

**MINUTES OF THE
EXECUTIVE COMMITTEE OF THE BOARD OF TRUSTEES
OF ATHENS STATE UNIVERSITY
November 14, 2022**

The Executive Committee of the Board of Trustees of Athens State University (the “University”) held a meeting at 3:00 pm on Monday, November 14, 2022, in Sandridge Student Center 126, Athens, Alabama.

I. PRESIDING: Senator Arthur Orr

The Board of Trustees Executive Committee meeting was called to order at 3:00 pm by Senator Orr. On roll call, the following members of the Executive Committee of the Board of Trustees of the University answered present:

Senator Arthur Orr (Chair)

Mr. Jim America

Mr. Dus Rogers (electronically)

Mrs. Missy Ming Smith

Cathy Dickens was absent. The members answering present constituted a quorum to conduct business.

Also present, Jackie Gooch, Secretary to the Board of Trustees (Recording), Mr. Bill Dunnavant, Dr. Yahia Fadlalla, Dr. Keith Ferguson, Ms. Belinda Krigel, Dr. Kim LaFavor, Ms. Sarah McAbee, Mr. Mike McCoy, Mrs. Betty Ruth, and Dr. Catherine Wehlburg. In addition, 67 other individuals joined via zoom.

II. Approval of Agenda

On a motion made by Mr. America and seconded by Ms. Smith, Executive Committee approved the agenda by affirmative votes (4-0) of members answering present.

III. Approval of Meeting Minutes – On a motion made by Mrs. Smith and seconded by Mr. America, the Executive Committee approved the November 7, 2022 minutes by affirmative votes (4-0) of members answering present.

IV. New Business: Discussion and Acceptance of President Way’s Resignation Resolution No. 1-11-14-2022 – On a motion made by Mr. Rogers and seconded by Mr. America, the Executive Committee adopted Resolution No. 1-11-14-2022 and accepted the resignation of Dr. Philip Way as President of Athens State University effective December 31, 2022 by affirmative votes (4-0) of members answering present.

Mrs. Smith thanked Senator Orr for his work and confirmed that the resolution mandates follow the President’s initial contract requirements.

Senator Orr thanked Dr. Way for his service to the University.

V. Other Business - None.

VI. Adjournment

Senator Orr adjourned the meeting at 3:04 pm.



Athens State University Board of
Trustees
Executive Committee

Resolution No. 1-11-14-2022

WHEREAS, Dr. Philip Way has announced his resignation as President of Athens State University, to be effective on December 31, 2022;

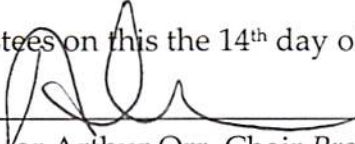
WHEREAS, the Executive Committee thanks Dr. Way for his service to this institution and wishes him the very best in his future endeavors; and

WHEREAS, the Executive Committee wishes to accept Dr. Way's resignation, as stated herein.

NOW, THEREFORE, BE IT RESOLVED by the Executive Committee of the Athens State University Board of Trustees on this the 14th day of November, 2022, as follows:

1. The Executive Committee, on behalf of the Athens State University Board of Trustees, accepts Dr. Way's resignation.
2. The Executive Committee hereby authorizes Chairman *Pro Tempore* Arthur Orr, for and on behalf of the board of trustees, to enter into a *Resignation Agreement – Athens State University* with Dr. Way, in substantially the same form as is set forth in *Attachment A* hereto.

ADOPTED by the Executive Committee of the Athens State University Board of Trustees on this the 14th day of November, 2022.



Senator Arthur Orr, Chair *Pro Tempore*, Athens State University Board of Trustees
Chairman of the Executive Committee of the Athens State University Board of Trustees

Attested by:



Secretary, Board of Trustees and Executive Committee

**RESIGNATION AGREEMENT
ATHENS STATE UNIVERSITY PRESIDENT**

This *Resignation Agreement – Athens State University President* (the “Resignation Agreement”) is entered into by and between the Athens State University Board of Trustees (the “Board”) and Philip K. Way (“Way”), and is subject to the terms and conditions hereinafter set forth.

RECITALS

WHEREAS, Way has decided to resign from his appointment as the President of Athens State University (the “University”), effective December 31, 2022;

WHEREAS, the Board appreciates and commends Way’s service to the University;

WHEREAS, the Board and Way are parties to that certain *Contract of Employment – Athens State University President*, made effective May 17, 2019 (the “Agreement”); and

WHEREAS, Way and the Board, pursuant to Section 13.3 of the Agreement, have agreed upon the terms set forth herein related to Way’s resignation.

NOW, THEREFORE, in consideration of the mutual conditions and covenants contained herein, it is agreed by and between Way and the Board as follows:

RESIGNATION AGREEMENT

Section 1. Resignation. Way does hereby tender his resignation as President of Athens State University, to be effective at 11:59 PM on December 31, 2022, and the Board accepts that resignation, according to the terms set forth herein. As such, the Term shall conclude at that time. Except with respect to services rendered by Way prior to the end of the Term, and except as otherwise stated in this Resignation Agreement, all compensation and benefits for Way’s service as the University’s President shall cease at the conclusion of the Term.

Section 2. Severance Payments.

(a) The University shall pay the following amounts to Way (collectively, the “Severance Payments”): (i) the Base Salary for one (1) year following December 31, 2022; (ii) the continuation of the health insurance benefits described in Section 5.2 of the Agreement for one (1)

year following December 31, 2022; and (iii) the retirement contribution referenced in Section 5.4 of the Agreement for one (1) year following December 31, 2022. Way will not be entitled to any other compensation, pay or benefits from the University during such time except as otherwise provided herein or required by applicable law.

(b) The University shall pay the Severance Payments on a monthly basis over the twelve (12) month period following December 31, 2022.

Section 3. Professor Status / Special Assistant to the Board Status.

(a) As of January 1, 2023, the University will hire Way as, and Way will be placed and assume the status of, a full-time professor in the College of Business of the University. In such capacity: (i) Way shall hold the rank of Professor; (ii) Way shall be a tenured faculty member subject to the policies of the University related to tenured faculty members hired after October 1, 2012; (iii) Way will be placed on administrative leave for a twelve (12) month period, commencing on January 1, 2023 and ending on December 31, 2023, for him to prepare for his teaching duties at the conclusion of such leave, except that during such period, Way shall be referred to as a "Special Assistant to the Board" and will provide such assistance and consulting as may be required of him by the University's acting President, new President, and/or its Chair *Pro Tempore* of the University's Board of Trustees; and (iv) except as otherwise stated herein, Way shall be subject to all of the laws, policies and guidelines generally applicable to faculty members of the University hired after October 1, 2012. During such leave period, Way shall not have an office on campus.

(b) During such twelve (12) month administrative leave period, Way will be paid the Severance Payments as set forth in Section 2 herein, but he will not be entitled to earn or receive any other, further or different compensation or benefits (including but not limited to the accrual of any form of leave) during that time with respect to his employment as professor (except that Way may be entitled to retirement credit through his participation in the State Retirement System, if permitted by such system, to the extent that it does not involve or require any additional pay or compensation from the University). At the end of such administrative leave, beginning on January 1, 2024, Way will be paid an annual salary with respect to his employment as a University professor, and such salary shall be in the same amount that the highest paid full-time tenured professor at the University will receive in base salary for rendering the services of a professor

during that same calendar year. Beginning on January 1, 2024, Way shall also be entitled to earn and receive the same employment benefits as are generally applicable to such University faculty employees. Way's annual salary shall be revised on January 1 of each succeeding calendar year that he remains employed in such capacity so that his salary reflects the same amount as the highest paid full-time tenured professor at the University will receive in base salary for rendering the services of a professor during that succeeding calendar year. (If such highest paid professor's base salary includes payment for teaching courses during the summer term, then Way shall also teach courses during the summer term.) Way's annual salary shall also be subject to additional increases and adjustments in the event that the University assigns, and Way accepts, other functions, duties, and assignments not generally performed by a full-time professor.

(c) As a professor, Way's employment relationship with the University and the Board, including but not limited to any subsequent termination from his faculty position (except as otherwise expressly stated herein), will be governed by the policies and guidelines of Athens State University as it relates to tenured University faculty hired after October 1, 2012, and not by this Resignation Agreement.

Section 4. Residence / Office.

(a) The University maintains 209 East Bryan Street, Athens, Alabama as the official residence of the University's President (the "Residence"), and as President, Way has resided in the Residence as required by the Agreement. Way and his family shall vacate the Residence not later than January 31, 2023, at 11:59 PM. However, in the event that the vacation of the Residence is delayed by unusual circumstances outside of Way's control, then Way shall notify the University, and Way shall not be required to vacate the Residence until February 17, 2023, at 11:59 PM. The University shall continue to pay all reasonable, necessary, and appropriate cleaning expenses for the Residence, and to maintain the Residence in good repair, until such date. The University shall also continue to pay for all utilities, cable/internet/phone for the Residence until such date. When Way vacates the Residence, there may be moving costs. If Way does not benefit from moving expenses being paid by a third party, then the University agrees to reimburse Way for moving expenses other than mileage, to include any belongings in the Residence and all those in storage, in an amount not to exceed \$5,000.00.

(b) Way shall vacate the office of the President in Founder's Hall on December 31, 2022, the date of his resignation as President. However, in the event that Way's vacation of that office is delayed by unusual circumstances outside of Way's control, then Way shall notify the University, and Way shall not be required to vacate the office until January 14, 2023, at 11:59 PM.

Section 5. Reimbursements. From the date of this Resignation Agreement, Way may be reimbursed by the University solely for reasonable and necessary costs and expenses that are directly related and in connection with his duties as President. Way will submit all requests for reimbursement of any costs or expenses during the Term that are allowed by the Agreement to the University on or before December 31, 2022. If such requests for reimbursement are not tendered to the University by such date, then they will not be owed or reimbursed by the University. This Section 5 shall not apply to the reimbursement of any costs authorized by Section 4.

Section 6. Indemnity. The provisions of Section 14.6 of the Agreement (concerning the University's indemnification of Way for certain claims arising while Way was President) shall remain in effect.

Section 7. Other Employment.

(a) Notwithstanding anything herein to the contrary, should Way, in the reasonable judgment of the Board (or its Executive Committee), obtain other full-time employment outside the University that is commensurate with Way's training and experience (including but not limited to, a teaching or management position at an institution of higher learning, and/or consulting work related to higher education), then (i) the University's obligation to make Severance Payments shall be reduced by the amount of Way's income from such other employment for the remaining months of the University's obligations under the provisions related to the Severance Payments, and (ii) Way shall be deemed to have resigned from his position as a University professor at the conclusion of the period of administrative leave.

(b) Way shall notify the University of the existence and nature any other employment within one (1) week of accepting such employment. For purposes of this Section 7, "full-time employment" shall be construed as any employment or contractual relationship between Way and any third party, (i) reasonably requiring more than twenty (20) hours of obligation and/or work by

Way per week on a regular basis, or (ii) whereby Way will render services in exchange for compensation that is in excess of \$7,000 over the course of any period of 30-days or less (or, if paid over a longer period, is equivalent to in excess of \$7,000 over a 30-day period if equally apportioned over such longer period).

Section 8. Tax Issues. Way shall be responsible for any federal, state, or local income tax liability incurred as a result of payments made as compensation or benefits provided to Way pursuant to the Agreement or this Resignation Agreement.

Section 9. Resolution of All Claims. The Severance Payments and other benefits/compensation provided to Way as set forth herein are intended to be (and are conditioned on being) in full settlement and resolution of any and all claims by Way arising out of or related to his employment as President of the University. To that end, Way does hereby release and discharge the University, its officers, trustees, employees, and agents, from any and all claims, remedies, petitions, and causes of action, arising from or relating to Way's tenure as President of the University, including but not related to claims for benefits, compensation, expenses, and/or costs arising from or during Way's tenure as President (except for any breach of this Resignation Agreement). In no case shall the University be liable for the loss of any collateral business opportunities or any other benefits, perquisites, or income from any sources that may arise from or be related to Way's resignation as President.

Section 10. Miscellaneous.

(a) Except where they are otherwise defined herein, the words and phrases used in this Resignation Agreement (including but not limited to "Base Salary" and "Term") shall have the same meanings as those terms set forth in the Agreement.

(b) The terms of this Resignation Agreement shall control over any contrary or contradictory provision in the Agreement. By way of example and not as a limitation, the provisions of this Resignation Agreement control rather than the provisions of Section 13.2 of the Agreement concerning Way's resignation. The Agreement shall be deemed to be terminated on December 31, 2022, at 11:59 PM.

(c) This Resignation Agreement constitutes the entire understanding of the parties hereto concerning the subject matter hereof, and supersedes any and all prior or contemporaneous representations, agreements, or understandings, whether written or oral, between the parties. This Resignation Agreement cannot be changed or modified unless in a writing signed by the parties hereto.

(d) The terms of this Resignation Agreement are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

(e) This Resignation Agreement shall be interpreted and construed in accordance with the laws of the State of Alabama, excluding its choice of laws rules. A court of competent jurisdiction situated in Limestone County, Alabama (or in the appropriate federal court with responsibility over such county) shall be the forum for any lawsuit arising from or incident to this Resignation Agreement. The parties may mutually agree to mediate any disputes at any place or time.

(f) No delay or failure to enforce any provision of this Resignation Agreement shall constitute a waiver or limitation of rights enforceable under this Resignation Agreement.

(g) This Resignation Agreement is not assignable but shall be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of both parties.

(h) This Resignation Agreement may be executed by the parties in counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same document.

(i) All notices required or allowed by this Resignation Agreement shall be hand delivered or mailed by certified mail, postage prepaid, return receipt requested. Unless and until changed by a party giving written notice to the other, the addresses below shall be the addresses to which all notices required or allowed by this Resignation Agreement shall be sent:

If to the University: Athens State University, 300 N Beaty Street, Athens, AL 35611, Attn:
Chair of the Board of Trustees

With a copy to: University Counsel: E. Shane Black, Esq., Hand Arendall Harrison Sale, LLC; 102 South Jefferson Street, Athens, AL 35611

If to Way: Dr. Philip K. Way, 209 East Bryan Street, Athens, AL 35611

AGREED to and DATED this the 14th day of November, 2022.

Philip K Way
PHILIP K. WAY

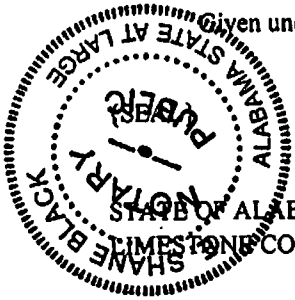
ATHENS STATE UNIVERSITY BOARD OF TRUSTEES

By: [Signature]
Arthur Orr
Its Chair Pro Tempore

STATE OF ALABAMA)
LIMESTONE COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Philip K. Way is signed to the foregoing Resignation Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the same, he executed the same voluntarily on the day the same bears date.

Given under my hand this the 11th day of November, 2022.

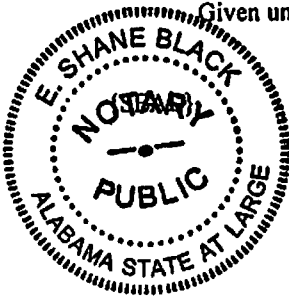


[Signature]
Notary Public
My Commission Expires: 8/17/26

STATE OF ALABAMA)
LIMESTONE COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Arthur Orr, whose name as Chair Pro Tempore of the Athens State University Board of Trustees, is signed to the foregoing Resignation Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the same, he, in his capacity as such authorized agent and with full authority, executed the same voluntarily for and as the act of said entity on the day the same bears date.

Given under my hand this the 14th day of November, 2022.



[Signature]
Notary Public
My Commission Expires: 8/17/26