

ITEM 122-1015-R0304 - THE UNIVERSITY OF MONTANA

**FINAL BOND RESOLUTION
FOR
STATE OF MONTANA
THE BOARD OF REGENTS OF HIGHER EDUCATION
THE UNIVERSITY OF MONTANA
FACILITIES IMPROVEMENT AND REFUNDING REVENUE BONDS
SERIES I 2004**

A RESOLUTION PROVIDING FOR APPROVAL AND AUTHORIZATION FOR THE UNIVERSITY OF MONTANA TO PROCEED WITH THE FINANCING OF PROJECTS FOR THE MISSOULA CAMPUS OF THE UNIVERSITY OF MONTANA, AND TO PROCEED WITH THE RESTRUCTURING AND CURRENT REFUNDING OF CERTAIN OUTSTANDING REVENUE BONDS HERETOFORE ISSUED FOR THE UNIVERSITY OF MONTANA; PROVIDING FOR AND GRANTING APPROVAL AND AUTHORIZATION FOR THE OFFERING, ISSUANCE, SALE AND DELIVERY OF STATE OF MONTANA, THE BOARD OF REGENTS OF HIGHER EDUCATION, THE UNIVERSITY OF MONTANA, FACILITIES IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES I 2004, IN A TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$42,500,000, IN ORDER TO PROVIDE FUNDS TO BE USED TO PROVIDE FINANCING FOR THE PROJECTS, TO RESTRUCTURE AND REFUND CERTAIN OUTSTANDING REVENUE BONDS OF THE BOARD HERETOFORE ISSUED FOR THE UNIVERSITY OF MONTANA AND TO PAY THE COSTS OF ISSUANCE OF THE SERIES I 2004 BONDS; AUTHORIZING, APPROVING AND DIRECTING THE PREPARATION, EXECUTION AND DELIVERY BY THE BOARD OF A SERIES I SUPPLEMENTAL INDENTURE OF TRUST TO THE MASTER INDENTURE OF TRUST FOR THE UNIVERSITY OF MONTANA AND VARIOUS CLOSING DOCUMENTS AND CERTIFICATES AND THE SERIES I 2004 BONDS IN CONNECTION THEREWITH; AUTHORIZING THE PREPARATION AND EXECUTION OF A BOND PURCHASE AGREEMENT IN CONNECTION THEREWITH; AUTHORIZING THE PREPARATION AND EXECUTION OF AN ESCROW AGREEMENT RELATING TO THE RESTRUCTURING AND REFUNDING OF SAID OUTSTANDING REVENUE BONDS OF THE BOARD HERETOFORE ISSUED FOR THE UNIVERSITY OF MONTANA; PROVIDING FOR AND RATIFYING THE PREPARATION, DISTRIBUTION AND USE OF A PRELIMINARY OFFICIAL STATEMENT TO BE USED IN CONNECTION WITH THE OFFERING AND SALE OF THE SERIES I 2004 BONDS AND PROVIDING FOR AND DIRECTING THE DISTRIBUTION AND USE OF A FINAL OFFICIAL STATEMENT IN CONNECTION THEREWITH; MAKING DETERMINATIONS AS TO OTHER MATTERS RELATED TO SUCH FINANCING AND TO THE ISSUANCE OF THE SERIES I 2004 BONDS; AND REPEALING ACTION HERETOFORE TAKEN IN CONFLICT HEREWITH.

WHEREAS, The Board of Regents of Higher Education for the State of Montana (the "Board") 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 for the purpose of refunding, defeasing and restructuring bonds issued by the Board for institutions of the Montana University System, to finance the costs of acquisition, construction, renovation,

improvement, furnishing and equipping of capital improvements and projects for the use and benefit of institutions of higher education within the Montana University System and to authorize the use and application of the proceeds of such bonds and certain funds and monies of the institutions for such purposes; and

WHEREAS, in the exercise of its constitutional powers, the Board has, by various actions taken by the Board, heretofore made provision for and has directed the administrative merger of various units of the Montana University System, whereby The University of Montana-Western, Dillon, Montana ("Western Campus"), Montana Tech of The University of Montana, Butte, Montana ("Montana Tech Campus") and The University of Montana/Helena College of Technology, Helena, Montana ("Helena Campus") were designated to become and have in fact become a part of The University of Montana (with a primary campus located in Missoula, Montana and herein the "Missoula Campus"), in the manner and becoming effective as heretofore directed by the Board; and

WHEREAS, in connection with the issuance of certain revenue bonds for The University of Montana (herein, collectively, and including the Missoula Campus, the Western Campus, the Montana Tech Campus and the Helena Campus, the "University") during November of 1993, the Board has approved and executed and delivered a Master Indenture of Trust (the "Master Indenture") for the University, pursuant to which (together with certain supplemental indentures thereto) certain revenues of the University's student housing system and auxiliary facilities and certain student and other fees, income and revenues of the various institutions and campuses comprising the University are pledged for the payment of revenue bonds issued from time to time under and pursuant to the Master Indenture and for and on behalf of and for the benefit of the various institutions and campuses comprising the University; and

WHEREAS, based on present requirements of the University as presented by the University, the Board has determined and does hereby determine to approve the financing of projects for the Missoula Campus, as described in Annex A attached hereto (the "Projects") and by this reference incorporated herein, and to provide for and approve the restructuring and current refunding and defeasance of certain outstanding revenue bonds heretofore issued by the Board for the University as described herein;

WHEREAS, pursuant to and in the exercise of its constitutional powers and in conformity with the provisions made therefor in the Master Indenture and as the result of present conditions in the municipal bond market which are of benefit to the Board and the University, the Board has determined to provide for and to authorize and approve the issuance of revenue bonds under the Master Indenture and a supplemental indenture thereto (the "Series I Supplemental Indenture," and, together with the Master Indenture, various other prior Supplemental Indentures and all other indentures supplemental to the Master Indenture, herein the

"Indenture") in the maximum principal amount authorized and directed herein and the proceeds of which are to be used (i) for the purpose of the restructuring, current refunding and defeasance of certain outstanding revenue bonds heretofore issued by the Board for the University, and (ii) for the acquisition, construction, furnishing, equipping and improvement of Projects for the Missoula Campus of the University as designated and described in Annex A to this resolution; and

WHEREAS, based on the foregoing, the Board has determined and does hereby determine pursuant to this resolution to provide approval and authorization for the issuance, sale and delivery of its revenue bonds designated "State of Montana, The Board of Regents of Higher Education, The University of Montana, Facilities Improvement and Refunding Revenue Bonds, Series I 2004" (the "Series I 2004 Bonds"), in an approximate aggregate principal amount of not to exceed \$42,500,000 with the proceeds thereof hereby directed to be used and applied (i) for the purpose of the restructuring, current refunding and defeasance of outstanding revenue bonds heretofore issued by the Board for the University and more fully described in the Series I Supplemental Indenture (the "Prior Bonds") and all as designated in and directed by the Series I Supplemental Indenture (the "Refunding Project"), (ii) for the purpose of providing funds to finance the costs of the acquisition, construction, improvement, repair, replacement, renovation, furnishing and equipping of the Projects described in Annex A to this resolution and as shall be specifically provided for in the Series I Supplemental Indenture, and (iii) to pay the costs and expenses incurred by the Board and the University in connection with the issuance of the Series I 2004 Bonds; and

WHEREAS, in connection with the proposed issuance, sale and delivery of the Series I 2004 Bonds, there has been prepared and presented at this meeting of the Board (1) the form of the Series I Supplemental Indenture to the Master Indenture, to be dated as provided therein and to be entered into by and between the Board and U.S. Bank National Association (the "Trustee"), and providing for the creation, authorization and issuance of the Series I 2004 Bonds, (2) the form of the Bond Purchase Agreement, to be dated the date of its execution (the "Bond Purchase Agreement"), and to be entered into and executed by the Board, the University and the underwriters (collectively, the "Underwriter") appointed by the Board and the University for the Series I 2004 Bonds and designated therein, (3) the form of Escrow Agreement, to be dated as provided therein (the "Escrow Agreement") providing for the current refunding and defeasance of the Prior Bonds and to be entered into by and between the Board and the Trustee in its capacity as escrow agent thereunder (in such capacity, the "Escrow Agent"), (4) the form of the Continuing Disclosure Agreement relating to the Series I 2004 Bonds, to be dated as of the date of its execution (the "Disclosure Agreement") and to be entered into by the Board, the University and the Trustee in its capacity as the Dissemination Agent thereunder (in

such capacity, the "Dissemination Agent", and (5) the form of the Preliminary Official Statement, which is dated as of the date designated therein (the "Preliminary Official Statement"), which is to be completed as a Final Official Statement to be approved by the Chairman, Vice Chairman or Secretary of the Board and by the President or the Vice President for Administration and Finance of the University, and which are to be used by the Underwriter in connection with the offering, sale, purchase and delivery of the Series I 2004 Bonds, and which are hereby authorized to be used and distributed by the Underwriter for such purposes; and

WHEREAS, the Board has determined to proceed with the formal, final approval of the Board for the issuance, sale and delivery of the Series I 2004 Bonds by the adoption of this resolution, and to provide for the authorization for and for the forms of and the terms and provisions of, the Series I Supplemental Indenture, the Bond Purchase Agreement, the Disclosure Agreement, the Escrow Agreement and the Official Statement, and the Board has further determined to give its approval to and to authorize and confirm the use and distribution of the Official Statement in connection with the offer, sale, purchase and delivery of the Series I 2004 Bonds in the manner provided for herein.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY 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 and directed toward the Refunding Project and the Projects and the financing of the costs thereof, and the issuance, sale and delivery of the Series I 2004 Bonds specifically for the purposes of providing for and paying the costs thereof, and any actions heretofore taken pursuant thereto, be, and the same are hereby, ratified, approved and confirmed.

Section 2. Exercise of Powers to Issue Bonds. The Board does hereby declare its intention to exercise its constitutional powers and authority to supervise, coordinate, manage, govern and control the Montana University System through the issuance, sale and delivery of the Series I 2004 Bonds for the purposes herein set forth, all of which shall be undertaken by the Board pursuant to its authority under Article X, Section 9 of the Constitution of the State of Montana.

Section 3. Authorization for Series I 2004 Bonds. In order to provide the funds required to currently refund and defease the outstanding Prior Bonds heretofore issued by the Board for the University, to defray the costs of the Projects and to fund and pay various costs and expenses expected to be incurred in connection with the issuance of the Series I 2004 Bonds, there is hereby authorized, created and approved an issue of revenue bonds of the Board to be designated "State of Montana, The Board of Regents of Higher Education, The

University of Montana, Facilities Improvement and Refunding Revenue Bonds, Series I 2004," which shall be issuable as fully registered bonds in the denominations of \$5,000 and integral multiples thereof, shall be dated as provided in the Series I Supplemental Indenture, shall bear interest from their date at the rates, and shall be issuable in such series designations and mature on the dates, in the years and in the principal amounts, as shall be set forth in the Series I Supplemental Indenture.

The Series I 2004 Bonds are hereby authorized to be issued in a principal amount not to exceed \$42,500,000, and the maximum net effective rate of interest payable on the Series I 2004 Bonds shall not exceed a net effective interest rate of four and fifty one-hundredths percent (4.50%) per annum. Approval of the final principal amount of the Series I 2004 Bonds and approval of the final interest rates for the Series I 2004 Bonds is hereby delegated to and shall be given and confirmed by the Commissioner of Higher Education for the State of Montana (the "Commissioner") who is also the Secretary of the Board and by the President or the Vice President for Administration and Finance of the University, and such approval and confirmation shall be given and evidenced by a certificate executed by them at or prior to the delivery of the Series I 2004 Bonds and by the act of executing the Bond Purchase Agreement for the Series I 2004 Bonds by the Chairman or Vice Chairman of the Board, or by the Commissioner in the capacity of Secretary of the Board, and by the President or Vice President for Administration and Finance of the University and such approval and confirmation are hereby expressly delegated to the Chairman, Vice Chairman and Secretary and to the President and the Vice President of Administration and Finance of the University, respectively. The Series I 2004 Bonds shall be payable, shall be subject to redemption prior to maturity and shall be in substantially the form provided in the Series I Supplemental Indenture.

Section 4. Approval of Series I Supplemental Indenture. The form, terms and provisions of the Series I Supplemental Indenture to be executed and delivered in connection with the issuance of the Series I 2004 Bonds, in substantially the form and with substantially the same content as presented to the Board for its approval at this meeting, are hereby approved and the Board shall enter into the Series I Supplemental Indenture with the Trustee in substantially the form of, and with substantially the same content as, the Series I Supplemental Indenture so presented to the Board for its approval at this meeting, but with such changes therein or modifications thereto as shall be consistent with the terms and provisions of this resolution and as the Chairman, Vice Chairman or Secretary of the Board, the University, the Underwriter, Bond Counsel and Counsel to the Board shall approve, and the execution and delivery thereof by the Chairman, Vice Chairman or Secretary shall constitute conclusive evidence of the approval of the form, terms and provisions of the Series I Supplemental Indenture and the execution thereof for and on behalf of the Board. Each of the Chairman and

Vice Chairman of the Board is hereby authorized to execute and deliver the Series I Supplemental Indenture, and the Secretary of the Board is authorized to attest and to place the seal of the Board upon the Series I Supplemental Indenture upon its execution by the Chairman or Vice Chairman of the Board, for and on behalf of the Board.

Section 5. Approval of Bond Purchase Agreement and Disclosure Agreement.

The form, terms and provisions of each of the Bond Purchase Agreement and the Disclosure Agreement, in substantially the forms and with substantially the same content presented to the Board for its approval at this meeting, are hereby approved and the Board shall enter into the Bond Purchase Agreement with the Underwriter upon completion of the offering and sale of the Series I 2004 Bonds and shall enter into the Disclosure Agreement with the Trustee in its capacity as Dissemination Agent in substantially the form of, and with the substantially same content as, the Bond Purchase Agreement and the Disclosure Agreement so presented to the Board for its approval at this meeting, but with such changes therein and modifications and additions thereto as shall be consistent with the terms and provisions of this resolution and as the Chairman, Vice Chairman or Secretary of the Board, the University, the Underwriter, Bond Counsel and Counsel to the Board shall approve, and the execution and delivery thereof by the Chairman, Vice Chairman or Secretary shall constitute conclusive evidence of the approval of the form, terms and provisions of the Bond Purchase Agreement and the Disclosure Agreement, respectively, and the execution thereof for and on behalf of the Board. Each of the Chairman, Vice Chairman and Secretary of the Board is hereby authorized to execute and deliver the Bond Purchase Agreement and the Disclosure Agreement, respectively, for and on behalf of the Board, and each of the President and the Vice President of Administration and Finance of the University is hereby authorized to execute and deliver the Bond Purchase Agreement and the Disclosure Agreement, respectively, for and on behalf of the University.

Section 6. Approval of Escrow Agreement. In order to provide for the current refunding and defeasance of the Prior Bonds heretofore issued by the Board for the University, with part of the proceeds of the Series I 2004 Bonds and certain funds and moneys of the University available for that purpose as described in the Escrow Agreement, the form, terms and provisions of the Escrow Agreement, in substantially the form and with substantially the same content presented to the Board for its approval at this meeting, are hereby approved and the Board shall enter into the Escrow Agreement with the Escrow Agent in substantially the form of, and with substantially the same content as, the Escrow Agreement so presented to the Board for its approval at this meeting, but with such changes therein or modifications thereto as shall be consistent with the terms and provisions of this resolution and as the Chairman, Vice Chairman or Secretary of the Board, the University, the Underwriter, Bond Counsel and Counsel to the Board shall approve, and the execution and delivery thereof by the Chairman, Vice

Chairman or Secretary shall constitute conclusive evidence of the approval of the form, terms and provisions of the Escrow Agreement and the execution thereof for and on behalf of the Board. Each of the Chairman and Vice Chairman of the Board is hereby authorized to execute and deliver the Escrow Agreement, and the Secretary of the Board is authorized to attest and to place the seal of the Board upon the Escrow Agreement upon its execution by the Chairman or Vice Chairman of the Board, for and on behalf of the Board.

Section 7. Approval and Use of Preliminary Official Statement and Official Statement. The form, terms, provisions and contents of the Preliminary Official Statement for the Series I 2004 Bonds, in the form presented to this meeting, are hereby approved by the Board, and the Board further ratifies and approves the use and distribution of the Preliminary Official Statement by the Underwriter in connection with the offering and sale of the Series I 2004 Bonds, which Preliminary Official Statement shall be in substantially the form of, and have the substantially same content as, the Preliminary Official Statement so approved with such supplements, amendments, modifications or corrections therein or thereto as shall be consistent with the terms and provisions of this resolution and as the Chairman, Vice Chairman or Secretary of the Board, the University, the Underwriter, Bond Counsel and Counsel to the Board shall approve and the approval thereof by said Chairman, Vice Chairman or Secretary of the Board and by the President or the Vice President of Administration and Finance of the University shall constitute conclusive evidence of the approval of the form, terms, provisions and contents of the Preliminary Official Statement, as supplemented, amended, modified or corrected, and as used by the Underwriter in connection with the offering and sale of the Series I 2004 Bonds. For purposes of compliance with Rule 15c2-12(b)(1) of the Securities and Exchange Commission (the "Rule"), the Preliminary Official Statement, as the same may be supplemented, amended, modified or corrected by the Board and the University from time to time, is and shall be treated as an Official Statement with respect to the Series I 2004 Bonds that is "deemed final" as of its date (or as of the date of any supplement, amendment, modification or correction thereto) by the Board and the University for purposes of the Rule, except for the omission of certain pricing and other information permitted by law, and is subject to completion in a final Official Statement in accordance with the provisions of law. The Preliminary Official Statement, when supplemented and completed by an addendum or addenda specifying the maturity dates, principal amounts and interest rates of the Series I 2004 Bonds, together with any other information required or permitted by law, shall constitute the "Final Official Statement" of the Board and the University with respect to the Series I 2004 Bonds, as that term is defined in the Rule, and each of the Chairman, Vice Chairman and Secretary of the Board and each of the President and the Vice President of Administration 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 purchasers of the Series I 2004 Bonds for and on behalf of the Board and the University.

Section 8. Approval of Series I 2004 Bonds and Execution. The forms, terms and provisions of the Series I 2004 Bonds shall be set forth in the Series I Supplemental Indenture. Each of the Chairman and Vice Chairman of the Board shall be and each of them is hereby authorized and directed to execute the Series I 2004 Bonds, either by manual or facsimile signature, and the Secretary of the Board shall be and is hereby authorized and directed to attest, either by manual or facsimile signature, such signature on the Series I 2004 Bonds and the seal of the Board, or a facsimile thereof, is hereby authorized and directed to be affixed to the Series I 2004 Bonds.

Section 9. Order for Authentication. The Series I 2004 Bonds, when executed by the Chairman or Vice Chairman and the Secretary of the Board, shall be delivered to the Trustee for authentication, accompanied by a written order of the Board executed by its Chairman, Vice Chairman or Secretary and directing the authentication and delivery of the Series I 2004 Bonds by the Trustee. Upon receipt of such written order, the Trustee shall authenticate and register the Series I 2004 Bonds by executing the Trustee's certificate of authentication and registration appearing thereon, and shall deliver the Series I 2004 Bonds, when duly executed and authenticated, to the Underwriter in accordance with the written instructions therefor executed on behalf of the Board by its Chairman, Vice Chairman or Secretary, which instructions each of the Chairman, Vice Chairman and Secretary are hereby authorized and directed, for and in the name and on behalf of the Board, to execute and deliver to the Trustee. Such instructions shall provide for the delivery of the Series I 2004 Bonds in accordance with the provisions of the Bond Purchase Agreement, upon satisfaction of all conditions required hereunder and under the Bond Purchase Agreement and the Series I Supplemental Indenture for delivery of the Series I 2004 Bonds.

Section 10. Resolution Contract. In consideration of the purchase and acceptance of the Series I 2004 Bonds by those who shall own the same from time to time, this resolution shall be irrevocable and the provisions of this resolution shall be and shall be deemed to be part of the contract of the Board with the Registered Owners from time to time of the outstanding Series I 2004 Bonds.

Section 11. Authorization for Further Action. The members and officers of the Board and the administrative officers of the University shall take all action in conformity with the Constitution and law of the State of Montana and this resolution which shall be necessary or reasonably required by the parties to the Series I Supplemental Indenture, the Bond Purchase Agreement, the Disclosure Agreement and the Escrow Agreement to effectuate their provisions,

and shall take all other action necessary or desirable, and in conformity with the Constitution and law of the State of Montana and this resolution, to complete the Refunding Project and to finance and complete the Projects, including without limitation, the execution and delivery of all closing documents, certificates and opinions authorized or required to be delivered in connection with the offering, sale, issuance and delivery of the Series I 2004 Bonds.

Section 12. Resolution Irrepealable. After any of the Series I 2004 Bonds are issued, this resolution shall be and remain irrepealable until the Series I 2004 Bonds and the interest thereon shall have been fully paid, canceled and discharged as provided in the Series I Supplemental Indenture.

Section 13. 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 14. 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 15. Effective Date. This resolution shall be in full force and effect upon its passage and approval.

PASSED, ADOPTED AND APPROVED THIS 25th day of March, 2004.

THE BOARD OF REGENTS OF HIGHER
EDUCATION for the State of
Montana

By /S/ John Mercer
Chairman

(S E A L)

ATTEST:

/S/ Sheila M. Stearns
Secretary

ANNEX A

DESCRIPTION OF PROJECTS

The University of Montana-Missoula Campus Projects

1. Construction, furnishing and equipping of an addition to the School of Pharmacy "Skaggs" Building Expansion.
2. Renovation, improvement, repair, construction, furnishing, equipping and deferred maintenance to and for various facilities on the Missoula Campus.

At a regular meeting of The Board of Regents of Higher Education for the State of Montana, held on the 25th day of March, 2004, the foregoing resolution was moved for adoption, the same was put to a vote, and on roll call, the following vote was recorded:

Those Voting Aye: Mike Foster, Lynn Hamilton, Christian Hur, John Mercer, Richard Roehm, Lila Taylor

Those Voting Nay: None

Those Absent: None

Those Abstaining: Mark Semmens

Not less than a majority of The Board of Regents of Higher Education present having voted in favor of the motion, the presiding officer declared the motion carried and the resolution duly passed and adopted.

Thereupon, The Board of Regents of Higher Education considered other matters not concerning the Series I 2004 Bonds described in the foregoing resolution.

STATE OF MONTANA]
: ss
COUNTY OF LEWIS AND CLARK]

I, Sheila M. Stearns, the duly appointed, qualified and acting Secretary of The Board of Regents of Higher Education for the State of Montana, do hereby certify that the foregoing pages numbered 1 to 13, inclusive, are a true, correct and complete copy of the record of proceedings of The Board of Regents of Higher Education, insofar as such proceedings relate to the resolution therein contained, had and taken at a lawful and regular meeting of The Board of Regents of Higher Education held on the Campus of The University of Montana-Western in Dillon, Montana, on Thursday, March 25, 2004, commencing at the hour of 7:30 o'clock a.m., as recorded in the regular official book of the proceedings of The Board of Regents of Higher Education of the State of Montana kept in my office; said proceedings were duly had and taken as therein shown, the meeting therein shown was duly held, and the persons therein named were present at said meeting as therein shown.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of The Board of Regents of Higher Education of the State of Montana this 25th day of March, 2004.

/s/ Sheila M. Stearns
Sheila M. Stearns
Secretary of The Board of
Regents of Higher Education

(S E A L)