

ITEM 199-2008-R0322 – MONTANA STATE UNIVERSITY

**RESOLUTION
AUTHORIZING
STATE OF MONTANA
THE BOARD OF REGENTS OF HIGHER EDUCATION
MONTANA STATE UNIVERSITY
FINANCING FOR BUILDING AND LAND ACQUISITION**

A RESOLUTION AUTHORIZING, APPROVING AND PROVIDING FOR THE FINANCING OF COSTS OF ACQUISITION OF A BUILDING AND ACCOMPANYING LAND AND COSTS AND EXPENSES IN CONNECTION THEREWITH; AUTHORIZING, APPROVING AND DIRECTING THE PREPARATION, EXECUTION AND DELIVERY OF LOAN DOCUMENTS; AND PROVIDING FOR RELATED MATTERS

WHEREAS, The Board of Regents of Higher Education for the State of Montana (the “*Board*” or the “*Board of Regents*”) has been vested with the governance and control of, and has been granted full power, responsibility and authority to supervise, coordinate, manage and control, the Montana university system under Article X, Section 9 of the Constitution of the State of Montana, including, but not limited to, the power to finance costs of projects and facilities for institutions of the Montana university system; and

WHEREAS, the Board has determined, and does hereby determine pursuant to this resolution (the “*Resolution*”), to authorize the borrowing of up to \$9,500,000 aggregate principal amount (the “*Loan*”) from one or more financial institutions for the purpose of (i) financing costs of the acquisition of a building and accompanying land located at 960 Technology Boulevard, adjacent to the Bozeman Campus of Montana State University (the “*University*”) and (ii) paying costs and expenses in connection therewith (the “*Project*”); and

WHEREAS, the Loan shall be made under and pursuant to, and secured by, the University’s Amended and Restated Indenture of Trust dated as of October 1, 2021 (the “*Indenture*”) between the Board and U.S. Bank National Association, as trustee (the “*Trustee*”); and

WHEREAS, Board shall enter into a Supplemental Indenture of Trust (the “*Supplemental Indenture*”) to the Indenture, providing for the terms and conditions of the Loan and the issuance of the Series I 2022 Bonds as evidence of the Loan, and will enter into such other agreements and instruments as reasonably necessary for purposes of documenting the Loan and the security therefor (collectively, the “*Loan Documents*”); and

WHEREAS, the Board has determined, and does hereby determine pursuant to this Resolution, to delegate authority to the Chair of the Board (the “*Chair*”), the Commissioner/Secretary of Higher Education and Secretary to the Board of Regents (the “*Commissioner/Secretary*”), the Vice President Administration and Finance of the University, and Counsel to the Board to approve, subject to the terms and conditions of this Resolution, the terms of the Loan and the forms, terms and provisions of the Supplemental Indenture, the Series I 2022 Bonds, and the other Loan Documents.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF REGENTS OF HIGHER EDUCATION FOR THE STATE OF MONTANA, AS FOLLOWS:

Section 1. Approval of Prior Action. All action (not inconsistent with the provisions of this Resolution) heretofore taken by the Board or the University in connection with the Loan is hereby, ratified, approved and confirmed.

Section 2. Exercise of Borrowing Powers. Pursuant to its authority under Article X, Section 9 of the Constitution of the State of Montana, the Board does hereby authorize the Loan for purposes of financing the Project. The Loan shall be made under and pursuant to, and secured by, the Indenture. The terms and conditions of the Loan, including the aggregate principal amount, the interest rates, the final maturity dates, and the prepayment provisions, shall be determined by the Commissioner/Secretary and the Vice President Administration and Finance of the University, in consultation with the University's financial advisor, and shall be set forth in the Supplemental Indenture and evidenced by the Series I 2022 Bonds. Notwithstanding the foregoing, (i) the aggregate principal amount of the Loan shall not exceed \$9,500,000, (ii) the initial interest rates for the Loan shall not exceed 5.25% but such interest rates may be subject to adjustment from time to time at market rates, and (iii) the final maturity dates of the Loan shall not be later than 30 years from the date thereof. The Loan shall be pursuant to one or more direct placements (which may be taxable or tax-exempt) to one or more financial institutions, in each case selected by the Commissioner/Secretary and Vice President Administration and Finance of the University, in consultation with the University's financial advisor.

Section 3. Approval of Loan and Loan Documents. The Board hereby authorizes the execution and delivery of the Loan Documents, with such terms and provisions consistent with this Resolution as the Chair, the Commissioner/Secretary, the Vice President Administration and Finance of the University and Counsel to the Board shall approve, the execution and delivery thereof by the Chair to constitute conclusive evidence of the approval of the form, terms and provisions of the Loan Documents for and on behalf of the Board. The Chair is hereby authorized to execute and deliver the Loan Documents, and the Commissioner/Secretary is authorized to attest the Loan Documents, in the form approved pursuant to this Section.

Section 4. Execution and Delivery of Series I 2022 Bonds. The Board hereby authorizes the issuance, execution, and delivery of Series I 2022 Bonds to the financial institutions providing the Loan. The Series I 2022 Bonds shall evidence the Loan and shall be in the form contained in the Supplemental Indenture. The Series I 2022 Bonds shall be executed on behalf of the Board with the facsimile signature of the Chair and attested by the facsimile signature of the Commissioner/Secretary.

Section 5. Authorization for Further Action. The members and officers of the Board and the University shall take all action in conformity with the Constitution and applicable laws of the State of Montana and this Resolution that shall be necessary or reasonably required in connection with the Loan, including, without limitation, the execution and delivery of all closing documents, certificates and legal opinions. If the Chair or the Commissioner/Secretary shall be unavailable to execute and attest the Loan Documents, including the Supplemental Indenture

and/or the Series I 2022 Bonds, the same may be (i) executed by the Vice Chair of the Board or any Regent and (ii) attested by any assistant to the Commissioner/Secretary or any Regent.

Section 6. Resolution Irrepealable. After the closing of the Loan, this Resolution shall be and remain irrepealable until the Loan and the interest thereon shall have been fully paid, cancelled and discharged as provided in the Indenture.

Section 7. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 8. Repealer. All bylaws, orders and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order or resolution or part thereof.

Section 9. Effective Date. This Resolution shall be in full force and effect upon its passage and approval.

PASSED, ADOPTED AND APPROVED this _____ day of March, 2022.

THE BOARD OF REGENTS OF HIGHER EDUCATION
FOR THE STATE OF MONTANA

By _____
Chair

ATTEST:

Commissioner of Higher Education and
Secretary to the Board of Regents