

MINUTES OF THE BOARD OF REGENTS
OF HIGHER EDUCATION
MONTANA UNIVERSITY SYSTEM

CONFERENCE CALL
February 21, 1980

Chairman James convened the Board of Regents by telephone conference call at 4:20 p.m. on Thursday, February 21, 1980. Present in the Commissioner's office were Regent Jeff Morrison, Commissioner of Higher Education John A. Richardson, and Deputy Commissioner for Management and Fiscal Affairs Jack Noble. Participating by telephone were Regents James, Peterson, Pace, Hopkins and Hansen. Lewy Evans was absent.

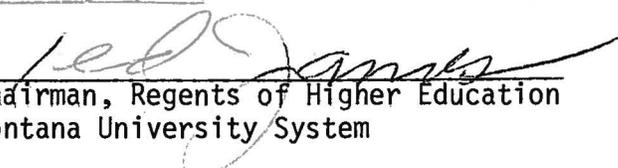
Jack Noble reported that the bid opening on Item 26-203-R0180, Construction of Married Student Housing, Montana State University, had been held on February 20, 1980 and the successful bid was below the \$3.2 million estimated cost. Mr. Noble explained that the bond market is unsettled to a degree that there is some question if the revenue bonds can be sold within the 45-day period to finance the construction. Mr. Noble will report to the Board further at the March 10 meeting.

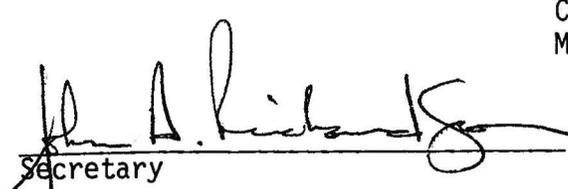
Commissioner Richardson stated the second agenda item requests approval of the bond agreement negotiated between the Board of Examiners and the Board of Regents following approval by the Regents on January 7, 1980 of Item 26-207-R0180 and Item 26-702-R0180. The issue date of the bonds is March 3, 1980, and bond counsel has informed the Commissioner that the Regents must approve the bond agreement prior to the issue date.

Jack Peterson moved approval of the agreements for financing the Montana State University capital construction program and the agreement for financing the Eastern Montana College capital construction program pursuant to the agreements entered into under letter of January 31, 1980 from William A. Johnstone. The motion carried.

The meeting adjourned.

APPROVED:


Chairman, Regents of Higher Education
Montana University System


Secretary

AGREEMENT FOR FINANCING
MONTANA STATE UNIVERSITY CAPITAL CONSTRUCTION PROGRAM

THIS AGREEMENT, by and between the Board of Regents of Higher Education for the Montana University System (the Board of Regents) and the Montana State Board of Examiners (the Board of Examiners) dated as of the 1st day of March, 1980, witnesseth that the parties mutually recite, covenant and agree as follows:

Section 1. By Section 20-25-431, MCA, the legislature has authorized and consented to a capital construction program at Montana State University, Bozeman, Montana (the University), consisting of the acquisition, construction and equipping of improvements to the student union building (the Union Project) and the physical education, athletic and recreational facilities (the Recreation Project), and has consented to the financing of these projects by the Board of Regents from gifts, grants, fees and earnings and from the issuance of bonds (Revenue Bonds) in accordance with Sections 20-25-401, 20-25-432 and 20-25-433, MCA.

Section 2. By Section 20-25-432, MCA, the Board of Examiners, upon request of the Board of Regents, is authorized to issue and sell long range building program bonds (State Bonds) upon the conditions and in the manner stated in Title 17, Chapter 5, Part 4, MCA, in a principal amount not to exceed \$4,000,000 to finance the costs of the Union Project and \$2,500,000 to finance the costs of the Recreation Project. The Board of Regents has requested the Board of Examiners to issue and sell State Bonds in the total amount of \$6,500,000 pursuant to this authorization.

Section 3. Under the provisions of Section 20-25-433, MCA, the sale and issuance of said State Bonds must be subject to an undertaking by the Board of Regents to pay the State Treasurer, for deposit in the Sinking Fund Account established pursuant to Section 17-5-405, MCA, amounts sufficient to pay as due the principal of and interest on the State Bonds, from such revenues, fees, and income as are lawfully available to the Board of Regents to pay the costs of the Projects, or which would be lawfully available to pay debt service on Revenue Bonds if they were issued to pay such costs. With the approval of the Board of Examiners, such undertaking and the payments thereunder may be subordinated to other obligations of the Board of Regents upon such terms as the Board of Examiners considers appropriate, and the undertaking is solely for the benefit of and enforceable by the State, and not by the holders of the State Bonds. However, arrangements between the Board of Regents and the Department of Administration must specifically require the Board of Regents to maintain debt service payments and the reserve requirement to the Sinking Fund Account with respect to said bonds; and if enrollment reductions should endanger these payments, the Board of Regents must insure continued payments through budget adjustments which include fee increases.

Section 4. The Board of Examiners approves the request of the Board of Regents for the sale and issuance of State Bonds in the principal amount of \$6,500,000 for the purposes and pursuant to the authority referred to in Sections 1 and 2 of this Agreement, and upon the conditions referred to in Section 3 as implemented by the covenants and agreements set forth below. These bonds shall be included in an issue of General Obligation Long-Range Building Program Bonds dated as of March 1, 1980, bearing interest at the most favorable rate or rates offered upon public sale, payable semiannually on May 1 and November 1 of each year, and maturing in annual installments of principal on May 1 in the years 1981 to 2010, inclusive. The Bonds issued pursuant to this agreement shall mature in the following amounts in said years, respectively:

1981	\$50,000	1991	\$ 50,000	2001	\$360,000
1982	50,000	1992	50,000	2002	385,000
1983	50,000	1993	50,000	2003	410,000
1984	50,000	1994	50,000	2004	440,000
1985	50,000	1995	50,000	2005	470,000
1986	50,000	1996	50,000	2006	500,000
1987	50,000	1997	50,000	2007	540,000
1988	50,000	1998	50,000	2008	575,000
1989	50,000	1999	310,000	2009	615,000
1990	50,000	2000	335,000	2010	660,000

The proceeds of the State Bonds shall be deposited in the clearance fund account created by Section 17-5-401(2), MCA, and expended in payment of costs of the Projects on the order of the Board of Regents.

Section 5. Under the provisions of Section 20-25-402, MCA, and prior laws the Board of Regents has issued Revenue Bonds for facilities at Montana State University which are now outstanding and secured by revenues pledged in the following bond instruments:

- (a) Indenture dated July 1, 1954, with First National Bank in Bozeman as Trustee (the 1954 Indenture) securing Montana State University Revenue Bonds, and pledging (1) Net Revenues of Income Facilities comprising certain designated facilities and any others financed in whole or in part under the 1954 Indenture, (2) Student Fees comprising all proceeds of the Student Union Building Fee and Student Union Fee and \$1 of each quarterly Student Health Service Fee collected at Montana State University, (3) Land Grant Income under the Act of Congress approved February 22, 1889 (25 Stat. 676), as amended, and (4) annual debt service grants from the United States Department of Housing and Urban Development, except (5) amounts required by the 1954 Indenture to be set aside to maintain a Replacement Fund balance of \$280,000 for paying the cost of unusual or extraordinary

maintenance or repairs or the cost of acquiring, installing or replacing equipment.

- (b) Indenture dated July 1, 1956, with First National Bank in Bozeman as Trustee (the 1956 Indenture), securing the Montana State College Physical Education Center Revenue Bonds Series 1956, and pledging (1) Net Revenues of certain facilities financed by said bonds, and (2) Student Fees comprising all proceeds of the Health and Physical Education Center Building Fee and Athletic Activity Fee collected at Montana State University.
- (c) Resolution adopted October 14, 1963, entitled "Resolution Authorizing the Issuance of \$3,378,000 Montana State College Student Building Fee Revenue Bonds Series 1963 and the Redemption and Refunding of Series 1957 and Series 1960, Financing Education Facilities at Montana State College, Bozeman, Montana" (the 1963 Revenue Bond Resolution), securing the bonds referred to in the title and any additional bonds which may be issued upon conditions stated in the 1963 Revenue Bond Resolution, and pledging the Student Building Fee and Non-resident Building Fee so far as required to pay said bonds and interest thereon when due and to accumulate and maintain a bond reserve.
- (d) Resolution adopted April 12, 1971, entitled "Resolution Authorizing the Issuance of Montana State University Physical Education Fee Revenue Bonds" (the 1971 Revenue Bond Resolution), securing bonds referred to in the title and designated Series 1971, and any additional bonds which may be issued upon conditions stated in the 1971 Revenue Bond Resolution (none having been issued to this date), and pledging the Physical Education Fee so far as required to pay said bonds and interest thereon when due and to accumulate and maintain a bond reserve.

Section 6. The Board of Regents contemplates the issuance of additional Montana State University Revenue Bonds under the provisions of the 1954 Indenture, for the purpose of paying costs of the Union and Recreation Projects in excess of those which may be paid from the proceeds of the State Bonds, in accordance with the laws referred to in Section 1. The principal amount of Revenue Bonds required is presently estimated at approximately \$1,350,000. The past collections of revenues pledged in the 1954 Indenture are estimated to be sufficient to permit this amount of Revenue Bonds presently proposed to be issued thereunder. However, it is not presently contemplated that Revenue Bonds will be issued under the 1954 Indenture to evidence the undertaking of the Board of Regents with respect to the State Bonds, and under the provisions of the 1954 Indenture no revenues pledged therein may be used to pay State Bonds or for any purpose other than redemption at or before

maturity of Revenue Bonds issued thereunder.

Section 7. Pursuant to Article XII of the 1956 Indenture, the Board of Regents shall call all of the remaining Revenue Bonds now outstanding thereunder for redemption on July 1, 1980, at their principal amount plus accrued interest plus a premium of 2 1/2% of the principal amount as provided in Section 301 of the Indenture, and shall cause to be deposited with the Trustee any amount of funds needed, with funds now held by the Trustee, for this purpose and for the payment of all other sums, if any, payable by the Board under the Indenture, and shall request the Trustee to publish notice of such redemption in accordance with Section 302 of the Indenture, to release the Indenture and execute an instrument evidencing such release. From and after the release of the 1956 Indenture the Board of Regents shall continue to fix, charge and collect rentals, rates, fees and other charges for the use of and admission to the Project as therein defined and shall continue to impose the Health and Physical Education Center Building Fee as therein referenced so that the revenues derived therefrom shall be sufficient to pay the ordinary and necessary costs of operation, maintenance and repair of the Project and to produce surplus revenues, after payment of such costs, which shall be paid to the State Treasurer in the amounts and at the times as provided in Section 9 below.

Section 8. Under the provisions of the 1963 and 1971 Bond Resolutions all surplus revenues received from the collection of the Student Building Fee, Non-resident Building Fee and Physical Education Fee pledged therein, in excess of current debt service and reserve requirements of the Revenue Bonds from time to time issued and outstanding thereunder, may be used for any proper corporate purpose of Montana State University. From and after July 1, 1980, all such surplus revenues then on hand and thereafter received in excess of the amounts thereof determined by the Board of Regents to be necessary to pay current costs of operation, maintenance and repair of the facilities at Montana State University, shall be paid to the State Treasurer at the times and in the amounts as provided in Section 8 below. However, nothing herein shall be deemed to preclude the issuance of additional Revenue Bonds under the provisions of the 1963 and 1971 Bond Resolutions for the purpose of financing the purchase, construction, equipment or improvement of any facilities specifically authorized by the legislature, notwithstanding that such issuance may reduce the surplus revenues available for disposition under Section 9.

Section 9. On each April 15th and October 15th, commencing October 15, 1980, the Board of Regents shall pay to the State Treasurer from the surplus revenues described in Sections 7 and 8 hereof an amount equal to the principal of and interest on the State Bonds referred to in Section 4 due on the next succeeding November 1 and May 1, respectively, and shall also pay all additional surplus revenues so described to accumulate and thereafter maintain a reserve in the Sinking Fund Account in an amount at least equal after each interest and principal payment, to the

maximum amount of interest and principal which will become due on all State Bonds referred to in Section 4 in any subsequent fiscal year. During the term of this Agreement the Board of Regents shall continue to impose the fees referenced in Sections 7 and 8 hereof and shall modify such fees from time to time to insure that the surplus revenues paid to the State Treasurer will be sufficient to satisfy the requirements of this Section 9. The surplus revenues shall be deposited as received in the Long-Range Building Program Sinking Fund Account in the State Treasury and the State Treasurer shall maintain a bookkeeping account of all revenues so deposited. Any funds accumulated in this bookkeeping account at any time in excess of the foregoing principal, interest and reserve requirements, shall be transferred by the State Treasurer to the Board of Regents for use for any proper corporate purpose of Montana State University. The balance in said bookkeeping account from time to time shall be credited against the amounts to be deposited from time to time in the Long-Range Building Program Sinking Fund Account to meet the principal, interest and reserve requirements of all Long Range Building Program Bonds as set forth in Section 17-5-405, MCA. The proceeds of the State Bonds referred to in Section 4 shall be invested until required for the Projects for which the Bonds are issued and all investment income shall, at the option of the Board of Regents, be used to pay costs of such Projects or be credited against the amounts otherwise to be paid pursuant to this Section 9.

Section 10. For the purpose of assuring compliance with the reserve requirement with respect to the State Bonds referred to in Section 4, the sum of \$350,000 shall be withdrawn from the proceeds of the first Revenue Bonds hereafter issued by the Board of Regents under the 1954 Indenture as contemplated in Section 6, and deposited in the Sinking Fund and credited to the bookkeeping account required to be maintained by the State Treasurer pursuant to Section 9 hereof. This sum shall be invested and reinvested and the principal thereof and interest thereon shall be added to the revenues to be deposited therein as provided in Section 9 and disposed of in the same manner. It is determined and agreed that this sum is a necessary cost of the Projects under the laws authorizing them and does not exceed the reasonably required amount of a reserve for the State Bonds. The State Treasurer shall report at least annually to the Board of Regents the receipts of Revenue Bond proceeds, revenues and investment income in the bookkeeping account maintained pursuant to Section 9, the expenditures therefrom for payment of State Bonds and interest thereon, and the balance of funds remaining therein.

Section 11. The parties hereto reserve the right by mutual agreement to amend this Agreement from time to time, including amendments to substitute, to the extent now or hereafter authorized by law, revenues from other sources than those described in Sections 7 and 8 hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their corporate seals to be affixed hereto, all as of the day and year first above written.

MONTANA STATE BOARD OF EXAMINERS

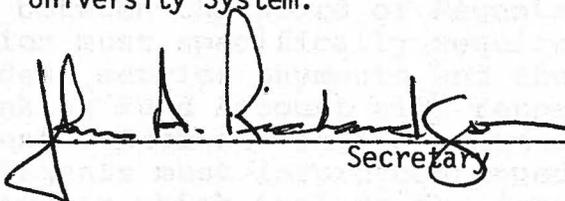
Chairman

Executive Secretary

BOARD OF REGENTS OF THE MONTANA UNIVERSITY SYSTEM

Commissioner of Higher Education

The foregoing Agreement for Financing was approved on February 21, 1980 by the Regents of Higher Education, Montana University System.


Secretary

(SEAL)

(SEAL)