

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: 12

DATE:

April 21, 2009

RECOMMENDATION

**RESOLUTION OF THE BOARD OF REGENTS OF EASTERN MICHIGAN UNIVERSITY
AUTHORIZING THE ISSUANCE AND DELIVERY OF GENERAL REVENUE BONDS AND
GENERAL REVENUE REFUNDING BONDS AND PROVIDING FOR OTHER MATTERS
RELATING THERETO**

ACTION REQUESTED

It is recommended that the Board of Regents approve the attached resolution authorizing the issuance of general revenue bonds and general revenue refunding bonds and providing for other related matters.

STAFF SUMMARY

In April 2008, the University issued variable rate General Revenue Bonds in order to refinance existing bonds. The 2008 bonds were secured by a letter of credit issued by Dexia Credit Local, a French-Belgian bank with extensive dealings in the public finance market, both in Europe and the United States. Subsequently, the bank's credit ratings have been reduced, resulting in a significant increase in the interest rates payable on the bonds. It is the consensus of Staff, the University's financial advisors, and bond counsel that these 2008 bonds be refunded and the Dexia letter of credit replaced with a letter of credit issued by JPMorgan Chase Bank.

The University's plan has always been to fund the Mark Jefferson Science Complex project through borrowing. The funding requirements become significant later this year. Staff and the University's advisors also believe it is in EMU's best interests to secure this new project funding now in combination with the refunding of the existing debt.

The attached resolution authorizes, within specified parameters, the issuance of the bonds and provides for other related matters.

FISCAL IMPLICATIONS

When compared with the interest rates currently paid on the existing Dexia-backed bonds, the refunding results in annualized savings to the University of about \$2 million. It is expected that the annual debt service on the new borrowing will be approximately \$7 million.

ADMINISTRATIVE RECOMMENDATION

The proposed Board action has been reviewed and is recommended for Board approval.

University Executive Officer

Date

**RESOLUTION OF THE BOARD OF REGENTS OF
EASTERN MICHIGAN UNIVERSITY
AUTHORIZING THE ISSUANCE AND DELIVERY OF
GENERAL REVENUE BONDS AND
GENERAL REVENUE REFUNDING BONDS AND
PROVIDING FOR OTHER MATTERS RELATING THERETO**

WHEREAS, the Board of Regents of Eastern Michigan University (the "Board") is a constitutional body corporate established pursuant to Article VIII, Section 6 of the Michigan Constitution of 1963, as amended, with general supervision of Eastern Michigan University (the "University") and the control and direction of all expenditures from the University's funds; and

WHEREAS, on April 10, 2008, the Board issued and delivered its \$125,795,000 principal amount of General Revenue Variable Rate Demand Refunding Bonds, Series 2008 (the "Prior Bonds") which were "integrated" for federal income tax purposes with two outstanding swap or hedge agreements (collectively, the "Swaps") originally executed in connection with the issuance of the bonds refunded by the Prior Bonds, the termination, restructuring or replacement of which may now best serve the economic interests of the University; and

WHEREAS, the Prior Bonds were issued as variable rate bonds the interest rates on which change on a weekly basis, secured by a letter of credit issued by Dexia Credit Local ("Dexia") whose national credit ratings have since been reduced, causing a significant increase in the interest rates payable by the Board on the Prior Bonds; and

WHEREAS, upon the advice of its financial advisors and Bond Counsel and the recommendation of the University's Administration, the Board approves and adopts the recommendation of the Administration that the Prior Bonds should be refunded, the Swaps restructured, terminated or replaced if and as determined by an Authorized Officer and the Dexia letter of credit replaced with a letter of credit to be issued by JPMorgan Chase Bank, N.A.; and

WHEREAS, in order to best serve the needs of the University's student body, the Board proposes to undertake the projects described on Exhibit A hereto (the "Projects") and to finance such Projects and related costs of issuance of the bonds (the "Project Bonds"); and

WHEREAS, the refunding of the Prior Bonds, the possible termination, restructuring or replacement of the Swaps and the financing of the Projects as herein described are within the authority of the Board and will serve proper and appropriate public purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF REGENTS OF EASTERN MICHIGAN UNIVERSITY, AS FOLLOWS:

1. The Board hereby authorizes the issuance, execution and delivery of bonds of the Board in registered form in one or more series, to be designated (a) GENERAL REVENUE REFUNDING BONDS, SERIES 2009 (the "Refunding Bonds") to refund the Prior Bonds, and (b) GENERAL REVENUE BONDS, SERIES 2009 (the "Project Bonds, and together with the Refunding Bonds, the "Bonds") to finance the Projects, with the following terms to be determined by the President or the Interim Chief Financial Officer, Business and Finance, of the University (each an "Authorized Officer"): additional or other series designations or descriptive

terms of the Bonds; the date or dates of issuance of the Bonds; the aggregate principal amount of the Refunding Bonds and the Project Bonds not to exceed \$135,000,000 and \$125,000,000, respectively (being the amount necessary to produce proceeds sufficient, together with other available funds, to implement the refunding and the Projects, respectively, to terminate, restructure or replace the Swaps, to pay capitalized interest, if any, and costs incidental to the issuance of the Bonds, and to fund, if required, a reasonably required debt service reserve fund or funds); if not all, the particular Prior Bonds to be refunded; serial Bonds or term Bonds (which may be subject to redemption requirements), or both, with the first maturity not earlier than May 1, 2009, and the last maturity not later than December 31, 2050; no interest or interest at stated rates for the respective maturities with the highest yield (computed using the stated coupon and the stated original offering price) for any fixed rate maturity not to exceed 7.50% per annum; issued in whole or in part as capital appreciation bonds, which for their term or any part thereof bear no interest but appreciate in principal amount over time at compounded rates (not in excess of 7.50% per annum); interest at a fixed rate and/or a variable rate, with the variable rate of interest not to exceed the lesser of the maximum rate permitted by law or the maximum rate, if any, to be specified in the relevant Bond documents; redemption or call for purchase prior to maturity, including the times and prices with no redemption premium to exceed 3% of the principal amount being redeemed; time for payment of interest; denominations; manner of payment of principal and interest; terms of transfer, exchange, execution and authentication; issued in certificate or book entry only form; price and terms of sale to the Underwriter (with the Underwriter's discount, exclusive of original issue discount, not to exceed 2.5% of the principal amount of the Bonds) plus accrued interest, if any, from the dated date of the Bonds to the date of delivery thereof; terms relating to the termination, restructuring or replacement of the Swaps; terms of bond insurance, letter of credit or other similar credit enhancement vehicle ("Credit Enhancement"), if any; terms of tender for purchase, if any, at the option of the holder thereof payable from available cash reserves of the University or from a letter of credit, line of credit or other liquidity device (the "Liquidity Device") and all of the terms thereof.

2. The Bonds, and the obligations of the Board under any Credit Enhancement or Liquidity Device, shall be limited and not general obligations of the Board payable from and secured, on a parity basis with all outstanding bonds of the Board, by a lien on the University's General Revenues (substantially as defined in the Trust Indenture relating to the Prior Bonds) or such components thereof and other funds as shall be determined by an Authorized Officer (individually and collectively, the "Security"). Except as otherwise determined by an Authorized Officer, the lien shall be on a parity basis with the liens on General Revenues securing previously issued outstanding bonds of the Board.

Except as specified in the Bonds or related documents, no recourse shall be had for the payment of the principal amount of or interest or premium on the Bonds, any Credit Enhancement or Liquidity Device, or any claim based thereon against the State of Michigan, the Board or any officer or agent thereof, as individuals either directly or indirectly, nor shall the Bonds and interest with respect thereto, or any obligation of the Board in connection with a Credit Enhancement or Liquidity Device, if any, become a lien on or be secured by any property, real, personal or fixed of the State of Michigan or the Board, other than the Security.

Any pledge of the Security, debt service reserves and other funds shall be valid and binding from the date of the issuance and delivery of the Bonds without physical delivery or further act. The lien of said pledge shall be valid and binding against all parties (other than the holders of any other bonds, notes or debt obligations secured by a parity first lien on the

Security) having a claim in tort, contract or otherwise against the Board, irrespective of whether such parties have notice of the lien.

3. The right is reserved to issue additional bonds, notes or other obligations payable from and secured on a parity basis with the Bonds from the Security, upon compliance with the terms and conditions as shall be set forth in the Bonds or related documents.

4. The Authorized Officers, jointly or severally, are hereby authorized and directed to negotiate for and select a Credit Enhancement and/or Liquidity Device provider (with respect to payment of principal, interest and premium, if any, on the Refunding Bonds and/or the Project Bonds), and to execute and deliver a credit agreement relating thereto; to select bond counsel, the underwriter ("Underwriter"), a financial advisor and the Trustee; to execute the Bonds by placing his or her facsimile signature thereon, and to deliver the Bonds to the Underwriter in exchange for the purchase price thereof; to cause preparation of preliminary and final Official Statements with respect to the Bonds, and to execute and deliver the final Official Statements, which the Underwriter is authorized to circulate and use in connection with the offering, marketing and sale of the Bonds; to perform all acts and deeds and to execute and deliver all instruments and documents, for and on behalf of the University required by this resolution, or necessary, expedient and proper in connection with the issuance, sale and delivery, and ongoing administration, of the Bonds, as contemplated hereby; and to execute and deliver, for and on behalf of the Board, continuing disclosure undertakings with respect to the Bonds, in the form such officer deems appropriate.

5. All resolutions or parts of resolutions or other proceedings of the Board in conflict herewith be and the same are hereby repealed insofar as such conflict exists.

I hereby certify that the attached is a true and complete copy of a resolution adopted by the Board of Regents of Eastern Michigan University at a _____ meeting held on _____, 2009.

I further certify as follows:

1. Present at the meeting were the following Board members: _____

Absent from the meeting were the following Board members: _____

2. The following members of the Board voted for adoption of the Resolution: _____

The following members of the Board voted against adoption of the Resolution: _____

RESOLUTION DECLARED ADOPTED:

BH 978126v8

Secretary to the Board of Regents of
Eastern Michigan University

EXHIBIT A

“PROJECTS”

The Projects include the design and all related capital and incidental costs required for the construction, expansion, and/or improvements to campus facilities, including but not limited to the Mark Jefferson Building and University housing facilities, including site development, parking, roads, furnishing enhancements, technology and campus utility systems.