

BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES
ITEMS FOR DISCUSSION AND ACTION\FISCAL, FACILITIES AND AUDIT

ACTION: **Approve Adoption of Resolution to Authorize Sale of Revenue Bonds for New Student Residence Hall Project for Wayne State College**

The Board of Trustees is granted authority within Nebraska statute to issue revenue bonds to construct and equip residence halls for the purpose of housing of students, among other purposes. Board policies 9000 and 9001 provide the references to statute and the details of the authority. The debt is not an obligation of the State of Nebraska and is funded through the revenues and earnings of the Auxiliary System.

WSC is asking the Board to approve the issuance of revenue bonds to fund a new student residence hall project. The project will also require approval of the Legislature or their Executive Board because the project will require revenues generated from other facilities within the WSC Auxiliary System to support the new facility. A meeting with the Executive Board has been scheduled to present the necessary information and get approval.

NSCS bond counsel from Gilmore Bell, P.C., Colleen Duncan, has prepared the attached authorizing resolution and the draft Sixteenth Supplemental Resolution which will be completed as part of the necessary bond documents. The Board is asked to consider approval of the authorizing resolution which would allow up to \$25.0M of revenue bonds to be issued by the Board to finance a new housing facility at Wayne State College and a potential refunding of the Board's outstanding revenue bonds for savings. The Board is delegating responsibility to finalize terms and documentation to authorized officers.

The plan is to complete the bond closing by mid-August.

The System Office and Wayne State College recommend approval of the Resolution to Authorize Sale of Revenue Bonds for Residence Hall Project for Wayne State College.

ATTACHMENTS:

- WSC Resolution Authorizing Revenue Bonds and Draft Sixteenth Supp Resolution (PDF)

THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES

RESOLUTION

June 15, 2023

AUTHORIZING

**STUDENT FEES AND FACILITIES REVENUE BONDS
OF
THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES**

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES, AS FOLLOWS:

Section 1. Findings and Determinations. The Board of Trustees of the Nebraska State Colleges (the **"Board"**), hereby finds and determines as follows:

(a) It is necessary, desirable, advisable and in the best interests of the Board that the Board construct, acquire, furnish and improve a new residence hall facility and related facilities on the campus of Wayne State College, together with all furnishings and fixtures located or incorporated therein or related thereto (collectively, the **"Project"**) under and pursuant to the provisions of Section 85-403 et seq., R.R.S. Neb. 2012, as amended (the **"Act"**) and the Master Resolution, dated as of August 15, 2002, of the Board, (as supplemented and amended, the **"MTI"**), by and between the Board and BOKF, National Association, as successor master trustee (the **"Master Trustee"**).

(b) It is necessary, desirable, advisable and in the best interests of the Board that the Board refinance certain of its outstanding bonds, (as described in more detail below, the **"Refunded Bonds"**), which Refunded Bonds were issued to finance the costs of State Colleges facilities (collectively, the **"Refunded Facilities"**; and, together with the Project, the **"Facilities"**) to provide the Board with additional flexibility in managing its financing structure and to achieve savings by taking advantage of current market interest rates.

Section 2. Authorization of Bonds. The Board hereby authorizes the issuance of Student Fees and Facilities Revenue Bonds, in one or more series (the **"Bonds"**) to be issued by the Board to finance the Project, to pay costs of issuance, and to fund a debt service reserve fund for the Bonds. The Bonds shall be issued under a Supplemental Resolution entitled "Sixteenth Supplemental Resolution Providing for the Issuance and Sale of Student Fees and Facilities Revenue Bonds, Series 2023 of The Board of Trustees of the Nebraska State Colleges" (the **"Sixteenth Supplemental Resolution"**) in the form presented to the Board as **Exhibit "A"** and made a part hereof by reference is hereby approved, adopted, ratified and affirmed, together with such changes or modifications an Authorized Officer (defined herein) and bond counsel shall approve as being in the best interests of the Board and the Nebraska State Colleges. To the extent necessary as determined pursuant to **Section 3** hereof, a Seventeenth Supplemental Resolution shall be prepared, executed, and delivered.

Section 3. Determination of Final Terms. In connection with the issuance and sale of the Bonds by the Board, the Chair, Vice-Chair, or Secretary of the Board, or the Chancellor or the Vice Chancellor for Finance and Administration of the Board, or such officer authorized to perform the duties of such role (each, an **"Authorized Officer"**), is hereby authorized to specify, determine, designate, establish and appoint, as the case may be (a) the price at which the Bonds may be sold to the underwriter or underwriters thereof (the **"Underwriter"**), (b) the title (including series designation) of the Bonds, dated date and aggregate principal amount, which aggregate stated principal amount shall not exceed \$25,000,000 for the financing of the Project (which amount may be increased to the extent of any original issue discount as determined appropriate by such Authorized Officer) and such additional principal amount as may be necessary to refinance the Refunded Bonds, to pay costs of issuance and to fund a debt service reserve fund, (c) the principal maturities and dates, including the final maturity not beyond December 31, 2053, (d) the rate or rates of interest to be borne by each principal maturity and the dates on which interest shall be due, (e) whether the Bonds will be subject to redemption prior to their stated maturity, and if subject to such optional redemption or mandatory sinking fund redemption, the provisions governing such redemption, including redemption prices, (f) the amount and due date of each sinking fund installment for any of the Bonds issued as term Bonds, (g) the identity of the Underwriter

and the Trustee and any separate paying agent and registrar and escrow agent, or credit enhancement and related documentation as may be determined appropriate, (h) whether to refinance any or all of the Refunded Bonds, and to call any of the Refunded Bonds for early redemption, (i) whether Bonds shall bear interest on a tax-exempt or taxable basis, and whether the Bonds shall be issued in one or more issues for tax purposes, (j) the identity of the Facilities financed with proceeds of the Bonds, and (k) all other terms and provisions of the Sixteenth Supplemental Resolution and the Bonds not otherwise specified or fixed by this Resolution.

Section 4. Refunding; Project. (a) Each Authorized Officer is hereby authorized to determine whether to refinance the outstanding principal amount of any of the following bonds of the Board (collectively and as applicable, the “**Refunded Bonds**”), and apply a portion of the proceeds of the Bonds to such refinancing:

- (i) \$4,430,000 outstanding principal amount of Student Fees and Facilities Revenue Bonds, Series 2013 (Chadron State College Project), issued by the Board, dated January 3, 2013.
- (ii) \$1,675,000 outstanding principal amount of Student Fees and Facilities Revenue Refunding Bonds, Series 2014 (Chadron State College Project), issued by the Board, dated June 5, 2014.
- (iii) \$790,000 outstanding principal amount of Student Fees and Facilities Revenue Refunding Bonds, Series 2012B (Peru State College Project), issued by the Board, dated May 23, 2012.
- (iv) \$1,675,000 outstanding principal amount of Student Fees and Facilities Revenue Refunding Bonds, Series 2016C (Peru State College Project), issued by the Board, dated December 19, 2016.
- (v) \$7,625,000 outstanding principal amount of Student Fees and Facilities Revenue Bonds, Series 2015 (Peru State College Project), issued by the Board, dated December 17, 2015.
- (vi) \$1,765,000 outstanding principal amount of Student Fees and Facilities Revenue Refunding Bonds, Series 2012A (Wayne State College Project), issued by the Board, dated May 23, 2012.
- (vii) \$1,970,000 outstanding principal amount of Student Fees and Facilities Revenue Refunding Bonds, Series 2016B (Wayne State College Project), issued by the Board, dated March 18, 2016.
- (viii) \$9,570,000 outstanding principal amount of Student Fees and Facilities Revenue Bonds, Series 2016 (Wayne State College Project), issued by the Board, dated January 21, 2016.

(b) The Board is hereby authorized to apply a portion of the net proceeds of the Bonds to finance the Project, as determined by an Authorized Officer pursuant to **Section 3** above.

Section 5. Bond Documentation. In connection with the issuance and sale of the Bonds by the Board, each Authorized Officer is hereby authorized and directed to approve the form and content of, and to execute and deliver, one or more of any or all of the following documents (collectively, the “**Financing Documents**”):

- (a) The Sixteenth Supplemental Resolution and any additional Supplemental Resolution as may be determined necessary;
- (b) A Bond Purchase Agreement setting forth the terms of the sale of the Bonds to the Underwriter;
- (c) An Escrow Agreement providing for the defeasance and payment of the Refunded Bonds;
- (d) A Tax Compliance Agreement between the Board and the Master Trustee setting forth certain expectations and covenants of the Board with regards to any Bonds issued as tax-exempt Bonds;

- (e) A Continuing Disclosure Undertaking of the Board to assist the Underwriter with its regulatory obligations; and
- (f) Any other contract, agreement, instrument, certificate or other document that any Authorized Officer may deem necessary, appropriate, advisable or desirable to effectuate, in accordance with the terms of this Resolution, the delivery of and payment for the Bonds.

Section 6. Preliminary Official Statement; Official Statement. Each Authorized Officer is each hereby authorized to prepare, approve and finalize a Preliminary Official Statement related to each series of Bonds or issue of Bonds, as determined appropriate, with such disclosures as are necessary to conform to and describe the transaction, and the public distribution of the same by the Underwriter is hereby approved for use in connection with the sale of the Bonds. Each Authorized Officer is hereby authorized, if requested, to deem the information contained in each Preliminary Official Statement to be “final” as of its date, except for the omission of such information as is permitted by Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”), and to take such other actions or execute such other documents as the Underwriter shall reasonably request to comply with the Rule. Each Authorized Officer is further authorized to prepare, approve and finalize one or more final Official Statements related to the Bonds.

Section 7. Revenue Pledge; Debt Service Reserve Fund. The Bonds shall be secured by and shall be payable solely from Revenues pledged from time to time pursuant to the MTI, as amended by the Sixteenth Supplemental Resolution and from moneys held in the funds by the Master Trustee pursuant to the MTI, as amended by the Sixteenth Supplemental Resolution. **From and after such time as the Bonds and any Additional Bonds issued after the date of the Sixteenth Supplemental Resolution are the only bonds outstanding under the MTI, the 2023 Reserve Account applicable to the Bonds shall be released and applied to pay the debt service on the Bonds next falling due on the Bonds.**

Section 8. Further Authority; Ratification. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Board hereby (a) authorizes and directs each Authorized Officer and all other officers, officials, employees and agents of the Board to carry out or cause to be carried out, and to perform such obligations of the Board and such other actions as they, or any of them, in consultation with Bond Counsel, Disclosure Counsel, or the Board’s Financial Advisor, as appropriate, shall consider necessary, advisable, desirable or appropriate in connection with this Resolution, including, without limitation, the execution and delivery of all related documents, instruments, certifications and opinions, and (b) delegates, authorizes and directs to an Authorized Officer the right, power and authority to exercise his or her independent judgment and absolute discretion in (1) determining and finalizing the terms and provisions of this Resolution, (2) the taking of all actions and the making of all arrangements necessary, proper, appropriate, advisable or desirable in order to effectuate the issuance, sale and delivery of the Bonds and the application of proceeds thereof, and (3) the engagement of external professionals, advisors and agents. The execution and delivery by an Authorized Officer or by any such other officers, officials, employees or agents of the Board of any such agreements, documents, instruments, certifications and opinions, or the doing by them of any act in connection with any of the matters that are the subject of this Resolution, shall constitute conclusive evidence of both the Board’s and their approval of the terms, provisions and contents thereof and of all changes, modifications, amendments, revisions and alterations made therein and shall conclusively establish their absolute, unconditional and irrevocable authority with respect thereto from the Board and the authorization, approval and ratification by the Board of the documents, instruments, certifications and opinions so executed and the actions so taken.

All actions heretofore taken by an Authorized Officer and all other officers, officials, employees and agents of the Board including, without limitation, the expenditure of funds and the selection,

appointment and employment of bond counsel, disclosure counsel, the financial advisor and other advisors and agents in connection with the issuance, sale and delivery of the Bonds, together with all other actions taken in connection with any of the matters that are the subject hereof, are in all respects hereby authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 9. Contract; Repeal. The provisions of this Resolution, of any supplemental resolution, and of any resolutions or other proceedings providing for the execution and delivery of the Financing Documents and the sale of the Bonds and the terms and provisions thereof shall constitute a contract between the Board and the Trustee and the registered owners of the Bonds, and the provisions thereof shall be enforceable by any owner of a Bond for the equal benefit and protection of all such owners similarly situated, by mandamus, accounting, mandatory injunction or any other suit, action or proceeding at law or in equity that is presently or may hereafter be authorized under the laws of the State of Nebraska (the “State”) in any court of competent jurisdiction. Such contract is made under and is to be construed in accordance with the laws of the State.

After the execution and delivery of the Financing Documents, and the issuance, sale and delivery of the Bonds, this Resolution and any supplemental resolution shall not be subject to repeal, but shall be subject to modification or amendment only to the extent and in the manner provided for in this Resolution or in the Financing Documents.

Section 10. Rights Conferred. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Resolution, the Financing Documents or the Bonds is intended or should be construed to confer upon or give to any person other than the Board, the Trustee and the registered owners of the Bonds, any legal or equitable right, remedy or claim under or by reason of or in respect to this Resolution or the Financing Documents or any covenant, condition, stipulation, promise, lease or provision herein or herein contained. This Resolution and the Financing Documents and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof and thereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Board, the Trustee and the registered owners from time to time of the Bonds as herein and therein provided.

Section 11. Liability of Officers. No officer or employee of the Board shall be individually or personally liable for the performance of any duties or obligations under the Financing Documents or the payment of the principal of or interest on any Bond. Nothing herein contained shall, however, relieve any such officer or employee from the performance of any duty provided or required by law.

Section 12. Severability; Effect. If any one or more of the covenants or agreements or portions thereof provided in this Resolution or the Financing Documents on the part of the Board to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such lease or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Resolution and the Financing Documents and the invalidity thereof shall in no way affect the validity of the other provisions of this Resolution or of the Financing Documents, but the Trustee and the registered owners of the Bonds shall retain all the rights and benefits afforded to them hereunder and under the Financing Documents or any applicable provisions of law.

If any provisions of this Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other

provision or provisions herein or therein contained inoperative or unenforceable or invalid to any extent whatsoever.

Section 13. Electronic Transactions. All documents, agreements, certificates, and instruments related to the Bonds shall be valid, binding, and enforceable against the Board when executed and delivered by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by electronic signatures laws, including any relevant provisions of the Uniform Commercial Code, in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each document, agreement, certificate, and instrument related to the Bonds may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same document, agreement, certificate, or instrument, as applicable.

Section 14. Applicable Law. This Resolution shall be construed and interpreted in accordance with the laws of the State.

Section 15. Repeal of Inconsistent Resolutions. Any resolution of the Board inconsistent with this Resolution is hereby repealed to the extent of such inconsistency.

Section 16. Force and Effect. This Resolution shall take effect and be in force from and after its adoption according to law.

“Exhibit A”

**THE BOARD OF TRUSTEES
OF
THE NEBRASKA STATE COLLEGES**

SIXTEENTH SUPPLEMENTAL RESOLUTION

**PROVIDING FOR THE ISSUANCE AND SALE OF STUDENT FEES AND FACILITIES
REVENUE AND REFUNDING BONDS, SERIES 2023, OF THE BOARD OF TRUSTEES OF
THE NEBRASKA STATE COLLEGES.**

Dated: _____, 2023

Adopted: _____, 2023

SIXTEENTH SUPPLEMENTAL RESOLUTION**PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED

(\$_____) PRINCIPAL
AMOUNT STUDENT FEES AND FACILITIES REVENUE AND REFUNDING BONDS, SERIES
2023, OF THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES.**

WHEREAS, the Board of Trustees of the Nebraska State Colleges (the “**Board**”) is a body corporate and governmental subdivision and instrumentality of the State of Nebraska and is authorized under and pursuant to the provisions of Article XIII and Sections 85-403 to 85-411, Reissue Revised Statutes of Nebraska, as amended, (collectively, the “**Act**”), to construct, purchase or otherwise acquire, furnish and equip dormitories, residence halls, single or multiple dwelling units, or other facilities for the housing and boarding of students, single or married, faculties, or other employees of the institutions under its control, including the institution known and designated as Wayne State College (“**WSC**”), and buildings and structures for athletic purposes, student and faculty unions or centers and for the medical care and physical development and other activities of the students of said institutions, and for the other purposes specified in the Act, on real estate then owned or controlled by the Trustees, or on real estate purchased, leased or otherwise acquired for such purposes, and to pay the costs thereof, including the purchase of such real estate, by issuing revenue bonds payable solely out of its revenues other than funds derived from taxation; and

WHEREAS, the Board has adopted under the Act a Resolution dated as of August 15, 2002 (the “**Master Resolution**”) entitled “MASTER RESOLUTION CREATING AND ESTABLISHING AN ISSUE OF STUDENT FEES AND FACILITIES REVENUE BONDS OF THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND AUTHORIZING THE ISSUANCE OF CERTAIN SERIES OF SAID REVENUE BONDS AND THE ISSUANCE OF OTHER FORMS OF REVENUE INDEBTEDNESS” authorizing the issuance of revenue bonds to finance the construction or acquisition and furnishing and equipping of buildings and facilities of the type specified in the Act on the campuses of the Trustees; and

WHEREAS, the Board has heretofore issued and has outstanding under the Master Resolution the following Student Fees and Facilities Revenue Bonds (collectively, the “**Outstanding Bonds**”):

<u>Series of Bonds</u>	<u>Date of Bonds</u>	<u>Amount Issued</u>	<u>Amount Outstanding</u>
Series 2012A (Wayne State College Project) (the “ 2012 WSC Bonds ”) (Eighth Supplemental Resolution)	May 23, 2012	\$6,045,000	\$1,765,000
Series 2012B (Peru State College Project) (the “ 2012 PSC Bonds ”) (Ninth Supplemental Resolution)	May 23, 2012	\$2,705,000	\$790,000

<u>Series of Bonds</u>	<u>Date of Bonds</u>	<u>Amount Issued</u>	<u>Amount Outstanding</u>
Series 2013 (Chadron State College Project) (the “ 2013 CSC Bonds ”) (Tenth Supplemental Resolution)	January 3, 2013	\$7,735,000	\$4,430,000
Series 2014 (Chadron State College Project) (the “ 2014 CSC Bonds ”) (Eleventh Supplemental Resolution)	June 5, 2014	\$4,270,000	\$1,675,000
Series 2015 (Peru State College Project) (the “ 2015 PSC Bonds ”) (Twelfth Supplemental Resolution)	December 17, 2015	\$8,935,000	\$7,625,000
Series 2016 (Wayne State College Project) (the “ 2016 WSC Bonds ”) (Thirteenth Supplemental Resolution)	January 21, 2016	\$11,270,000	\$9,570,000
Series 2016B (Wayne State College Project) (the “ 2016B WSC Bonds ”) (Fourteenth Supplemental Resolution)	March 18, 2016	\$3,810,000	\$1,970,000
Series 2016C (Peru State College Project) (the “ 2016C PSC Bonds ”) (Fifteenth Supplemental Resolution)	December 19, 2016	\$2,865,000	\$1,675,000

WHEREAS, except for the Outstanding Bonds, the Board has not heretofore issued any Bonds, Bond Anticipation Obligations or any other Evidences of Indebtedness under the Master Resolution, any of which remain outstanding and are payable as to principal or interest from the Revenues (as defined in the Master Resolution) derived from the ownership and operation of the Facilities (as defined in the Master Resolution); and

WHEREAS, in order to provide adequate, suitable and safe student housing on the WSC campus, it has been and is now necessary, desirable, advisable and in the best interests of the Board and WSC to construct, acquire, furnish and improve a new residence hall facility and related facilities on the WSC campus, together with all furnishings and fixtures located or incorporated therein or related thereto (the “**2023 WSC Project**”); and

WHEREAS, it is now necessary, desirable, advisable and in the best interests of the Board and the Nebraska State Colleges that revenue bonds of the Board (the “**2023 Bonds**”) be issued and sold on a parity with the Outstanding Bonds to provide funds, together with other funds available to the Board, to (1) pay the Costs of Construction of the 2023 WSC Project, (2) deposit the required amounts into the 2023 Reserve Account in the Bond Reserve Fund established with respect to the 2023 Bonds as required

herein, (3) refund the Refunded Bonds for savings, and (4) pay the costs of issuance of the 2023 Bonds authorized herein; and

WHEREAS, all requirements of the Master Resolution precedent to the issuance of the 2023 Bonds herein authorized are satisfied; and

WHEREAS, the Board has determined that it is advisable and in the best interests of the Board to authorize the issuance, in accordance with the provisions of the Act, the Master Resolution and this Sixteenth Supplemental Resolution, of Additional Bonds under the terms and conditions set forth herein for the purposes hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES AS FOLLOWS:

Section 1. Definitions. Unless the context shall clearly indicate some other meaning, the following terms as used in and for the purposes of this Sixteenth Supplemental Resolution shall have the following meanings, to wit:

“Book-Entry Bonds” means the 2023 Bonds registered in the name of the Securities Depository as the registered owner thereof pursuant to the terms and provisions of **Section 9** hereof.

“Continuing Disclosure Undertaking” means the Continuing Disclosure Undertaking, dated the date of its execution and delivery, as originally executed by the Board and as it may be amended from time to time in accordance with the terms thereof.

“Interest Payment Date” means January 1 and July 1 of each year, beginning _____, 20__ until maturity or earlier redemption of the 2023 Bonds.

“Master Resolution” means the resolution, dated as of August 15, 2002, entitled “MASTER RESOLUTION CREATING AND ESTABLISHING AN ISSUE OF STUDENT FEES AND FACILITIES REVENUE BONDS OF THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND AUTHORIZING THE ISSUANCE OF CERTAIN SERIES OF SAID REVENUE BONDS AND THE ISSUANCE OF OTHER FORMS OF REVENUE INDEBTEDNESS.”

“Participating Underwriter” shall have the meaning ascribed thereto in the Continuing Disclosure Undertaking.

“Record Date” means, with respect to the 2023 Bonds, the fifteenth day (whether or not a business day) of the month next preceding the month in which interest on the 2023 Bonds is payable.

“Refunded Bonds” means _____.

“Resolution” means the Master Resolution as the same may be amended and supplemented from time to time, including, but not limited to, this Sixteenth Supplemental Resolution.

“Securities Depository” means, with respect to a Book-Entry Bond, the person, firm, association or corporation specified in **Section 9** hereof to serve as the securities depository for such Book-Entry Bond, or its nominee and its successor or successors and any other person, firm, association or corporation which may at any time be substituted in its place pursuant to this Sixteenth Supplemental Resolution.

“Tax Agreement” means the Tax Compliance Agreement, dated the date of its execution and delivery, between the Board and the Trustee concerning the requirements of the Code with respect to the 2023 Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

“2023 Bonds” means the \$_____ principal amount The Board of Trustees of the Nebraska State Colleges Student Fees and Facilities Revenue Bonds, Series 2023, dated the date of delivery thereof authorized to be issued pursuant to the Master Resolution and this Sixteenth Supplemental Resolution.

“2023 Construction Account” means the 2023 Construction Account in the Construction Fund created with the Trustee in **Section 12** hereof, the moneys on deposit in which shall be disbursed as provided in **Section 13** hereof.

“2023 Reserve Account” means the 2023 Reserve Account in the Bond Reserve Fund created with the Trustee in **Section 12** hereof, the moneys on deposit in which shall be disbursed as provided in **Section 14** hereof.

Unless the context shall clearly indicate some other meaning, all other terms used in this Sixteenth Supplemental Resolution shall have the same meaning as set forth in **Section 1.1** of the Master Resolution, if therein defined.

Section 2. Authorization of 2023 WSC Project. In order to provide for and improve facilities for the housing and boarding of students at Wayne State College, the Board has heretofore approved the 2023 WSC Project. The Board finds and determines that it is necessary, desirable, advisable and in the best interest of the Board and WSC that revenue bonds of the Board be issued under and pursuant to the Master Resolution, subject to the terms and conditions set forth in this Sixteenth Supplemental Resolution, for the purpose of providing funds to pay the Costs of Construction of the 2023 WSC Project.

Section 3. Issuance and Details of 2023 Bonds. Pursuant to the authority contained in the Act and in the Resolution:

(A) In order to (1) provide for the payment of the Costs of Construction of the 2023 WSC Project, (2) make a deposit into the 2023 Reserve Account established by **Section 12** hereof, (3) refund the Refunded Bonds, and (4) pay the costs of issuance of the 2023 Bonds herein authorized, there shall be and hereby are authorized to be issued under the Resolution a series of bonds to be in the principal amount of _____ Dollars (\$_____).

(B) The Bonds authorized under paragraph (A) of this Section shall be entitled and designated as “The Board of Trustees of the Nebraska State Colleges Student Fees and Facilities Revenue and Refunding Bonds, Series 2023.” The 2023 Bonds shall have a date of original issue of the date of delivery thereof and payment therefor, shall be in the denomination of \$5,000 each, or any integral multiples thereof, shall be numbered from R-1 upwards in order of their issuance, shall mature on the dates and in the principal amounts set forth below and shall bear interest calculated on the basis of a 360-day year consisting of twelve 30-day months at the rates per annum set forth below:

<u>Maturity</u> <u>(July 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Rate of</u> <u>Interest</u>
2023	\$	%
2024		
2025		
2026		

<u>Maturity (July 1)</u>	<u>Principal Amount</u>	<u>Rate of Interest</u>
2027		
2028	\$	%
2029		
2030		
2031		
2032		

[*Term Bonds]

The 2023 Bonds shall be issued in fully registered form as to both principal and interest. The interest on the 2023 Bonds at the respective rates for each maturity is payable from the date of original issue or the most recent Interest Payment Date, whichever is later, until maturity or earlier redemption by check or draft mailed on such Interest Payment Date by the Trustee or its successor, who is hereby appointed as paying agent for the 2023 Bonds, to the registered owner of each 2023 Bond at such registered owner's address as it appears on the books of registry maintained by the Trustee or its successor at the close of business on the Record Date subject to the provisions of the last sentence of this paragraph. The principal of the 2023 Bonds, and premium, if any, on the 2023 Bonds due at maturity or upon redemption prior to maturity, shall be payable in lawful money of the United States of America to the registered owners thereof upon presentation and surrender of such 2023 Bonds at the principal office of the Trustee. In the event that payments of interest due on the 2023 Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the 2023 Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Trustee whenever moneys for the purpose of paying such defaulted interest become available.

Section 4. Security for 2023 Bonds. The 2023 Bonds shall be secured by and shall be payable solely from Revenues pledged from time to time pursuant to the Resolution and from moneys held in the following funds by the Trustee in the following order:

- (1) the Bond Fund;
- (2) the Surplus Fund;
- (3) the 2023 Reserve Account;
- (4) any other moneys or investments held by the Trustee under the Resolution except amounts held to the credit of any other account in the Reserve Fund. Money in any other account in the Reserve Fund described in **Section 3.6** of the Master Resolution are not pledged and shall not be used for the payment of the principal of, premium, if any, or interest on the 2023 Bonds.

Section 5. Redemption of 2023 Bonds.

(a) **Optional Redemption.** The 2023 Bonds maturing on or prior to July 1, 20__ shall not be subject to optional redemption prior to their stated maturities. The 2023 Bonds maturing on and after July 1, 20__ shall be subject to optional redemption at the option of the Board prior to the stated maturities thereof at any time on or after _____, 20__ as a whole, or in part from time to time in such principal amounts and from such maturity or maturities as the Board in its sole discretion may determine, and in the event that less than all of the 2023 Bonds of any maturity are to be called for redemption, the particular 2023 Bonds of such maturity or maturities shall be selected by lot. The 2023 Bonds may be redeemed in part only if the principal amount of the 2023 Bonds then being redeemed is not less than

DRAFT FOR BOARD PRESENTATION PURPOSES ONLY

\$50,000. The 2023 Bonds shall be redeemed in whole multiples of \$5,000 and if any 2023 Bond be in a denomination in excess of \$5,000, portions of the principal amount thereof in installments of \$5,000 or any multiples thereof may be redeemed, and if less than all of the principal amount thereof is to be redeemed, in such case upon the surrender of such 2023 Bond there shall be issued to the registered owner thereof, without charge therefor, for the then unredeemed balance of the principal amount thereof, registered 2023 Bonds of like series, maturity and interest rates in any of the authorized denominations provided by this Sixteenth Supplemental Resolution. The redemption price with respect to each 2023 Bond to be redeemed shall be 100% of the principal amount thereof plus accrued interest on such principal amount then being redeemed to the date fixed for such redemption.

(b) ***Mandatory Sinking Fund Redemption.*** The 2023 Bonds maturing on July 1, 20__, 20__ and 20__ are subject to redemption prior to maturity in part by lot by operation of a mandatory sinking fund on July 1 in each of the following years and in the following principal amounts at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the date fixed for redemption. Selection of any 2023 Bonds maturing July 1, 20__, 20__ and 20__ or portions thereof to be redeemed shall be in the sole discretion of the Trustee.

<u>Year</u> <u>(July 1,)</u>	<u>Principal</u> <u>Amount</u>	<u>Year</u> <u>(July 1,)</u>	<u>Principal</u> <u>Amount</u>	<u>Year</u> <u>(July 1,)</u>	<u>Principal</u> <u>Amount</u>
20__	\$ _____	20__	\$ _____	20__	\$ _____
20__	_____	20__	_____	20__	_____
20__	_____	20__	_____	20__	_____
20__	_____	20__	_____	20__	_____
20__ *	_____	20__ *	_____	20__ *	_____

*Maturity

On or before the forty-fifth day prior to any mandatory sinking fund redemption date set forth above, the Trustee shall proceed to select for redemption, from all Term Bonds then subject to redemption, an aggregate principal amount of such Term Bonds equal to the amount for such year as set forth in the table above and shall call such Term Bonds or portions thereof (\$5,000 or any integral multiple thereof) for redemption and give notice of such call. At the option of the Board, to be exercised by delivery of a certificate to the Trustee on or before the sixtieth day next preceding any mandatory sinking fund redemption date, it may (1) deliver to the Trustee for cancellation Term Bonds which are subject to such redemption or portions thereof (\$5,000 or any integral multiple thereof) in any aggregate principal amount desired by the Board or (2) specify a principal amount of such Term Bonds or portions thereof (\$5,000 or any integral multiple thereof) which prior to said date have been purchased or redeemed (otherwise than through the operation of the sinking fund) and canceled by the Trustee at the request of the Board and not theretofore applied as a credit against any sinking fund payment. Each Term Bond or portion thereof so delivered or previously redeemed shall be credited by the Trustee at 100% of the principal amount thereof against the obligation of the Board on such sinking fund payment date. Any excess shall be credited against the next sinking fund payment. In the event the Board shall avail itself of the provisions of clause (1) of the second sentence of this paragraph, the certificate required by the second sentence of this paragraph shall be accompanied by the Term Bonds or portions thereof to be canceled.

Section 6. Notice and Effect of Redemption of 2023 Bonds. Notice of redemption of 2023 Bonds stating their designation, date, maturity and principal amounts shall be given by the Board or by the Trustee by mailing such notice by first-class mail, postage prepaid, not less than thirty (30) days prior to the date fixed for redemption to the registered owners at their most recent addresses appearing upon the books of registry, but failure to mail such notice shall not affect the proceedings for redemption. Notice of redemption need not be given to the holder of any 2023 Bond, whether registered or not, who has waived notice of redemption. Notice of redemption having been given as provided above or notice of

redemption having been waived by the owners of 2023 Bonds called for redemption who have not been given such notice as provided above, the 2023 Bonds so called for redemption shall become due and payable on the designated redemption date. The Board shall give written notice to the Trustee of its election to redeem 2023 Bonds pursuant to **Section 5** at least forty-five (45) days prior to the said redemption date, or such shorter period as shall be acceptable to the Trustee. If on or before the redemption date funds sufficient to pay the 2023 Bonds so called for redemption at the applicable redemption price and accrued interest to said date have been deposited or caused to have been deposited by the Board with the Trustee in trust for the purposes of such payment and notice of redemption thereof has been given or waived as hereinbefore provided, then from and after the date fixed for redemption interest on such 2023 Bonds so called shall cease to accrue and become payable. If such funds shall not have been so deposited with the Trustee as aforesaid on or before the date fixed for redemption, such call for redemption shall be revoked and the 2023 Bonds so called for redemption shall continue to be outstanding the same as though they had not been so called, and shall continue to bear interest until paid at such rate as they would have borne had they not been called for redemption, and shall continue to be protected by the Master Resolution and this Sixteenth Supplemental Resolution, as from time to time amended and supplemented, entitled to the benefits and security thereof and hereof.

Section 7. Form and Execution of 2023 Bonds. The 2023 Bonds shall be executed in the name of the Board by the manual or facsimile of the official signature of the Chair or Vice Chair of the Board and attested to by the manual or facsimile signature of the Chancellor of the Nebraska State Colleges, and shall have impressed thereon the seal of the Board (which may be a facsimile seal). No 2023 Bond shall be valid or obligatory for any purpose until the certificate of authentication on the 2023 Bond has been executed by the Trustee. The 2023 Bonds shall be in substantially the form hereinafter in this Section set forth with such insertions therein or omissions therefrom or alterations or variations thereto as the officers executing the same shall deem necessary or advisable.

(FORM OF 2023 BONDS)**UNITED STATES OF AMERICA****STATE OF NEBRASKA****THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES
STUDENT FEES AND FACILITIES REVENUE AND REFUNDING BOND
SERIES 2023**

Number R-____ \$_____

Interest RateMaturity DateDate of Original IssueCUSIP

%

July 1, 20____

_____, 20__

REGISTERED OWNER: CEDE & CO.**PRINCIPAL AMOUNT: _____ THOUSAND DOLLARS (\$_____)**

THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES (herein called the **“Board”**), a body corporate and governmental subdivision of the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner specified above, or registered assigns, on the Maturity Date specified above, but only out of the fees and revenues hereinafter mentioned, the Principal Amount specified above in lawful money of the United States of America, together with interest thereon calculated on the basis of a 360-day year consisting of twelve 30-day months from the Date of Original Issue specified above at the Interest Rate per annum specified above payable semiannually on January 1 and July 1 in each year, beginning July 1, 20__ (each of such dates an **“Interest Payment Date”**) to maturity or earlier redemption.

The Principal Amount due at maturity or upon redemption prior to maturity is payable to the Registered Owner at the designated office of the Trustee, **BOKF, NATIONAL ASSOCIATION** (the **“Trustee”**), upon presentation and surrender of this Bond. Interest on this Bond shall be paid by check or draft mailed on such Interest Payment Date to the Registered Owner at such Registered Owner’s address as it appears on the registration books of the Trustee on the fifteenth day (whether or not a business day) of the month next preceding such Interest Payment Date (the **“Record Date”**). Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the Record Date as the Registered Owner of this Bond (or of one or more predecessor Bonds hereto) on such special Record Date for payment of such defaulted interest as shall be fixed by the Trustee whenever moneys for such purpose become available.

This Bond is one of a duly authorized issue of Bonds (herein called the **“Bonds”**) issued by the Board pursuant to the Constitution and laws of the State of Nebraska, including specifically, but without limitation, (a) Article XIII, Section 1 of the Constitution of the State of Nebraska and (b) Sections 85-403 to 85-411, Reissue Revised Statutes of Nebraska, as amended (collectively, the **“Act”**), and pursuant to a resolution dated as of August 15, 2002 duly adopted thereunder by the Board entitled **“MASTER RESOLUTION CREATING AND ESTABLISHING AN ISSUE OF STUDENT FEES AND FACILITIES REVENUE BONDS OF THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON**

SAID BONDS; AND AUTHORIZING THE ISSUANCE OF CERTAIN SERIES OF SAID REVENUE BONDS AND THE ISSUANCE OF OTHER FORMS OF REVENUE INDEBTEDNESS” (herein called the “**Master Resolution**”), as amended from time to time, including, but not limited to, a Sixteenth Supplemental Resolution dated _____, 2023 duly adopted by the Board under the Act and the Master Resolution and entitled “Sixteenth Supplemental Resolution Providing For The Issuance and Sale of Student Fees and Facilities Revenue Bonds, Series 2023, of The Board of Trustees of the Nebraska State Colleges” (the “**Supplemental Resolution**”), for the purposes of (1) paying the costs of constructing Facilities (as defined in the Master Resolution), constructing additions and improvements to the Facilities and making such other repairs, renovations and improvements to the Facilities on the campus of Wayne State College as may be approved by the Board, (2) making certain deposits into certain funds established by the Supplemental Resolution, (3) refunding certain outstanding revenue bond obligations of the Board, and (4) paying the costs of issuance of the Bonds. Reference is hereby made to the Master Resolution and all resolutions amendatory thereof or supplemental thereto, including, but not limited to the Supplemental Resolution (collectively, the “**Resolution**”), to all of the provisions of which any Registered Owner of this Bond by the acceptance hereof thereby assents, for a description of the nature and extent of the security for the Bonds; definitions of terms; the funds, fees and revenues pledged to the payment of the interest on and principal of the Bonds; the nature and extent and manner of enforcement of the pledge; the rights and remedies of the Registered Owner hereof with respect hereto; the conditions for and extent of alteration, modification and amendment of the Resolution; the terms and conditions upon which this Bond is issued and upon which may be issued Additional Bonds (as defined in the Resolution) payable as to principal, premium and interest on a parity with this Bond and equally and ratably secured herewith and upon which may be issued other Evidences of Indebtedness (as defined in the Resolution) payable as to interest only on a parity with this Bond and as to principal from the proceeds of Additional Bonds; the rights, duties and obligations of the Board. A certified copy of the Resolution is on file at the office of the Board and at the principal office of the Trustee.

This Bond and the issue of Bonds of which this Bond is one are not obligations of the State of Nebraska and no tax shall ever be levied to raise funds for the payment thereof or the interest or premium thereon. This Bond and the issue of Bonds of which this Bond is one do not constitute debts of the Board and shall be paid solely out of money derived from the fees, revenues and funds of the Board (other than funds derived from taxation) specified in **Article III** of the Master Resolution, including (1) the fees and revenues derived by the Board from the operation and maintenance of several specified residence halls and the dining facilities pertaining thereto, certain apartment housing, facilities constructed or acquired from the proceeds of Additional Bonds and other Evidences of Indebtedness issued pursuant to the Master Resolution and facilities constructed or acquired with money in the Surplus Fund (as defined in the Resolution), and (2) such additional amount of student union fees or such other fees or portions thereof which may hereafter be pledged to the payment of the Bonds, all as more fully set forth in the Resolution.

The Bonds of the series of which this Bond is one maturing on and after July 1, 20__ are subject to optional redemption at the option of the Board prior to the stated maturities thereof at any time on and after _____, 20__ as a whole, or in part from time to time, in such principal amounts and from such maturity or maturities as the Board in its sole discretion may determine, at a redemption price equal to 100% of the principal amount to be redeemed, together with the interest accrued on such principal amount to the date fixed for redemption, and in the event that less than all of the Bonds of a maturity are to be called for redemption, the particular Bonds of such maturity to be redeemed shall be selected by lot. Bonds shall be redeemed in whole multiples of \$5,000 and if any Bond be in a denomination of greater than \$5,000 any multiples thereof may be redeemed, and if less than all of the principal amount thereof is to be redeemed, in such case upon the surrender of such Bond there shall be issued to the Registered Owner thereof without charge therefor, for the then unredeemed balance of the principal amount thereof, registered bonds of like series, maturity and interest rates in any of the authorized denominations provided by the Supplemental Resolution. The redemption price or prices with respect to each Bond to be

redeemed shall be 100% of the principal amount thereof, together with the interest accrued on the principal amount to the date fixed for such redemption.

Notice of redemption of this Bond shall be given to the Registered Owner hereof by first-class mail, postage prepaid, not less than thirty (30) days prior to the date fixed for redemption, all as more particularly set forth in the Supplemental Resolution. Notice of redemption having been given as provided in the Resolution, or notice of redemption having been waived, and funds for the payment hereof having been deposited with the Trustee, this Bond shall cease to bear interest from and after the date fixed for redemption.

The Resolution contains provisions discharging the Board from all its obligations under the Resolution as to this Bond if the Board shall have deposited with the Trustee, in trust solely for that purpose, money or certain specified securities sufficient to pay the principal and premium, if any, hereof and interest hereon to the date of maturity hereof or, if this Bond shall have been called for redemption, to the date of redemption hereof, and from and after the date of such deposit this Bond shall no longer be deemed to be outstanding under the Resolution or, except for the purpose of such payment, be protected by the Resolution or entitled to the benefits and security thereof, all as more fully set forth in the Resolution.

The transfer of this Bond is registerable by the Registered Owner hereof in person or by his attorney or legal representative at the principal office of the Trustee, but only in the manner and subject to the limitations and conditions provided in the Resolution and upon surrender and cancellation of this Bond by the Trustee. Upon any such registration of transfer, the Board shall execute and the Trustee shall authenticate and deliver in exchange for this Bond a new registered Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate Principal Amount of this Bond, of the same series and maturity and bearing interest at the same rate.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and laws of the State of Nebraska to exist, to happen and to be performed precedent to and in the issuance of this Bond and the series of which it is a part, do exist, have happened and have been performed in regular and due time, form and manner as required by law; that this Bond and the series of Bonds of which this Bond is a part do not exceed any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this Bond and the issue of which it is a part as provided in the Resolution.

IN WITNESS WHEREOF, The Board of Trustees of the Nebraska State Colleges has caused this Bond to be duly executed and dated as of the Date of Original Issue specified above.

[S E A L]

**THE BOARD OF TRUSTEES OF THE
NEBRASKA STATE COLLEGES**

ATTEST:

By: _____
Chair

By: _____
Chancellor

CERTIFICATE OF AUTHENTICATION

This Bond is a Bond of the series designated therein and issued under the provisions of the within-mentioned Resolution.

BOKF, NATIONAL ASSOCIATION, Trustee

By: _____
Authorized Signatory

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____
_____ agent to transfer the within Bond on the books kept by the
Trustee for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this Assignment
must correspond with the name as it appears
upon the face of the within Bond in every
particular and must be guaranteed by an eligible
guarantor.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution as
defined by SEC Rule 17 Ad-15 (17 CFR 240.17
Ad-15))

By: _____

Section 8. Registration of Bonds; Books of Registry. The Trustee is hereby appointed as bond registrar and paying agent for the 2023 Bonds and as such shall keep books for the registration and registration of transfer of 2023 Bonds as provided in this Sixteenth Supplemental Resolution.

The transfer of any 2023 Bond may be registered upon the books kept for the registration and registration of transfer of the 2023 Bonds upon surrender thereof to the Trustee together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee. Upon any such registration of transfer the Board shall execute and the

Trustee shall authenticate and deliver in exchange for such 2023 Bond a new 2023 Bond registered in the name of the transferee, of any denomination or denominations authorized by this Sixteenth Supplemental Resolution, of the same series and maturity and bearing interest at the same rate.

In all cases in which the transfer of registered 2023 Bonds shall be registered hereunder, the Board shall execute and the Trustee shall authenticate and deliver at the earliest practicable time 2023 Bonds in accordance with the provisions of this Sixteenth Supplemental Resolution. All 2023 Bonds surrendered in any such registration of transfer shall forthwith be canceled by the Trustee. Neither the Board nor the Trustee shall make a charge for the first such registration of transfer of any Bond for each owner. The Board or the Trustee, or both, may make a charge for shipping, printing and out-of-pocket costs for every subsequent registration of transfer of any 2023 Bond sufficient to reimburse it or them for any and all costs required to be paid with respect to or for registration of transfer. Neither the Board nor the Trustee shall be required to make any such registration of transfer of 2023 Bonds during the sixteen (16) days immediately preceding an interest payment date on the 2023 Bonds or, in the case of any proposed redemption of 2023 Bonds, after notice of the redemption of such Bonds or any portion thereof shall have been given pursuant to **Section 6** of this Sixteenth Supplemental Resolution.

Section 9. Book-Entry Bonds. The Board may elect to issue the 2023 Bonds as Book-Entry Bonds in which event the provisions of subparagraphs (a) to (i), inclusive, set forth below shall apply.

(a) For all purposes of the Resolution, the registered owner of a Book-Entry Bond shall be the Securities Depository therefor and neither the Board nor the Trustee shall have any responsibility or obligation to the beneficial owner of such 2023 Bond or to any direct or indirect participant in such Securities Depository. Without limiting the generality of the foregoing, neither the Board nor the Trustee shall have any responsibility or obligation to any such direct or indirect participant or to the beneficial owner of a Book-Entry Bond with respect to (i) the accuracy of the records of the Securities Depository or any participant with respect to any beneficial ownership interest in such 2023 Bond, (ii) the delivery to any direct or indirect participant of the Securities Depository, the beneficial owner of such 2023 Bond or any other person, other than the Securities Depository, of any notice with respect to such 2023 Bond, including any notice of the redemption thereof, or (iii) the payment to any direct or indirect participant of the Securities Depository, the beneficial owner of such 2023 Bond or other person, other than the Securities Depository, of any amount with respect to the principal of, redemption premium, if any, or interest on such 2023 Bond. The Board and the Trustee may treat the Securities Depository therefor as, and deem such Securities Depository to be, the absolute owner of a Book-Entry Bond for all purposes whatsoever, including (iv) payment of the principal of, redemption premium, if any, and interest on such 2023 Bond, (v) giving notices of redemption and of other matters with respect to such 2023 Bond, (vi) registering transfers with respect to such 2023 Bond and (vii) giving to the Board any notice, consent, request or demand pursuant to the Resolution for any purpose whatsoever. The Trustee shall pay the principal of, redemption premium if any, and interest on a Book-Entry Bond only to or upon the order of the Securities Depository therefor, and all such payments shall be valid and effective to satisfy fully and discharge the Board's obligations with respect to such principal of, redemption premium, if any, and interest, to the extent of the sum or sums so paid. Except as otherwise provided in subsection (iii) of this **Section 9**, no person other than the Securities Depository shall receive a 2023 Bond or other instrument evidencing the Board's obligation to make payments of the principal thereof, redemption premium, if any, and interest thereon.

(b) The Board in its sole discretion and without the consent of any other person, may, by notice to the Trustee and a Securities Depository, terminate the services of such Securities Depository with respect to the Book-Entry Bonds for which such Securities Depository serves as securities depository if the Board determines that (i) the Securities Depository is unable to discharge its responsibilities with respect to such 2023 Bond or (ii) a continuation of the requirement that all of the

2023 Bonds issued as Book-Entry Bonds be registered in the registration books of the Board in the name of the Securities Depository is not in the best interests of the beneficial owners of such 2023 Bonds or of the Board.

(c) Upon the termination of the services of a Securities Depository with respect to a Book-Entry Bond pursuant to clause (ii) of the first sentence of **Section 9(b)**, such 2023 Bond shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of a Securities Depository. Upon the termination of the services of a Securities Depository with respect to a Book-Entry Bond pursuant to clause (i) of the first sentence of **Section 9(b)**, the Board may within 90 days thereafter appoint a substitute securities depository which, in the opinion of the Board, is willing and able to undertake the functions of Securities Depository under the Resolution upon reasonable and customary terms. If no such successor can be found within such period, such Book-Entry Bond shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of a Securities Depository. In the event that a Book-Entry Bond shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of a Securities Depository, the Board shall execute and the Trustee shall authenticate and deliver, upon presentation and surrender of the Book-Entry Bond, 2023 Bond certificates as requested by the Securities Depository so terminated of like series, principal amount, maturity and interest rate, in authorized denominations, to the identifiable beneficial owners in replacement of such beneficial owners' beneficial ownership interests in such Book-Entry Bond.

(d) Anything in this Sixteenth Supplemental Resolution to the contrary notwithstanding, payment of the principal of, and redemption premium, if any, of a Book-Entry Bond, or portion thereof, called for redemption prior to maturity may be paid to the Securities Depository by check or draft mailed to the Securities Depository or by wire transfer. Anything in this Sixteenth Supplemental Resolution to the contrary notwithstanding, such principal and redemption premium, if any, may be paid without presentation and surrender to the Trustee of the Book-Entry Bond, or portion thereof, called for redemption; provided, however, that payment of (a) the principal payable at maturity of a Book-Entry Bond and (b) the principal of and premium, if any, of a Book-Entry Bond as to which the entire principal amount thereof has been called for redemption shall be payable only upon presentation and surrender of such Book-Entry Bond to the Trustee; and provided, further, that no such principal and redemption premium, if any, shall be so payable without presentation and surrender unless such Book-Entry Bond shall contain or have endorsed thereon a legend to the following effect:

“AS PROVIDED IN THE RESOLUTION REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE RESOLUTION, “DTC”), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE RESOLUTION TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE RESOLUTION.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC TO THE TRUSTEE FOR (A) REGISTRATION OF TRANSFER OR EXCHANGE, OR

(B) PAYMENT OF PRINCIPAL OR REDEMPTION PRICE, AND ANY BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.”

Anything in the Resolution to the contrary notwithstanding, upon any such payment to the Securities Depository without presentation and surrender, for all purposes of (i) the Book-Entry Bond as to which such payment has been made and (ii) the Resolution, the unpaid principal amount of such Book-Entry Bond Outstanding shall be reduced automatically by the principal amount so paid. In such event, the Trustee shall note such payment on the registration books of the Board maintained by it, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book-Entry Bond Outstanding as provided in this subsection.

(e) For all purposes of the Resolution authorizing or permitting the purchase of 2023 Bonds, or portions thereof, by, or for the account of, the Board for cancellation, and anything in the Resolution to the contrary notwithstanding, a portion of a Book-Entry Bond may be deemed to have been purchased and canceled without surrender thereof upon delivery to the Trustee of a certificate executed by the Board and a participant of the Securities Depository therefor to the effect that a beneficial ownership interest in such 2023 Bond, in the principal amount stated therein, has been purchased by, or for the account of, the Board through the participant of the Securities Depository executing such certificate; provided, however, that any purchase for cancellation of the entire principal amount of a Book-Entry Bond shall be effective for purposes of the Resolution only upon surrender of such Book-Entry Bond to the Trustee, and provided, further, that no portion of a Book-Entry Bond may be deemed to have been so purchased and canceled without surrender thereof unless such Book-Entry Bond shall contain or have endorsed thereon the legend referred to **Section 9(d)**. Anything in the Resolution to the contrary notwithstanding, upon delivery of any such certificate to the Trustee, for all purposes of (i) the Book-Entry Bond to which such certificate relates and (ii) the Resolution, the unpaid principal amount of such Book-Entry Bond Outstanding shall be reduced automatically by the principal amount so purchased. In such event, the Trustee shall note such reduction in principal amount of such Book-Entry Bond as Outstanding on the registration books of the Board maintained by it, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book-Entry Bond Outstanding as provided in this subsection.

(f) Anything in the Resolution to the contrary notwithstanding, a Securities Depository may make a notation on a Book-Entry Bond (i) redeemed in part or (ii) purchased by, or for the account of, the Board in part for cancellation, to reflect, for informational purposes only, the date of such redemption or purchase and the principal amount thereof redeemed or deemed canceled, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book-Entry Bond Outstanding as provided in subsections (d) or (e) of this **Section 9**, as the case may be.

(g) Anything in this Sixteenth Supplemental Resolution to the contrary notwithstanding, in the case of a Book-Entry Bond, the Board shall be authorized to defease, redeem or purchase (by or for the account of the Board), or issue Refunding Bonds to refund, less than all of the entire Outstanding principal amount thereof (in portions thereof of \$5,000 or integral multiples thereof, or such other denominations as shall be specified in this Sixteenth Supplemental Resolution authorizing such Book-Entry Bond), and in the event of such partial defeasance, redemption, purchase or refunding, the provisions of this Sixteenth Supplemental Resolution relating to the defeasance, redemption, purchase or

refunding of a 2023 Bond or 2023 Bonds shall be deemed to refer to the defeasance, redemption, purchase or refunding of a portion of a 2023 Bond.

(h) Any provisions of the Resolution which permit or require surrender of 2023 Bonds to the Trustee for cancellation shall not be applicable to 2023 Bonds issued as Book-Entry Bonds, but such Book-Entry Bonds shall be subject in all respects to the provisions of subsections (a) to (g), inclusive, above.

(i) The Depository Trust Company, New York, New York, is hereby designated as the initial Securities Depository under the Resolution. The Chancellor is hereby authorized and directed to execute and deliver for and on behalf of the Board an agreement with such Securities Depository containing such terms and conditions as they shall determine to be necessary, desirable or advisable.

Section 10. Ownership of Bonds. As to any 2023 Bond the person in whose name the same 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 of any such 2023 Bond and the interest on any such 2023 Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such 2023 Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 11. Disposition of Proceeds of 2023 Bonds. The 2023 Bonds when executed shall be delivered to the Trustee, to be delivered by it to the purchaser thereof upon payment to the Trustee of the purchase price therefor. The proceeds of the sale of the 2023 Bonds, including the interest accrued on the 2023 Bonds from their date to the date of delivery of and payment therefor, together with other money and funds of the Board available therefor, shall be received by the Trustee and paid over, deposited and credited, and used and applied as follows:

(a) An amount equal the Reserve Requirement with respect to the 2023 Bonds shall be deposited into the 2023 Reserve Account in the Bond Reserve Fund.

(b) An amount necessary to refund the Refunded Bonds on the redemption date shall be deposited with the Trustee and held invested or collateralized to the redemption date.

(c) The balance of the proceeds of the 2023 Bonds which remains after the deposit required by subparagraph (a) above shall have been made, shall be deposited to the credit of the "2023 Construction Account" in the Construction Fund which is hereby established and created. All amounts on deposit in the 2023 Construction Account shall be used and applied in accordance with **Section 3.11** of the Master Resolution to pay the Costs of Construction of the 2023 WSC Project, including any reimbursement to the Board for funds previously advanced by the Board to pay such Costs of Construction, together with the legal and financing expense incurred in connection with the issuance of the 2023 Bonds.

Section 12. Creation of Funds and Accounts. The following special funds and accounts of the Board are hereby created to be held and administered by the Trustee: (a) the 2023 Construction Account in the Construction Fund; (b) the 2023 Reserve Account; and (c) the 2023 Rebate Fund.

Section 13. 2023 Construction Account. In accordance with the provisions of **Section 3.8** of the Master Resolution, there is hereby created in the Construction Fund a 2023 Construction Account into which a portion of the proceeds of the 2023 Bonds shall be deposited as provided in **Section 11** of this Sixteenth Supplemental Resolution. Money on deposit in the 2023 Construction Account shall be

disbursed to pay the Costs of Construction of the 2023 WSC Project and the costs of issuance of the 2023 Bonds upon satisfaction of the requirements of **Section 3.8** of the Master Resolution.

Section 14. 2023 Reserve Account. The 2023 Reserve Account in the Bond Reserve Fund shall be used solely to pay the principal of and interest on the 2023 Bonds to the extent that money in the Bond Fund is insufficient to pay the same. Amounts held to the credit of the 2023 Reserve Account shall not be used to pay the principal of, premium, if any, or interest on any other Bonds issued pursuant to the Master Resolution.

The 2023 Reserve Account shall be funded with a portion of the proceeds of the 2023 Bonds in the Bond Reserve Fund and maintained in an amount equal to the Reserve Requirement for the 2023 Bonds. The Reserve Requirement is defined to be equal to the lesser of (a) the maximum annual debt service on the 2023 Bonds or (b) 125% of average annual debt service on the 2023 Bonds or (c) 10% of the proceeds of the 2023 Bonds; provided, however, if the aggregate initial offering price of the 2023 Bonds to the public is less than 98% or more than 102% of par, such offering price shall be used in lieu of the stated principal amount.

There shall be paid monthly into the 2023 Reserve Account the amount of any deficiency therein after the deposits required to be made by subsections 1 and 2 of **Section 3.3** of the Master Resolution have been made. To the extent that there is a deficiency in the 2023 Reserve Account at the end of any Fiscal Year, excess money in the Revenue Account shall be used to make up such deficiency. Investment earnings on the 2023 Reserve Account shall be deposited into the Bond Fund.

From and after such time as the 2023 Bonds and any Additional Bonds issued after the date hereof are the only bonds outstanding under the Master Resolution, the 2023 Reserve Account shall be released and applied to pay the debt service next falling due on the 2023 Bonds.

Section 15. Rebate Fund. There shall be deposited in the 2023 Rebate Fund such amount as is required to be deposited therein pursuant to the Tax Agreement. All amounts on deposit at any time in the 2023 Rebate Fund shall be held by the Trustee in trust to the extent required to pay arbitrage rebate to the United States of America, and neither the Board nor the registered owner of any 2023 Bonds shall have any rights in or claim to such money. All amounts held in the 2023 Rebate Fund shall be governed by this Section and by the Tax Agreement.

Pursuant to the Tax Agreement, the Trustee shall remit all required rebate installments and a final rebate payment to the United States of America. Neither the Trustee nor the Board shall have any obligation to pay any amounts required to be rebated pursuant to this Section and the Tax Agreement, other than from moneys held in the 2023 Rebate Fund as provided in this Sixteenth Supplemental Resolution or from other money provided to it by the Board. Any money remaining in any account in the 2023 Rebate Fund after redemption and payment of all of the Outstanding 2023 Bonds and payment and satisfaction of any arbitrage rebate shall be withdrawn and paid to the Board.

The obligation to pay arbitrage rebate to the United States and to comply with all other requirements of this Section and the Tax Agreement shall survive the defeasance or payment in full of the 2023 Bonds and until all arbitrage rebate shall have been paid.

Section 16. Findings and Determinations; Certifications; Transfer.

(a) The Board hereby finds and declares that (i) no default exists in the payment of the principal of and premium (if any) and interest on any Bond or in the payment of any interest on any Bond Anticipation Obligations heretofore issued under the Master Resolution, no deficiencies exist in the Bond

Fund or any in any account in the Reserve Fund, and there does not exist an “Event of Default” as defined in **Section 7.1** of the Master Resolution, (ii) with respect to the 2023 Bonds issued to refund the Refunded Bonds, the aggregate amount of principal and interest to accrue on the Refunded Bonds and the Outstanding Bonds not refunded by the Bonds in any year in which the Outstanding Bonds are to be outstanding is not greater than the aggregate amount of principal and interest which would have accrued in such year if the refunding portion of the 2023 Bonds were not issued and such refunding did not occur, and (iii) with respect to the portion of the 2023 Bonds issued to finance the 2023 WSC Project, in the opinion of the Board the Projected Net Revenues to be derived by the Board in each Fiscal Year after the date the 2023 WSC Project financed from the proceeds of the 2023 Bonds shall be ready for use and occupancy, as anticipated by the Board at the time of the adoption hereof, will be at least equal to 1.10 times the total principal and interest to accrue in such Fiscal Year on all Bonds to be outstanding upon the issuance of the 2023 Bonds.

(b) Prior to the issuance, sale and delivery of the 2023 Bonds, there shall be delivered to the Trustee pursuant to and in accordance with the provisions of **Section 2.4** of the Master Resolution a certificate of either the certified public accountants or the NSC Representative stating that the Net Revenues for the most recently audited Fiscal Year preceding the issuance of the 2023 Bonds, were at least equal to 1.10 times the total of the principal of Bonds and interest of Bonds and Bond Anticipation Obligations, if any, accruing during such Fiscal Year period, after deducting from such total that amount, if any, of such interest accruing during such twelve-month period for which payment was made from a Capitalized Interest Account in accordance with **Section 3.5** of the Master Resolution.

(c) The 2023 Bonds issued hereunder shall be subject to the provisions of the Resolution and the registered owners of the 2023 Bonds shall be entitled to all the rights, benefits and security under the Resolution to which the owners of the Outstanding Bonds are entitled.

(d) All of the revenues, fees and earnings to be derived by the Board from the operation of the 2023 WSC Project and the projects financed with proceeds of the Refunded Bonds shall be subject, and hereby are subjected, to the lien and pledge of Article III of the Resolution, and such revenues, fees and earnings shall be paid as provided in **Section 3.2** of said Article III for credit to the Revenue Account, shall be part of the Revenues of the Facilities and shall be disbursed as provided in said Article III, and all and each of said building facilities and improvements thereto constituting a part of the 2023 WSC Project and the projects financed with proceeds of the Refunded Bonds shall be deemed to be a part of the Facilities.

Section 17. Tax Covenants of the Board. (a) The Board covenants and agrees that (1) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the 2023 Bonds and (2) it will not use or permit the use of any proceeds of 2023 Bonds or any other funds of the Board nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the 2023 Bonds. The Board will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the 2023 Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Board.

(b) The Board covenants and agrees that (1) it will comply with all requirements of Section 148 of the Code to the extent applicable to the 2023 Bonds, (2) it will use the proceeds of the 2023 Bonds as soon as practicable and with all reasonable dispatch for the purposes for which the 2023 Bonds are issued, and (3) it will not invest or directly or indirectly use or permit the use of any proceeds of the 2023

Bonds or any other funds of the Board in any manner, or take or omit to take any action, that would cause the 2023 Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

(c) The Board covenants and agrees that it will pay or provide for the payment from time to time of all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code and any Treasury Regulations applicable to the 2023 Bonds from time to time. This covenant shall survive payment in full or defeasance of the 2023 Bonds. The Board specifically covenants to pay or cause to be paid to the United States of America, the required amounts of arbitrage rebate at the times and in the amounts as determined by the Tax Agreement. Notwithstanding anything to the contrary contained herein, the Tax Agreement may be amended or replaced if, in the opinion of counsel nationally recognized on the subject of municipal bonds, such amendment or replacement will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the 2023 Bonds.

(d) The Board covenants and agrees that it will not use any portion of the proceeds of the 2023 Bonds, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any 2023 Bond to be a “private activity bond.”

(e) The Trustee shall agree, upon execution and delivery of the Tax Agreement and other written letter or opinion of bond counsel which sets forth such requirements, to comply with any statute, regulation or ruling that may apply to it as Trustee hereunder and relating to reporting requirements or other requirements (such as arbitrage rebate) necessary to preserve the exclusion from federal gross income of the interest on the 2023 Bonds. Notwithstanding anything to the contrary contained herein, the Tax Agreement may be amended or replaced if, in the opinion of counsel nationally recognized on the subject of municipal bonds, such amendment or replacement will not adversely affect the exclusion from gross income of interest on the 2023 Bonds.

(f) The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the 2023 Bonds pursuant to **Article IX** of the Master Resolution until the final maturity date of all Bonds Outstanding.

Section 18. Continuing Disclosure. The Board hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Undertaking. Notwithstanding any other provision of the Resolution, failure of the Board to comply with the Continuing Disclosure Undertaking shall not be considered an Event of Default; however, or 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. 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 2023 Bonds (including persons holding 2023 Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any 2023 Bonds for federal income tax purposes.

Section 19. Restated Modification of the Term “Operation and Maintenance”. The Board hereby finds and determines that, under the accrual method of accounting, depreciation expense is not properly included in operation and maintenance expense for purposes of the covenants and restrictions of the Master Resolution. The Master Resolution does not clearly exclude depreciation expense from operation and maintenance expense for such purposes and it is therefore necessary and appropriate to modify the definition of “Operation and Maintenance”. The Board hereby modifies the definition of “Operation and Maintenance” in the Master Resolution to read in its entirety as follows:

“**Operation and Maintenance**” shall mean the ordinary operating expenses (including a properly allocable share of the cost of insurance) and the expenses of upkeep, repair, renewals,

replacements, equipping, furnishings and renovations of Facilities occurring in the usual course, and shall include the costs and expenses of servicing the debt incurred under this Resolution (including fees and expenses of the Trustee but not including payments of principal, premium and interest of Bonds and Bond Anticipation Obligations and required reserves therefor), but shall exclude depreciation expense.

Section 20. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this Sixteenth Supplemental Resolution should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Sixteenth Supplemental Resolution and the invalidity thereof shall in no way affect the validity of the other provisions of this Sixteenth Supplemental Resolution or of the Bonds, but the Owners of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this Sixteenth Supplemental Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 21. Effectiveness and Date of This Sixteenth Supplemental Resolution. This Sixteenth Supplemental Resolution shall be effective immediately and for convenience of reference shall be dated as of _____, 2023.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, The Board of Trustees of the Nebraska State Colleges has caused this Sixteenth Supplemental Resolution to be duly executed this ____ day of _____, 2023.

**THE BOARD OF TRUSTEES OF THE
NEBRASKA STATE COLLEGES**

ATTEST:

By: _____
Chair

By: _____
Chancellor