

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: 3

DATE:

October 21, 2005

RECOMMENDATION

**BOND AUTHORIZATION RESOLUTION: RENOVATION OF PRAY-HARROLD
AND MARK JEFFERSON SCIENCE FACILITIES, AND RELATED PROJECTS**

ACTION REQUESTED

It is recommended that the Resolution of the Board of Regents of Eastern Michigan University authorizing the issuance and delivery of General Revenue Bonds be approved.

STAFF SUMMARY

The attached Resolution will authorize the administration to perform all acts and deeds, and execute and deliver all instruments and documents for and on behalf of the University to complete the sale of bonds to finance funding requirements for the design and all related capital and incidental costs required to complete the construction, and/or expansion of, and/or improvements to campus facilities, which includes but is not limited to:

1. Current Refunding of the University's Series 2000 and 2000b Bonds - \$20 million
2. State Matching Requirement for the Renovation of the Pray Harrold classroom building
3. State Matching Requirement for the Renovation of the Mark Jefferson Science Building
4. State Matching Requirement For New Classroom Building Construction
5. Renovation of Student Housing (Dormitories and/or Apartments)
6. Campus Capital Improvements & Asset Preservation Projects

Costs are projected not to exceed \$170 million. Total funding for construction and potential refunding opportunities are not expected to exceed \$190 million. The term of the bonds will range from June 1, 2006 ending December 31, 2036, and the effective yield will not exceed 6.5 percent.

FISCAL IMPLICATIONS

Funding sources for the debt services on the renovation of Pray-Harrold classroom building and Mark Jefferson science building will come from the four percent tuition increase approved by the Board of Regents in August 2005. Funding for housing projects debt service will come primarily from Auxiliary reserves. Campus classroom and asset preservation debt service will be funded using existing funding sources included in the University's General Fund and General Fee budgets.

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
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, in the exercise of its constitutional duties and 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

WHEREAS, the Board has previously issued and delivered certain obligations secured by General Revenues (substantially as defined below) or portions of General Revenues pursuant to resolutions of the Board and one or more indentures or agreements relating to such obligations (the "Outstanding Bonds"), for University projects and purposes; and

WHEREAS, in the exercise of its constitutional duties and in order to prudently control and direct expenditures from the University's funds, the Board determines it is necessary and desirable to authorize the issuance and delivery of bonds (the "Bonds") in order to provide funds which, together with other available funds, will be used to pay all or a part of the costs of the Projects, to fund a debt service reserve fund, if any is required for the Bonds, and to pay costs relating to issuance of the Bonds; and

WHEREAS, the Board also determines that it may be appropriate and economic to refund on a current or advance basis with the Bonds some or all of the payment obligations of the Outstanding Bonds which are or will be in fiscal years 2005 or 2006 subject to being refunded on a current or advance basis, as determined by an Authorized Officer (hereinafter defined) (the "Bonds to be Refunded"); and

WHEREAS, the indentures authorizing the Outstanding Bonds create certain conditions for the issuance of General Revenue Bonds on a parity basis with the Outstanding Bonds; and

WHEREAS, an Authorized Officer shall, on or prior to the delivery of the Bonds, certify that the conditions for issuing the Bonds, secured on a parity basis by General Revenues with the Outstanding Bonds, have been met; and

WHEREAS, a trust indenture (the "Trust Indenture") may be entered into between the Board and a trustee to be designated by an Authorized Officer (the "Trustee") pursuant to which the Bonds may be issued and secured; and

WHEREAS, it is necessary and appropriate for the Board to authorize the Authorized Officers to select an underwriter or underwriters, purchaser or purchasers (individually or

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collectively, the "Underwriter") for the Bonds, and to negotiate a bond purchase agreement (the "Bond Purchase Agreement") containing the terms and conditions upon which the Underwriter will agree to purchase the Bonds, including the interest rates thereof and the purchase price therefor; and

WHEREAS, it may be desirable to secure all or part of the principal of and interest on the Bonds by bond insurance, a letter or letters of credit or other forms of credit enhancement, or a combination thereof (the agreement providing for the repayment to the provider of which is a "Credit Agreement"), from such banks, insurance companies or other credit enhancement providers (a "Credit Enhancement Provider") as an Authorized Officer may determine; and

WHEREAS, in order to be able to market and sell the Bonds at the most opportune time, it is necessary and appropriate for the Board to authorize either or both of the President and the Vice President for Business and Finance or any acting chief financial officer (the "Financial Officer"), jointly or severally (each an "Authorized Officer" and, collectively, the "Authorized Officers") to select the Underwriter, bond counsel, the Trustee, and a Credit Enhancement Provider, and to negotiate, execute and deliver on behalf of the Board an Indenture, an offering and disclosure document (the "Official Statement"), and, if deemed advisable, a Credit Agreement, and to establish the specific terms of the Bonds and to accept the offer of the Underwriter to purchase the Bonds, all within the limitations set forth herein; and

WHEREAS, the implementation of the Projects will serve proper and appropriate public purposes; and

WHEREAS, the refunding of the Bonds to be Refunded will serve proper and appropriate public purposes; and

WHEREAS, the Board has full power under its constitutional authority and supervision of the University, and control and direction of expenditures from the University's funds, to authorize and cause implementation of the Projects and refund the Bonds to be Refunded by issuance of the Bonds, and to pledge the University's General Revenues (as hereinafter defined) or any portion thereof for payment of the Bonds.

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

1. The Board hereby approves each of the Projects as set forth on Exhibit A attached hereto and authorizes an Authorized Officer to proceed with the implementation of any one or more, or any portion thereof, of the Projects and to determine the specific amount of the cost of each Project or portion thereof to be financed from the proceeds of the Bonds.

2. The Board hereby authorizes an Authorized Officer to determine which, if any of the Outstanding Bonds of the Board shall be refunded (and thereby constitute Bonds to be Refunded), based on whether such refunding would produce interest costs savings, more favorable debt service schedules, or more flexible documentation, and to cause to be called for redemption such of those Outstanding Bonds as are appropriate and consistent with the foregoing objectives.

3. The Board hereby authorizes the issuance, execution and delivery of the Bonds of the Board in one or more series, to be dated as of the date established by the Authorized Officer, to be designated GENERAL REVENUE BONDS, SERIES 2005, and/or GENERAL REVENUE REFUNDING BONDS, SERIES 2005, as applicable, with appropriate additional or other series designations or descriptive terms, in an aggregate principal amount to be established by an Authorized Officer, but not to exceed the principal amount of \$170,000,000, to implement the Projects, and \$20,000,000 to implement the refunding of the Bonds to be Refunded (in one or more series, individually and collectively, the "Refunding"), in each such case being the amount necessary to produce proceeds sufficient, together with other available funds, to implement the Projects and the Refunding, to pay costs incidental to the issuance of the Bonds, including capitalized interest, and to fund, if required, a reasonably required debt service reserve fund or funds for the Bonds in amounts to be established by an Authorized Officer. The Bonds shall be serial Bonds or term Bonds (which may be subject to redemption requirements), or both, as shall be established by an Authorized Officer, but the first maturity shall be not earlier than June 1, 2006 and the last maturity shall be not later than December 31, 2036. The Bonds may bear no interest or interest at stated rates for the respective maturities thereof as shall be established by an Authorized Officer, but the highest yield (computed using the stated coupon and the stated original offering price) for any maturity shall not exceed 6.50% per annum, and the Bonds may be 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 6.50% per annum), as determined by an Authorized Officer. Alternatively, all or part of the Bonds may bear interest at a variable rate of interest for all or a portion of their term, and the variable rate of interest shall not exceed the lesser of the maximum rate permitted by law or the maximum rate, if any, to be specified in the Trust Indenture. In addition, all or part of the Bonds may be issued in related series, one of which bears interest at a variable rate and one of which bears interest at a residual rate determined by subtracting the variable rate from the fixed rate paid by the Board, but the combined rate on such Bonds, taking the two related series together, which shall be determined by an Authorized Officer, shall not exceed 6.50% per annum. The Bonds may be subject to redemption or call for purchase prior to maturity at the times and price and in the manner as shall be established by an Authorized Officer, but no redemption premium shall exceed 3% of the principal amount being redeemed. Interest on the Bonds shall be payable at the times as shall be specified by an Authorized Officer. The Bonds shall be issued in fully registered form in denominations, shall be payable as to principal and interest in the manner, shall be subject to transfer and exchange and shall be executed and authenticated, all as shall be specified by an Authorized Officer or provided in the Trust Indenture. The Bonds may be originally issued in book entry only form. The Bonds shall be sold to the Underwriter pursuant to the Bond Purchase Agreement for a price to be established by an Authorized Officer (but the Underwriter's discount, exclusive of original issue discount, shall not exceed 1.5% 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.

In connection with the issuance of the Bonds, or in connection with the conversion of the Bonds from one interest rate mode to another, or in relation to all or any portion of any other series of the Board's General Revenue Bonds (the "Other Bonds"), an Authorized Officer may, on behalf of and as the act of the Board, enter into an interest rate swap, cap forward starting

swap, option, swaption or similar agreement or agreements (collectively, the "Swap Agreement") with a counter-party or counter-parties to be selected by the Authorized Officer. Such Swap Agreement shall provide for payments between the Board and the counter-party related to interest on all or a portion of the Bonds or the Other Bonds, or to indexed or market-established rates. If the Swap Agreement is entered into in connection with the Bonds, the expected effective interest rates on the Bonds, taking into account the effect of the Swap Agreement, shall be within the limitations set forth herein. Any Swap Agreement in the form of an option, swaption or forward starting swap, may, if the Bonds to which such agreement relates are not ultimately issued, be required to be terminated, with a possibility of a resulting termination payment due to the University.

Any or all of the Bonds may be made subject to tender for purchase at the option of the holder thereof. The obligation of the Board to purchase any Bonds subject to tender options may be made payable from available cash reserves of the University, subject to such limitations as may be specified in the Trust Indenture, or may be made payable from a letter of credit, line of credit or other liquidity device (the "Liquidity Device"), all as shall be determined by an Authorized Officer and provided for in the Trust Indenture. Any reimbursement obligation for draws under the Liquidity Device shall be limited and not a general obligation of the Board, payable from and secured by a pledge of General Revenues. An Authorized Officer is authorized to execute and deliver, for and on behalf of the Board, any agreements or instruments necessary to obtain, maintain, renew or replace, and provide for repayments under, any Liquidity Device deemed by such officer to be required for the purposes of this Resolution. Purchase obligations shall not be considered as "principal and interest requirements" hereunder. In the alternative, any or all of the Bonds may be subject to rights on behalf of the holders thereof to tender their Bonds for purchase by the market through a dutch auction procedure, subject to a specified maximum interest rate not in excess of the lesser of the maximum rate specified by law or the rate specified in the Trust Indenture.

4. The Authorized Officers, jointly or severally, are hereby authorized and directed, in the name and on behalf of the Board and as its corporate act and deed, if necessary or expedient for the issuance or pricing of the Bonds or in connection with the issuance of variable rate bonds, to select a Credit Enhancement Provider and negotiate for acquisition of bond insurance, letter of credit, surety bond or other credit facility with respect to payment of principal, interest and premium, if any, on the Bonds, or in lieu of funding a debt service reserve fund with cash, and to execute and deliver a Credit Agreement relating thereto. Any such reimbursement obligation shall be a limited and not a general obligation of the Board, payable from and secured by a pledge of General Revenues. An Authorized Officer is further authorized to execute and deliver, for and on behalf of the Board, such other agreements as may be necessary or appropriate to maintain, renew or replace, and provide for payments under, any Credit Agreement relating to the Bonds.

5. The Bonds, and the obligations of the Board under any Credit Agreement, Swap Agreement or Liquidity Device, shall be limited and not general obligations of the Board payable from and secured, on a parity basis with the Outstanding Bonds, by a lien on the University's General Revenues (as shall be defined in the Trust Indenture to include those items described below) or such components thereof as shall be determined by an Authorized

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Officer (individually and collectively, the "Security") and funds from time to time on deposit in certain funds or accounts established by or at the direction of an Authorized Officer or created pursuant to the Trust Indenture or agreements entered into in connection with the Credit Agreement. Except as otherwise determined by an Authorized Officer, as provided immediately below, the lien shall be on a parity basis with the liens on General Revenues securing previously issued Outstanding Bonds of the Board. Notwithstanding anything herein to the contrary, any obligations of the Board under any Credit Agreement may, if determined appropriate by an Authorized Officer, be payable and secured on a subordinated basis to the Bonds and other Outstanding Bonds of the Board.

"General Revenues" shall be defined in the Trust Indenture generally to include student tuition and other fees before allowances for scholarships, housing and auxiliary revenues before allowances for scholarships, unrestricted gifts and grants, unrestricted investment income, unrestricted receipts from the sales and service of educational activities, and other miscellaneous revenues, all subject to certain reductions, limitations and exceptions, and moneys, securities or other investments from time to time on deposit in certain funds created pursuant to the Trust Indenture or agreements entered into in connection with any Credit Agreement, Swap Agreement or Liquidity Device. Except as otherwise determined by an Authorized Officer, as provided below, the lien shall be on a parity basis with the liens on General Revenues securing previously issued outstanding bonds and notes of the Board.

Except as specified in the Bonds or as provided in the Trust Indenture, no recourse shall be had for the payment of the principal amount of or interest or premium on the Bonds, any Credit Agreement, Swap Agreement 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 Agreement, Swap Agreement 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 and the moneys from time to time on deposit in the funds established by the Trust Indenture or the agreements executed in connection with a Credit Agreement, Swap Agreement or Liquidity Device, if any.

Any pledge of the Security, debt service reserves and other funds specified in the Trust Indenture, or agreements executed in connection with a Credit Agreement, Swap Agreement or Liquidity Device, if any, shall be valid and binding from the date of the issuance and delivery of the Bonds, or such agreements and all moneys or properties subject thereto which are thereafter received shall immediately be subject to the lien of the pledge 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.

Notwithstanding anything herein to the contrary, any obligations of the Board under any Swap Agreement or Credit Agreement or any agreement with respect to a Liquidity Device may, if determined appropriate by an Authorized Officer, be payable and secured on a subordinated basis to the Bonds and other General Revenue obligations of the Board.

6. 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 the Trust Indenture.

7. The Authorized Officers, jointly or severally, are hereby authorized and directed, in the name and on behalf of the Board, and as its corporate act and deed, to determine which Outstanding Bonds, or maturities of Outstanding Bonds, shall be refunded, to determine the method of refunding, to establish such escrow accounts as are necessary for the deposit of the proceeds of the Bonds and the investments thereof, to determine which investments of the proceeds of the Bonds shall be required in order to effect the refunding, to issue appropriate directions to the trustee for the Bonds to be Refunded with respect to the redemption of the Bonds to be Refunded and the giving of notice with respect thereto, to select the escrow agent or trustee, and to take such other actions as shall be necessary and appropriate to effect the refunding of the Bonds to be Refunded.

8. The Authorized Officers, jointly and severally, are hereby authorized and directed, in the name and on behalf of the Board, and as its corporate act and deed, to select bond counsel, to select the Trustee, and to negotiate, execute and deliver the Trust Indenture. The Trust Indenture may contain such covenants on behalf of the Board and terms as either such Authorized Officer deems appropriate, including, but not limited to, covenants with respect to the establishment of rates, fees, rentals and charges at levels expressed as a percentage of debt service on the Bonds or all bonds similarly secured, and with respect to the issuance of additional bonds, notes or other obligations payable from and secured by the Security.

9. The Authorized Officers, jointly and severally, are hereby authorized and directed, in the name and on behalf of the Board, and as its corporate act and deed, to select the Underwriter and to negotiate, execute and deliver the terms of the Bond Purchase Agreement and the Bonds and the sale thereof, all within the limitations set forth herein.

10. The Authorized Officers, jointly and severally, are hereby authorized, empowered and directed, in the name and on behalf of the Board, and as its corporate act and deed, to execute the Bonds by placing his facsimile signature thereon, and to deliver the Bonds to the Underwriter in exchange for the purchase price thereof.

11. The Authorized Officers, jointly and severally, are hereby authorized, if required by the Underwriter, to cause preparation of a preliminary and a final Official Statement with respect to the Bonds, and to execute and deliver the final Official Statement. The Underwriter is authorized to circulate and use, in accordance with applicable law, the preliminary and final Official Statement in connection with the offering, marketing and sale of the Bonds.

12. The President, the Financial Officer, the Secretary and any other appropriate officer of the Board or the University are hereby severally authorized 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, the Trust Indenture or the Bond Purchase Agreement, or necessary, expedient and proper in connection with the issuance, sale and

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delivery, and ongoing administration, of the Bonds, the Trust Indenture, or any Credit Agreement, Swap Agreement or Liquidity Device, as contemplated hereby.

13. The Authorized Officers, jointly and severally, are hereby authorized and directed to execute and deliver, for and on behalf of the Board, a continuing disclosure undertaking with respect to the Bonds, in the form such officer deems appropriate.

14. The Financial Officer is hereby authorized and delegated the power to issue a declaration of intent to reimburse the University from Bond proceeds for any expenditures with respect to any component of the Project incurred prior to the issuance of the Bonds, all in accordance with I.R.S. Regulation 1.103-18.

15. 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 regular meeting held on _____, 2005 and the said meeting was conducted and public notice of said meeting was given pursuant to and in fully compliance with the Open Meetings Act, being No. 267, Public Acts of Michigan 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

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:

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 and/or expansion of and/or improvements to campus facilities, including but not limited to Pray-Harrold, the Mark Jefferson Science Building and University housing facilities, including site development, parking, roads, furnishing enhancements, technology, and necessary campus utility systems.