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BOARD OF TRUSTEES

Executive Committee

April 13, 2007

The Executive Committee of the University of South Carolina met on Friday, April 13, 2007, at 11:00 a.m. in the Business and Finance Conference Room of Osborne Building.

Members present were: Mr. Herbert C. Adams, Chairman; Mr. James Bradley; Dr. C. Edward Floyd; Mr. Miles Loadholt; Mr. Michael J. Mungo; and Mr. Mack I. Whittle, Jr. The Chairman of the Intercollegiate Activities Committee, Mr. Othniel H. Wienges, Jr., was present by special invitation.

Others present were: President Andrew A. Sorensen; Secretary Thomas L. Stepp; General Counsel Walter (Terry) H. Parham; Director of Athletics Eric C. Hyman; Associate Athletics Director Charles Waddell; Director of University Communications, Division of University Advancement, Russ McKinney, Jr.; and Board staff member Karen Tweedy.

Mr. Adams called the meeting to order and invited Secretary Stepp to call the roll because of telephone participation. Mr. McKinney indicated that no members of the media were in attendance.

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

There was a contractual matter relative to an athletics contract which was appropriate for discussion in Executive Session. Chairman Adams called for a motion to enter Executive Session. Mr. Whittle so moved. Mr. Mungo seconded the motion. The roll was taken, and the motion carried.

The following persons were invited to remain: President Sorensen, Secretary Stepp, Mr. Parham, Mr. Hyman, Mr. Waddell, Mr. McKinney and Ms. Tweedy.

Return to Open Session

I. Contracts Valued In Excess of \$250,000: Under Armour, Inc.: Chairman Adams called on Mr. Hyman who stated that he was requesting Executive Committee approval of a football outfitter agreement with Under Armour, Inc. which Coach Spurrier had previously reviewed and approved. He noted that Mr. Parham would review the specifics of the contract with the Committee, and Mr. Hyman would briefly discuss the climate of the marketplace and Carolina's position in that arena.

Mr. Parham initially commented that Under Armour will expend a significant amount of money in this contract. He analyzed and contrasted figures of the current outfitter agreement with those from another company and the proposed contract. He also noted that President Sorensen had reviewed the information at length and supported the proposal.

Currently, the University was under contract with Russell Athletics which provided not only football equipment, but also baseball, softball and women's basketball (i.e., a four sport deal). From that company the University received \$100,000 in cash and \$175,000 worth of products. In comparison, Under Armour would remit to the University significantly higher amounts of cash and products.

The proposed agreement would provide "head to toe" equipment (apparel and accessories) exclusively for the football team, coaches and staff. The Athletics Department had retained the right to negotiate other individual sports with either Under Armour or another company.

The term of the contract would extend six years beginning April 1, 2007 and expiring March 31, 2013. At the conclusion of that six-year period, Under Armour will have the right of "first refusal" to negotiate and to enter into a new contract with the Athletics Department.

During each year of the contract, Under Armour will pay the Athletics Department a rights fee of \$600,000 payable in equal quarterly installments of \$150,000 for a total of \$3,600,000 (in cash) during the six-year term. A reduction of that amount would occur if: (1) the football team was placed on a probationary status which involved a "preclusion" from television appearances; Under Armour would have the right to reduce that yearly fee to \$300,000; or, (2) if Coach Spurrier left the University as head football coach. Mr. Parham explained that Under Armour had specifically requested this term because of Coach Spurrier's high profile reputation.

Mr. Parham outlined and discussed other aspects of the proposed contract as distributed.

Regarding the termination clause, Mr. Parham explained that several guarantees had been incorporated into the contract.

The Athletics Department may terminate the contract if Under Armour: wrongfully disparaged the University; used University marks (logos) without approval in a manner which offended community standards; failed to pay any sum due under the contract within 30 days of such due date on 2 occasions in any contract year; filed for bankruptcy.

Under Armour may terminate the contract if: the NCAA or SEC deprived Under Armour of promotional rights by requiring the football team to wear products not supplied by that company or by materially diminishing the size or occurrence of Under Armour marks on products; the University did not field a football team, or the football team was placed on probation and by the NCAA and such probation prohibited television coverage of USC football games; the football team, coaches and staff failed to wear Under Armour products as required by the contract; Coach Spurrier committed an act which violated widely held principles of public morality or decency, constituted a felony or crime of moral turpitude, or which reflected unfavorably on Under Armour.

Mr. Bradley asked if the University had conducted prior business with Under Armour. In response, Mr. Parham explained that the University was the fourth school with which that company had contracted.

Responding to Mr. Bradley's question about the specifics of this company, Mr. Hyman advised that Under Armour was a private company with a \$700 million - \$800 million revenue base. Within five years the business hoped to increase that amount to \$1 billion. University due diligence about this company had yielded very positive feedback.

Mr. Hyman noted that it was anticipated during the first year of transition (from Russell Athletics to Under Armour) football equipment expenditures would total \$500,000 of the product's wholesale price or \$1 million of the retail price. The other sports programs, therefore, would have available \$100,000 (wholesale) or \$200,000 (retail) to expend on equipment. During years 2-6, it was anticipated that football outfitter needs would total \$350,000 wholesale or \$700,000 retail; for the other sports programs, the expenditure figure would total \$250,000 wholesale or \$500,000 retail.

Mr. Hyman continued by framing this proposed outfitter contract within the context of the marketplace; no other school in the country had negotiated an outfitter agreement of this magnitude. He further commented that it was comparable to other institutional all sports agreements. He cited Auburn University which had negotiated an all sports \$10.6 million contract with Under Armour for a five-year

term; Virginia Tech had signed an eight-year all sports contract with the company for \$9.7 million (with less than half of the proposed Carolina cash component). "In the marketplace, this is a phenomenal deal."

Because the various sports had not been bundled together under the proposed contract, the overall value, Mr. Hyman believed had increased enormously. Those programs (i.e., baseball, basketball, track) had separate contractual equipment arrangements. In the future, consideration will be given to the possibility of other sports "folding into" the Under Armour agreement as their current contracts expired; most will terminate on June 30, 2007. The Athletics Department had been intensely discussing and reviewing various options for the future. Mr. Parham informed the committee that Under Armour would be very interested in contracting with the other sports.

Mr. Bradley moved approval of all of the terms and conditions of the football team equipment, accessories, and apparel contract between the University and Under Armour, Inc., as described in the materials circulated and including the additions and amendments discussed during this meeting particularly that the audited financial data on Under Armour, Inc. will be provided to the University today for future study and such information shall be provided every year thereafter.

A copy of the formal document containing all of the specific language of this contract will be distributed to the Committee as soon as practicable.

Mr. Whittle seconded the motion. The vote was taken, and the motion carried.

II. Adjournment: Since there were no other matters to come before the Committee, Chairman Adams declared the meeting adjourned at 11:40 a.m.

Respectfully submitted,

Thomas L. Stepp  
Secretary