

Agendum
Oakland University
Board of Trustees Formal Session
October 31, 2011

AUTHORIZING RESOLUTION – GENERAL REVENUE BONDS, SERIES 2012

A Recommendation

1. **Division and Department:** Finance and Administration Division, Treasury Management Department.
2. **Introduction:** The Governor of the State of Michigan signed the Capital Outlay Appropriation, House Bill No. 5858 allocating a capital appropriation of \$30 million for Oakland University (University) to build an Engineering Center at a total cost of \$74,551,739. The \$44,551,739 University match will be funded from bond proceeds through the issuance of University General Revenue Bonds, Series 2012 (Bond). Issuance costs are expected to be 2%, approximately \$1,000,000. The total amount of proceeds from this Bond issuance will not exceed \$50,000,000 (see Attachment A).
3. **Previous Board Action:** On December 9, 2010, the Board approved the Fiscal Year 2012 Capital Outlay Project Request which included the Engineering Center as the University's top priority capital outlay request. On March 30, 2011, the Board approved the Engineering Center reimbursement resolution. On June 8, 2011, the Board approved the architectural and engineering firm for the Engineering Center.
4. **Budget Implications:** Annual straight line amortization of \$50,000,000 at an estimated 4.8% for 30 years is \$3,178,797 per year including interest and principal, and will be built into the General Fund budget beginning in FY2015.
5. **Educational Implications:** The School of Engineering and Computer Sciences will be housed in the new building along with general purpose classrooms.
6. **Personnel Implications:** None
7. **University Reviews/Approvals:** The Office of Treasury Management, Vice President for Finance and Administration, Bond Counsel (Jerry T. Rupley at Miller, Canfield, Paddock and Stone, PLC), Debt Advisor (Kari L. Blanchett at the PFM Group), the Office of Legal Affairs and President have reviewed this agendum.
8. **Recommendation:**
See Attachment B

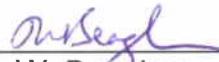
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9. Attachments:

A. Bond Proceeds Detail

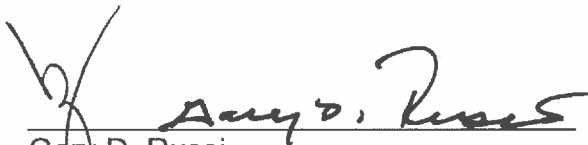
B. RESOLUTION OF THE BOARD OF TRUSTEES OF OAKLAND UNIVERSITY AUTHORIZING THE ISSUANCE AND DELIVERY OF GENERAL REVENUE BONDS AND PROVIDING FOR OTHER MATTERS RELATING THERETO

Submitted to the President
on 10/18, 2011 by



John W. Beaghan
Vice President for Finance and Administration and
Treasurer to the Board of Trustees

Recommended on 10/21, 2011
to the Board for approval by



Gary D. Russi
President

Attachment A

Bond Proceeds Detail

University Match	\$44,551,739
Issuance Costs *	1,000,000
Capitalized Interest *	<u>4,448,261</u>
Bond Proceeds (not to exceed)	<u>\$50,000,000</u>

*Estimated

Attachment B

RESOLUTION OF THE BOARD OF TRUSTEES OF
OAKLAND UNIVERSITY
AUTHORIZING THE ISSUANCE AND DELIVERY OF
GENERAL REVENUE BONDS AND PROVIDING FOR
OTHER MATTERS RELATING THERETO

WHEREAS, the Board of Trustees of Oakland 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 Oakland 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 properly serve the needs of students attending the University, the Board proposes to undertake the acquisition, construction, installation and equipping of the capital improvements described in Exhibit A hereto (collectively, the "Projects"); and

WHEREAS, the Board has previously issued and has outstanding certain series of General Revenue Bonds (the "Outstanding Bonds"), and has incurred certain other debt obligations payable from and secured by a lien on General Revenues (as hereinafter defined) (such other debt obligations, together with the Outstanding Bonds, are collectively referred to herein as the "Outstanding Obligations"); and

WHEREAS, it may be appropriate and economical to refund all or part of the Outstanding Obligations (the portion of the Outstanding Obligations, if any, to be refunded to be determined by an Authorized Officer (hereinafter defined) and being herein called the "Bonds to be Refunded"); and

WHEREAS, the financing of all or a portion of the Projects and the refunding of the Bonds to be Refunded, if any, through the issuance of General Revenue Bonds will serve proper and appropriate public 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 of General Revenue Bonds (the "Bonds") in order to provide funds that, together with other available funds, will be used to pay all or part of the costs of the Projects and the refunding of the Bonds to be Refunded, if any, and to pay costs incidental to the issuance of the Bonds and the refunding; and

WHEREAS, it may be desirable and in the best interests of the University to secure all or part of the principal and interest on the bonds by bond insurance, a letter of credit or other form or credit enhancement from an insurance company, bank or other credit enhancement provider; and

WHEREAS, a trust indenture (the "Trust Indenture") or loan agreement (the "Loan Agreement") must be entered into by and between the Board and a trustee (the "Trustee") or a

direct placement lender, in either case to be designated by an Authorized Officer, pursuant to which the Bonds will be issued and secured; and

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

WHEREAS, the Vice President for Finance and Administration of the University 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 Obligations, have been met; and

WHEREAS, it is necessary to authorize the President and the Vice President for Finance and Administration of the University (each an "Authorized Officer") or either of them individually, to negotiate the sale of the Bonds with an underwriter or group of underwriters to be selected by an Authorized Officer (collectively, the "Underwriter") or with a direct placement lender to be selected by an Authorized Officer (the "Purchaser"), and to enter into one or more bond purchase agreements with the Underwriter or Purchaser (collectively, the "Bond Purchase Agreement") setting forth the terms and conditions upon which the Underwriter or Purchaser will agree to purchase the Bonds and the interest rates thereof and the purchase price therefor, or, in the alternative, to select the Underwriter for all or any portion of the Bonds and to establish the terms for such Bonds through a competitive bidding process pursuant to a notice of sale; and

WHEREAS, in order to be able to market the Bonds at the most opportune time, it is necessary for the Board to authorize the Authorized Officers, or either of them individually, to negotiate, execute and deliver on behalf of the Board, the Trust Indenture or Loan Agreement, the Bond Purchase Agreement, one or more remarketing agreements with the Underwriter or other parties (collectively, the "Remarketing Agreement"), and other related documents, to publish any notice of sale required for the sale of any portion of the Bonds, to establish the specific terms of the Bonds and to accept the offer of the Underwriter or Purchaser to purchase the Bonds, all within the limitations set forth herein; and

WHEREAS, the Board has full power under its constitutional authority for supervision of the University, and control and direction of expenditures from the University funds, to acquire, construct, furnish and equip the Projects, to refund the Bonds to be Refunded, to pay all or a portion of the costs of the Projects and of the refunding by issuance of the Bonds, and to pledge General Revenues for payment of the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF OAKLAND UNIVERSITY, AS FOLLOWS:

1. **Approval of the Projects and the Refundings.** The Board hereby approves each of the "Projects" as set forth on Exhibit A attached hereto, and authorizes the Authorized Officers, or either of them, to select the portions of the Projects to be financed, in whole or in part, from the proceeds of the Bonds, and to fund, as appropriate, the remaining portion of the costs of the Projects from available funds of the University or from other available funds, and to proceed with the acquisition, equipping and construction of the Projects. The Board further approves the refunding of the Bonds to be Refunded and authorizes the Authorized Officers, or

either of them, to select the portion, if any, of the Outstanding Obligations to constitute the Bonds to be Refunded, in order to produce interest costs savings, more favorable debt service schedules, or more flexible documentation, as shall be determined by an Authorized Officer, and to cause to be called for redemption the Bonds to be Refunded as are appropriate and consistent with the foregoing objectives.

2. Authorization of the Bonds and Related Agreements; Terms of the Bonds; Related Matters. The Board hereby authorizes the issuance, execution and delivery of the Bonds in one or more series, to be designated GENERAL REVENUE BONDS, SERIES 2012 (with appropriate alternative or additional series designations) in the aggregate principal amount to be established by an Authorized Officer, but not to exceed the amount necessary to produce proceeds of \$50,000,000, plus an amount necessary to fund capitalized interest on the Bonds as an Authorized Officer deems appropriate and an amount necessary to accomplish the refunding of the Bonds to be Refunded. The Bonds shall be dated as of the date or dates established by an Authorized Officer.

The proceeds of the Bonds shall be used to pay all or a portion of the costs of the Projects, as shall be determined by an Authorized Officer, all or a portion of the costs of refunding the Bonds to be Refunded, if any, as shall be determined by an Authorized Officer, and costs incidental to the issuance of the Bonds and the refunding, including the cost of bond insurance, if any, and funding capitalized interest on the Bonds for such period, if any, in each instance as an Authorized Officer deems appropriate. 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 or mandatory redemption date shall be not earlier than April 1, 2012 and the final maturity shall be not later than December 31, 2042. The Bonds may bear no interest or may bear interest at stated fixed rates for the respective maturities thereof as shall be established by an Authorized Officer, but the weighted average yield (computed using the stated coupon and the stated original offering price) for the Bonds shall not exceed 7.5% per annum for tax-exempt Bonds and not in excess of 10.0% per annum for taxable Bonds. 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 7.5% per annum for tax-exempt Bonds or 10.0% per annum for taxable Bonds) to be 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 or Loan Agreement. The Bonds may be subject to redemption or call for purchase prior to maturity at the times and prices and in the manner as shall be established by an Authorized Officer, provided that the redemption premium shall not exceed 3.0% of the principal amount being redeemed, unless the redemption price is based on a "make-whole" formula, in which case the premium shall not exceed 40% of the principal amount being redeemed. Interest on the Bonds shall be payable at such 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, and may be issued in book-entry-only form, all as shall be provided in the Trust Indenture or Loan Agreement. The Bonds shall be sold to the Underwriter or Purchaser pursuant to the Bond Purchase Agreement or through a competitive bidding process pursuant to a notice of sale for a price to be established by an Authorized Officer

(but the Underwriter's or Purchaser's discount, exclusive of net original issue discount, shall not exceed 1.5% of the principal amount thereof) plus accrued interest, if any, from the dated date of the Bonds to the date of delivery thereof.

In relation to the debt service on the Bonds, or in relation to all or any portion of the debt service on the Outstanding Bonds, either of the Authorized Officers may, at any time, on behalf of and as a corporate act and deed of the Board, enter into an interest rate swap, cap, forward starting swap, rate lock, 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 Outstanding Bonds, or to indexed or market established rates. If the Swap Agreement is entered into in connection with the issuance of 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, rate lock, 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 by the University. In addition, either Authorized Officer is authorized to modify or terminate any existing interest rate swap or similar agreement entered into in connection with any of the Outstanding Bonds, if the Authorized Officer determines such action is economic and in the best interests of the Board, based on the advice of the Board's financial advisor.

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 General Revenues, from available cash reserves of the University, subject to such limitations as may be specified in the Trust Indenture or Loan Agreement, or from a letter of credit, line of credit or other liquidity device (the "Liquidity Device"), or any combination thereof, all as shall be determined by an Authorized Officer and provided for in the Trust Indenture or Loan Agreement. Any reimbursement obligation for draws under the Liquidity Device shall be a limited and not a general obligation of the Board, payable from and secured by a pledge of General Revenues. Either Authorized Officer is authorized to execute and deliver at any time, 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 principal of or interest on the Bonds.

3. Limited Obligation of the Board; Security. The Bonds, and the obligations of the Board under the Swap Agreement or Liquidity Device, if any, shall be limited and not general obligations of the Board payable from and secured by a lien on the General Revenues and moneys, securities or other investments from time to time on deposit in certain funds created pursuant to the Trust Indenture or Loan Agreement, or agreements entered into in connection with the Swap Agreement or Liquidity Device. Except as otherwise determined by an Authorized Officer, as provided below, the lien on General Revenues shall be on a parity basis with the liens on General Revenues securing the Outstanding Obligations.

As used herein and in the Trust Indenture and related documents, "General Revenues" shall be defined generally to include all fees, deposits, charges, receipts and income from all or

any part of the students of the University, whether activity fees, tuition, instructional fees, tuition surcharges, general fees, health fees or other special purpose fees; all gross income, revenues and receipts from the ownership, operation and control of the Board's housing, dining and auxiliary facilities; all unrestricted receipts from departmental or educational activities; all unrestricted grants, gifts, donations and pledges and receipts therefrom; all unrestricted recoveries of indirect costs; and all unrestricted investment income, *but excluding* all of the following: (a) student activity fees approved by student referendum and not reported in the University's current funds; (b) any deposits required by law or contract to be held in escrow; (c) any gifts, grants, donations or pledges and receipts therefrom restricted as to use in a manner inconsistent with payment of amounts due on the Bonds and any obligations secured on a parity with the Bonds; (d) appropriations to the University from the State Legislature; (e) any income, revenues or receipts of whatever kind or nature attributed by the University to the University's constituent school of medicine, which at this time is privately funded, and not reported in the University's current funds; and (f) up to an amount equal to an aggregate of 5% of General Revenues each fiscal year collected annually from the levy of a special fee hereafter established by the Board and designated by the Board to be excluded from General Revenues.

No recourse shall be had for the payment of the principal amount of or interest or premium on the Bonds, or for the payment of any amounts owing under the Swap Agreement or the Liquidity Device, if any, or any claim based thereon, against the State of Michigan, the Board (except as provided herein) or any member or agent of the Board (including, without limitation, any officer or employee of the University), as individuals, either directly or indirectly, nor shall the Bonds and interest with respect thereto, or any obligations of the Board in connection with the Swap Agreement or Liquidity Device, if any, become a lien on or be secured by any property, real, personal or mixed, of the State of Michigan or the Board, other than General Revenues and the moneys, securities or other investments from time to time on deposit in certain funds established as pledged pursuant to the Trust Indenture or Loan Agreement, or agreements entered into in connection with the Swap Agreement or Liquidity Device, if any.

Any pledge of General Revenues, and funds specified in the Trust Indenture or Loan Agreement, or agreements entered into in connection with the Swap Agreement or Liquidity Device, if any, shall be valid and binding from the date of issuance and delivery of the Bonds or such agreements, and all moneys or properties subject thereto that 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 General Revenues) 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 the Swap Agreement or any agreement with respect to the 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, or may be payable from General Revenues but be unsecured.

4. **Additional Bonds.** The right is reserved to issue additional bonds, notes or other obligations payable from and secured on a parity basis with the Bonds and the Outstanding

Obligations from the General Revenues, upon compliance with the terms and conditions as shall be set forth in the Trust Indenture or Loan Agreement.

5. **Selection of Trustee; Terms of Documents; Bond Insurance.** Either Authorized Officer is hereby authorized and directed, in the name and on behalf of the Board and as its corporate act and deed, to select the Trustee, if any, and to negotiate the terms of and execute and deliver the Trust Indenture or Loan Agreement. The Trust Indenture or Loan Agreement may contain such covenants of the Board and terms as such Authorized Officers deem appropriate, including, but not limited to, covenants with respect to the establishment of General Revenues at levels expressed as a percentage of debt service on the Bonds or all General Revenue Bonds, and with respect to the issuance of additional bonds, notes or other obligations payable from and secured by General Revenues. In addition, either Authorized Officer is hereby authorized, empowered and directed to negotiate, if necessary and expedient for the issuance of the Bonds, for the acquisition of bond insurance and to execute and deliver an insurance commitment or other documents or instruments required in connection with such insurance.

6. **Sale of the Bonds; Selection of Underwriter or Purchaser; Terms of Purchase.** Either Authorized Officer is hereby authorized and directed, in the name of and on behalf of the Board and as its corporate act and deed, to select the Underwriter or Purchaser and to negotiate execute and deliver the Remarketing Agreement, if any, and the Bond Purchase Agreement with the Underwriter or Purchaser setting forth the terms of the Bonds and the sale thereof, in such form as an Authorized Officer may approve, all within the limitations set forth herein. In the alternative, if determined by an Authorized Officer, selection of the Underwriter and the setting of the terms for all or any portion of the Bonds may be made through a competitive sale or bidding process, and any Authorized Officer is authorized to accept the winning bid or offer of the Underwriter for the purchase of such Bonds.

7. **Execution and Delivery of Bonds.** Either Authorized Officer is 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 or her facsimile or manual signature thereon, and to deliver the Bonds to the Underwriter or Purchaser in exchange for the purchase price therefor, as provided in the Bond Purchase Agreement.

8. **Notice of Sale; Official Statement.** Either Authorized Officer is hereby authorized to cause the preparation and publication of a notice of sale, if necessary, and the preparation of a Preliminary Official Statement and an Official Statement with respect to the Bonds, and to execute and deliver the Official Statement. The Underwriter is authorized to circulate and use, in accordance with applicable law, the Preliminary Official Statement, if any, and the Official Statement in connection with the offering, marketing and sale of the Bonds.

9. **Additional Acts Required.** The Authorized Officers, the Vice President for Legal Affairs, General Counsel and Secretary of the Board, and any other appropriate officers and authorized personnel of the Board or the University, as determined by the Vice President for Legal Affairs and General Counsel, are hereby authorized to perform all acts and deeds, and to execute and deliver, for and on behalf of the Board, all instruments and documents required by this Resolution, the Trust Indenture or Loan Agreement, or the Bond Purchase Agreement, necessary, expedient and proper in connection with the issuance, sale and delivery of the Bonds,

as contemplated hereby, including, if deemed appropriate, an escrow deposit agreement with an escrow agent to be selected by an Authorized Officer, and to designate and empower the escrow agent or Underwriter to subscribe for United States Treasury Obligations (State and Local Government Series) as may be necessary in connection with any refunding authorized hereby. Any reference to an officer of the Board or the University herein shall include any interim or acting officer appointed by the Board. Any action required under the Trust Indenture or Loan Agreement, the Bond Purchase Agreement, any Swap Agreement, the Remarketing Agreement, any agreement or instrument entered into in connection with the Liquidity Device or any other agreement or instrument related to the Bonds, either in connection with the issuance of the Bonds or in connection with the ongoing administration of the financing program related to the Bonds, may be taken by and on behalf of the Board by an Authorized Officer.

In the event that future legislation allows the economic and efficient use of financing structures for the Bonds authorized hereby which are different from or alternative to traditional tax-exempt bond structures, through related tax credits available to the Board or the holders of such Bonds, or assignees thereof, all or any portion of the Bonds may, subject to the applicable parameters set forth herein, be issued as Bonds for which federal tax credits are payable to the Board or Bonds for which the federal income tax credits are allowed to the holder of the Bonds, if an Authorized Officer determines that such issuance is economic and in the best interests of the Board, and in connection therewith, either of the Authorized Officers is authorized to make, for and on behalf of and as the act of the Board, any and all designations or elections (revocable or irrevocable), to make any tax covenants in connection with the issuance of such Bonds, to execute and deliver any agreements, certificates or other instruments to or with the federal government or any agency thereof, and to take any other actions necessary for such Bonds and the Board to receive any benefits, funds or federal subsidies available.

10. **Continuing Disclosure Undertaking.** In accordance with the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission, the Board is required in connection with the issuance of the Bonds to enter into a Disclosure Undertaking for the benefit of the holders and beneficial owners of the Bonds. Either Authorized Officer is authorized to cause to be prepared and to execute and deliver, on behalf of the Board, a Disclosure Undertaking.

11. **Approval by Vice President for Legal Affairs and General Counsel.** The Board authorizes and directs that, prior to the execution by either Authorized Officer or other officer or representative of the Board or the University, of documents, certificates or instruments authorized by this Resolution, the Vice President for Legal Affairs and General Counsel of the University shall have reviewed and approved any and all such documents, certificates and instruments, upon, as appropriate, the advice of or consultation with the University's bond counsel.

12. **Conflicting Resolutions.** All resolutions or parts of resolutions or other proceedings of the Board in conflict herewith 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 Trustees of Oakland University at a formal meeting held on _____, 2011, and that said meeting was conducted pursuant to and in full compliance with the Constitution of the State of Michigan, that public notice of said meeting was also given, and that the minutes of said meeting were kept and will be or have been made available as required by applicable law.

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 the adoption of the Resolution:

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

RESOLUTION DECLARED ADOPTED.

Secretary, Board of Trustees of
Oakland University

EXHIBIT A

THE PROJECTS

The Projects, as that term is used in the Resolution to which this Exhibit A is attached, consist of the components described below:

1. The acquisition, construction, furnishing and equipping of the Engineering Center, which is to become the new home of the University's School of Engineering and Computer Science, as well as general purpose classrooms.

Other components of the Projects, if any, to be provided by University.