

SOUTH CAROLINA LIGHTRAIL CONSORTIUM

Charter Governance Agreement

Signatory Organizations:
Clemson University
Medical University of South Carolina
University of South Carolina

August 2008

Purpose

This document describes the goals and administration of the South Carolina Lightrail Consortium (SCLR) and is the agreement among the signatory universities for the support and assessment of the Consortium. The charter will be reviewed and renewed every three years to ensure relevance and efficacy for supporting the mission of the SCLR and to affirm the commitments of the charter entities. Although this document is a multi-year agreement, it is dynamic and may be revised as needed upon unanimous vote of the Board to reflect global capabilities and opportunities, state-wide and institutional goals and resources, and annual assessment results.

Background

The South Carolina Lightrail Consortium was established by the members in response to growing demand for South Carolina research institutions to connect to the National Lambda Rail/Internet2 and expand the capacity for high speed data transmission

across the state, nation, and world in support of scientific and clinical research, instruction, and health care.¹

The three charter and signatory organizations are so designated consistent with the terms of Title 59, Chapter 151, Code of Laws of South Carolina which states, in part, “Clemson University, the Medical University of South Carolina, and the University of South Carolina in Columbia, are designated as the three charter member institutions of the South Carolina LightRail Consortium and through the consortium are directed to plan, procure, administer, oversee, and manage all functions associated with the South Carolina LightRail.”²

Mission

South Carolina LightRail will provide an advanced high performance communications infrastructure in support of economic development, research, instruction, and healthcare throughout the state.

Goals

In support of this mission, the general goal of SCLR is to promote collaboration among clinical, research, and educational institutions throughout the state, region, and nation.

Structure and Administration

The Consortium is a joint agreement among the three universities, with administrative support to be provided by an appropriate department within one or more of

¹ Enabling legislation (*Proviso 72-101*) and initial funding for SCLR were provided in fiscal year 2007/2008 by the South Carolina General Assembly. See Appendix 1 for complete text.

² See http://www.scstatehouse.net/sess117_2007-2008/bills/4953.htm or Appendix 2 for complete text.

the universities.³ The Consortium is chaired by a member of the Board of Directors on a rotating basis for a term not to exceed two (2) years. The SCLR is agreed on and instituted by the presidents of the universities.

The Board of Directors consists of two representatives each from Clemson University, the Medical University of South Carolina, and the University of South Carolina, to be appointed by the respective university presidents. The Board of Directors shall serve as a permanent executive committee of the Consortium. The purpose of the Board is to ensure that the Consortium functions in support of its mission and in the best interests of the state and the participating universities. In support of this task, the Board shall:

1. assist and advise the chairman of the consortium board in matters related to scientific and administrative performance, consortium directions and needs, and government and inter-institutional interactions;
2. conduct an annual review of consortium status, activities, and plans to evaluate overall performance relative to its mission and strategic plan and to recommend possible changes to the strategic plan or South Carolina LightRail administration;
3. review and approve an annual budget request for the consortium; and,
4. review the operations of South Carolina LightRail annually to ensure relevance, to affirm the commitments of the participating institutions, and to confirm continued compliance with Section 59, Chapter 151 of the Code of Laws of South Carolina.

³ Examples may include, but are not limited to, procurement, accounts payable, accounts receivable, web design and hosting, and similar administrative or technical support functions.

Results of the annual review and budget request must be documented in a letter submitted to the presidents of the three universities.

Funding.

The SCLR will attract and manage its own funding, which is applied for annually, based on a budget prepared and administered by the chair, and recommended by the Board. The Consortium funding has been provided (in fiscal years 2007/2008 and 08/09) through special appropriations by the SC General Assembly and is administered individually by each university, except in those instances when Consortium actions, services, or activities require joint budget action. Sufficient annual funding to meet the strategic and operational needs of SC LightRail is the joint and co-equal responsibility of the charter members.

The value of gifts (in-kind services, material, or monetary), grants, appropriations, or other financial considerations directed to a single university for the primary purpose of support for SC LightRail will be administered and accounted for in accordance with the policies of the recipient university. The value of gifts (in-kind services, material, or monetary), grants, appropriations, or other financial considerations directed jointly to the three universities through the Consortium will be divided into three equal shares (unless otherwise specified by a donor) and will be administered and accounted for by each recipient university in accordance with the policies of that university.

Reporting.

The South Carolina LightRail Consortium is considered a public body and as such is subject to all provisions of state law, including the Freedom of Information Act and state procurement requirements but is exempt from the planning, oversight, and project

management regulations of the State Chief Information Officer. The board of the LightRail Consortium each year by February first shall submit to the chairman of the House Ways and Means Committee and the chairman of the Senate Finance Committee a report specifically identifying each entity with access to the network, the number of persons within each such entity with access to the network, and a brief description of the formal documented partnership in which the persons are involved, and any payment, including without limitations, in-kind payment, that each such organization and entity is making for access to the network.

Approval:

The following signatures of the presidents of the founding universities indicate approval of this charter and affirm the support of the universities for the South Carolina Lightrail Consortium:

James F. Barker, FAIA	Date
President – Clemson University	

Raymond S. Greenberg, MD, PhD	Date
President - Medical University of South Carolina	

Harris Pastides, PhD	Date
President - University of South Carolina	

Appendix 1.

72.101. (GP: LightRail) Pursuant to this provision the three research universities: Clemson University, the Medical University of South Carolina, and the University of South Carolina-Columbia, are authorized and directed to plan, procure, administer, oversee, and manage all functions associated with the South Carolina LightRail and are thereby exempt from the oversight and project management regulations of the State Chief Information Officer. South Carolina LightRail is an academic network for the use of the state's three research universities for the exchange of information directly related to their mission and must not carry commercial or K-12 traffic originated in South Carolina. For Fiscal Year 2007-08, public or private organizations and entities may be provided access only through formal documented partnerships with one or more of the three research universities. On February 1, 2008, the entity managing the network must submit to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Finance Committee a report specifically identifying each entity with access to the network and any payment, including without limitation in-kind payment, that each such organization and entity is making for access to the network.

Appendix 2.

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EDUCATION, BY ADDING CHAPTER 151 TO TITLE 59 SO AS TO ESTABLISH THE SOUTH CAROLINA LIGHTRAIL CONSORTIUM, TO PROVIDE FOR THE GOVERNANCE OF THE CONSORTIUM, AND FOR ITS FUNDING, DUTIES, AND POWERS.

Be it enacted by the General Assembly of the State of South Carolina:

South Carolina LightRail Consortium

SECTION 1. Title 59 of the 1976 Code is amended by adding:

"CHAPTER 151 South Carolina LightRail Consortium

Section [59-151-100](#). (A) The General Assembly declares that by this chapter it is establishing the South Carolina LightRail Consortium in response to growing demand for South Carolina academic institutions to expand their capacity for high speed, highly available bandwidth across the State, nation, and world in support of their missions, and to connect directly to national and regional networks for purposes directly related to their missions.

(B) For this purpose, the South Carolina LightRail shall provide facilities-based advanced high performance communications infrastructure in support of the missions of the South Carolina academic institutions that are members of the South Carolina LightRail Consortium. The General Assembly declares its intent that this infrastructure must not compete with the commercial communications or information offerings of private sector participants.

(C) The goal of the South Carolina LightRail Consortium is to promote collaboration among participating clinical, research, and educational institutions throughout the State, region, and nation to accomplish the objectives stated above.

Section [59-151-110](#). (A) For purposes of this chapter, the South Carolina LightRail is defined as a communication grid network where the South Carolina academic institutions that are members of the South Carolina LightRail Consortium, and private organizations and entities as permitted by subsection (C) of this section tap into facilities-based fiber optic including, the National Lambda Rail, Internet2, TeraGrid, and other regional and national networks which carry high volumes of data at high speed allowing faculty members at participating institutions in different locations to collaborate in real time.

(B) The South Carolina LightRail is to be used as an academic network for the use of the South Carolina academic institutions that are members of the South Carolina

LightRail Consortium for the exchange of information directly related to their missions and must not carry commercial traffic, commercial internet traffic, or K-12 traffic originated in South Carolina. Occasional and incidental use of the network by persons appropriately granted access to the network for purposes that are not directly related to the missions of the participating academic institutions is not considered a violation of this subsection.

(C) Private organizations and entities may be provided access to the network only through formal documented partnerships with one or more of the South Carolina academic institutions that are members of the South Carolina LightRail Consortium that are directly related to the missions of the partnering institutions. This access must be consistent with guidelines and procedures approved by the consortium board. These guidelines and procedures, at a minimum, shall comply with the provisions of Section [59-151-115](#).

Section [59-151-115](#). (A) Prior to allowing any university employee or student access to the network, the board must adopt guidelines and procedures which, at a minimum, ensure that:

- (1) access to the network is limited to specific university employees and specific university students who have direct involvement in one or more formal documented partnerships that meet the requirements of Section [59-151-110](#)(C);
- (2) these university employees and university students cease to have access to the network once they are no longer directly involved in such a formal documented partnership; and
- (3) the access to the network does not compete with the commercial communications or information offerings of private sector participants.

(B) Prior to allowing any private organization or entity access to the network, the board must adopt guidelines and procedures which, at a minimum, ensure that:

- (1) access to the network is limited to specified employees of these private organizations or entities who have direct involvement in one or more formal documented partnerships that meet the requirements of Section [59-151-110](#)(C);
- (2) these employees cease to have access to the network once they are no longer directly involved in such a formal documented partnership;
- (3) the access to the network does not compete with the commercial communications or information offerings of private sector participants; and
- (4) any South Carolina commercial entity has a separate commodity internet connection for its routine operations.

(C) For purposes of this section, occasional and incidental use of the network by persons appropriately granted such access to the network for purposes that are not directly related to the missions of the participating institutions is not considered as competing with the commercial communications or information offerings of private sector participants.

Section [59-151-120](#). Clemson University, the Medical University of South Carolina, and the University of South Carolina in Columbia are designated as the three charter member institutions of the South Carolina LightRail Consortium and through the consortium are directed to plan, procure, administer, oversee, and manage all functions associated with the South Carolina LightRail.

Section [59-151-130](#). (A) The South Carolina LightRail Consortium must be a joint venture exclusively among the three member universities, with administrative support to be provided by an appropriate department within one or more of the universities to include procurement, accounts payable, accounts receivable, web design and hosting, and similar administrative or technical support functions.

(B) The South Carolina LightRail Consortium must be governed by a board of directors consisting of six members. The board of directors consists of two representatives each from Clemson University, the Medical University of South Carolina, and the University of South Carolina, to be appointed by the respective university presidents and to serve at their pleasure. The consortium must be chaired by a member of the board of directors from each member institution on a rotating basis among all institutions for a term of two years.

(C) Membership on the board is not an office of honor or profit within the meaning of Section 3, Article VI of the Constitution of this State.

(D) The board shall establish rules of procedure governing its operations and also may establish an executive committee of the board to act in the board's stead in the manner authorized by the full board.

Section [59-151-140](#). (A) The South Carolina LightRail Consortium is declared to be an instrumentality of this State and as such its board of directors has all powers and authority conferred upon public boards generally including the power to contract in its own name, to own property, and to sue and be sued.

(B) The board shall ensure that the consortium functions in support of its mission and in the best interests of the State and the participating universities. In support of this task, the board shall:

(1) assist and advise the chairman of the consortium board in matters related to scientific and administrative performance, consortium directions and needs, and government and interinstitutional interactions;

(2) conduct an annual review of consortium status, activities, and plans to evaluate overall performance relative to its mission and strategic plan and to recommend possible changes to the strategic plan or South Carolina LightRail administration;

(3) review and approve an annual budget request for the consortium; and

(4) review the operations of the South Carolina LightRail annually to ensure relevance, to affirm the commitments of the participating institutions, and to confirm continued compliance with the provisions of Section [59-151-115](#).

(C) Results of the annual review and budget request must be documented in a letter submitted to the presidents of the three universities.

Section [59-151-150](#). (A) The LightRail Consortium shall receive such funding as may be provided by the General Assembly in the annual general appropriations act, supplemental appropriations act, or in other provisions of law. This funding must be provided to its participating universities for purposes of the LightRail. Funds appropriated to Clemson University, the Medical University of South Carolina, and the University of South Carolina in the 2007-2008 general appropriations act for the South Carolina LightRail Consortium shall continue to be used for those purposes consistent with the requirements of this chapter and other applicable provisions of law.

(B) The LightRail Consortium shall manage its own funding provided to it by the member institutions, based on a budget prepared and administered by the chairman of the board, and recommended by the board. The consortium funding appropriated to a particular member institution must be administered individually by that institution, except in those instances when consortium actions, services, or activities require joint budget action. Sufficient annual funding to meet the strategic and operational needs of South Carolina LightRail Consortium is the joint and co-equal responsibility of the member institutions, and the responsibility of each member institution to provide such funding must be determined annually by the board upon agreement of the institutions concerned.

Section [59-151-160](#). The value of gifts, in-kind services, grants, appropriations, or other financial considerations directed to a single university for the primary purpose of support for South Carolina LightRail Consortium must be administered and accounted for in accordance with the policies of the recipient university. The value of gifts, in-kind services, grants, appropriations, or other financial considerations directed jointly to the three universities through the consortium must be divided into three equal shares, unless otherwise specified by a donor, and must be administered and accounted for by each recipient university in accordance with the policies of that university.

Section [59-151-180](#). The South Carolina LightRail Consortium is considered a public body and as such is subject to all provisions of state law, including the Freedom of Information Act and state procurement requirements but is exempt from the planning, oversight, and project management regulations of the State Chief Information Officer. The board of the LightRail Consortium each year by February first shall submit to the

chairman of the House Ways and Means Committee and the chairman of the Senate Finance Committee a report specifically identifying each entity with access to the network, the number of persons within each such entity with access to the network, and a brief description of the formal documented partnership in which the persons are involved, and any payment, including without limitations, in-kind payment, that each such organization and entity is making for access to the network."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 10th day of June, 2008.

Became law without the signature of the Governor -- 6/17/08.
