notices@buildamerica.com). In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at [claims@buildamerica.com](mailto:claims@buildamerica.com) or at Telecopier: (212) 235-5214 and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

B. Defeasance. The investments in the defeasance escrow relating to the Bonds shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise maybe authorized under State law and approved by the Insurer.

At least (three) 3 Business Days prior to any defeasance with respect to the Bonds, the Board shall deliver to the Insurer draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Bonds, a verification report (a "*Verification Report*") prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion and Verification Report shall be addressed to the Insurer and shall be in form and substance satisfactory to the Insurer. In addition, the escrow agreement shall provide that:

- a) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Bond is excludable) from gross income of the holders of the Bonds of the interest on the Bonds for federal income tax purposes and the prior written consent of the Insurer, which consent will not be unreasonably withheld.
- b) The Board will not exercise any prior optional redemption of Bonds secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to the Insurer a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.
- c) The Board shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of the Insurer.

**C. Trustee and Paying Agent.**

- a) The Insurer shall receive prior written notice of any name change of the Paying Agent for the Bonds or the resignation or removal of the Paying Agent. Any Paying Agent must be (A) a national banking association that is supervised by the Office of the Comptroller of the Currency and has at least \$250 million of assets, (B) a state-chartered commercial bank that is a member of the Federal Reserve System and has at least \$1 billion of assets, or (C) otherwise approved by the Insurer in writing.
- b) No removal, resignation or termination of the Paying Agent shall take effect until a successor, acceptable to the Insurer, shall be qualified and appointed.

**D. Amendments, Supplements and Consents.** The Insurer's prior written consent is required for all amendments and supplements to the Security Documents, with the exceptions noted below. The Board shall send copies of any such amendments or supplements to the Insurer and the rating agencies which have assigned a rating to the Bonds.

- a) *Consent of the Insurer.* Any amendments or supplements to the Security Documents shall require the prior written consent of the Insurer with the exception of amendments or supplements:
  - i. To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto, or

- ii. To grant or confer upon the holders of the Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the holders of the Bonds, or
- iii. To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Security Documents other conditions, limitations and restrictions thereafter to be observed, or
- iv. To add to the covenants and agreements of the Board in the Security Documents other covenants and agreements thereafter to be observed by the Board or to surrender any right or power therein reserved to or conferred upon the Board.
- v. To issue additional parity debt in accordance with the requirements set forth in the Security Documents.

*b) Consent of the Insurer in Addition to Bondholder Consent.* Any amendment, supplement, modification to, or waiver of, any of the Security Documents that requires the consent of holders of the Bonds or adversely affects the rights or interests of the Insurer shall be subject to the prior written consent of the Insurer.

*c) Insolvency.* Any reorganization or liquidation plan with respect to the Board must be acceptable to the Insurer. The Paying Agent and each owner of the Bonds hereby appoint the Insurer as their agent and attorney-in-fact with respect to the Bonds and agree that the Insurer may at any time during the continuation of any proceeding by or against the Board under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding") direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a "Claim"), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Paying Agent and each owner of the Bonds delegate and assign to the Insurer, to the fullest extent permitted by law, the rights of the Paying Agent and each owner of the Bonds with respect to the Bonds in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

*d) Control by the Insurer Upon Default.* Anything in the Security Documents to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Bonds or Paying Agent for the benefit of the holders of the Bonds under any Security Document. No default or event of default may be waived without the Insurer's written consent.

*e) Insurer as Owner.* Upon the occurrence and continuance of a default or an event of default, the Insurer shall be deemed to be the sole owner of the Bonds for all purposes under the Security Documents, including, without limitations, for purposes of exercising remedies and approving amendments.

*f) Consent of the Insurer for acceleration.* The Insurer's prior written consent is required as a condition precedent to and in all instances of acceleration.

*g) Grace Period for Payment Defaults.* No grace period shall be permitted for payment defaults on the Bonds. No grace period for a covenant default shall exceed 30 days without the prior written consent of the Insurer.

*h) Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraphs D(a)-(e) above to the contrary, (1) if at any time prior to or following an Insurer Default, the Insurer has made payment under the Policy, to the extent of such payment the Insurer shall be treated like any other holder of the Bonds for all purposes, including giving of consents, and (2) if the Insurer has not made any payment under the Policy, the Insurer shall have no further consent rights until the particular Insurer Default is no longer continuing or the Insurer makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) the Insurer has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) the Insurer shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of the Insurer (including without limitation under the New York Insurance Law).

**E. Insurer As Third Party Beneficiary.** The Insurer is recognized as and shall be deemed to be a third party beneficiary of the Security Documents and may enforce the provisions of the Security Documents as if it were a party thereto.

**F. Payment Procedure Under the Policy.**

In the event that principal and/or interest due on the Bonds shall be paid by the Insurer pursuant to the Policy, the Bonds shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Board, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Board to the



registered owners shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered owners.

In the event that on the second (2<sup>nd</sup>) business day prior to any payment date on the Bonds, the Paying Agent has not received sufficient moneys to pay all principal of and interest on the Bonds due on such payment date, the Paying Agent shall immediately notify the Insurer or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent shall so notify the Insurer or its designee.

In addition, if the Paying Agent has notice that any holder of the Bonds has been required to disgorge payments of principal of or interest on the Bonds pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent shall notify the Insurer or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of the Insurer.

The Paying Agent shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Bonds as follows:

- a) If there is a deficiency in amounts required to pay interest and/or principal on the Bonds, the Paying Agent shall (i) execute and deliver to the Insurer, in form satisfactory to the Insurer, an instrument appointing the Insurer as agent and attorney-in-fact for such holders of the Bonds in any legal proceeding related to the payment and assignment to the Insurer of the claims for interest on the Bonds, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment from the Insurer with respect to the claims for interest so assigned, (iii) segregate all such payments in a separate account (the "BAM Policy Payment Account") to only be used to make scheduled payments of principal of and interest on the Bond, and (iv) disburse the same to such respective holders; and
- b) If there is a deficiency in amounts required to pay principal of the Bonds, the Paying Agent shall (i) execute and deliver to the Insurer, in form satisfactory to the Insurer, an instrument appointing the Insurer as agent and attorney-in-fact for such holder of the Bonds in any legal proceeding related to the payment of such principal and an assignment to the Insurer of the Bonds surrendered to the Insurer, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment therefore from the Insurer, (iii) segregate all such payments in the BAM Policy Payment Account to only be used to make scheduled payments of principal of and interest on the Bond, and (iv) disburse the same to such holders.

The Paying Agent shall designate any portion of payment of principal on Bonds paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Bonds

registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to the Insurer, registered in the name directed by the Insurer, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent's failure to so designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the Board on any Bond or the subrogation or assignment rights of the Insurer.

Payments with respect to claims for interest on and principal of Bonds disbursed by the Paying Agent from proceeds of the Policy shall not be considered to discharge the obligation of the Board with respect to such Bonds, and the Insurer shall become the owner of such unpaid Bonds and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. The Security Documents shall not be discharged or terminated unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.

Irrespective of whether any such assignment is executed and delivered, the Board, and the Paying Agent agree for the benefit of the Insurer that:

- a) They recognize that to the extent the Insurer makes payments directly or indirectly (*e.g.*, by paying through the Paying Agent), on account of principal of or interest on the Bonds, the Insurer will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Board, with interest thereon, as provided and solely from the sources stated in the Security Documents and the Bonds; and
- b) They will accordingly pay to the Insurer the amount of such principal and interest, with interest thereon as provided in the transaction documents and the Bonds, but only from the sources and in the manner provided therein for the payment of principal of and interest on the Bonds to holders, and will otherwise treat the Insurer as the owner of such rights to the amount of such principal and interest.

**G. Additional Payments.** The Board agrees unconditionally that it will pay or reimburse the Insurer on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that the Insurer may pay or incur, including, but not limited to, fees and expenses of the Insurer's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents ("Administrative Costs"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of the Insurer spent in connection with the actions described in the preceding sentence. The Board agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to the Insurer until the date the Insurer is paid in full.

Notwithstanding anything herein to the contrary, the Board agrees to pay to the Insurer (i) a sum equal to the total of all amounts paid by the Insurer under the Policy ("BAM Policy Payment"); and (ii) interest on such BAM Policy Payments from the date paid by the Insurer until payment thereof in full by the Board, payable to the Insurer at the Late Payment Rate per annum (collectively, "BAM Reimbursement Amounts") compounded semi-annually. The Board hereby covenants and agrees that the BAM Reimbursement Amounts are payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Bonds on a parity with debt service due on the Bonds.

H. Debt Service Reserve Fund. The prior written consent of the Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Debt Service Reserve Fund, if any. Amounts on deposit in the Debt Service Reserve Fund shall be applied solely to the payment of debt service due on the Bonds

I. Exercise of Rights by the Insurer. The rights granted to the Insurer under this Resolution to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the holders of the Bonds and such action does not evidence any position of the Insurer, affirmative or negative, as to whether the consent of the holders of the Bonds or any other person is required in addition to the consent of the Insurer.

J. The Insurer shall be entitled to pay principal or interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Board (as such terms are defined in the Policy) and any amounts due on the Bonds as a result of acceleration of the maturity thereof in accordance with the Security Documents, whether or not the Insurer has received a claim upon the Policy.

K. Reserved.

L. No contract shall be entered into or any action taken by which the rights of the Insurer or security for or source of payment of the Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Insurer.

M. If an event of default occurs under any agreement pursuant to which any Obligation of the Board has been incurred or issued and that permits the holder of such Obligation or trustee to accelerate the Obligation or otherwise exercise rights or remedies that are adverse to the interest of the holders of the Bonds or the Insurer, as the Insurer may determine in its sole discretion, then an event of default shall be deemed to have occurred under this Resolution for which the Insurer or the paying agent, at the direction of the Insurer, shall be entitled to exercise all available remedies under the Security Documents, at law and in equity. For purposes of the foregoing "Obligation" shall mean any bonds, loans, certificates, installment or lease payments or similar obligations that are payable and/or secured on a parity or subordinated basis to the Bonds.

**N. Definitions.** As used in this Section 7.4, the following terms shall have the meanings ascribed:

**"Insurer"** shall mean Build America Mutual Assurance Company, or any successor thereto.

**"Late Payment Rate"** means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in The City of New York, New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as the Insurer, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to the Insurer shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

**"Policy"** shall mean the Municipal Bond Insurance Policy issued by the Insurer that guarantees the scheduled payment of principal of and interest on the Bonds when due.

**"Security Documents"** shall mean this Resolution and/or any additional or supplemental document executed in connection with the Bonds.

**Section 7.5. Books and Records; Statements; Right of Inspection.** So long as any of the Bonds are outstanding, the Board covenants and agrees:

(a) To keep adequate financial records and proper books (separate from all other records and books) in which complete and correct entries shall be made of all transactions relating to disbursements of the Pledged Fee Revenues and of the Bond Fund provided for in this resolution.

(b) To furnish to the original purchaser of the Bonds or any other bondholder, at the written request of such party not more than sixty days after receipt of such request, complete financial statements reflecting in reasonable detail the financial condition and record of operation of the College and the disbursements of the Pledged Fee Revenues and of the Bond Fund provided for in this resolution, covering the most recent fiscal year for which the College has complete financial statements, certified as correct by the chief financial officer of the College.

(c) At any time when the Board is in default hereunder, to permit any bondholder the right at all reasonable times to inspect and copy all books, records, accounts and data relating to the Pledged Fee Revenues or the Bond Fund provided for in this resolution, which right may be exercised either in person or by their duly designated agents, attorneys, accountants or other representatives.

**Section 7.6. Remedies on Default.** Failure to perform any of the agreements on the part of the Board contained in this resolution shall be construed and is hereby defined as a default and in the event of such default any bondholder, in addition to all other rights, shall have the right by mandamus or other lawful remedy in any court of competent jurisdiction to enforce his or their rights against the Board and the members thereof and any officer, agent or employee of the Board, including, but not limited to, the right to require the Board, its members, officers, agents or employees, to fix and collect the Pledged Fee Revenues, in amounts sufficient to meet the provisions of this resolution and to require the Board and the members thereof and any officer, agent or employee of the Board to carry out any other covenants contained in this resolution and to perform its or their duties under this resolution and under the Act.

**Section 7.7. Par Payment.** All remittances of principal of and interest on the Bonds to the holders thereof shall be made at par, without any deduction for exchange or other costs, fees or expenses. The Paying Agent shall be considered, by acceptance of its duties hereunder, to have agreed that it will make or cause to be made remittances of principal of, premium, if any, and interest on the Bonds in funds at par, without any deduction for exchange or other costs, fees or expenses.

**Section 7.8. Provisions of Resolution a Contract.** The provisions of this resolution shall constitute a contract between the Board and the holder or holders from time to time of the Bonds and any Additional Bonds, but no agreement, covenant or obligation of the Board herein, in the Bonds or in any Additional Bonds contained shall be construed as imposing any pecuniary liability on the Board or the State except such as may be payable solely from the Pledged Fee Revenues or from the Bond Fund herein established and provided.

**Section 7.9. Supplemental Resolutions.** The Board may adopt a resolution or resolutions supplemental hereto for the purposes permitted by, and subject to the requirements and limitations of the 2002 Resolution.

**Section 7.10. Provisions Not for Benefit of Outsiders.** Except as otherwise expressly provided in this resolution, nothing herein or in the Bonds or in any Additional Bonds contained is intended or shall be construed to give any person other than the Board, the Insurer and the holders of such bonds any legal or equitable rights, remedy or claim under or in respect of this resolution, or under any provision herein contained, this resolution being for the sole and exclusive benefit of the Board, the Insurer and of the holders of the Bonds and Additional Bonds hereby secured. The obligations herein undertaken shall be binding upon and inure to the benefit of the Board and its successors and assigns under any provisions of the laws of the State now or hereafter adopted.

**Section 7.11. Severability.** If any section, paragraph, clause or provision of this resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

**Section 7.12. Repeal of Conflicting Resolutions.** All resolutions or parts thereof in conflict with the provisions of this resolution are, to the extent of such conflict, hereby repealed.

**Section 7.13. Effective Date.** This resolution shall be immediately effective when passed by the Board.

EXHIBIT A  
(Bond Form)

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Board or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R- 1

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF ALABAMA  
BOARD OF TRUSTEES OF THE ALABAMA COMMUNITY COLLEGE SYSTEM  
GADSDEN STATE COMMUNITY COLLEGE  
REVENUE BONDS, SERIES 2018

MATURITY DATE

CUSIP NUMBER

INTEREST RATE

KNOW ALL MEN BY THESE PRESENTS that the Board of Trustees of the Alabama Community College System (hereinafter called the "*Board*"), for value received, hereby promises to pay, as set forth below, from the source and as hereinafter provided, to \_\_\_\_\_ or assigns, the principal sum of

\_\_\_\_\_ AND NO/100 DOLLARS

and interest on said sum from the date hereof (or if this Bond is registered on or after June 1, 2018, from the Interest Payment Date next preceding the date of such registration, or if the date of such registration is an Interest Payment Date, from the date of registration), at the per annum Interest Rate specified above (computed on the basis of a 360-day year of twelve (12) consecutive thirty (30) day months), payable June 1 and December 1 in each year commencing June 1, 2018 (each an "Interest Payment Date").

The principal of and premium, if any, on this Bond shall be payable only upon presentation and surrender of this Bond at the principal office of Regions Bank, Birmingham, Alabama, (the "Paying Agent"). Interest on this Bond shall be remitted by the Paying Agent to the then registered owner of this Bond at the address thereof shown on the registration books of

the Paying Agent fifteen (15) calendar days preceding each June 1 or December 1. This Bond is one of a duly authorized issue of the Board of Trustees of the Alabama Community College System Gadsden State Community College Revenue Bonds, Series 2018 (herein called the "Bonds") aggregating \$22,035,000 in principal amount, authorized to be issued to finance a portion of the costs of certain capital improvements, pay issuance costs of the Bonds, and pay any other lawful costs under Act 2015-125 of the Alabama Legislature (the "Act"), all pursuant to and in full compliance with the Constitution and laws of the State of Alabama, and the proceedings duly taken by the Board on December 13, 2017 and February 14, 2018 (herein called the "Authorizing Proceedings"). The principal of and interest on the Bonds are payable solely from, and are secured by a lien upon and pledge of, the Pledged Fee Revenues and the Bond Fund described in the Authorizing Proceedings.

The pledge of the Pledged Fee Revenues securing the Bonds is on parity of lien with the pledge securing the State Board of Education of the State of Alabama's Gadsden State Community College Refunding Revenue Bonds, Series 2011 and the State Board of Education of the State of Alabama's Gadsden State Community College Refunding Revenue Bond, Series 2014 and any additional parity bonds ("Additional Bonds") issued or assumed under the terms and conditions as described in the Authorizing Proceedings.

Payment of interest on this Bond shall be deemed timely made if mailed to the registered owner on the Interest Payment Date with respect to which such payment is made or, if such Interest Payment Date is not a business day, then on the first business day following the Interest Payment Date.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Authorizing Proceedings. One bond certificate, in the aggregate principal amount of each maturity of the Bonds, registered in the name of Cede & Co. as nominee of DTC, is being issued and required to be deposited with DTC (or an authorized banking institution acceptable to DTC) and immobilized in its custody. The book-entry system will evidence ownership of the Bonds, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of participants and other nominees of such beneficial owners. The Board will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the record maintained by DTC. While Cede & Co. is the registered owner of this bond, notwithstanding the provisions hereinabove contained, payments of principal, interest and any redemption premium on this bond will be made in accordance with existing arrangements between the Paying Agent and DTC.

Neither the Board nor the State of Alabama is obligated to make any payment to the Bond Fund except from the Pledged Fee Revenues as specified in the Authorizing Proceedings. Neither the principal of nor the interest on this Bond shall constitute an obligation or debt of the State of Alabama within the meaning of any constitutional or statutory provision whatsoever, and shall never be payable from any funds at any time provided for or appropriated by the State of Alabama. Neither the State of Alabama nor the Board shall be obligated, directly or indirectly,



to contribute any funds, property or resources to the payment of the Bonds (except from the Pledged Fee Revenues and the Bond Fund).

The Bonds are issuable only as fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The principal of and interest on this Bond are payable to the registered owner hereof, but this Bond may be transferred as provided in the Authorizing Proceedings. The Bond Registrar shall not be required to transfer or exchange this Bond during the period of fifteen (15) calendar days next preceding any interest payment date and shall not be required to transfer or exchange this Bond during the period of sixty (60) calendar days next preceding the date for redemption or prepayment of this Bond.

The Bonds are not subject to mandatory redemption prior to stated maturities.

Those of the Bonds maturing on June 1, 2028 and thereafter shall be subject to redemption, in whole or in \$5,000 multiples, prior to their stated maturities at the option of the Board on any date on or after December 1, 2027 at a redemption price equal to 100% of the principal amount for each Bond (or principal portion thereof) redeemed, plus accrued interest to the date fixed for redemption.

If less than all of the Bonds at the time outstanding are optionally redeemed those maturities or portions thereof to be redeemed shall be selected by the Board, and those portions of a maturity shall be selected by the Paying Agent by random selection. In the event that less than all of the outstanding principal of any Bond is to be optionally or mandatorily redeemed, the registered owner thereof shall surrender the Bond that is to be redeemed, in whole or part, to the Paying Agent in exchange, without expense to the owner, for a new Bond of like tenor except in a principal amount equal to the unredeemed portion of the Bond.

Notice of redemption is required to be mailed by United States registered mail or certified mail to the registered owner of each Bond, all or a part of which is to be redeemed, not more than sixty (60) or less than thirty (30) days prior to the date fixed for redemption at the address shown on the registry books of the Paying Agent. No further interest will accrue after the date fixed for redemption on the principal of any Bond which is to be redeemed upon notice duly given as required and if payment therefor has been duly provided; and in such event, any Bond (or portion thereof) called for redemption will no longer be protected by the provisions of the Authorizing Proceedings.

The Authorizing Proceedings permit, with certain exceptions as therein provided, the supplementation thereof and the modification of the rights and obligations of the Board and the rights of the holders of the Bonds and Additional Bonds at any time with the consent of the holders of a specified percentage of the aggregate principal amount of the Bonds and any Additional Bonds at the time outstanding. Any such consent shall be conclusive and binding upon the holder of this Bond and upon all future holders of this Bond and of any Bond issued in lieu hereof, whether or not notation of such consent or waiver is made upon this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and laws of the State of Alabama to exist, happen and be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner.

IN WITNESS WHEREOF, the Board has caused this Bond to be executed on its behalf by the signature of its Chairman or Vice Chairman, has caused its seal to be impressed hereon and to be attested by the signature of its Secretary, and has caused this Bond to be dated February 16, 2018.

BOARD OF TRUSTEES OF THE  
ALABAMA COMMUNITY COLLEGE  
SYSTEM

(SEAL)

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

Attest:

\_\_\_\_\_  
Secretary

\* \* \* \* \*

[FORM OF CERTIFICATE OF REGISTRATION OF OWNERSHIP]

Registration Date: \_\_\_\_\_

This bond is hereby authenticated and has been registered by the Board of Trustees of the Alabama Community College System on the registration books maintained with the Paying Agent in the name of the above registered owner on the Registration Date noted above.

REGIONS BANK

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

**[FORM OF STATEMENT OF INSURANCE]**

Build America Mutual Assurance Company ("BAM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on this Bond to Regions Bank, Birmingham, Alabama or its successor, as paying agent for the Bonds (the "Paying Agent"). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from BAM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of this Bond, the owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy and (ii) that upon the occurrence and continuance of a default or an event of default under the Authorizing Proceedings or this Bond, BAM shall be deemed to be the sole owner of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Bonds or the Paying Agent for the benefit of such owners under the Authorizing Proceedings, at law or in equity.

**[FORM OF ASSIGNMENT]**

For value received \_\_\_\_\_ whose Tax I.D. or Social Security Number is \_\_\_\_\_, hereby sell(s), assign(s), and transfer(s) unto \_\_\_\_\_ the within Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney, with full power of substitution in the premises, to transfer this Bond on the books of the within mentioned Board, as Bond Registrar.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

NOTE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular, without alteration, enlargement or change whatsoever.

Signature guaranteed:

(\*Bank, Trust Company or Firm)

By: \_\_\_\_\_  
(Authorized Officer)

Medallion Number: \_\_\_\_\_

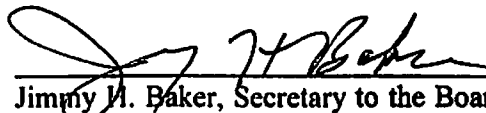
\*Signature(s) must be guaranteed by an eligible guarantor institution which is a member of a recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Exchange Medallion

## **SECRETARY'S CERTIFICATE**

I, Jimmy H. Baker, Secretary to the Board of Trustees of the Alabama Community College System (the "Board"), DO HEREBY CERTIFY that the foregoing pages of typewritten matter pertaining to the Board's Gadsden State Community College Revenue Bonds, Series 2018, constitute a true and correct copy of excerpts from the minutes of a meeting of the Board duly called and held on February 14, 2018 as therein shown, on file and of record in the minute book of the Board.

The undersigned does hereby further certify that the resolutions set forth in said minutes constitute a true and correct copy of resolutions duly adopted at said meeting and on file and of record in the minute book of the Board, and that said resolutions are in full force and effect and have not been altered, amended or repealed.

IN WITNESS WHEREOF, I have hereunto set my hand as Secretary of the Board of Trustees of the Alabama Community College System and affixed the official seal of the Board, this 16<sup>th</sup> day of February, 2018.



Jimmy H. Baker, Secretary to the Board of Trustees of the  
Alabama Community College System

(SEAL)