

AGENDA
ARKANSAS STATE UNIVERSITY
BOARD OF TRUSTEES
Friday, January 9, 2015
11:00 a.m.
Magruder Hall, Room 108
Mid-South Community College
West Memphis, AR

I. Call to Order
Charles Luter, Chair

*II. Agenda

- Proposed ASU System Resolution
 - Resolution approving the merger of Mid-South Community College into the Arkansas State University System.

III. Other Business

*IV. Adjournment

*Action Item

Arkansas State University
Board of Trustees
January 9, 2015

The Arkansas State University Board of Trustees met on January 9, 2015, on the campus of Mid-South Community College in West Memphis, Arkansas, in McGruder Hall, Room 108. Charles Luter, Chair of the Board of Trustees, called the meeting to order at 12:00 p.m. Board members present were the following: Charles Luter, Howard Slinkard, Ron Rhodes, and Dan Pierce. Dr. Tim Langford was absent.

ASU System Resolution:

- Resolution 15-01, approving the merger of Mid-South Community College into the Arkansas State University System.

Dr. Welch spoke on the background of the merger, with the following comments:

In summing up today, no other word can be used except “historic” - historic, not only for Arkansas State University and Mid-South Community College, but also for the entire region and, indeed, for the State of Arkansas. This kind of partnership does not happen very frequently, and today I hope that we will all just take a moment to think about what this means for the future of our institutions and the future of our students. This collaboration will provide them with opportunities that we could not provide alone, but, together we can.

When I was hired by the board of trustees in 2010, I was given multiple charges. (Our chairman at the time was Ms. Florine Milligan, who is here today.) Among the charges the board gave me that day was to be an efficient system, a system that is built upon the importance of collaboration. We want to be a system that is constantly pushing forward and growing and developing as a system, and, therefore we want the same for our member campuses. We want to be a system that is not only focused on northeast Arkansas, but one that is a statewide system. Yet, we also always want to remember and focus on the Delta Region and the importance of trying to lift up this area and provide help to those who reside here. We want to help them improve their own lives, their family’s lives, and their community’s life. And as we talked about that growth and expansion, as we talked about what we wanted this system to become, we knew that we could not say yes to just anyone who called wanting to be a member of the ASU System. It

had to be the right fit; it had to be mutually beneficial, and it had to be an institution whose missions and values were in line with ours and with what we wanted the ASU System and our member campuses to become.

I think this day really reinforces that right-fit model, one that fits the model of being mutually beneficial; one that reinforces our commitment to educating students regardless of their background, regardless of whether or not anybody in their family has ever been to college, regardless of whether or not they have any past history with a college, and one that enhances our commitment to workforce development. If we realize that from an economic-development and a workforce-development standpoint, we can have great infrastructure, we can have great hospitals, we can have great parks and K-12 schools, and all of the above. But if we do not have an educated workforce with individuals who have postsecondary training, then we will not be successful in those economic endeavors that we pursue.

We are also a system that likes to push the envelope. If you have heard some of the recent announcements we have made, and seen the things that we are doing on all of our campuses, you will realize that we don't necessarily like to do what already has been done before. We like to blaze new trails; we like to push the envelope and be on the cutting edge. And I don't think anyone who knows Glen Fenter and anybody who knows his staff and this campus would say that they sit back and just let things happen. They get out and they make things happen. And so this campus is another perfect illustration of our desire to really get out in front of the issues and try to create a sort of chicken-and-egg context. Why would we train all of these individuals if we didn't have the jobs? Well, if we don't have the trained individuals, then we will never have the jobs. And job training is one of the things that Mid-South has done so well, and that we are so proud of. So we find multiple benefits to the Arkansas State University System - multiple benefits of having a campus that is nationally recognized for its efforts in workforce development, for its efforts in training, and its initiatives, such as the high school model and other achievements that really are cutting edge. But I hope you also recognize that this partnership is mutually beneficial to Mid-South Community College on multiple fronts, as well.

First of all, let me be very clear: our mission as a system is to function as a support for our campuses. We believe very strongly in local autonomy and in the local individuals helping us chart the path, as they know the communities better than anyone else. Our job is to help provide you with greater

statewide representation on the issues that will define the future of this institution. We will be of great assistance to this institution in the areas of finance and personnel management and the procedures we deal with on a statewide basis.

What this merger will also bring about is that collaborative front that provides the ability to work with our other campuses. You already work very closely with our campus in Newport with the ADTEC initiative. For ASU-Jonesboro, obviously we feel that there are lots of opportunities. We also work very hard to influence higher-education policy. Much of what we do in this system is work with our policymakers to make sure that, before bills become law, those bills have been thoroughly vetted. What that will do for Mid-South Community College is to ensure that when a bill becomes law, your interests have been represented on almost a daily basis. There are very few public policies in this state that become law today in which Arkansas State University does not have input, and now if you become a member of this system, hopefully you will have that same opportunity to make sure that it will be done in a way that directly benefits this institution.

Upon a motion by Mr. Pierce, seconded by Mr. Slinkard, Resolution 15-01 was approved

AYES: Luter, Slinkard, Rhodes, Pierce

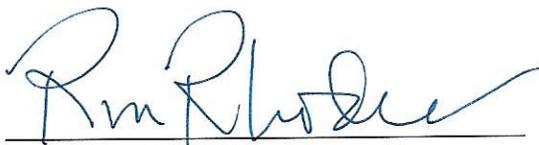
NAYS: None

Adjournment

Upon a motion by Mr. Rhodes, seconded by Mr. Pierce the meeting adjourned at 1:10 p.m.

AYES: Luter, Slinkard, Rhodes, Pierce

NAYS: None



Ron Rhodes, Secretary



Charles Luter, Chair

MERGER OF
MID-SOUTH COMMUNITY COLLEGE
INTO
ARKANSAS STATE UNIVERSITY SYSTEM

WHEREAS, the Board of Trustees of Arkansas State University has been vitally concerned with increasing the educational opportunities in the eastern Arkansas Delta region and with providing an appropriate response to the need for expanded higher education opportunities for citizens in the region; and

WHEREAS, the Board of Trustees of Mid-South Community College has expressed a similar concern for providing more accessible quality higher education opportunities suitable to the economic and cultural development of its service area in the eastern Arkansas Delta region, including Crittenden County, Arkansas, and surrounding areas, and the greater Memphis metropolitan area; and

WHEREAS, there are cogent reasons for taking measures to increase and improve the delivery of higher education in the eastern Arkansas Delta region for the benefit of the region and of the State of Arkansas, including those increased efforts which will produce the educational, scientific, technical, and cultural contributions required to correspond with the development of the eastern Arkansas Delta region; and

WHEREAS, a merger will enhance educational opportunities for the citizens in the specified region by providing the benefits of the Arkansas State University System while retaining the community commitment of Mid-South Community College as well as the loyalty, support, and contribution so demonstratively evidenced by citizens of the MSCC service area in the creation and growth of the college; and

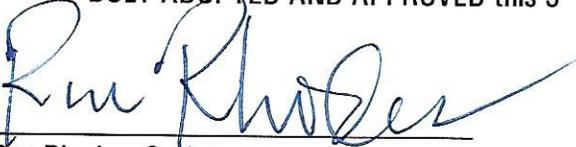
WHEREAS, it has been determined that it is in the best interests of the parties, of the citizens served by Mid-South Community College, and of the State of Arkansas that Mid-South Community College become part of the Arkansas State University System, to be managed and controlled by the Board of Trustees of Arkansas State University for the benefit of citizens of the eastern Arkansas Delta region and the State of Arkansas; and

WHEREAS, the Board of Trustees of Arkansas State University is willing to accept the transfer of said assets, liabilities, and responsibilities, and the Board of Trustees of Mid-South Community College is willing to transfer them upon the terms and conditions of the attached Agreement; and

WHEREAS, A.C.A. §6-60-102 authorizes and encourages the voluntary consolidation and merger of public higher education institutions, including existing systems of public higher education institutions that add two-year institutions to the system;

NOW, BE IT THEREFORE RESOLVED, that the President of the Arkansas State University System is hereby authorized and directed to execute the attached Agreement of Merger and Plan to Transition to effectuate the merger of Mid-South Community College into the Arkansas State University System, the resulting entity to be known as Arkansas State University Mid-South.

DULY ADOPTED AND APPROVED this 9th day of January, 2015.



Ron Rhodes, Secretary



Charles Luter, Chair

**AGREEMENT OF MERGER AND PLAN OF TRANSITION
BETWEEN
THE ARKANSAS STATE UNIVERSITY SYSTEM
AND MID-SOUTH COMMUNITY COLLEGE**

This Agreement of Merger and Plan of Transition (referred to as Agreement and/or Plan) is made and entered into on the date of full execution, indicated by all required signatures herein, between the Board of Trustees of the Arkansas State University System (the ASU System), a state higher education system created pursuant to the laws of Arkansas, and the Board of Trustees of Mid-South Community College (MSCC), a state higher education institution created pursuant to the laws of Arkansas.

WHEREAS, the Board of Trustees of the Arkansas State University System has been vitally concerned with increasing the educational opportunities in the eastern Arkansas Delta region and with providing an appropriate response to the need for expanded higher education opportunities for citizens in the region; and

WHEREAS, the Board of Trustees of Mid-South Community College has expressed a similar concern for providing more accessible quality higher education opportunities suitable to the economic and cultural development of its service area in the eastern Arkansas Delta region, including Crittenden County, Arkansas, and surrounding areas, and the greater Memphis metropolitan area; and

WHEREAS, there are cogent reasons for taking measures to increase and improve the delivery of higher education in the eastern Arkansas Delta region for the benefit of the region and of the State of Arkansas, including those increased efforts which will produce the educational, scientific, technical, and cultural contributions required to correspond with the development of the eastern Arkansas Delta region; and

WHEREAS, this Plan has been agreed upon for the expansion of both MSCC and the ASU System to more effectively and efficiently serve the increasing needs of the region and of the State of Arkansas as a whole, with additional educational and technical training opportunities for citizens, directly benefiting civic, business, and economic development interests of the eastern Arkansas Delta region and the larger Memphis metropolitan area, which also strengthens the regional economy; and

WHEREAS, this Plan will enhance educational opportunities for the citizens in the specified region by providing the benefits of the Arkansas State University System while retaining the community commitment of Mid-South Community College as well as the loyalty, support, and contribution so demonstratively evidenced by citizens of the MSCC service area in the creation and growth of the college; and

WHEREAS, this Plan will underscore and enhance the work, contributions, and aspirations of all who, with justified pride, are responsible for the institution known as Mid-South Community College and will achieve economy for the region and for the State of Arkansas in meeting increasing enrollments and educational demands without the initial outlay required to start a new institution by incorporating an established institution into the Arkansas State University System of higher education; and

WHEREAS, it has been determined that it is in the best interests of the parties, of the citizens served by Mid-South Community College, and of the State of Arkansas that the Board of Trustees of Mid-South Community College transfer to the Board of Trustees of the Arkansas State University System the assets and liabilities herein described, so that Mid-South Community College will become part of the Arkansas State University System, to be managed

and controlled by the Board of Trustees of the Arkansas State University System for the benefit of citizens of the eastern Arkansas Delta region and the State of Arkansas; and

WHEREAS, the Board of Trustees of the ASU System is willing to accept the transfer of said assets, liabilities, and responsibilities, and the Board of Trustees of Mid-South Community College is willing to transfer them upon the terms and conditions of this Agreement; and

WHEREAS, A.C.A. §6-60-102 authorizes and encourages the voluntary consolidation and merger of public higher education institutions, including existing systems of public higher education institutions that add two-year institutions to the system;

THEREFORE, the respective Boards of these entities hereby agree as follows:

I. Merger

Mid-South Community College will become a member campus of the Arkansas State University System and, as a member of the System, will not be a branch campus or satellite campus of any two- or four-year institution in the ASU System. The ASU System agrees to maintain and oversee operations of Mid-South Community College, after merger to be known as Arkansas State University Mid-South (ASU Mid-South), as an institution of higher learning in the eastern Arkansas Delta region and a campus in the ASU System. This Agreement is entered into so that both parties can provide for sound growth of and sustain ASU Mid-South as a first-class community college according to a plan of transition calling for specific action by the ASU System and MSCC. This Agreement is entered into so that MSCC will be fully merged into the Arkansas State University System, which will be the surviving legal institution and which will continue to be governed by the laws of the State of Arkansas with the ASU

System receiving and assuming, upon the date of transfer, the assets and liabilities of MSCC to the extent provided herein.

II. Educational Programming

ASU Mid-South, as a campus in the Arkansas State University System, utilizing facilities, faculty, staff, and other MSCC resources, will continue to offer short-term technical programs, associate degree programs, non-credit business and industry training, workforce education and career opportunity training, remedial and developmental courses, GED and literacy courses, concurrent high school academy programming, and applied and traditional baccalaureate degree courses provided by current and future Arkansas Delta Training and Education Consortium (ADTEC) University Center partners. The President of the ASU System and the Chancellor of ASU Mid-South will work with the Chancellor of ASU-Jonesboro to support proactivity in bringing baccalaureate programs to the ADTEC University Center on the ASU Mid-South campus and in investing the necessary resources to promote them and recruit students into the programs, including ASU-Jonesboro scholarship opportunities for eligible students who enroll in baccalaureate programs offered through the ADTEC University Center. These scholarship opportunities will also be available for students who have enrolled in on-line or alternative delivery baccalaureate programs, which represent a core tenet of the ADTEC University Center model.

III. Institution Name

The Arkansas State University System will assign the name Arkansas State University Mid-South (ASU Mid-South) to the resulting community college, that name being descriptive

of its broad function; the multi-state, regional component of its mission; its location; and the fact that it is a campus within the Arkansas State University System.

IV. Board of Visitors

A Board of Visitors for ASU Mid-South will be constituted, and the persons serving at the effective date as members of the MSCC Board of Trustees will be appointed to the ASU Mid-South Board of Visitors by the ASU System Board of Trustees. Each appointee will be named for a term equal to the unexpired portion of his or her term as a member of the MSCC Board of Trustees, with the one-time exception that the three (3) members whose terms are due to expire as of June 30, 2015, will have their terms renewed to ensure continuity in Mid-South's transition to the ASU System. As terms expire, or as vacancies occur for any reason, the remaining members of the ASU Mid-South Board of Visitors will recommend to the Chancellor of ASU Mid-South the names of three (3) residents representative of the ASU Mid-South service area for the purpose of filling each vacancy. From the three (3) recommended names, the Chancellor of ASU Mid-South will recommend to the ASU System President an appointment to fill each vacancy. Appointments of new members to the Board of Visitors will be for terms of six years or for the remaining portion of the unexpired term. The Board of Visitors will elect from its members a Chairperson, a Vice-Chairperson, and a Secretary and will meet quarterly at least two weeks prior to a regularly scheduled meeting of the ASU System Board of Trustees. Regular minutes of ASU Mid-South Board of Visitors meetings will be preserved. The general purposes of the Board of Visitors will be to perform a liaison and advisory function between ASU Mid-South and residents of its service area, to aid in securing financial support, to advise upon the educational and service needs of the service area, to assist

Arkansas State University System endeavors to aid in the orderly transition of ASU Mid-South as it becomes an Arkansas State University System campus, and to furnish counsel and guidance for the resulting institution. The ASU System agrees that the Chairperson of the ASU Mid-South Board of Visitors or his/her designee will be invited to attend all meetings of the ASU Board of Trustees to support effective representation of the interests of ASU Mid-South and so that the ASU Mid-South Board of Visitors will have an enhanced understanding of the policies, procedures, and operation of the ASU Board of Trustees.

All communication, including advice and recommendations, from the ASU Mid-South Board of Visitors will be transmitted through the Chancellor of ASU Mid-South to the President of the Arkansas State University System, who may then provide that communication to the Arkansas State University System Board of Trustees. The Chancellor of ASU Mid-South will be an executive employee of the Arkansas State University System and will report to the President of the ASU System.

The parties recognize that ASU Mid-South cannot be an autonomous institution and yet be a part of the ASU System. The legal relationship and the desirable educational direction required by this Agreement and the integration of the resulting institution into the ASU System are understood to include the governance of ASU Mid-South by the ASU System Board of Trustees and the President of the Arkansas State University System.

V. Mission, Executive Role, Accreditation, and Intellectual Property

The ASU System accepts and supports the comprehensive community college mission and purposes of Mid-South Community College and its establishment by and for the citizens of its service area and commits to continuation of the same. The ASU System accepts and supports the current mission, goals, strategic and operational plans, and productivity plan of Mid-South

Community College as well as the state-assigned role and scope of Mid-South Community College and commits to continuation of the same. The ASU System additionally commits to fully support the continuing recognition of Mid-South Community College as a regional and national model for workforce education recognized for educational excellence and innovative partnerships with business and industry.

ASU Mid-South will be led by a Chancellor who will be the chief executive officer. The Chancellor will be employed by the Arkansas State University System upon recommendation of the ASU System President and approval of the ASU Board of Trustees, after appropriate input from the ASU Mid-South Board of Visitors. On the date of transfer, the President of Mid-South Community College will become the initial Chancellor of ASU Mid-South. The Chancellor of ASU Mid-South will be responsible to the President of the ASU System through the President to the ASU System Board of Trustees. The Chancellor's powers and responsibilities, prescribed by the President and the ASU Board of Trustees, will be those usually associated with those of the chief executive officer of a college campus. The ASU Mid-South Board of Visitors, the President of the ASU System, and the ASU System Board of Trustees will establish the expectation that and assure that, in any future vacancies of the Chancellor position, all finalists for the position understand, appreciate, and commit to support and continue the unique mission and philosophy of ASU Mid-South. Effective immediately upon execution of this Agreement, the ASU System President shall chair the search committee for any search for the position of President of Mid-South Community College. The ASU System President shall appoint members to the search committee with representation from the ASU System, the ASU Mid-South Board of Visitors, and ASU Mid-South employees. The

committee will interview and recommend candidates to the ASU System President. This provision shall remain in effect after the date of transfer and shall apply to all vacancies of the Chancellor position.

ASU Mid-South will strive to deliver a broad program of undergraduate educational services, focusing on short-term certificates, associate degree programs, and business and industry training for adults and high school students, as well as remedial and developmental courses, student tutoring and success counseling, and GED/Literacy preparation, which are also primary needs of the service area. ASU Mid-South will sustain and/or achieve any required full accreditation for such programs. The ultimate determination by ASU Mid-South of the exact programs to be established or maintained, including curricula, scope of educational services, and community service are matters of informed educational judgment in relation to identified needs of business and industry and the service area. The ASU System will, in good faith and taking into full consideration any recommendation of the ASU Mid-South Board of Visitors, exercise judgment with a view toward the best welfare of ASU Mid-South regarding the educational offerings.

In doing so, the best interests of higher education and economic development in the eastern Arkansas Delta region, the greater Memphis metropolitan area, and the State of Arkansas will be considered, as well as the quality of the programs chosen to be maintained. It is recognized that, consistent with financial limitations, the region and State may be best served by maintaining programs which at times duplicate existing programs offered by the ASU System at other locations. The ASU System acknowledges that MSCC has expended considerable time and effort in developing educational programs and support services specific to its campus including the MSCC Technical Center, the Academies of West Memphis, and the Goldsby Scholarship,

which serves qualified area high school students; the Arkansas Delta Training and Education Consortium; the ADTEC University Center, including degree offerings by a number of four-year institutions in addition to those offered by ASU-Jonesboro when ASU-Jonesboro is unable or unwilling to offer needed programs; the KWEM radio project; the Jeremy Jacobs Hospitality Program; the Greyhound athletic teams; grant programs for developing or expanding workforce training capacity; the alternative fuel programs with Montana State University Northern and the University of Memphis; and substantial infrastructure additions. The ASU System agrees to the continuation of these programs and services as well as to continued support for their enhancement and expansion as long as the ASU Mid-South Chancellor, with appropriate input from the ASU Mid-South Board of Visitors, and the ASU System President consider them to remain viable and resources are available.

The institution that will be ASU Mid-South will be responsible for sustaining regional accreditation of ASU Mid-South by the Higher Learning Commission of the North Central Association and for program specific accreditations as well.

Income generated from intellectual property created by employees at ASU Mid-South, as well as any created by employees of Mid-South Community College which is carried forward with the merger, will be distributed to the Originator and to ASU Mid-South with any/all realized institutional revenues remaining on the ASU Mid-South campus.

VI. Policies, Operating Procedures, Internal Governance, Budget, and Personnel

As specified in this Agreement and its attachments, the ASU Board of Trustees will accept ASU Mid-South's current operating procedures, internal governance, and established traditions, which may differ from those specified for other ASU System campuses such as, but not limited to, MSCC employee benefit packages for eligible individuals employed on the date

of this merger including tuition waivers, retirement plans/providers and established percentages and insurance plans. ASU Mid-South will continue to serve as lead institution and fiscal agent of the Arkansas Delta Training and Education Consortium (ADTEC) and the ADTEC University Center, which supports baccalaureate and advanced degrees from a number of universities. Other continuing initiatives shall include the Goldsby Scholarship, the Academies of West Memphis, the Greyhound sports teams, the KWEM radio project, the alternative fuel projects, grant programs in support of expanding workforce training, and the Jeremy Jacobs Hospitality Program, provided that these are consistent with the laws and regulations of the State of Arkansas.

To ensure support for the transition and protection of current MSCC employees, the ASU Mid-South Board of Visitors will review and recommend staffing and budget model changes, which the Chancellor of ASU Mid-South will subsequently provide to the President of the Arkansas State University System, who, if in agreement, will submit to the ASU Board of Trustees. The ASU Mid-South Board of Visitors will have advisory responsibility to the ASU Mid-South Chancellor for the college's operating budget, including the establishment of tuition and fees and indirect costs obtained through grants. The ASU Mid-South Chancellor will present recommendations to the President, who will be responsible for making recommendations to the Board of Trustees. The ASU System will accommodate in good faith the employment contracts of the administration, faculty, and staff of Mid-South Community College, entered into prior to the merger. In the same manner as other ASU chancellors, under delegated authority by the ASU System President, the Chancellor of ASU Mid-South will retain all rights and responsibilities pertaining to the employment of qualified faculty and staff to operate ASU Mid-South and to deliver quality educational programming and workforce

training in support of the unique mission, purposes, and goals of the institution. The ASU System recognizes that ASU Mid-South will continue in its role and scope as officially designated by the Arkansas Higher Education Coordinating Board. As such, ASU Mid-South will require faculty credentials that are appropriate only for the certificate and associate degree levels, in accordance with Arkansas Higher Education Coordinating Board requirements, and the ASU System will not require any expectations or credentialing requirements that would not be consistent with that role and scope. Should the ASU Mid-South role and scope expand, the ASU Mid-South Chancellor will review and recommend, if necessary, faculty credential changes, in accordance with Arkansas Higher Education Coordinating Board requirements, which the Chancellor of ASU Mid-South will subsequently provide to the President of the Arkansas State University System, who, if in agreement, will communicate with the ASU Board of Trustees. Mid-South Community College represents and affirms that its current and future faculty will possess the appropriate credentials for that institution.

ASU Mid-South will continue its policies of equal employment opportunity for all qualified applications and will further seek to employ future faculty, staff, and administrators from and representative of the ASU Mid-South local community and surrounding areas, provided that they meet the standards and qualifications mandated by the Arkansas Higher Education Coordinating Board and the State Office of Personnel Management for such positions in Arkansas.

VII. Transferability of Credit within the ASU System

Credit will be freely transferrable between ASU Mid-South and other ASU System campuses. The specific application of credits to the various degree programs of ASU campuses will be determined by the respective colleges of the receiving campuses, which will make

diligent efforts to assure that ASU Mid-South students will be advised of the extent to which credits will apply to various degree programs.

The ASU System will consider ASU Mid-South students to be students of the ASU System; and, as such, they will enroll with the same full faith, credit, and opportunity for success that they would have at any other ASU System campus, including access to 2 + 2 scholarships, if they meet the academic criteria.

VIII. Equality of Treatment within the ASU System

The ASU System declares its intent that the System policies and procedures applied in operating the ASU Mid-South campus will be the same as those applied to other campuses and divisions of the ASU System with the purpose that there will be no unwarranted distinctions which might operate to discriminate against ASU Mid-South. This equality of treatment between campuses and divisions of the ASU System will, as a principle, be observed by the ASU Board of Trustees; and any distinctions in policy and procedure germane to ASU Mid-South now or in the future will be made only when there is a considered, rational foundation supporting the difference in classification or related changes in this Agreement.

IX. Transfer of Assets and Liabilities

MSCC will transfer and assign to the ASU System, and the ASU System will accept and assume, all assets and liabilities of MSCC on the date of transfer. MSCC represents and warrants to the ASU System that as of the date of execution of this Agreement, there are no undisclosed liabilities which are material and the existence of which would materially affect the performance of this Agreement by the ASU System and MSCC. ASU assumes liabilities of MSCC on outstanding bonded indebtedness not as a general obligation of ASU but as solely secured by a pledge of the revenues of MSCC set forth in the respective resolutions,

agreements, and other documents and instruments in connection with such bond issues. In the event that MSCC becomes aware of a previously undisclosed liability which is material, or a new liability which is material, MSCC shall promptly notify the President of the ASU system in writing. A new material liability, or a previously undisclosed material liability, shall be a sufficient justification for the ASU system to not proceed with this merger.

MSCC accepts that the college will be assessed an annual ASU System membership fee. ASU-Mid South will be assessed based on a formula utilized by the ASU System to assess all member campuses. The initial assessment for ASU-Mid South will be approximately \$25,000 based on the formula. The ASU System agrees that all current and future property and funds conveyed or transferred to it by MSCC under the terms of this Agreement or the proceeds thereof, will be used after the date of transfer by the ASU System only for the programs, purposes, and obligations of ASU Mid-South and its current and future students, and not for any other campus of the ASU System or System operations, to assure the continued high quality and excellence of ASU Mid-South. The ASU System designates the Chancellor of ASU Mid-South, with input from the ASU Mid-South Board of Visitors, as the sole entity responsible to the ASU President and the ASU System Board of Trustees for the expenditure of locally raised tax revenues on behalf of ASU Mid-South.

X. MSCC Foundation

The ASU System is aware that MSCC currently has a charitable foundation used to support its mission. The ASU System Board of Trustees has recognized the autonomy of separate 501(c)(3) organizations devoted to specific constituent groups of the ASU System. The MSCC Foundation will remain an autonomous body, and the ASU System will recognize and accept the MSCC Foundation, its status as an independent entity, its policies and procedures, and continuation of its right to continue on behalf of its chartered purposes and to manage the assets

and expenditures under the direction of the MSCC Foundation Board of Directors. Such assets include ownership of the Fidelity Carlson House, which serves as the residence of the president/chancellor and which the college maintains. The ASU Foundation is available, if requested by the MSCC Foundation Board, to assist the MSCC Foundation and to receive, receipt, manage, hold, maintain, invest, and distribute private resources for the benefit of ASU Mid-South as it does for the other ASU System constituent campuses.

XI. Service of Process

The ASU System, of which ASU Mid-South will be a constituent institution, agrees that it may be served with process in the State of Arkansas in any proceeding for enforcement of any obligation of Mid-South Community College assumed pursuant to this Agreement, as well as for enforcement of any obligation arising from this Agreement of Merger and Plan of Transition. The Board of Trustees of the ASU System appoints the President of the Arkansas State University System as agent to accept service of process at the following address: President, Arkansas State University System, 501 Woodlane, Suite 600, Little Rock, AR 72201. The President of the ASU System will inform the Chancellor of ASU Mid-South of any service of process and the nature of the proceedings. Nothing within this Agreement will be deemed to waive the sovereign immunity of Mid-South Community College, the Arkansas State University System, or the State of Arkansas.

XII. Transfer of Assets Documents

To facilitate the transfer of assets from Mid-South Community College to the Arkansas State University System, MSCC will furnish the following:

- A) Acceptable abstracts of title or policies of title insurance to all tracts of real property owned by or under MSCC control, showing marketable title, and the originals or true

copies of all instruments under which MSCC holds endowment, trust, pledge, bequest, or gift funds;

- B) Documents showing unpaid accounts to contractors, laborers, and materialmen for which mechanics, laborers, or materialmen liens may be established against MSCC and/or its property and evidence showing bond or other protection thereon;
- C) Minute books of the Board of Trustees of Mid-South Community College for review and determination that all proceedings have been duly, legally, and properly held or taken;
- D) Documentation of all patents, trademarks, trade names, copyrights, policies of insurance, contracts, and commitments of Mid-South Community College which have not been completely performed; a current list of all employees and the rate of compensation of each; and the name of each bank or other institution in which there are accounts or safety deposit boxes and the names of all authorized signers with respect thereto;
- E) A Phase I environmental assessment acceptable to the ASU System for all real property to be transferred to the ASU System pursuant to this Agreement;
- F) Any other data or information needed by the ASU System in order to plan an orderly transition and merger including, but not limited to, financial data, enrollment data, and budgets; and
- G) Copies of all audits for the past three (3) years performed by the State Office of Legislative Audit or by any outside auditor together with balance sheets, income statements, and other financial books and records of MSCC including those showing all securities held by MSCC.

XIII. Certification of Funds and Assets

On the date of transfer, MSCC will certify that all funds and assets shown in the certificate of State Office of Legislative Audit described above are intact and on hand less and except expenditures for normal operations since the date of examination and said expenditures will be accounted for in full to the ASU System.

XIV. Transfer of Title

MSCC will transfer title to all real, personal, tangible, and intangible assets, held in its name, whether of record or not, on the date of transfer to the ASU System which will receive and use such properties and their proceeds for the sole use and benefit of ASU Mid-South, including all books, papers, records, and files under custody or control for the use of MSCC together with all funds, bank accounts, accounts receivable, bequests, trusts, endowments, investments, securities, grants, pledges, contracts, and other entitlements of MSCC. Said transfers are to be executed by appropriate instruments of transfer made by MSCC and accepted by the ASU System, provided that any assets originally received by bequest, pledge, devise, gift or trust, containing conditions and restrictions, if assignable to MSCC without incurring liability thereby, will, if accepted by the ASU System, be accepted and held upon the same conditions and restrictions as imposed by the donor or donors. MSCC will furnish a complete inventory of all the assets prior to the date of transfer.

XV. Relinquishment of Control, Responsibility, and Supervision

From and after the date of transfer, the MSCC Board of Trustees will relinquish all control, responsibility and supervision vested by law, or exercised in fact, over and to the institution and assets now known as Mid-South Community College which will thereafter be both owned and operated by the ASU System as provided for in this Agreement. ASU System

personnel understand that ASU Mid-South institutional funds should be invested and deposited locally when local opportunities are reflective of/equivalent to best investment options.

XVI. Conditions

The obligation of the ASU System and MSCC to effect the agreed merger will be subject to the following conditions:

- A. The representations herein contained will be substantially accurate in all material respects, and each party will have performed or complied with them prior to the applicable date.
- B. No material adverse change in financial conditions will have occurred, nor any material loss or damage to property or assets, whether or not covered by insurance, which change, loss or damage would materially affect or impair the ability of the other institution on the date of transfer.
- C. The execution of the terms of this Agreement will not conflict with, or result in a breach of, or constitute a default under, any agreement or instrument to which the other institution is a party except to the extent that the same will have been cured by written waiver, written consent of the other institution, or otherwise.
- D. The current president of Mid-South Community College, Glen F. Fenter, will be designated, upon his retirement, as *President Emeritus* of MSCC for life, as approved by the MSCC Board of Trustees.

XVII. Amendments

The President of the ASU System and the President of Mid-South Community College both understand and agree that further refinement of this Agreement may be desirable as policies and procedures affected by the merger are explored over the next few months. It is understood

that some MSCC policies and operating procedures may be sustained whereas others may be subject to revision or replacement by ASU System policies; therefore, both parties pledge themselves to finalize any additional clarifications or modifications no later than May 30, 2015. Upon mutual acceptance of any subsequent amendments by the President of the ASU System and the President of Mid-South Community College, a revised document shall be executed in writing and signed by both parties, thereto reflecting the final agreement.

Notwithstanding any terms of this Agreement, or subsequent modifications executed over the next few months, the Agreement of Merger and Plan of Transition may be terminated and abandoned by the parties at any time prior to the date of transfer by their mutual consent and thereafter neither party will have any further rights, obligations, or liabilities under this Agreement. If accepted, the two parties agree to a follow-up review to be completed by June 30, 2016, to ensure no further clarifications or modifications are needed.

XVIII. Obligation of Execution

Upon mutual agreement, the President of Mid-South Community College and the President of the ASU System each obligate themselves, prior to July 1, 2015, the effective date of the merger, to execute all necessary papers, documents, legal conveyances, and other instruments required to effectuate the purposes and intents of this Agreement. This merger is contingent upon approval by the Board of Trustees of the Higher Learning Commission, a Commission of the North Central Association.

XIX. Disclosure

This Agreement, together with agreed upon modifications, once accepted by both parties and ratified by both Boards, will embody the entire agreement between the ASU System and MSCC with respect to this merger, and there have been and there are currently no agreements,

representations, or warranties relating thereto between the parties other than those set forth herein or herein provided.

XX. Communication

All notices, requests, demands, and other communication regarding this Agreement will be made in writing and will be directed to President, Arkansas State University System, 501 Woodlane, Suite 600, Little Rock, AR 72201 and, if to MSCC, to President, Mid-South Community College, 2000 W. Broadway, West Memphis, AR 72301. With respect to this Agreement, the ASU System and MSCC agree that each member of the ASU Board of Trustees and the MSCC Board of Trustees is acting in his or her official and representative capacity and not as an individual.

XXI. Collaborative Effort

The parties are deeply sensitive to the reality that the success of the merger depends upon the good faith and integrity of the respective Boards and their executive officers, and to the end that opportunities for quality higher education in Arkansas be made available to the citizens of the Mid-South Community College service area and the State of Arkansas, the parties hereto will work closely together for the accomplishment of the aims of this Agreement.

IN WITNESS WHEREOF, the parties hereto, pursuant to authority given to their respective Boards, have caused this Agreement of Merger and Plan of Transition to be entered into and signed by their respective officers in their corporate names, and to be attested by the respective Secretaries, all in accordance with their respective resolutions, of which copies are attached, which authorize this action and designate the officers so executing to act in that capacity, all as of the day and date set forth.

MID-SOUTH COMMUNITY COLLEGE


Mary Toney, Chair
Board of Trustees
Mid-South Community College

ATTEST:


Michael D. East, Secretary
Board of Trustees
Mid-South Community College

ARKANSAS STATE UNIVERSITY


Charles Luter, Chair
Board of Trustees
Arkansas State University

ATTEST:


Ron Rhodes, Secretary
Board of Trustees
Arkansas State University