

ITEM 200-2021-R0522 — THE UNIVERSITY OF MONTANA

**BOND RESOLUTION
AUTHORIZING
STATE OF MONTANA
THE BOARD OF REGENTS OF HIGHER EDUCATION
THE UNIVERSITY OF MONTANA**

GENERAL REVENUE BONDS, SERIES 2022

A RESOLUTION AUTHORIZING, APPROVING AND PROVIDING FOR THE STATE OF MONTANA, THE BOARD OF REGENTS OF HIGHER EDUCATION, THE UNIVERSITY OF MONTANA, GENERAL REVENUE BONDS, SERIES 2022, TO BE ISSUED FOR THE PURPOSE OF FINANCING COSTS OF IMPROVEMENTS TO THE CAMPUSES OF THE UNIVERSITY OF MONTANA, PAYING CAPITALIZED INTEREST ON THE SERIES 2022 BONDS, AND PAYING COSTS OF ISSUANCE OF THE SERIES 2022 BONDS; AUTHORIZING, APPROVING AND DIRECTING THE PREPARATION, EXECUTION AND DELIVERY OF SUPPLEMENTAL INDENTURES OF TRUST, A BOND PURCHASE AGREEMENT, CONTINUING DISCLOSURE AGREEMENTS, THE BONDS AND OTHER RELATED 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 issue, sell and deliver revenue bonds 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 issuance and sale of up to \$60,000,000 aggregate principal amount of general revenue bonds designated as “State of Montana, The Board of Regents of Higher Education, The University of Montana, General Revenue Bonds, Series 2022” which may include one or more series or subseries and which may be tax-exempt and/or taxable (collectively, the “*Series 2022 Bonds*”), under and pursuant to the Indenture of Trust dated as of September 1, 2019 (as heretofore and hereafter amended and supplemented, the “*Indenture*”) between the Board and U.S. Bank Trust Company, National Association, as successor to U.S. Bank National Association, as trustee (the “*Trustee*”), for the purpose of (A) financing costs of improvements to the campuses of the University of Montana (the “*University*”) and other lawful purposes as shall be approved in accordance with Board policies and procedures (collectively, the “*Projects*”) for the benefit of the University and its students, (B) paying capitalized interest on the Series 2022 Bonds during construction of the Projects (if determined to be in the best interests of the University), and (C) paying costs and expenses in connection with the issuance of the Series 2022 Bonds; and

WHEREAS, in connection with the proposed issuance of the Series 2022 Bonds, the Board will enter into (1) one or more Supplemental Indentures of Trust (the “*Supplemental Indentures*”) with the Trustee, amending and supplementing the Indenture and providing for the issuance of the Series 2022 Bonds, (2) a Bond Purchase Agreement (the “*Bond Purchase Agreement*”) with Morgan Stanley & Co. LLC, as the underwriter for the Series 2022 Bonds (the “*Underwriter*”), (3) one or more Continuing Disclosure Agreements among the Board, the University and U.S. Bank Trust Company, National Association, as dissemination agent (the “*Continuing Disclosure Agreements*”), and (4) a Preliminary Official Statement (the “*Preliminary Official Statement*”) and a final Official Statement (the “*Final Official Statement*”) for use by the Underwriter in connection with a public offering of the Series 2022 Bonds; and

WHEREAS, the Board has determined, and does hereby determine pursuant to this Resolution, to authorize the issuance, sale and delivery of the Series 2022 Bonds and to delegate authority to the Chair of the Board (the “*Chair*”), the Commissioner of Higher Education and Secretary to the Board of Regents (the “*Commissioner/Secretary*”), the Vice President for Operations and Finance of the University, and Counsel to the Board to approve the forms of the Supplemental Indentures, the Bond Purchase Agreement, the Continuing Disclosure Agreements, the Preliminary Official Statement and the Final Official Statement; and the Board has determined to authorize the use and distribution of the Preliminary Official Statement in connection with the offer and sale of the Series 2022 Bonds and to authorize and direct the preparation, distribution and use of the Final Official Statement in the manner provided for herein.

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 offering, issuance, sale and delivery of the Series 2022 Bonds is hereby, ratified, approved and confirmed.

Section 2. Exercise of Powers to Issue Bonds; Authorization of Series 2022 Bonds.

(a) Pursuant to its authority under Article X, Section 9 of the Constitution of the State of Montana, the Board does hereby authorize (i) the offering, issuance and sale of up to \$60,000,000 aggregate principal amount of general revenue bonds designated as “State of Montana, The Board of Regents of Higher Education, The University of Montana, General Revenue Bonds, Series 2022” for the purpose of (A) financing costs of the Projects, (B) paying capitalized interest on the Series 2022 Bonds during construction of the Projects (if determined to be in the best interests of the University), and (C) paying costs and expenses in connection with the issuance of the Series 2022 Bonds (which may include costs relating to bond insurance or other credit enhancements, if determined to be in the best interests of the University).

(b) The Series 2022 Bonds shall be issued as fully-registered bonds in denominations as shall be provided in the Supplemental Indentures, and shall bear interest from the dates and at the rates, and shall mature on the dates and in the principal amounts, as shall be

set forth in the Supplemental Indentures. Notwithstanding the foregoing, (i) the aggregate principal amount of the Series 2022 Bonds shall not exceed \$60,000,000 (exclusive of premium or discount) and the final maturity date or dates of the Series 2022 Bonds shall be not later than 41 years from the date of issuance thereof. Subject to the foregoing, the principal amounts of the Series 2022 Bonds (which may include one or more series or subseries), the interest rates on the Series 2022 Bonds (which shall be fixed rates and which may be tax-exempt and/or taxable interest rates), the redemption provisions (if any) for the Series 2022 Bonds, and the Underwriter's discount with respect to the Series 2022 Bonds shall be determined by the Chair, the Commissioner/Secretary and the Vice President for Operations and Finance of the University.

Section 3. Approval of Supplemental Indentures. The Board hereby authorizes the execution and delivery of the Supplemental Indentures substantially in the form attached hereto as Exhibit A, with such changes and additions thereto consistent with this Resolution as the Chair, the Commissioner/Secretary and the Vice President for Operations and Finance of the University 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 Supplemental Indentures for and on behalf of the Board. The Chair is hereby authorized to execute and deliver the Supplemental Indentures, and the Commissioner/Secretary is authorized to attest the Supplemental Indentures, in the forms approved pursuant to this Section.

Section 4. Approval of Bond Purchase Agreement. The Board hereby authorizes the execution and delivery of a Bond Purchase Agreement, with such terms and provisions consistent with this Resolution as the Chair, the Commissioner/Secretary and the Vice President for Operations and Finance of the University shall approve, the execution and delivery thereof by the Chair, the Commissioner/Secretary and the Vice President for Operations and Finance of the University to constitute conclusive evidence of the approval of the form, terms and provisions of the Bond Purchase Agreement for and on behalf of the Board. The Chair, the Commissioner/Secretary and the Vice President for Operations and Finance of the University are hereby authorized to execute and deliver the Bond Purchase Agreement in the form approved pursuant to this paragraph.

Section 5. Approval of Continuing Disclosure Agreements. The Board hereby authorizes the execution and delivery of the Continuing Disclosure Agreements, with such terms and provisions consistent with this Resolution as the Chair, the Commissioner/Secretary and the Vice President for Operations and Finance of the University shall approve, the execution and delivery thereof by the Chair and the Vice President for Operations and Finance of the University to constitute conclusive evidence of the approval of the form, terms and provisions of the Continuing Disclosure Agreements for and on behalf of the Board. The Chair and the Vice President for Operations and Finance of the University are hereby authorized to execute and deliver the Continuing Disclosure Agreements in the forms approved pursuant to this paragraph.

Section 6. Approval and Use of Preliminary Official Statement and Final Official Statement. The Board hereby authorizes the preparation of the Preliminary Official Statement consistent with the terms and provisions of this Resolution and as the Vice President for

Operations and Finance of the University shall approve, the approval by the Vice President for Operations and Finance of the University to constitute conclusive evidence of the approval of the form and provisions of the Preliminary Official Statement for and on behalf of the Board and the University. The Vice President Operations and Finance of the University is further authorized to deem such Preliminary Official Statement final for purposes of complying with Securities and Exchange Commission Rule 15c2-12. The Underwriter is hereby authorized to use and distribute the Preliminary Official Statement in connection with the offering of the Series 2022 Bonds. Such Preliminary Official Statement, when supplemented and completed to include the maturity dates, principal amounts, interest rates, and redemption provisions (if any) of the Series 2022 Bonds, together with any other information required or permitted by applicable law, shall constitute the Final Official Statement of the Board and the University with respect to the Series 2022 Bonds, and the Chair and the Vice President for Operations and Finance of the University are hereby authorized to approve and execute the Final Official Statement upon completion of such information and to deliver or cause to be delivered the Final Official Statement to the Underwriter.

Section 7. Execution and Delivery of Series 2022 Bonds. The execution and delivery by the Board of the Series 2022 Bonds, in the forms contained in the Supplemental Indentures, are hereby authorized. The Series 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 8. Order for Authentication. The Series 2022 Bonds, when executed as provided in Section 7 above, shall be delivered to the Trustee for authentication, accompanied by a written order of the Board executed by the Chair and directing the authentication and delivery thereof by the Trustee. Upon receipt of such written order, the Trustee shall authenticate and register the Series 2022 Bonds by executing the Trustee's certificate of authentication and registration appearing thereon, and, when duly executed and authenticated, shall deliver the Series 2022 Bonds to the Underwriter in accordance with the provisions of the Bond Purchase Agreement, upon satisfaction of all conditions required for delivery of the Series 2022 Bonds under this Resolution, the Bond Purchase Agreement, and the Indenture.

Section 9. 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 issuance of the Series 2022 Bonds, including, without limitation, the execution and delivery of all closing documents, certificates and opinions. If the Chair or the Commissioner/Secretary shall be unavailable to execute and attest the Series 2022 Bonds or the other documents that they are hereby authorized to execute and attest, 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 10. Reimbursement.

(a) The United States Department of Treasury has promulgated regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the

University for project expenditures paid by the University prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “*Regulations*”) require that the Board adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that bonds be issued and the reimbursement allocation be made from the proceeds of such bonds within 18 months after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

(b) The Board reasonably expects to reimburse some or all of the expenditures made for costs of the Projects out of proceeds of Series 2022 Bonds after the date of payment of all or a portion of the costs of the Projects. Series 2022 Bonds in an estimated maximum aggregate principal amount as set forth in Section 2 hereof may be issued in order to pay or reimburse costs of the Projects and to pay costs of issuance of the Series 2022 Bonds. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Series 2022 Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

(d) As of the date hereof, there are no Board or University funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the portion of the Projects to be financed with the Series 2022 Bonds. The statement of intent contained in this Resolution, therefore, is determined to be consistent with the budgetary and financial circumstances of the Board and the University as they exist or are reasonably foreseeable on the date hereof.

(e) The Vice President for Operations and Finance of the University shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Series 2022 Bonds to reimburse the source of temporary financing used by the University to make prior payment of the costs of the Projects. Each allocation shall be evidenced by an entry on the official books and records of the University maintained for the Series 2022 Bonds and the Projects and shall specifically identify the actual original expenditure being reimbursed.

Section 11. Resolution Irrepealable. After any of the Series 2022 Bonds are issued, this Resolution shall be and remain irrepealable until such Series 2022 Bonds and the interest thereon shall have been fully paid, cancelled and discharged as provided in the Indenture.

Section 12. 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 13. 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 14. Effective Date. This Resolution shall be in full force and effect upon its passage and approval.

PASSED, ADOPTED AND APPROVED this _____ day of May, 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

EXHIBIT A